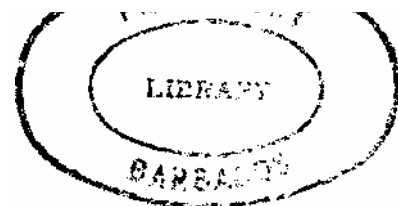


THE



House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1999 - 2004

HOUSE OF ASSEMBLY

Tuesday, December 01, 1998

Pursuant to the adjournment, the House of Assembly met at 11.20 a.m. on Tuesday, December 01, 1998.

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)

Mr. L. R. TULL, Q.C., M.A.

Hon. Miss B. A. MILLER (Deputy Prime Minister, Minister of Foreign Affairs, Tourism and International Transport) (Leader of the House)

Mr. J. O. TUDOR, J.P.

Hon. G. W. PAYNE, (Minister of Public Works, Transport and Housing)

Hon. R. C. EASTMOND, J.P., B.A.(Hons.) Dip. Ed., LL.B. (Hons.) (Minister of Agriculture and Rural Development)

Dr. R. C. HAYNES, M.B., Ch.B., F.R.C.P. (Edin.)

Mr. D. CARTER (Chairman of Committees)

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.

Hon. R. St. C. TOPPIN, LL.B. (Minister of State, 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 of Tuesday, November 24, 1998.

Hon. Miss B. A. MILLER: Mr. Speaker, the Minutes of the Honourable the House Assembly for November 24, 1998 have not been properly circulated. They were served on Honourable Members this morning and I would beg to move that consideration of the Minutes be postponed.

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

SPEAKER: If this be the will of the House then so be it.

FIRST READING OF BILLS

Rt. Hon. O. S. ARTHUR: Mr. Speaker, I beg to move the First Reading of the Money Laundering (Prevention and Control) Bill, 1998.

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

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

SUSPENSION OF STANDING ORDERS

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

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

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

GOVERNMENT BUSINESS ORDER NO.
10 - SECOND READING OF A BILL TO AMEND
THE FINANCIAL ADMINISTRATION
AND AUDIT ACT, CAP. 5

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, the Opposition is absent from their chairs even as I rise to speak to you but the matter before the House is so important that I will not trifle with it by advocating that we put it on hold.

This matter concerns amendments to the Financial Administration and Audit Act and the Rules to that Act. May I say at the very outset, Mr. Speaker, that Barbados has been fortunate in having in place comprehensive legislation to provide for the control and management of the finances of Barbados to regulate receipt and control of public funds to provide for the audit of such accounts and indeed to establish rules to ensure that the taxpayers' funds are used in the most beneficial manner.

All of these matters, Sir, are provided under the Financial Administration and Audit Act which has been in existence from 1964 and which has periodically been amended with a view to removing deficiencies or to making the Act more visible and better able to discharge its public purposes.

In this respect, Sir, the Act has been amended in 1964, 1967, 1969, 1971, 1974 and in 1984 twice, in 1985, 1987, 1990 and 1995. It is recognised, Mr. Speaker, that there is a need for us to review periodically the provisions of the Financial Administration and Audit Act in order to enable it to better serve as the framework for the control and management of public finances and the accounts attached thereto.

On this particular occasion, I want to acknowledge that the amendments before the House are in large measure the result of the work of a Committee of officials who are heads of Government's financial organisations, including the Auditor General, the Accountant General, the Director of Finance, and the Commissioner of Inland Revenue. I do believe, although I speak subject to correction that the

Auditor General may have had some consultation with the Public Accounts Committee in arriving at the recommendations that have formed the body of the policy which has subsequently been incorporated in legislation before the House.

Therefore I have a responsibility first of all to thank the public officers who have put us in a position where we are once again contemplating changes to the Financial Administration and Audit Act in order to provide for the better administration of public finances.

May I say, Sir, that it has always been recognised that the Financial Administration and Audit Act has to be kept under constant purview and subject to continuous amendments. First of all, because the Auditor General's Reports constantly reference deficiencies in the manner in which the public accounts are administered, deficiencies that very often have to do, not with slackness on the part of public officers or corruption, indeed hardly ever, but have to do with definitional differences or the failure of the existing provisions to provide fully for best practices to obtain in which public accounts are presented.

I make that point, Sir, to say that the drafting of the new provisions in this amendment have been undertaken in a manner as to enable us to correct many of the deficiencies that previous Auditors General's Reports would have drawn to attention as standing in the way of the best control and management of the finances of Barbados.

We are responsive to the recommendation of the Auditors General's Reports and using those as the basis for continuous improvement in the legislation.

The other point I want to make is that financial practices and the system for management of accounts are obviously subject to change. When the Financial Administration and Audit Act was prepared in the 1960s all of Government's accounts were done by entries in books, the use of ledgers and the like. We are now living in an age of change in information technology and our existing legislation does not make provision for the storage of information on electronic systems nor for the access of the Auditor General to such information. Therefore there is a need in addition to dealing with the deficiencies identified by the Auditor General for us to continuously modernise the Financial Administration and Audit Act to allow it to incorporate the best practices obtained in the accounting and auditing world.

Mr. Speaker, there is a third area in which greater definition and focus has to be brought to the legislation as we amend it. The whole role of Ministers and the relationship of Ministers to the management of public affairs,

issues that have constantly to be kept under review, and we feel very strongly, let me say at the outset of this debate that the existing legislation, particularly the Rules attached to the legislation acknowledges that public servants who are designated accounting officers are liable for their performance.

We also recognise that although Ministers are not supposed to be accounting officers nor are they supposed to be tangled up in the administration of public accounts they can from time to time give policy directives which can collide with the Rules which can lead to loss and wastage and we feel that Ministers must be held to the highest standards and that those standards to which they should be held are higher than those that public servants should be held to and therefore we are seeking amendments to the Rules to attach higher standards to the expectation of Ministers when they give policy directions to public officers that can lead to breach of the law, loss, misuse or extravagant wastage of the taxpayers' resources. We feel that this is necessary for us to have greater accountability in Government, Sir, and greater efficiency and effectiveness in the use of the taxpayers' monies. 11.30a.m.

Mr. Speaker, I want at the outset of this debate to say that although we have constantly to be amending the Legislation that the Financial Administration and Audit Act and the Rules attached thereto, in general terms provide a relatively sound framework for the control and administration in the management of public affairs.

Sir, there is not a lot fundamentally wrong with the systems and the rules that are at present built into the law and if I may speak to some of them, Sir, which will not change. I want to stress that there are some precepts and principals that will not change because they lend themselves, Sir, to a solid framework.

One such, Sir, is the predominant supreme role of Parliament as the only entity that can authorise public expenditure and in fact, is not only predominant in its right and prerogative to authorise, but that all expenditures must be and can only be with the prior approval of Parliament. That precept is in fact being advanced by the amendments to the Act, because the Amendment as you will notice, Sir, when you come to them, we are stripping the Governor General of the one last residual power that he had, to be able to, in case of emergencies, authorise expenditures without the approval of Parliament. That, under existing law, Sir, in the case of an emergency authorise expenditure of \$500 which is meaningless, but we are taking the residual powers from him. All authority for expenditures or the raising of taxes must reside in Parliament and it must be authority prior to the act rather than authority exercised after the act.

The existing Legislation, Sir, is solid in our view in the extent to which it makes a separation between the role of

public servants as accounting officers and the role of Members of Parliament acting as Ministers as officers in charge of policy, and long may that separation obtain, Sir.

I have to make it clear, Sir, that the law speaks in terms of accounting officers. Ministers have no right in law to be responsible directly for the accounting associated with the spending of public money. I want to stress that point, Sir. Ministers have no right in law for accounting. Ministers can give policy directives, but those policy directives must be of a nature such that expenditures involved in the carrying out of those actions are, "in conformity with the Rules." But public officers are the Accounting Officers that are so designated by law and they have responsibility for the management of all of the affairs of departments falling under their jurisdiction. Mr. Speaker, Sir, that precept is not going to be affected in any respects by the Amendments before this Parliament.

The existing Legislation also, Mr. Speaker, attaches specific roles to crucial public officers. The Director of Finance and Planning formerly so termed, who we will by this Act now designate as the Director of Finance and Economic Affairs, designates a role, Mr. Speaker, for the Accountant General and most importantly the existing Legislation enshrines the role and independence of the Auditor General.

I want to say again, Sir, in setting the context for this debate that not only are we enshrining therein the roll, this Legislation proposes to enlarge and expand the powers and scope of functions of the Auditor General. In a way, as I will explain that will lead to the Auditor General's function not just being routine checking, Sir, but will allow him to play a more important role in ensuring that we have value for money as a result of the expenditure of the taxpayers' funds.

The independence of the Auditor General, Mr. speaker, Sir, is further elaborated by the building into the proposed Amendments before the House, measures that would enable the Auditor General to not only have professional staff, but for the first time to be able to engage such other expertise from within the private sector as will enable him to be able to discharge crucial responsibilities that are assigned to him by law. I want to stress, Sir, that this Legislation is in no respect intended to curtail any existing power exercisable by the Auditor General. In fact, it is adding a new powerful function to the Auditor General's responsibilities, namely, the ability for the future for the Auditor General to be able to perform value for money audits for the purpose of ensuring that the public funds are spent efficiently and effectively.

I may well say in this respect, Mr. Speaker, that the Auditor General, the Accountant General, or the Director of Finance and Economic Affairs are not politicians. In particular in relation to the Auditor General, Sir, it is not the Auditor General's business to say whether a Government's policy is a good policy or not.

The Auditor General is not in a position to say, Sir, if there should be free education. It is none of his business. That is between us as politicians and policy makers. His role is to state whether within the context of free education, funds are spent in accordance with the law. I am saying this at the outset, Sir, because I am hearing strange noises coming from the Opposition Leader who I think should know better, Sir, referring to this Legislation as weakening the Auditor General's powers because this is saying that the new powers of value for audit functions do not put the Auditor General in a position where he can comment upon Government's policy objectives. It is not his purpose to say whether the policy is correct or not. The Auditor General cannot comment on whether or not the policy is a good policy to have a hospital in the North. That is for politicians, Sir. He can say whether the expenditure is in keeping with the rules and whether we have gotten value for money.

In specifying in this new Legislation I will elaborate that a value for money function does not give him a power to comment or reflect upon policy objectives. We are not weakening him at all, Mr. Speaker. We are just keeping him free, out of the political province and out of the political jurisdiction.

Now, Mr. Speaker, Sir, I believe that I could set the tone for this debate by saying that the Amendments to this Legislation are intended to correct many of the deficiencies in the control, administration and reporting of the use of public funds identified in many Auditors General's Reports, so that we are correcting deficiencies. We are seeking as well to modernise the administration of public finances and we are seeking as well to strengthen and expand the scope of functions and the powers of the Auditor General who stands and occupies a very central role in ensuring that propriety obtains in the way in which the public's expenditures and revenues are managed.

I will speak separately to the Rules, Sir, because as you know, the Financial Administration and Audit Act confers upon Cabinet the responsibility and the right to make rules. So in addition to the Amendment to the Act itself, there are important Amendments to the Rules which should be read in conjunction with the Amendments to the Act, which has been made by Cabinet and which, Sir, if the Opposition wishes can be subject to negative resolution.

Asides.

Rt. Hon. O. S. ARTHUR: He wants me to start talking. I am not going to do that today, Sir. I am talking about this Legislation because we intend to correct deficiencies. I feel that this leads to better Government and that there is an imbalance in the Legislation and in the Rules that can hold a public officer accountable and he must account for it and subject to surcharge, also that a Minister can force him to do

things and that is recognised by the law. In addition to the amendments to the Act itself, there are important amendments to the Rules which should be read in conjunction with the amendment to the Act and which has been made by Cabinet and which, if the Opposition wishes, shall be subject to negative resolution. That is provided for under section 39 of the law. 11.40a.m.

I will also want to say, Sir, that this is not the first time that this Cabinet has amended the Financial Rules during the course of this Administration. The Rules were amended in 1997. Rule 126, as you know, Mr. Speaker, sets a very low ceiling on the value of works to be undertaken that had to go out to tender. Any works or goods and services above \$25 000 or more had to be subject to an open tendering process. The Financial Rules were amended to lift that to \$100 000. That has not been changed since 1971.

Rule 137 that had given Cabinet flexibility to negotiate directly in the procurement of goods and services where those goods and services were of a specialised nature or not normally available in Barbados, that Rule has also been amended by the addition that Cabinet could, in circumstances of extreme urgency, also negotiate directly.

I would want to bring those matters to the attention of the House. Those have been in existence since April 24, 1997. There has been no negative resolution surrounding them so I would imagine that they are all agreed to by the House.

Mr. Speaker, I would like to take the House through the principal aspects of the amendments proposed. I am saying that a lot of these amendments we are proposing are to correct deficiencies surrounding the administration by management and reporting for public accounts as identified in various Auditors General's Reports.

Many of the difficulties to which the Auditor General's Report alludes to have to do with definitional difficulties. In this amendment to the law, we are, for the first time, defining the public debt within the body of the legislation. The existing legislation, Sir, has no reference whatsoever to the public debt and public debt means all outstanding loans payable by the Crown.

The legislation also makes a distinction between the public debt and short-term loans because we recognise that from time to time the Government raises short-term loans and those are defined.

We are also, Mr. Speaker, amending the notion of revenue to include all sources of receipts by the Government excluding the proceeds of short-term loans.

Sir, under the existing section 11 of the Act, as you are aware, a Minister may remit revenues not exceeding \$ 1 000 and Cabinet has the authority under existing legislation to remit revenues not exceeding \$1 000. That amount has not been changed recently. We are now vesting in the Minister and the Cabinet the authority to remit revenues up to \$5 000.

Mr. Speaker, I would like to draw the House's attention to a section of the law where what is before the House will have to be amended. The existing legislation as it pertains to the management of Government's overdraft provides that, for the purpose of meeting the current revenues of the Consolidated Fund the Minister may borrow by means of temporary advances from any bank or banks an amount not exceeding 10 per cent of the estimated current revenues. That will remain. What is in the amendment to the legislation would have, in fact, opened up the issue again. We want to retain Government's overdraft at no more than 10 per cent of revenue. That will remain.

What is to change is, Sir, that at present the law says that the principal and interest on Government's overdraft should be payable out of the Consolidated Fund. In practice, Mr. Speaker, that is not something that is practicable because it would mean that if every time there is an overdraft extended by the Central Bank, if you were to pay the principal you would have to come to the House and show the principal amount as an expenditure item and Government's expenditures would artificially be bloated up by hundreds and millions of dollars if we were to bring those into account. The fact is, an overdraft fluctuates from day to day. All that is necessary is to show the interest on the overdraft. As a result, Sir, section 25(2) of the Act is being amended to delete the principal and allow the interest on advances to be charged on the Consolidated Fund.

The other major amendment, Mr. Speaker, is in relation to the powers of the Auditor General. Before I come to that, Sir, the Auditor General has from time to time referenced to the fact that the Government itself very often makes loans to enterprises and non-governmental enterprises and there is no record of those loans having been made, nor there is no security in support of those loans. That, obviously, is a very grave deficiency in the presentation, control and management of public accounts. Therefore, we are now writing into this legislation the provision that loans which are given to Government enterprises and non-governmental enterprises shall be secured by way of a loan agreement. There must be a formal document called a loan agreement or a debenture mortgage depending on the circumstances of the loan, the terms of which are to be agreed to by Cabinet.

In the past, Sir, the relationship between Government and people who borrowed from the Government was one not governed by clear rules. We are now seeking to write formal rules into the Act to require that if Government makes a loan

to a Government enterprise or a non-government enterprise that it must draw a loan agreement or it must have a debenture mortgage depending upon the circumstances of the loan.

Mr. Speaker, I want to speak to the issue of the powers of the Auditor General because it has been recognised that the Auditor General performs a very important function in maintaining the integrity and the propriety of public accounts. May I say in this respect, Mr. Speaker, that the Auditor General's Report over the years, and even now, still draw important reference to substantial departures from the proper procedures and processes in the administration of the public accounts.

Mr. Speaker, I say also with equal certainty that none of the references drawn by the Auditor General, breaches in procedures and processes in the administration of public accounts, has anything in recent years to do with ministerial corruption. I want to make that point very clear, Sir.

Aside.

Rt. Hon. O. S. ARTHUR: I can only speak on behalf of this Administration. I wish I could speak on behalf of others. I am sure the Other Side will want to say the same thing too, Sir, but I know that this Side had come under strictures from people picking up the Auditor General's Report and making reference to what is included in the Auditor General's Report,

Sir, when you read it, very often it is people not entering things, not following the procedure with the issue of LPOs and so on, things that Ministers should not have a responsibility for. Sir, I want to speak with reference to certainty on this Side because I know what my Ministers are entitled to do, what they are allowed to do, and what I will allow them to do.

I do not know what another administration will allow other Ministers to do. I want to make that point very clear, Sir, that there are instances in which people do not keep the books in the way in which they should keep the books. Sometimes people try to buy quantities without the appropriate issue of local purchase orders or issue them after the fact. These are things that happen without the Ministers being aware of them.

I want to say as well, Sir, as Minister of Finance, at the start of the financial year after the House, and this is the practice by all Ministers of Finance, who has authorised expenditure, I signed a warrant allowing the Director of Finance and Planning to allow for spending as Government's cash resources allow, without myself being aware as to how much money is allowed to each Ministry on a month by month basis, and the separation of the responsibilities of Ministers and the public officers in the accounting for public funds is crucial.

Mr. Speaker, the Auditor General has until now had the responsibility vested in him in law of checking to see if in the expenditure of public funds the financial procedures were being followed, but the Auditor General has had no function in law to look beyond the numbers and to decide, not only whether the Rules were being followed, whether the vote books were being kept and so on, but he had no authority to decide whether the Government was getting value for money, and whether the funds were being spent effectively and efficiently.

For example, Mr. Speaker, the Auditor General had no powers before to enquire if a person was drawing twice for the same piece of work done. Once the vote was not being burst that was not the issue. As we are aware, in other jurisdictions, the scope of the Auditor General's powers has been extended beyond just financial auditing mainly making sure that the Rules are being followed, value for money auditing, that is looking beyond the numbers to determine whether the funds expended had been done in a way to effectiveness and efficiency.

In this amendment to the Financial Administration and Audit Act, Mr. Speaker, for the first time Government is conferring upon the Auditor General of Barbados the powers and it will say in the Act that the Auditor General may carry out examinations into the efficient and effective use of resources of any Ministry or any other entity required to be audited by him.

We will now enter a new realm of public accountability where the Auditor General's Report will not only speak to the issue as to whether the Rules have been followed, but it will begin seriously to speak to the broader issue as to whether in addition to following the Rules public expenditures have been managed with a view to ensuring value for money.

The issue, Mr. Speaker, that seems to be of interest to the Opposition is the insertion in the new law of a new section which says that section 26 (3) which is the section that allows the Auditor General to do value for money audits, shall not be construed as entitling the Auditor General to question or review the merits of the policy objectives of Government in respect of any Ministry, department or statutory body.

I want to repeat that, Sir. In carrying out value for money audits, we are saying that function shall not be construed as entitling the Auditor General to question or review the merits of the policy objectives of Government in respect of any Ministry, department or statutory body. I say to the House, Mr. Speaker, that by no stretch of the imagination can this be regarded as taking from the Auditor General any power that he now has because the Auditor General does not now have a power nor should he have a

power to reflect upon policy objectives. That is a political issue, Mr. Speaker. It is for us to say whether there will be free education or not free education. That is not a matter for the Auditor General. It is for us, Mr. Speaker, to say whether we are going to have a hospital in the north or not have a hospital in the north. It is not for the Auditor General to say whether there should be a hospital in the north of Barbados. What he is to say is whether in the context of the policy the Rules have been followed and he is now to advise us and reflect upon the question as to whether the resources are effectively and efficiently utilised. 11.55a.m.

I want to say, Mr. Speaker Sir, that if the Auditor General was in fact to start to issue policy statements he would become a politician. So that for instance the Auditor General can go now and say that if you were to have 23 acres that the Government is buying on a correct basis to have a hospital in the north called the St. Joseph Hospital, that he would now be in a position to say that if you needed only 25 bundles of shingles and you ordered 217 bundles, that that, Mr. Speaker, Sir, would be a monumental waste and not value for money. He would be able to say, Mr. Speaker, that if you had 23 acres of carpet that it would be an inefficient and ineffective use of the public funds. That is what a value for money audit will now entail. He cannot say because it is not his business that to have the hospital was a correct thing or not. The law shields and properly so, shields the Auditor General from getting himself tangled up into consideration of policy objectives. That is not his responsibility.

I, therefore, Sir, cannot begin to understand how the Leader of the Opposition could be putting out the notion that we are seeking by this and other Amendments which we will, come to, Sir, to constrain the powers of the Auditor General.

Mr. Speaker, as you know the existing law makes the Auditor General a creature, not of the Ministry of Finance but the Auditor General is a creature of this Parliament. I want to stress that point, Sir. The Auditor General does not report to Cabinet. The Auditor General's Report, Mr. Speaker, comes first of all to the Speaker of the House. Members of Cabinet see the Reports like anybody else after they have been laid and presented to you. There are instances, Mr. Speaker, where a Minister can direct or require, based upon information provided to him, that a special audit should be carried out into the affairs of a department under his portfolio. That is already provided for by law.

We have had a special audit, Mr. Speaker, Sir, of the practices in the School Meals Department because we were unhappy and it was required. I have required, Mr. Speaker, Sir, an investigation into the affairs of the

Printing Department because I have been concerned, as the Minister, with the practices of dealings in that department and I have the authority to require it, and it is built into the law. Mr. Speaker, the existing laws says that you can have a special audit by resolution of the House. That is already in the law or a Minister can require a special audit of any organisation. We have now also broadened that. We are broadening the powers of the Auditor General to examine the accounts of any person who is in any way involved in receiving monies by way of grants or loans or funds out of the funds provided by Parliament. Far from constricting the powers of the Auditor General, we have widened them. We are adding to the power of having a special audit of an organisation under the authority either of a Resolution of Parliament or a requirement by a Minister. We are now putting the Auditor General in a position where he can audit as well the accounts of any person who has received money by way of grant or loan or funds voted by Parliament or in respect of whom financial aid from the Crown is being sought and that he should submit a report of his results to the House of Assembly or the Minister. That is already, Sir, in the law.

The fact that things come through the Minister is not now stripping the Auditor General of a function. He already has this function and we have widened it. What we have further done - in instances where people are summoned before the Auditor General and they profess to be too powerful to want to obey his summons, the existing legislation provides for a fine, that person is guilty of an offence and liable on summary conviction to a fine or imprisonment - Sir, we are stiffening that. The existing fine is \$50 and we are carrying that to \$1000 and if you do not appear, rather than one month in prison, you are going to get three months. Under section 29(2) the Auditor General can subject a person who is summoned before him to a fine or have him confined, a fine of \$50 or 1 month imprisonment and we are changing that, Sir, from \$50 to \$1 000 and changing the period of imprisonment from 1 month, Sir, to three months. So, Mr. Speaker, you can see we are not at all seeking to constrain the functioning of the Auditor General, we are expanding it. 12.00 Noon

We are going further, Sir. We are also now saying that subject to the approval of the Minister, the Auditor General may charge a fee for auditing the accounts of any person or body whose expenditure is not met from the Consolidated Fund and that the fees so raised should be put into the Consolidated Fund. So if there is a Statutory Board and it is commercial, and not getting funds from the Consolidated Fund, Sir, the Auditor General can still audit it and charge them a fee.

We are also saying, Sir, that by way of policy that we recognise that to be fully independent, the Auditor General's Department has to undergo a process of institutional strengthening. There are a number of persons who have

historically worked in the Auditor General's Department who have come up through the system but need not necessarily have had professional training nor have expertise required to undertake even routine financial auditing far less value for money auditing and consistent with the enlarged responsibilities we are imposing on the Auditor General's Department we are saying that the Auditor General's Department may engage the service of professionally competent persons to assist in the conduct of audits. He can buy in services, Sir, and payment for such services shall be charges on the Consolidated Fund.

Sir, I believe that this is a very, very important addition because as you would appreciate we have had difficulties in getting the best qualified people to serve at existing wage rates in the public sector and as I have said, Sir, a lot of the people in the Auditor General's Department, historically are people who have not been specially trained, although the effort is being made, Sir, to train them and the ability to buy in services on a professional basis, Sir, to carry out the important work is absolutely necessary.

We go further, Sir, that where the Auditor General engages a private auditor to conduct the audit of a Government entity the auditor of the entity shall make all working papers and other documents available to the Auditor General and the documents will become the property of the Auditor General and hence the Crown. I believe, Sir, that this is absolutely necessary for us to bring the functioning of the Auditor General's Department into modern practice.

Now, Sir, I have said that those constitute some of the most important amendments to the Financial Administration and Audit Act itself. The other major amendment, Sir, is to facilitate the modernisation of the process of managing public accounts and the management of the auditing of public accounts. The law was drafted in the sixties, Sir, where you had a very labour intensive processing of keeping public records. We are now living in an age where the computer is widely used and we are therefore recognising that data can be held or stored electronically and we are building this into the legislation and also amending the legislation to reflect the fact that public officers will not only manage books, Sir, but that they will manage, and this is built into the rules, Sir, that they will manage data and records stored and held electronically.

They are also, Mr. Speaker, recognising that the Auditor General himself or herself shall have access to such data that is held or stored electronically. I believe though that this will involve at some time our having to review issues pertaining to the use of such data as evidence in a court of law and I would like to hear the luminaries on this. This is an issue that arises whenever we deal with the issue of storage electronically.

The computerisation of the Customs, for example, was a problem because the Customs had to hold its documents

for at least 7 years and it was just a massive amount of paper, badly managed and I believe that having the ability to hold, store and access data held electronically is going to improve public administration. It would allow us to better deploy public officers, Sir, but it raises questions as to how such evidence can be adduced for the purposes of satisfying matters in a court of law.

I am sensitive to the fact, Sir, that that particular matter has to be dealt with. All through the Rules therefore and the amendment to the Act itself, consequential changes are being made in acknowledgment of the fact that it is not only books and vouchers and cash and stamps that they are administering but it is the electronic data and sometimes, Mr. Speaker, Sir, transactions involving the use of electronic equipment and this would become more and more a feature of the world in which we live, that we will have commerce undertaken, now, Mr. Speaker, by the electronic systems. We cannot therefore continue to preside over the management of an accounts system that does not recognise that reality of the day's age.

Now, Sir, I spoke of the fact that we are also amending the Financial Rules, a power that is vested in Cabinet under section 39 of existing law and subject to negative resolution. The most important respect in which we are amending the Rules would be to cause Ministers to be personally liable in instances where under circumstances which I will clearly outline to the House. May I say, Sir, that we have to see this in the full context of what the law now provides for. The law now in fact, Sir, acknowledges that there will be accounting officers who would be separate from Ministers of the Crown - the first point.

Rule 4 of the Rules specify that all accounting officers are personally responsible for the efficient and prudent conduct of the financial business of the department for which he is responsible. The law makes him personally responsible, Sir. As we know the body of the legislation already requires that in instances where an accounting officer fails to collect the public funds or takes an action that causes public funds to be expended contrary to law that he can be surcharged for the deficiency to the extent of the amount involved. So that there is already a penalty in the legislation in an instance where an accounting officer who is by law personally responsible for the efficient and prudent conduct of the financial business of the department breaks the law.

Ministers, Mr. Speaker, and I want to repeat, are not accounting officers. They have no business being responsible for the direct management of the public accounts, Sir. That is vested in other people. But implicit in the existing legislation is the realisation that Ministers can give policy directives and the law is clear up to a point as to what should

obtain in instances where a Minister gives a policy directive and where the public officer managing the system differs with the Minister. 12.10p.m.

Rule 8(1):

"If an accounting officer disagrees with a Minister on a matter of importance affecting the financial administration of the department within the Minister's portfolio, it is the duty of the accounting officer to represent his objection promptly to the Minister."

That is step one. It says he has a duty and the law is clear.

Rule 8(2) says:

"He shall place on record his disagreement with any decision or proposed course of action which he finds difficult to defend as prudent administration or which he regards as inconsistent with his obligation to see that the administration of such department is carried out with due regard to the avoidance of waste or extravagance, and he shall set out the reasons for his disagreement."

I have no difficulty with that. That is a wonderful description so practised. So he will not only disagree but he states it in writing specifying why he is disagreeing with it and that he is constrained in setting out his disagreement to specify why he regards it as being difficult to defend as prudent administration.

Rule 8(3) under the existing law says: "If the Minister

adheres to his decision..." The Minister can say, "I hear you, but I still want it done."

"... he shall communicate that decision in writing to the accounting officer who shall accept the decision and carry it into effect."

So the existing legislation recognises that an accounting officer has an obligation to accept a policy directive from his Minister even in instances where he has represented to his Minister that what the Minister is requiring him as matter of policy to do is inconsistent with prudent administration or inconsistent with his office. That accounting officer's obligation sees that the affairs of the department are carried out with the avoidance of waste, extravagance or things of that character.

It goes further. It says:

"If the matter which is the subject of the accounting officer's objection involves his personal liability for the funds of the department of which he is accounting officer or the question of the regularity or propriety of payment, the accounting officer shall not only set out in writing his objection to the proposed expenditure and his grounds for it, but he shall only authorise or make the payment upon a written instruction from the Minister overruling the objection."

I want to repeat that the law is saying that there could be instances and there will be instances where the matter of the objection between the Minister and the accounting officer... It is not a light matter but it is one involving his personal liability as set out in Rule 4 and that he has set out his objection to the proposed expenditure "he shall only authorise or make the payment upon a written instruction from the Minister overruling the objecting."

Sir, there is also Rule 10 which I will speak to and if there is a doubt between the Minister and the accounting officer under Rule 10 it says:

"On all technical matters affecting the accounts and on any matter of doubt relating to the propriety or regularity of any transaction the advice of the Director of Finance and Planning or the Accountant General, as the case may be, may be sought."

So the matter is not left to be a contest between the Minister and the accounting officers. Seek the advice of the Director of Finance and the Accountant General! What we are saying is that there is a deficiency in the existing legislation, that a public officer who is an accounting officer can be made as a result of a Minister, acting under the pressure of that Minister to do things that are contrary to the Rules and the law, to do things that are pointed out to him, not once, Sir, but on three separate occasions, at three separate stages in the process of public administration, and pointing out, "These things, Minister, are wrong and they are going to lead to a breach of the law and to a waste of the public funds. What you are asking me to do is to incur expenditures that are inconsistent with the prudent administration of the affairs of my department and cannot be justified."

I feel, Sir, that in instances where that approach is followed by Ministers and they are advised in writing three times and the advice of the Director of Finance has been sought and yet a clear instruction, because you must give two instructions, two instructions are given, notwithstanding what you have told me, notwithstanding the breaches to which you have referred, you must still do it; then I feel, and this entire Cabinet feels and the Government feels that Ministers shall be personally liable for any loss, wastage or improper use of public funds where they instruct the

accounting officer in writing to incur the expenditure, even though the Minister has been advised by the accounting officer that by so doing he would be in breach of the Rules.

I think, Sir, that the whole House can agree that there is a grave deficiency in the existing rules that make an accounting officer liable, puts him in a position where he can be the subject of a direction that he must obey and not make the person giving that direction also liable when the officer has gone to all lengths to tell him, "Minister, what you are asking me to do is wrong."

Sir, I am holding no brief for any Minister. Follow the rules! In case you are in doubt, apply Rule 10! If there is a doubt, ask the advice of the Director of Finance and Planning or the Accountant General and you can be sure that once it comes to the Minister of Finance and there is a doubt we will refer the matter to the Attorney General or the Solicitor General for advice.

There is a grave deficiency and a dangerous imbalance that would penalise a public officer in instances where he breaks the Rules but would allow a Minister to break the Rules or force a breach in the Rules and he is not personally liable. Sir, I hope that this matter never has to be tested. It is intended to be a deterrent to stop people from giving policy directives that they know cannot be justified on the ground of prudence or giving policy directives that cannot be justified on the grounds of being consistent in conformity with the best administration of public affairs in the country. Ministers must always be in a position to carry out policies and give policy directives and at the end of the day the public will judge whether the policies were good or not. In carrying out those policies they have an obligation to be respectful of the law as it pertains to the management and the control of public funds.

Aside.

Rt. Hon. O. S. ARTHUR: I feel that there is an imbalance in the legislation and in the Rules that can hold a public officer accountable and he must be subject to surcharge and that a Minister can force him to do things and that is recognised by the Law. Even if the Minister is told that what he wants to do is unlawful he can say you must do it nonetheless. I believe, Sir, that that would help us in dealing with having certain rules. We are also amending the Rules to recognise that there can be disciplinary actions other than surcharges to be imposed on public officers and Rule 17 of the existing Financial Administration and Audit Act are being amended to say that any expenditure in corrected charge may result in the Officer who authorised the expenditure being surcharged or being subject to other disciplinary action. 12.20p.m.

Sir, this is intended to allow us simply more realism and flexibility in the way in which remedies can be dealt

with. As you know, Sir, the power to surcharge exists in law, but it is hardly ever exercised because it effectively means very often that the Directors of Finance will have to require people to pay back the full amount and it could impose a hardship particularly where you talk of a breach of Rules.

So that what we are seeking to do, Sir, is to be able to give the Director of Finance powers to use other disciplinary measures other than a surcharge and I really feel that that would allow us to deal with breaches for which action is required and needs to be taken, because we do have those instances, Mr. Speaker, where perhaps a surcharge is too excessive and there is a need for the alternative way of exercising discipline.

The Rules are in large measure, Mr. Speaker, being adjusted to allow for more efficient administration taking into account electronic accounting systems that you will not only have keys, but passwords will be used. Before people had control keys but now you have to write into the Rules that there must have passwords to the system and someone must have responsibility for them and things of that nature.

We have also used the opportunity, Mr. Speaker, to amend the Rules. This is the Financial Administration and Audit Supplies Amendment Rules to change a long standing defect. As you are aware there is a Central Purchasing Department and the Rules governing the functioning of the Central Purchasing Department are separately covered under the Financial Administration and Audit Supply Rules of 1971.

Now, the existing Rules show evidence of their antiquity, Sir, because they envision only a colonial kind of relationship and they envision that in purchasing, the Chief Supply Officer should obtain supplies by order from one or more of the following. The Crown Agents for overseas Government Administration and any other person appointed by the Government abroad. Our relation with the Crown Agent involves an expense but there is no good reason why the transactions of the Government of Barbados should be directed only through the crown agents and that great deficiency in the Act, Sir, is being amended by the insertion of a new rule where it becomes necessary for any supplies to be imported, the Chief Supply Officer shall obtain such supplies by ordering from:

- (a) Directly from overseas manufacturers or suppliers; or
- (b) Through their local agents

which makes sense, Mr. Speaker. Right now they cannot do that properly and Ministries complain about it all of the time. Ministries in fact are saying that they should be allowed to go to local agents, but the law at present constrains them, Sir.

- (c) Or through other persons appointed by the Government to purchase supplies abroad.

I know that Ministers particularly, Sir, would love to have the ability to order separately. But I feel and the Committee still feels that there is a virtue in some instances in having bulk purchasing arrangements kept in place, Sir, but that we should be contracting from the existing constraints and that the Chief Supply Officer and his department should be able to deal directly with the manufacturer abroad. This is important because then you can get the benefits of bulk purchasing at the lowest cost, or their local agents rather than the way in which the present Legislation is constrained.

Sir, if we can go back to the Rules, the House is aware from certain celebrated cases that have engaged public attention that the role of Ministers of Departments in relation to the Tenders Committee has always been the subject of great doubt. I think Justice Williams might have spoken to that issue in a famous case. The Minister referred to in the Financial Administration Audit Act and in the Rules is the Minister of Finance.

The Tenders Committee, as a Committee official which I like, Sir, is established in the Rules and in instances as can happen now, Sir, a decision may be arrived at that the recommendation of the Tenders Committee should not be accepted. The only Minister at present, Sir, who is authorised in law to be part of that positive decision making is the Minister of Finance.

What we are seeking to do by this Legislation is to recognise that before matters come to the Minister of Finance and this is section 50 of the Rules, Sir, that they would have to come through a Permanent Secretary through a Minister to the Minister of Finance. What this is saying is that the Committee shall send its tenders and its recommendations to the Head of the Department who shall submit the recommendations to the Minister responsible for that Department, which is something new in the law, to the Permanent Secretary. And the Permanent Secretary will send his recommendations to the Minister, not of Finance, but of that Department and where the Minister responsible for that Department does not accept the recommendations of the Committee, the matter should be referred to the Minister of Finance who shall submit the matter to Cabinet.

Asides.

Rt. Hon. O. S. ARTHUR: Sir, I say on my honour that I was not responsible for the burning down of any office and destroying records. I am glad for the Honourable Member for St. John for wanting to put this matter into the record although I have doubts about the purity of his motives.

Asides.

Rt. Hon. O. S. ARTHUR: Sir, can I be heard in silence from the Honourable Member for St. John.

Mr. SPEAKER: Order, please. I trust that Members would recognise the fact that this is still the Honourable House.

Rt. Hon. O. S. ARTHUR: Sir, a number of issues have from time to time been debated in this Parliament concerning systems for financial administration and audit that we could use this occasion to reflect upon. One issue for example, has been the question as to whether Barbados needs a Contractor General but I know that the Honourable Member for St. Michael South Central has been very fervent in his desire that we should have a Contractor General.

To begin with, Mr. Speaker, Sir, I believe that there would not be enough work to justify having a full time Contractor General and supporting staff to warrant that additional tier of Government being attached at this stage. A Contractor General, Mr. Speaker, fills an important void in countries which do not have our rules pertaining to tendering or have our system for the administration of an open transparent tendering process. You need a Contractor General in many respects to fill a void where the rules pertaining to the tendering process are not clear, not open or not as independently managed as ours is.

I would be very reluctant to change the nature of the administration of our tendering process. It is something very valuable about having the Tenders Committee made up entirely and only of public officials since the first line of the evaluation of tenders should be done by people who, as is the case now, have an obligation to be free of any political involvement to carry out an entirely technical evaluation of them.

Our rules, Sir, recognise that a Minister or the Cabinet has the discretion to either accept or not accept the advice of a tenders committee. I believe, Mr. Speaker, Sir, that that system should be allowed to remain in place. We keep comprehensive records of all of the transactions and I believe that decisions taken by Cabinet in respect of contracts can be subject to challenge under the Administration and Justice Act. That in itself, Mr. Speaker, is something that is not present in other jurisdictions. The power of challenge of decisions taken by Cabinet under the Administration and Justice Act, Mr. Speaker, creates for us the safeguard that even a Contractor General's office could

not provide. The Honourable Member for St. Michael South Central and I will have to agree to differ.

The Committee itself reflected upon this particular issue and made a recommendation that they did not believe that we needed either to strengthen the system or that there was enough work to justify a Contractor General at this time. There is a special Tenders Committee, Mr. Speaker, which as you know, functions on international contract and that functions very well.

Sir, the Honourable Member for St. Lucy has from time to time pointed out that whereas Government accounts are managed on a cash basis, that best accounting practices are, that accounts should be managed on an accrual basis and that he, perhaps, more than anybody else in Parliament has been suggesting that we should move from a cash basis, you pay for cash as things arise, rather than allow the expenditure to accrue. More importantly, Sir, we should fully show accounts receivable and accounts payable. That matter, Sir, is engaging further and scrupulous evaluation. There is some merit in it but as you know, Mr. Speaker, under our existing rules the fact is that all expenditure should be brought to account as of March 31st and the truth is that our Rules do not in fact allow in principle that people should not carry expenditures incurred in one financial year into another financial year. That is a breach of the Rules. We should really settle the accounts by March 31st. The fact, however, is that the practise has been that very often not because of ill-will but because orders are placed with the expectation that orders will be filled and they cannot be brought to account in sufficient time to have the payment effected by March 31st and they have to go over. It has caused a lot of dislocation in public finances because very often you go to the Estimates and you vote amounts for the next financial year only to find that a large chunk of that has been preempted and funds lapsing in the previous financial year and monies having to be re-voted over again. The Queen Elizabeth Hospital and the Geriatric Hospital are perhaps two of the most important cases we have had.

It would be very difficult under existing rules and laws for us to say, let things accrue. We should try to bring matters to account by the end of the financial year. What can or will still be done, Sir, and this is what we are working towards and through expenditure management and control project, we are seeking to do this better. We should be able to provide a listing of all of Government's accounts payable and Government's accounts receivable.

I feel, Mr. Speaker, Sir, that the Rules should at some time in the future be amended to require that Government's payables should always be met within a specified time. Government, like anybody else, Mr. Speaker, will have accounts payable accruing in the course of a financial year. We know of the great hardship that have often been visited on entities in the country where accounts accrue but entities have to wait very, very long periods, accruing interest at the

banks as well before they get payment by the Government. I believe, Sir, that when we come back to these matters again, Sir, that we may want to look at the issue of having the list of accounts receivable and payable published with the obligation that the receivables should be cleared within a specified period.

Equally, Mr. Speaker, Sir, the question of the listing of Government properties and Government's assets is a matter that has been recognised as a deficiency. The Rules will now require that every year there must be an updating of and full inventory of all of Government's assets must be scrupulously kept. As it presently stands, Mr. Speaker, Sir, Government's assets management is often hamstrung because there is no comprehensive listing and updating of Government's assets.

Sir, those are two matters, Mr. Speaker, which continue to be under investigation and further evaluation. The move of Government from a cash accounting basis to an accrued accounting basis and the question of the need for a Contractor General. There have also been continuous issues and this one is a perennial between Ministers of Finance and line Ministries as to the extent to which the Law and the Rules should allow for further decentralisation of the administration of finances. 12.50p.m.

There is every reason, Mr. Speaker, why on the face of it we should be moving in the direction of greater decentralisation as we upgrade the information technology available to the public sector. As we upgrade the skills available, Mr. Speaker, ministries will be required to assume more of the responsibility for functions that are in many respects, at present, exercised by central ministries. I do not have to impress upon the House, Sir, that it is not only financial administration but it is human resource development and management that represents themselves as two great areas of deficiency in the public sector. Public Sector management of its human resources are highly centralised at present in the Ministry of the Civil Service or in the Chief Personnel Officer's Department and what we do need is to get line Ministries to develop human resource management capabilities and get them more directly involved in that as a public sector function.

It is also true, Mr. Speaker, that a lot of Government financial management and administration is highly centralised in the Ministry of Finance and its agencies and we do need to enable Ministries, subject to sensible constraints to be better able to exercise some level of flexibility. Sir, whatever we do, a number of constraints will have to be observed. The prerogative of this Parliament to authorise in advance expenditures must always be protected no matter what level of decentralisation we allow.

The right of Parliament to authorise spending must be absolute, Sir, but I think we would always have substantially to upgrade financial planning and administration capabilities in Ministries. The sad truth, Mr. Speaker, is that in the late 1980s a certain gentleman who was responsible for public sector administration in the public service took some drastic decisions to really effectively destroy what was then emerging as financial management capability in the public sector. He had a view of what financial officers should do based upon his long association himself as a public servant and a lot of officers who were trained as cadets to become more involved in financial planning found themselves stripped of responsibilities. For example, Sir, the Queen Elizabeth Hospital is a classic case in point. A massive institution, Sir, rather than having a Financial Controller, just had a financial officer who did not necessarily have to be...

Aside.

Rt. Hon. O. S. ARTHUR: I am not criticising him but the function of a financial controller/planner as necessary to head a major ministry...

Mr. B. M. TAITT: Mr. Speaker, Sir, on a point of order. The Honourable Member is discussing the Queen Elizabeth Hospital and just for information, the position of Financial Controller/Finance Officer was made interchangeable by the Ministry of Finance. The Ministry of Finance recognising that they could not have a financial controller they caused him to be interchanged and as a matter of fact when the Honourable Member became Minister of Finance one of the first acts he performed was to take the then finance officer from the Queen Elizabeth Hospital and put her to work in the Ministry of Finance.

Rt. Hon. O. S. ARTHUR: The point is taken, Sir, that finance officers were relegated to doing basic bookkeeping functions rather than becoming involved in serious financial planning, management of supplies, Sir, and the whole thing was just relegated to routine.

It also has to be said, Mr. Speaker, Sir, that the capacity for financial planning and administration varies across the public sector of Barbados. There are some Ministries, Sir, where the capability is very well developed and others which are woefully lacking.

Mr. Speaker, Sir, I make no apologies for saying that there are some where I have had in seeking to get approval for expenditure, I have had to require that action be taken to remedy grave deficiencies in the administration of public affairs. I make no secret of the fact, Mr. Speaker, that there are occasions at Estimates Committee where I have refused to agree that any funds could be voted until deficiencies identified in the Auditor General's Report, Sir, were

remedied. There was a case in point, Sir, in the Ministry of Health where people were drawing money and neither had contracts nor worked on the staff but were drawing money nonetheless. That, Sir, has been dealt with.

In the Ministry of Agriculture, Sir, from time to time the Auditor General's Report has drawn very drastic reference to practices in the administration of markets, Sir, that were deplorable. I make no secret of the fact, Mr. Speaker, Sir, that this year before I agreed to contemplate any supplementaries for that function I say, let us be absolutely satisfied that mal practices to which reference has been drawn are corrected and people held responsible for their mal practice. If actions were taken against such officers, Sir, responsible for mal practice and they have subsequently been fined, we have nothing to hide on the matter. I make that point, Sir, to simply stress that the capacities in various ministries vary.

The Ministry of the Attorney General's office has some departments wonderfully well equipped, others not so well equipped and we can get into legendary discussion, Sir, about what happens when they present accounts to the Ministry of Finance they cannot defend. Before we can go to decentralisation as a desirable objective there would have to be a systematic upgrading in all the capabilities of all Government Departments because the system is going to be as good as the worst institution. That is a matter, Sir, that is engaging the attention of the Government and I give the House the assurance, Sir, that I will not scruple in requiring special investigations where evidence of mal practice has been drawn to my attention.

In my own Ministry, Mr. Speaker, Sir, the public has written me about issues. I do not believe that it is good governance for those things to be swept under the carpet. We have asked for special investigations, Mr. Speaker, and for special audit and the Government Printing Department is now the subject of a special investigation.

Aside.

Rt. Hon. O. S. ARTHUR: If we do not have a standard then we are in trouble. I am not going to take any criticisms today.

Sir, I believe that I have comprehensively covered all of the matters raised. I would just end, Sir, on a procedural point to say that the Rules that have been the subject of the amendment cannot be properly laid for one good reason, Sir. And perhaps you should be guided by this because there are some Members in here who are older than myself, Sir, and I am advised that there are some amendments in the Rules that can only be made after the amendments have been made to the substantive legislation and that until such has been done, Sir, the Rules cannot be properly laid and that is the explanation but that I can use them for reference. The amendments to the Act have first to be done and the

amendments to the Rules are consequential to the amendment to the Act and that one cannot be done until the other is done. That is a fact, Sir, so there is no defect in the system, Mr. Speaker. The system functions as it is supposed to function.

I took the liberty of discussing both shortly because both had to be considered jointly. We would not have the opportunity since we required a positive resolution for me to bring the Rules separately and I thought I had a duty to present both to the House in the interest of the fullest exposition on two sets of matters. But the package, Sir, that the Act has first to be amended and then the Rules may be presented to incorporate any such amendment arising from the amended Act. That is the only reason why therefore the Rules have not been in the members hands.

I believe, Sir, I have comprehensively covered the thinking behind these amendments, Mr. Speaker, and I look forward to a rambunctious debate, Sir. I look forward in the future to have the opportunity to also pilot further amendments because the Financial Administration and Audit Act is not a document set in concrete, it must be a living document and it must change. It must change. It must be sensitive, as I said, to the deficiencies recognised by audit. We do not do audits because we like to criticise but we can have better government and this legislation answers the issues arising from identification of the deficiencies by Auditor Generals. It must be a living document in the sense that it keeps contact with modern and best practice and I submit to the House, Sir, that these amendments meet that criterion and also I think we also have to be conscious of the need for us to sharpen and improve the purpose intended, effectiveness of the legislation to allow for the best management of our financial affairs.

Again, Sir, these amendments meet that criterion and it is in that context that I commend this Bill to the House.
1.00p.m.

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

SUSPENSION OF SITTING

Hon. D. A. C. SIMMONS: Mr. Speaker, I beg to move that this Sitting be suspended until 2 o'clock in the afternoon.

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

The question that the Sitting be suspended until 2.00 o'clock in the afternoon was put and resolved in the affirmative without division and Mr. SPEAKER suspended the Sitting accordingly.

RESUMPTION Mr.

SPEAKER: This Sitting is resumed.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, I listened very carefully to the presentation of the Right Honourable Member for St. Peter and I tried to put this matter in context so that one could better understand the nature of the amendments to the Financial Administration and Audit Act.

Mr. Deputy Speaker, there has not been any division of opinion on either side of the House to amendments to the Financial Administration and Audit Act which have been long overdue. In fact, I would go as far as to say that the present Public Accounts Committee which I have the honour to chair endorsed most of the recommendations made by the previous Public Accounts Committee under the chairmanship of the Member for Christ Church West and also endorsed some proposals in point form from the Auditor General which are contained in successive Auditor General Reports for the past few years and which recommended amendments to the Act.

We also had the privilege, the courtesy, extended to us of seeing the draft amendments to the Act in Public Accounts Committee. By and large we accepted those draft amendments to the Act. We have no problem with that and I am not generally opposed to the idea of upgrading. In fact, I would say that in a very real sense the previous administration left this present Minister a mandate which came out of the Tax Administration Reform programme which came out of the new system of programme budgeting and which came out of a series of advances, that is how I would describe them, in the way in which our financial system should go in this day and age. One of the preconditions to the proper functioning of those developments in financial systems was an up-to-date Financial Administration and Audit Act with supporting rules.

On the issue of the rules, I have not had the chance to look at them and therefore I have only looked at those which I had time to look at before lunch which related strictly speaking to the matters which the Minister of Finance dealt with and I assume that if there are any further suggested amendments or if we have any problems with it, we bring the necessary Resolution.

Mr. Speaker, Sir, the previous Public Accounts Committee in an Interim Report under the title General Comments and Recommendations which Report was laid in this House and is already part of the record of this House was laid June 22, 1993. The then Committee of which the Right Honourable Member for St. Peter was a member made a number of recommendations and I want to read from Recommendation 27 under the heading Independence of the Auditor General.

"There are limited provisions in the Constitution purporting to buttress the independence of the Auditor General. However, the Committee notes that the Auditor General is not at present involved in any way with the recruitment of staff for his office and has no independent source of finance to hire outside services to help him in his work. If the independence of the Auditor General is to be truly strengthened, democracy is to be preserved and the financial integrity of our parliamentary system maintained, the Auditor General should be permitted to play a more direct role with the relevant authority, in the appointment and promotion of staff."

The Committee recommended that:

"Close regard be paid to the National Audit Act, 1983 of the United Kingdom."

Under that Act, the Auditor General's independence is guaranteed because he is appointed by the Prime Minister on a Resolution which is seconded by the Chairman of the Public Accounts Committee so that he truly sees himself, as in our system the Judges and some other persons like the Ombudsman and others, as representing Parliament.

The connection between the Auditor General and Parliament in terms of reporting and beyond that also in relation to appointments and the fact that psychologically that within their system the Auditor obviously sees his principal objective as discharging obligations to the House itself fully constituted in both Opposition and Government. It was recommended by the Committee then that "similar independence be given to our Auditor General".

Apart from that, the Committee recommended that adequate funds be given to the Auditor General for the engagement of outside services and those recommendations by and large as I said I thought were quite useful. The Honourable Members on that Side say a constitutional review and I hope that will come soon. Time is running out for that. I hope that that will be concluded but to my mind it is important to establish that the role of the Auditor General flows from Parliament, not from the Minister of Finance, not from any of the other officers.

In the British system the House itself is involved. The Prime Minister and the Public Accounts Committee jointly sponsor a Resolution which the House can then debate. We do not have that system in Barbados. Regrettably no appointments in Barbados really take place by Parliament. If he is in a sense a parliamentary officer, a parliamentarily commissioned officer, it should flow from Parliament itself. So I hope that that would be considered.

Now the second point relates to this changing role of the Auditor General and I am disappointed in the amendments to the Financial Administration and Audit Act because while the Minister made reference on a number of occasions to the effectiveness of the Auditor General and the expansion of his mandate on what the Honourable Member for St. Peter described as a new powerful function in speaking of value for money audits the reason why the Opposition raised concern about this proposed amendment is not on the spurious ground which the Right Honourable Member for St. Peter attached to us. It was not that we opposed it for the sake of opposing it but we had genuine reasons for opposing it and I am going to deal with it. First of all the very definition of value for money audits involve another word which I know the Honourable Member for St. Peter may not like hearing often and the opinion polls will tell him that is not a word that the public associates very favorably with his government. According to what the polls say, I do believe them. That word is 'economy' that in any definition of value for money auditing apart from efficiency and effectiveness, the role of the Auditor General has to focus on economy, all the definitions included. I looked at the Peter Riddle, The Parliamentary Association Report, and it was in the draft which we had agreed to at Public Accounts. 2.25 p.m.

Asides.

Mr. D. J. H. THOMPSON: That is why the Solicitor General is not a policy maker and if you want to stop the Auditor General from being one, you better tell some other public officers they are not policy makers either. When in Barbados we brought Legislation to the House called the Financial Intermediaries Regulatory Act, everybody in the Drafting Department was opposed to the word intermediaries, not on the basis of a definition, because they never saw it used anywhere else, so they wanted to use institutions and again this Government fell for that kind of nonsensical banter about the title of Legislation and changed it back to Financial Institutions.

Aside.

Mr. D. J. H. THOMPSON: Well, it was not because you accepted, but I am saying that a lot of nick picking in the Drafting Department goes about and even in relation to the amendment that we have here today, there are some very loose drafting of some of the sections which we can deal with. But in the original draft of this pack the word 'economy' was included and in fact under the functions of the Auditor General, it made it quite clear.

Aside.

Mr. D. J. H. THOMPSON: I do not remember the section. If you can remind me which section it was...

Aside.

Mr. D. J. H. THOMPSON: ...because we have the draft.

Asides.

Mr. D. J. H. THOMPSON: But that is not true, because a value for money audit has a special meaning and, as I say, the most common relates to the economy, efficiency and effectiveness. All three.

Aside.

Mr. D. J. H. THOMPSON: Yes. I think we should go back to the old proposal. I have been looking through these sections to find it.

Aside.

Mr. D. J. H. THOMPSON: Yes, it was definitely in here. I will find it.

Now, if the Honourable Member for St. Peter said it is not an issue, then he should agree also that the section which was inserted, which was not in the original draft, the section which states that the Auditor General should not have the power to question or review the merits of the policy objectives of Government in respect of any Ministry, Department or Statutory Body should be deleted as well and I will tell you why.

We have never had irresponsible Auditors General, but in the broad suite of the Auditor General's obligations, in doing value for money auditing, the Auditor General has to carry out comparisons between policy objectives and the expenditure of money. And if you deny him the right to comment, and we are not saying that the Auditor General should say whether a policy is a correct policy or not, but if you take out the right for him to comment on whether for example, the expenditure of money on that policy meets what would be the basic standards, whether international or otherwise for such expense.

I would give you a good example. Nobody is going to say that the Auditor General should opine on whether the Government of Barbados should buy new buses or not. So if the Government decides to buy 100 new buses that should not be his remit. But he must be able to look at the purchase of those buses and the price which the Government of Barbados is going to pay for those buses which it is purchasing against basic, traditional international standards.

Aside.

Mr. D. J. H. THOMPSON: If you are saying that is what is intended, my own view is then you do not need that subsection 4.

Aside.

Mr. D. J. H. THOMPSON: Do not worry. No Auditor General is going to step out of his bounds, but as soon as you put in a clause like this, it is my view that you are creating in the minds of people and have ridden in my mind, by taking out that word, 'economy', which matches programmes expenditure, policy expenditure and now inserting this provision, which was not in the original draft and which to my mind can muzzle the Auditor General to the extent that he would not be able to effectively comment on whether a particular programme, desirable though it is, whether the sums of money spent on it had been efficiently, effectively and economically spent.

Rt. Hon. O. S. ARTHUR: On a point of order. The Legislation speaks to his being able to review policy objectives. Policy objectives and the carrying out of programme policy and programme effects are two different things. It is not now within the province of the Auditor General to say whether a policy is a good policy or a bad policy. This amendment is in full concurrence, Sir, because we do not want the notion of value for money audits, which can raise judgments to be formed to include judgments being formed about policy objectives.

He may form judgment, Sir, about whether or not a programme has been effective. Fine, but it is not the responsibility of an Auditor General to form a judgment about a policy objective and the Legislation, Sir, speaks to policy objective not policy effect.

Mr. D. J. H. THOMPSON: I cannot get into any semantical debate about this. Our position is clear. Subsection 4 is not necessary. For example, the Auditor General in Canada does value for money audits, but beyond those value for money audits it is the Auditor General's Report in Canada which has been the source, and a very important source from the Canadian point of view, not the Barbadian point of view, because we obviously may want our offshore sector to continue to go in the way it is going. But it is the Auditor General's Report in Canada which has opened the minds of Canadians to the impact of certain policy decisions taken by the Canadian fiscal authorities, which were not intended at the time when the double taxation treaty between Barbados and Canada was first negotiated.

Now, if you are operating under this law, it would be perfectly legitimate for the policy makers, unwisely in my view, to say that the Auditor General has overstepped his authority. But my view is that value for money auditing goes

beyond that very technical aspect of auditing which the Honourable Member for St. Peter himself has pointed out has been the traditional approach to the Auditor General's Report. Which is, if you spend more money on hair braiding than you should have or if you pay people in advance for fixing markets before they start to fix them, if you breach the strict rubric of the accounting rules and procedures. I am saying this to the Honourable Member for St. Peter that if he believes in participatory democracy, if he believes in openness, inclusiveness and all of these new political buzz words, then the widest possible...

Aside.

Mr. D. J. H. THOMPSON: I say the person who is appointed as Auditor General is not going to be somebody who, out of the blue is going to come into the system and act irresponsibly. In my view the widest possible interpretation of the powers of the Auditor General in relation to value for money audits should be permitted. 2.35p.m.

Let us debate in this Chamber whether the Minister's policy is wrong but let other people comment too. It is not just for us. I have never been of the view that policy making is only for Ministers. It is the Minister who makes the policy but the process of policy making in Barbados - and I have heard the Honourable Member for St. Peter with this. When he went in the minibus stand and overruled decisions contrary to the laws of Barbados, he said the reason why he had to do it, well one reason was that the Minister did not listen to the other stakeholders, or that was an implication, I cannot remember if he actually said that, but he said that his approach, the Honourable Member for St. Peter, was to take into account the views of all the stakeholders and that sometimes his Ministers did not always adopt that approach. That is, to my mind, to be interpreted in the context of this debate as well as meaning that the Auditor General should be entitled at a broad level to initiate discussions on expenditure patterns.

I say in Canada the Auditor General has looked at the Canada/Barbados Tax Treaty and has made the point that the Barbados offshore sector has not really grown under the actual benefits which should flow from that Treaty, but has grown from certain tax loopholes which the policy makers themselves do not intend.

If you keep a section like this, you do severely restrict the role of the Auditor General under a new system of accounting to simple procedural and other matters. As I say, I think at the end of the day the people who finally make policy will be this Chamber, but civil servants are not to frustrate policy but they are part of that policy making process.

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, on a point of elucidation. Since the Member is speaking of interpretation, will he then want to say that the Judiciary should now also be in a position to review policy objective, a function which they do not now have, Sir, or would he also want to say that other persons mentioned in the Constitution who have functions prescribed by law, like the Director of Finance should also have the right to review policy because the responsibility for policy formulation is already vested by the Constitution in Cabinet at section 64, so while we are sympathetic to the notion of politics of inclusion, there is a Constitution that has to be followed. The Judiciary even cannot review policy objectives.

Mr. D. J. H. THOMPSON: I know the Honourable Member for St. Peter likes the law but on this point he is badly advised by the gentleman who is sitting on his right. There is nothing that stops a judge from commenting on the law as it exists or what it should be. In fact, the reason for the differences in opinions in the 8% pay cut case flow from the philosophy and the approaches of the judges to their own station in life and how it would affect, in my view, some people functioning at that level. That is a normal human occurrence and there are many decisions in the courts.

Hon. D. A. C. SIMMONS: On a point of order, Sir. The point here is a very narrow point whether the courts have the power to review the policy of Government. My submission on that is that they do not and they abdicated that responsibility in several reports from the House of Lords back down to the Court of Appeal in Barbados. They said and appreciated that they could not review policy of Cabinet. That is all I am saying. I am not saying that they cannot comment, yes, in the course of a judgment they can make several comments but in respect of reviewing the policy is a different matter. They can review the procedure.

Mr. D. J. H. THOMPSON: There has never been any doubt that the Auditor General cannot do that. Therefore, this section is unnecessary. I am saying there has never been any doubt that judges are to state the law as it is. They do not always do that.

The very C. O. Williams case to which the Honourable Member refers, one judge who happened in a previous life to be a Cabinet Minister thought that it was inconceivable based on his life's experience that you could question the decision of a Cabinet. To my mind, it was not based on the law because that does not matter.

The point is that at the end of the day I was always of the view, and I am still of the view, that decisions by Cabinet flowing from the Financial Administration and Audit Act or Rules are reviewable. Other than that I know of no other decision the Cabinet makes which flows from legislation which would be reviewable.

The point I am making to the Honourable Member for St. Peter is, this is an unnecessary provision. The Auditor General, if he wanted to, with this provision in could still question the policy objectives of Government and could still question the merits. There is nothing we can do in this Chamber to tell the Auditor General how to write his Report and no attempt should be made by this Chamber to circumscribe how that Report is written. If it is a bad report, it will not stand the test of time. If it is a good report, we have to take all of the good and if there are any small parts that are bad take them too.

Now, Mr. Speaker, there is no provision in the Laws of Barbados which tells judges that they are not to question or comment on policy. This is a tradition that has been built up. Case law and in the United States of America they are still debating whether judges are, in fact, legislators or not. When they review the U.S. legislation there are decisions they have made which have essentially supplanted the intention of the Federal lawmaking machinery in the United States of America. Even within our system of Government, articles are constantly being written about the power of judges to interpret legislation in such a way that it does not give effect to what Parliament intended.

I refer the Honourable Member for St. Peter to the Barbados Family Law Act. There has been a lot of debate in relation to the Family Law Act about whether judges have been declaring the law as it is or whether flowing from that Act they have been, in fact, they have been doing their own form of legislation. In my day at Cave Hill, I do not remember the sections it arose under but these are not new things.

Aside.

Mr. D. J. H. THOMPSON: That is the point. Leave it to the office holder. Do not circumscribe him. The question as to where his judgement begins and ends is not an issue. If he is sufficiently experienced give him the widest possible powers to do these value for money audits considering the economy, effectiveness and efficiency of the programmes which are to be undertaken and the manner in which resources are given.

Now, that is not going to stop him from commenting on policy objectives. That is the point I am trying to make to the Honourable Member for St. Peter and he is not listening to me. We have too much of a lick and lock up mentality in Barbados that you put these things in law that people are not to do something and it is not going to stop them from doing it because you do not write the report and I do not write the report.

What, to my mind has to be important are some broad concepts so that Barbadians have confidence in constitutionally appointed office holders, that they are not in any way muzzled or fettered in exercising their functions. I am saying that anybody reading this legislation would

wonder how it is possible for an Auditor General to undertake a value for money audit without having the right to question the merits of the policy objectives. That is going to be very important.

Now, I am not saying that he can review it to the extent that whatever powers he has to take action against somebody should be able to flow from his comments on the policy. I am saying to you that that is where the safeguard must go. The Honourable Member for St. Peter even if he believes that, has now gone to the other extreme and has sought to import into our system a phenomenon, which, on the face of it, looks perfectly legitimate and it sounds good. That Ministers now become personally liable where they go against the advice of public officers and the advice is overruled. On the face of it, that sounds very good and I am all for accountability. If it causes loss it is also a value judgement and that is part of the problem. I am going to get to that in a minute. 2.45 p.m.

On the one hand, the Honourable Member for St. Peter is pulling Ministers under the Financial Administration and Audit Act, which as I have said on the face of it, I am going to get to it and the problems that I have it as it is expressed in this legislation. On the other hand, he is muzzling, in my view and fettering the rights of the Auditor General to conduct value for money audits in the way in which they should be conducted.

I am going to look at this Section about Ministers being personally liable and I hope that Honourable Member for St. Thomas would understand the reasons why I am saying that this Section sounds good but it has no effect. None whatsoever.

Asides.

Mr. D. J. H. THOMPSON: That is my view. This is a Rule which purports to amend Rule 9. It says in paragraph 1, and that paragraph 1 is the section which deals with the accounting officer's objections and recording that objection and only authorising the expenditure if the Minister overrules the objection. Subsection 2 is subject to the provisions of Rule 9(1) and 9(2) and it goes on in 9(3).

"Notwithstanding paragraph 1 the Minister shall be personally liable for any loss, wastage or improper use of public funds where he instructs the Accounting Officer in writing to incur the expenditure even though the Minister has been advised by the Accounting Officer that by so doing he would be in breach of these rules".

Where the Public Officer is liable the legislation makes it very clear what is to happen. He is surcharged. The

legislation makes it clear but in this case, in relation to the Minister, and by the way, the surcharging section cannot apply to the Minister for the simple reason that the word 'officer' is very clearly defined. A Minister cannot come under the definition of officer. Therefore, Mr. Speaker, all you have is a declaration in a piece of legislation that a Minister will be personally liable in these circumstances.

What does that personal liability mean at the end of the day to the Minister? Does it mean that he is criminally liable and was there any doubt before this provision that he was criminally liable if he acted outside of the law. There was no doubt about that so you are not correcting that problem. Ministers who have acted fraudulently, one presumes the same sanctions that would apply to other citizens, apply to them. It is a civil standard being imported here. Is some other penalty going to be imposed on the Minister? What does personally liable mean? If somebody says to me, I hold you personally liable if I lend you my pen and you lose it, what does that mean? That they have the power to cause me to buy back a pen if I lose it? That if the Minister is personally liable that he automatically gets locked up? There are no supporting provisions under this Clause 3 to give effect to this broad declaration.

It sounds good, Mr. Speaker, and for the Press it sounded good, Ministers will be personally liable. There is nothing in this. It is completely toothless, it is a meaningless statement of intent. Of course, the Auditor General could not question this because it is the Government's policy. That Ministers are to be personally liable but there is nothing that you can do. It just declares that you are personally liable.

Now, you must find some way if you are intent on making this provision sensible, of applying penalties, of putting in place procedures, of insuring that just like public officers, assuming that this is what you want, that Ministers are equally to be surcharged. I do not know what it is that the Government has in mind. The reason why the Democratic Labour Party had to question this and the Honourable Member for St. Peter said he heard the Leader of the Opposition commenting on it, was for this reason. It is meaningless. Even after having knowledge of it today and after the Minister lays it, if any Member on that Side is involved in loss, wastage and improper use of public funds where he instructs an Accounting Officer in writing to incur expenditure, there is no liability to you. No liability to you now that did not exist before this particular provision was put in place.

As I say to the Honourable Member for St. Thomas, I want him to exercise his mind in this matter. Wastage is a qualitative judgement. If you waste an extra cup full of dettol in cleaning out a toilet, for some people it is wastage for another fellow that is not wastage. This is why you have to

give the Auditor General enough rope, if he is being nonsensical, to hang himself but if he is a good Auditor General, give him enough rope to exercise his duties with that level of independence that is sensible in the context of the system of Government that we practise.

This is a meaningless Clause. I ask the Honourable Member for St. Peter not to get carried away as it is close to elections with these grand statements of intent unless they are going to be backed up by effective legislative provisions. If you want to lock up some of your Ministers before your term of office is over, let us have the necessary legislation to do it effectively. If you want to surcharge Ministers for wastage and improper use of funds, if you want to surcharge people for Carifesta, if you want to lock up them for improper use of public funds, come to this Chamber and put in place the penalties and we will have to support you, assuming that you can make a good case against your Ministers. If that is what the Honourable Member wants, he should say so.

Rt. Hon. O. S. ARTHUR: On a point of order. Mr. Deputy Speaker, the Member for St. John knows that the Minister of Finance does not have any form of retroactive taxation or any other such retroactive powers that would cause me to deal with cases that I know he wants me to deal with.

Mr. D. J. H. THOMPSON: That is precisely, the point, Mr. Deputy Speaker, the Honourable Member wants to deal with his own men and women. He wants to deal with them. If so, we would be dealing with flood relief in 1984. The Minister who let go that flood relief in St. Peter, I want him under this. Let us make it retroactive. I want retroactivity. In fact, Mr. Deputy Speaker, on that ground, on the ground of the money that was spent in St. Peter on the floods in 1984, I am appealing to the Honourable Member for St. Peter to make this provision retroactive and to make the relevant Minister personally liable.

Asides.

Mr. D. J. H. THOMPSON: If it was retroactive, there are some who would have to come under this provision time and time again. The Honourable Member for St. Peter does not want retroactivity and I am not arguing for that unless we can identify certain practices that need to be looked at.

Seriously, Mr. Deputy Speaker, I feel very strongly that if the Honourable Member for St. Peter wants to bring Ministers to account, you cannot bring Ministers to account in relation to the same procedures which apply to public officers. In other words that he has to write a report to the Director of Finance and then the Director of Finance exercise a judgement. What we need to do is to put in place effective committee systems in Parliament and to make the Ministers accountable to those Parliamentary Committees because at the end of the day they have to be accountable to

this institution. They are not accountable to public officers, they are accountable to the electorate and they are accountable to Parliament and this provision does not say who the Minister is accountable to. It is totally unenforceable and it is meaningless as it is presently drafted. 2.55 p.m.

Now obviously the Government intended that. This will now be added to the long list of promises and performance, the promise to make Ministers liable so they put a little section in a Rule saying Ministers are personally liable. The first time that anybody tries to deal with one of these situations they will find that there are no powers that go beyond that statement to make Ministers personally liable for loss, wastage or for improper use of public funds. That is the kind of facade, Mr. Speaker, Sir, some would call it a hoax but I am not going to use that language today, that this particular section exposes. That is why it is unnecessary and this is a rule that I had not even seen until just before lunch. We took a look at it and discovered that it is meaningless. Maybe that is why, Mr. Deputy Speaker, I did not get to see these rules before. I do not blame the Honourable Member for St. Peter yet. He will have time to reply but maybe that is why we never saw these rules because we would have been able to expose the weakness of these provisions, the emptiness of these provisions for exactly what they were. I ask the Honourable Member for St. Thomas to review those provisions in the interest of good government on instructions from the relevant Minister and we will see whether he is truly interested in bringing his Ministers to account in the way in which he has recommended.

I think I have dealt with those two things, the rhetoric and the muzzling of the Auditor General, the meaninglessness of this amendment to the Rules. That does not mean that the amendments as a whole are not supportable. We agree in the provisions that give effect to the new electronic recording of information and that kind of thing. We are not against that, Mr. Speaker.

Now. Mr. Speaker, Sir, section 15 of the amending Act, the Honourable Member for St. Peter made much ado but you must not get side tracked by what public officers tell you. Any public officer that tells me that I am going to look behind it because when something is not done they will turn around and say, well you took that out of my ambit so it is at you, not at me. My attitude is very clear. If you want the best possible public administration do not put any fetters like that on the public officers. Leave them to do their job because at the end of the day what the Honourable Member for St. Peter does not realise is that some Auditor General is going to miss something and is going to come back and say, well boy I saw it but I was not entitled to question it or review it because I thought it had something to do with the merits of the policy objectives of Government. It is then back in the lap of the Minister of Finance and policy makers. My approach is to give the widest possible rights to the Auditor General and the Auditor General has enjoyed those rights for a long time.

Some of us have been at the receiving end, including the Honourable Member for St. Peter. Leave it that way. The ultimate arbiter will be the electorate of Barbados not what an Auditor General writes in an Auditor General's Report.

Now, clause 15 of the amending Bill, examination of Accounts, the Honourable Member for St. Peter made quite a bit of ado about extending the ambit of the work of the Auditor General and under this section the Auditor General would be empowered to undertake an audit of an entity or a person in respect of whom financial aid from the Crown is sought which would mean before the money is disbursed to them or who had received moneys by way of a grant or a loan of funds voted in Parliament. The Auditor General*! shall undertake such an examination if required by a Resolution of the House of Assembly or by the Minister.

Now, that gives the Minister extremely broad powers. We would have to call this the Israel Lovell Foundation Amendment to the Financial Administration and Audit Act because this would now give the Minister, after the money has been advanced, the powers to enquire into the disbursement of money to a private entity which he, the Minister, not another Minister, which the same Minister of Finance as minister responsible for poverty alleviation, granted the money to and the right of the Auditor General to investigate for example, such an entity as the Israel Lovell Foundation, just to give an example, Sir, is subject to the Minister requiring him to do so, or the House of Assembly requiring him to do so.

Rt. Hon. O. S. ARTHUR: On a point of order, Sir, the Member is misleading the House. One of the 14 conditions under which the Israel Lovell Foundation has been given access is the requirement that it shall be subject to audit by the Auditor General and that they have to make all of the documentation available for an audit, Sir, to be carried out and that at the end of the programme the Report has to be submitted, Sir, to the Ministry and to Parliament, Sir. So there is no question as to whether the Israel Lovell Foundation is subject to audit. Built into the arrangement is a condition for access to the Funds that it must be subject to audit by the Auditor General. So the Member is misleading the House.

Mr. D. J. H. THOMPSON: So, Mr. Speaker, Sir, just like the condition that the House would have to pass a Resolution, just like the condition that the same Minister who gave the money would have to ask the Auditor General to inspect it, it is a condition that before they disburse the money and before this legislation was in place, that the Auditor General would undertake an audit so they are not yet subject to this because this has not been passed yet, Mr. Deputy Speaker. It is new legislation. It is not like the Rules

which have apparently already been laid. This is new legislation. The money that the Israel Lovell Foundation has in its hands is subject only to a letter or contract. I do not know what it is that has passed between the Ministry and the Foundation.

Rt. Hon. O. S. ARTHUR: On a point of order, Sir, This section does not alter the existing provisions of the Financial Administration and Audit Act. This speaks only to circumstances where the Minister... and this reproduces the existing section 33 of the Act. We are not changing the law in this respect, Sir. I do not understand the argument. Read section 33.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, what I am saying is that what we have brought to the House...

Pause.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, listen to what the old legislation says. This is very clear. The Honourable Member cannot say it is the same language.

"The Auditor General shall, if so required by the Minister, examine the accounts of any person or organisation who has received moneys by way of grant or loan out of funds voted by Parliament or in respect of whom financial aid from the Crown is sought and report the results of his examination to the Minister."

Under this section, Mr. Speaker, Sir, the Auditor General shall be required either by a Resolution of the House of Assembly or by the Minister to examine the accounts of any person or organisation which has received money by way of grants or loan out of funds voted by Parliament or in respect of whom financial aid from the Crown is sought. 3.05 p.m

Mr. Speaker, the Honourable Member just said to this Chamber that in respect of the Israel Lovell Foundation he had to put in a condition giving the impression it was some new condition that an audit...

Rt. Hon. O. S. ARTHUR: On a point of order. I said no such thing. We are constraining all of the funds being spent under the poverty eradication programme by the condition that they must be subject to an audit. The Member for St. John does not want to hear that, Sir, because he wants to continue to perpetuate the myth that there is some slush fund that is being put out there for people to use at their discretion.

The Israel Lovell Foundation has been constrained by 14 conditions. All have been subject to the same thing. Their programmes are to be reviewed. You all want to have it both ways. You say it is a slush fund and now that you are on the

back foot now you want to say we had to do it to stop people from stealing. It is disgraceful.

Mr. D. J. H. THOMPSON: Mr. Speaker, the Right Honourable Member does not understand the law as usual. All I am saying is that even though the Auditor General already has this power, the Right Honourable Member for St. Peter had to put in place a clause and one of 13 other clauses to give the Auditor General power to do what the law already says he can do and the Minister knows that there are a large number of organisations and a growing number who are receiving money by way of grants out of the Consolidated Fund none of whom have come under an investigation in recent times by the Auditor General.

The last Auditor General investigation was done of the National Cultural Foundation and when it was sent in, instead of the then Government taking action against the people they should have taken action against, we did not proceed with it and it languished in the Ministry of Education.

Aside.

Mr. D. J. H. THOMPSON: Don't let me get into that because you may have more to defend than me. You may be on the back foot today and not me. Go and read the Auditor General's Report on the NCF. You all want to talk about people drawing money for employees that did not exist. You want to talk about capital equipment that was purchased and never turned up. You want to talk about paying a company five times for the same invoice, a major publishing company in Barbados. Read the Auditor General's Report in relation to the National Cultural Foundation! Phantom people receiving pay as maids and general workers at the NCF who do not exist in Barbados. You read that report, that is the last one done.

I am saying that substantial sums have been disbursed and what needs to be insisted on is that an annual audit of those accounts...

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, I just want to make sure that the Honourable Member for St. John is not misleading the House in referring to the Auditor General's Report that was done in February 1994.

Mr. D. J. H. THOMPSON: You mean there were infelicities after too? That report was done for the period between 1984-86 when a Barbados Labour Party administration was in office and the report was done in 1987 and probably that is why no action was taken by the Democratic Labour Party on it because it would have been killing an ant with a sledge hammer and the people would have dealt with it otherwise.

That is the last Auditor General Report that I know of that was done in relation to an organisation which received a grant from the Consolidated Fund.

In 1994 the Right Honourable Member for St. Peter journeyed down to the 'O' Level Institute. He was then Leader of the Opposition and made all kinds of grandiose statements. He was going to investigate almost every department of Government. He was going to carry out a thorough investigation. You know how he talks of the Central Purchasing Department. He even went as far as to say - I cannot quote from a newspaper, Sir, so I have to quote from my memory - that no Minister should be able to determine who will work at the statutory boards if not, the whole business of Government and the public sector would become purely by political considerations.

Aside.

Mr. D. J. H. THOMPSON: I don't have two personalities but maybe you do. As I say, I do not know what was affecting you when you said all of that but the headline was CAC Probe No. 2: Committee Soon to Look at Purchasing Department. That was in August 1993. So these are not new issues that we are hearing about.

Despite the Honourable Member's so-called knowledge of things going on at Central Purchasing no report was done by the Auditor General. You can start it tomorrow. You think I do not know you. I know exactly how you function. Tomorrow now we will hear that they are going to start a report on Central Purchasing Department up to 1994.

So Mr. Deputy Speaker, all I am trying to say is that that provision in relation to the Israel Lovell Foundation is going to be observed more in the breach than otherwise and you will only be able to investigate such foundations if the Minister calls on the Accountant General to do it or if this Parliament in which the Barbados Labour Party has the majority of Members require the Auditor General to do it.

In my view, the Auditor General should have the power..

Rt. Hon. O. S. ARTHUR: On a point of order. I am insisting before the House that the language in the amendment is the language in the original legislation. We are not taking away a power. This refers to Ministers seeking to have special audits conducted and the language is "if the Minister so requires". It is not saying that the Auditor General in the course of his general audit.

The Minister or the House can require special audits. The legislation says if the Minister so requires then it can happen. That is what it means and it is in the original legislation and we are carrying it because this is a matter of option. A Minister is not going to require a special audit into every Government department. That is what the legislation means.

Mr. D. J. H. THOMPSON: Is it likely that the Minister who gave the grant to Israel Lovell will require the Auditor General to investigate that either?

Aside.

Mr. D. J. H. THOMPSON:... Precisely the point. You have now come to the point. I am not talking about the law as it was. I am not talking about this amendment as it is. I am talking about the principle that an Auditor General should be able to pull the trigger himself to undertake an investigation into all of these entities which are now receiving grants subventions and other forms of money from the Consolidated Fund. That is the point and the Honourable Member for St. Peter does not seem to understand that, because he is in a time warp, mixed up between what the law says now, what he is going to be doing under the amendment, which has nothing to do with what I am saying. I am saying that the right of the Auditor General to undertake a special audit, should be taken out of the hands of the ministerial discretion, out of the hands of the House of Assembly *per se*, because it is superfluous since he has to report to the House anyway and that the Auditor General should be given power on his own initiative to undertake a special audit if necessary in relation to any individual or entity which is receiving money from the Consolidated fund. 3.15p.m.

Rt. Hon. O. S. ARTHUR: On a point of order. The Honourable Member is misleading the House. Certain statutory organisations have written into their Legislation a designation of whom their audits should be undertaken by and that is part of the law under which they function. There are others that do not have it and the Auditor General audits their accounts. Sections 32 and 33 of the existing Legislation are saying, Sir, that if the House were to determine it, any Statutory Board if required could become subjected to an audit by the Auditor General. That is the sense in which this part of the Financial Administration and Audit Act has to be read. That some institutions can have their own auditors but the House reserves the right if required to have the Auditor General do the Auditing and that is what this is saying.

And all we are doing is add to the existing Legislation to say that in addition to the Statutory Boards, we can also now require him to audit anybody. That is the point.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, Sir, I do not know what the Honourable Member is getting so hot under the collar about. If he does not understand the laws he should say so, take counsel from the Attorney General, who himself has some doubts about these things and resolve them.

Asides.

Mr. D. J. H. THOMPSON: Do not get me embroiled in a legal discussion with you. When I come in here, I come in here as a Political Leader of a Party. I do not come in here as a lawyer at the Bar. If you want to be a lawyer, go to Cave Hill, get your degree and start practicing law. I am talking about the principle that an Auditor General should be able to initiate an audit of an entity which has received moneys by way of grant or loan out of funds voted by Parliament or in respect of whom financial aid from the Crown is sought without the Minister having to require him to do, or the House of Assembly having to require him to do so.

Now, therefore, Mr. Deputy Speaker, Sir, the Honourable Member for St. Peter may not understand such a fine point, but it is an important point. Right now, Mr. Deputy Speaker, Sir, there is no safeguard. In fact, the person whom the discretion resides in at the end of the day is not the Auditor General. The discretion at the end of the day resides in the Minister, because he is the person who has to require the Auditor General to undertake the audit under the new section 32(1). The Auditor General shall, if required, either by a resolution of Parliament or by the Minister. I am saying the Auditor General should have that power in himself. The discretion should be his to undertake such an act.

Aside.

Mr. D. J. H. THOMPSON: Explain it to him because he does not seem to understand it. It is a very, very simple point.

Now, the next point that I want to make to the Honourable Member for St. Peter, Mr. Deputy Speaker, Sir, is that he has made a lot of song and dance about extending the powers of the Auditor General to undertake audit and inspection of public accounts in relation to Statutory Bodies.

Now, Mr. Speaker, Sir, audits are carried out in relation to Statutory Bodies now, but Statutory Bodies are not subject to any rules except those which have agreed to adopt the financial rules. Some of them have done so, but strictly speaking the provision of the financial rules do not apply to them in law. And even if they do, that is something you will have to find out in the law courts. You are not going to be able to trigger, for example, the Director of Finance's role cannot apply to statutory corporations. The role of the Accounting Officers does not apply to Statutory Corporations in the same way as worded in the rules. That is the point.

Therefore, if you want this Legislation and the amendments of the Act to be applicable, either you are going to have to pass some general financial rules for

Statutory Corporations and make those rules applicable to all Statutory Corporations or we are going to have to draft up a set of rules and let the Corporations adopt them as Resolutions, which become operative in relation to their officers.

But right now Statutory Corporations are in no man's land and it is a problem. Normal accounting rules would apply to them at law in my view, normal accounting procedures which are definitely the private sector's. Therefore, when the Auditor General audits those books, he cannot apply the traditional approaches which will be relevant to the financial rules. None of the sanctions under the financial rules can apply because the Director of Finance does not have any power in relation to Statutory Corporations, nor does the concept of Accounting Officer arise. So that if you really want to give the Auditor General these powers under this piece of Legislation, Mr. Deputy Speaker, Sir, what you need to do is to ensure for consistency that you get the Statutory Corporations to adopt formally rules which are similar to the financial rules. That is the only point we are making. Carry out the thorough going reform and make them subject to the existing financial rules which apply to government departments.

So, I think those, Mr. Speaker, Sir, are some of the principal views that we on this Side have. I think these are the four concerns. The inability of the Auditor General to undertake an audit of an entity which does not strictly come under his preview but receives money from the consolidated fund by way of grant, loan or otherwise on his own initiative. The problems with that section which seeks to make Ministers personally liable but does not attach any penalties to them. The problem of Statutory Corporations not being subject formally to the rules similar to, or the same as financial rules which are adopted by the Government itself.

Rt. Hon. O. S. ARTHUR: On a point of order, Sir, he is misleading the House. I am urging the Honourable Member for St. John to read what is being provided for in the context of what now exists and section 32 will help him. Because it is even said that if the House by Resolution so directs, the accounts of any Statutory Board shall notwithstanding anything to the contrary contained in any other Act be audited by the Auditor General.

What that means, Sir, is that section 51 requires that the Central Bank should have its own auditor. And what this Act is saying is that the Minister, if he wishes, notwithstanding the fact that the Central Bank has its own auditor appointed by law, could require the Auditor General to audit the Central Bank's books too. This is what this is about and the law has always allowed that. So we are not changing the law other than to say that in addition to Statutory Boards, other bodies can now be brought under the provision of the same Legislation, even if they have their own auditors, we can require them to be audited by the Auditor General. That is what this is saying.

I am saying that he is misunderstanding it and therefore inadvertently misleading the House

Mr. D. J. H. THOMPSON: The Honourable Member wants to clarify everything for the Press so that the Press makes him look good all the time. Nobody is attacking his integrity. We are having a debate. I have been a Minister of Finance, Sir. I have been responsible as Minister of Finance where Statutory Corporations in Barbados, which are neither bound by the Financial Rules nor strictly speaking the Financial Administration and Audit Act, which have private Auditors and which have procedures which are different from the Financial Rules have still been audited by the Auditor General.

However, what I am saying to the Honourable Member for St. Peter, which is very clear and he does not seem to understand, is that it would be better if he makes a decision to bring all of the Statutory Corporations under a format of financial rules and that they adopt those financial rules by Resolution at a board meeting. That is all I am saying. So that the Auditor General had before him, certain basic well-known procedures which are to be followed by all Statutory Corporations in Barbados. I had to say that slowly, Sir, because the Honourable Member for St. Peter when he reads back this debate is going to discover that I was saying that all the time. 3.25p.m.

He is the only person in here who does not understand what I am saying. Therefore, what has been happening in the past is that some statutory corporations have accepted an edit from the Director of Finance.

The Honourable Member for St. Peter might not know this, but from as far back as the 1970s, the Director of Finance indicated that statutory boards were to follow the Financial Rules. There is a Cabinet decision on it.

Aside.

Mr. D. J. H. THOMPSON: I think it is 1973. But even that, if you check the files you will see the Minute as well and the letter that went out to the statutory corporations, but some of them have neither been following those rules nor the rules which would operate in the private sector and which the Institute of Chartered Accountants generally would find acceptable.

The Honourable Member for St. Peter must know this. It therefore creates a situation that some statutory corporations in being audited by the Auditor General, he is going to come across a whole set of novel procedures which exist in relation to a statutory corporation.

I would suggest that all of them be brought very swiftly under some basic rules which will be applicable to their account keeping and so on.

Rt. Hon. O. S. ARTHUR: If the Honourable Member will give way on a point of elucidation. I would think that the Honourable Member would be imposing an overwhelming obligation on the Auditor General that need not be imposed. For example, the Auditor General should be asked to be satisfied that the audits are being conducted but in the case of the Central Bank and the Barbados National Bank, where there is a legal requirement that there must have an auditor in place and that there must be audited accounts laid in the House, to put the Auditor General's Department already constrained into a position where it has to do professional audits, he might be just required in those instances to satisfy that the audit process is being carried out but to put him in a position where he has to do it is to overrun the department.

Mr. D. J. H. THOMPSON: I am not saying that either. I am saying that if he has the power by virtue of this legislation that there are certain basic rules that should be applicable to all of those entities because at the end of the day the Minister of Finance gets up in this Chamber, and I have heard the Honourable Member for St. Peter does it on several occasions: "All persons functioning under my purview must do X, Y and Z." I have sat down and laughed with the Honourable Member for St. Philip South because I know that regardless to the edits that the Honourable Member delivers from this Chamber, none of that has happened in the past, nor will it happen tomorrow because there is nothing that would require the officers in those entities to do any of that.

I am not talking about the Markets Department and the Ministry of Agriculture. That is outright corruption. I am not dealing with that. When we were warning the Government about what was going on that a former Cabinet Minister set up a company and received \$28 000 before he undertook any of the work on the refurbishment of a public market, Honourable Members on that Side jumped up in defence and attacked us, tried to impugn the Auditor General's Report, saying it was a lot of nonsensical nitpicking. The chickens have now come home to roost.

Hon. R. C. EASTMOND: On a point of order, Sir. I do not know precisely what the Honourable Member is trying to get at but at no point did I authorise that type of behaviour. I never authorized it. In fact, the first time I heard about it was in the Auditor General's Report. I hope the Honourable Member is not trying to impute some motive on my part. Clearly that never happened.

Mr. D. J. H. THOMPSON: The Honourable Member for St. James North rose at an appropriate time and I will confirm that I do not in any way refer to the Honourable Member for St. James North because in this matter he has always been honourable. Whenever we have raised it, if he does not know about it he has sat in silence. He should probably know, but that is a different matter. I mean know

in the sense that as Minister, if the information was coming to me, it had to be circling around the Minister too and sometimes you have to listen because there are a lot of gangsters functioning in Barbados, some of whom are able to override every single rule, every single procedure simply because they swear allegiance, not to the Minister, but to some higher official, and I do not necessarily mean the Prime Minister when I say high official. I could very well mean the Almighty, that is until the day of reckoning comes.

Mr. Deputy Speaker, the Honourable Member for St. James North knows that there are people in the Ministry of Agriculture today and in statutory entities created under the Ministry of Agriculture who do not even think they should report to him as Minister. I can call many departments in which that is happening and they want to report and account to everybody else and bypass the legitimate Minister of Agriculture.

Now, in other circumstances, a resolution of no-confidence would be moved, the Minister would be losing weight and biting his fingernails. We do not function like that. That was done to Members on this Side week after week by some people on that Side who when they now see the same practices being undertaken rush to the defence of the officers and defence of those practices.

We are not going to make the Honourable Member bite his nails because we understand the difference. I am saying that there are Members on that Side who should have acted a long time ago because two years ago in the 1996 Auditor General's Report, we were pointing out the most glaring scenario which was that \$28 000 paid to a company in which a former Cabinet Minister of the Barbados Labour Party, and a man who is on the call-in programme every Monday attacking the Democratic Labour Party. He says he wants to see a secret document. He will find his Waterloo is a difficult battle for him to fight in due course. Twenty-eight thousand dollars in taxpayers' money was paid to him before he even moved a plank. Now, in the history of Barbados, I cannot think that I have ever seen a situation of such glaring corruption as that particular event.

Aside.

Mr. D. J. H. THOMPSON: The Honourable Member for St. George South is asking what is the big thing? That is why you say the five Grantleys are going to cause you to win the election too. You have the wrong attitude to politics and at the end of the day, all right.

Mr. Deputy Speaker, life can be funny. Every Auditor General's Report for the past three years has pointed out areas where there could be significant improvement. Under the old legislation much of what the Auditor General would have said in these Reports related to the policy of financial

administration and the policy objectives of financial administration.

Do you realise that after this legislation is passed that what the Auditor General has in this Report on page 5, this is the 1997 report, that his recommendations for amending the Financial Administration and Audit Act and the Rules would not be in this Report anymore because in putting it in this Report he would be trespassing on a function which the Government has removed from his ambit. The policy objective of Government is good administration.

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, on a point of order. The Member is saying that the right of the Auditor General to put policy recommendations in a report is the same thing as a right to review the policy objectives of Government. I am saying, Sir that he would have to be overtaken by some form of midsummer's madness to equate the two. The Auditor General can put any recommendation of his wish in any report. That right remains but to review the objectives of Government's policy is a different matter and to equate the two just indicates the desperate nature of the Leader of the Opposition to find an issue because there is no issue.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, any legislation that remains in place while a Government is in office, one can safely make the assumption that is the Government's policy. A Government not only acts to bring new legislation but it removes legislation that it does not agree with from the statute book so that any legislation which presently exists on the statute book in Barbados is part of the policy of the Barbados Labour Party until changed. Therefore, any time the Auditor General comments on existing legislation and makes recommendation to change existing legislation, Mr. Deputy Speaker, he is not reviewing the merits of policy objectives in Government. What he is doing is questioning the merits of the policy objectives of Government. This Amendment forbids the Auditor General from questioning the merits of the policy objectives of Government. Not just reviewing it. He is not entitled to question it. That means that what the Auditor General is required to do is to accept the law as it is. He would therefore not be able, as he does, Mr. Deputy Speaker, in the 1997 Report to question it. He would have to accept the law as it is. Once he questions it he now starting to deal with policy objectives. 3.35p.m.

Rt. Hon. O. S. ARTHUR: On a point of order. The Auditor General has neither powers nor competence to review legislation. The Auditor General functions in relation to the auditing of financial practices of Government. Now to import that the Auditor General is now to review legislation - he is not a lawyer neither does he have a team of legal specialists to review legislation. Auditing does not involve reviewing legislation. We are now trying to impute to the

Auditor General all things to all people. He is only the Auditor General. It is for the courts to interpret the legislation. It is foolishness, Sir.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, under this present provision that Subsection 26(3) shall not be construed as entitling the Auditor General to question or review the merits of the policy objectives of Government in respect of any Ministry, department or statutory body. That would include his own department and the law that applies to his own department. He would not be able to question them in the 1997 Report, as in the 1996 Report, as in the 1995 Report and the 1994 Report, the Auditor General made some recommendations for matters on which he said the Government took no action. He said and I quote:

"The following proposed amendments to the Financial Administration and Audit Act were made to the Director of Finance and Economic Affairs:

Since action has not been taken I again highlight the recommendations."

In this report he recommends that public debt be re-defined. He recommends a whole set of other things. That short-term loans be defined, an increase in sums which may be remitted with the authority of the Minister from under \$1 000 to under \$5 000. He would not have been able to make any of those recommendations, Mr. Deputy Speaker, because those are policy issues. Those are the merits of policy objectives because the law is the highest expression of policy.

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, on a point of order. In the course of carrying out an audit, the Auditor General can make recommendation as to how a deficiency can be remedied. That is a different matter from saying whether a Government policy to have a hospital in the north is a good policy or not. It is not his business to say if the Government should have a hospital or not. He may, in reviewing the accounts and how they are managed, of a Government department, make recommendations and he may recommend that certain things be done. That is fine and he has done that from the time he has been an Auditor General but we are saying that he now cannot take any Government policy, say, free education, he cannot say whether it is a good policy or bad policy because that is not his function, it is not his province. It will cause him to enter the political realm and enter the realm of political controversy if we now attach to him the right to exercise judgement about whether Government policy is right or not.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, the Honourable Member is speaking to the Press as usual because as usual he does not want anybody to understand the true impact of this provision. Mr. Deputy Speaker, the law of Barbados as it stands today is the highest expression of

of policy. What the law is, is policy. The Honourable Member for St. Peter may not understand that. If you say you have a policy, the only way that you can effect that policy is through the introduction of legislative and other measures to give effect to it. Of making resources available to give effect to it.

Mr. Deputy Speaker, the Honourable Member for St. Peter has in fact given us all the evidence that we need of the criticisms that this section is not necessary. He does not know where policy begins and where it ends. Therefore, even what is called the merits of the policy objectives of Government defies a definition, defies an explanation. That is why, the Honourable Member for St. Peter himself cannot explain what it is. He cannot explain to this Chamber what it is. He is talking about if you decide to build a hospital, he cannot comment on that. That is not what anybody is talking about.

What we are talking about is the relationship between programmes and policy objectives enunciated by Government and the amount of money spent on them and how that money is spent. You have to look at both if you are doing value for money auditing. You cannot look at one side only because that is not value for money auditing. To say that you are introducing value for money auditing and then take out from the right of the Auditor General to report to this Chamber, the right to comment, to question even, not just review...

Asides.

Mr. D. J. H. THOMPSON: The Honourable Member has made a lot of heavy weather of the word review but it says to question the merits of the policy objectives of Government in respect to any Ministry, department or statutory body.

Mr. Deputy Speaker, we have come full circle in this debate. The Honourable Members on that Side seem determined to keep this provision and the Democratic Labour Party will not support this particular section. As far as we are concerned, it is an attempt to muzzle the Auditor General of Barbados. It is an attempt to reduce the powers of the Auditor General of Barbados to effectively carry out his responsibilities under the Financial Administration and Audit Act. It is an attempt by Government to hide from the fullest scrutiny.

Mr. Deputy Speaker, this is why there are now scrambling about to try to put together an answer to what is happening in the Ministry of Agriculture. Mr. Deputy Speaker, you can see this particular amendment as falling fully within this Government's design to hide from scrutiny the connection between Government's stated policy, its

programmes and the objectives of that policy and the money that is spent on it. Having talked about value for money audit, having talked about the power of the Auditor General, all the Auditor General will be doing at the end of the day is dealing with the efficient and effective use of resources. Then the removal of the word 'economy', which the Honourable Member said they are going to put back in, Mr. Deputy Speaker, would have compounded a major error which this Government would have made in relation to this particular section.

I believe, Sir, that we have dealt with the major provisions of this legislation. At the end of the day, Mr. Deputy Speaker, I want to end at the midpoint in the Honourable Member's speech. In 1994, he would have called it 'opposition politics'. I heard it today being used but I do not know what that means. I believe that if you set yourself on a philosophy and an approach, you should remain fixed in that unless there is some incontrovertible reason why you should shift from it. I do not know that there is something called 'opposition politics' and 'government politics' but the Honourable Member knows the difference. The difference can be summarised as follows:

In 1994 every comment made by the Auditor General about bad financial practices in Ministries was made attributable to the Minister of Finance or to the relevant Minister in the Ministry where that comment was made. All of a sudden in 1994, the Honourable Member for St. Peter discovered that the Minister is not responsible, that the civil servants at the end of the day are responsible for these nit-picking concerns.

Rt. Hon. O. S. ARTHUR: On a point of order, Mr. Deputy Speaker, let me repeat what I said, Sir. I said I am not holding myself responsible for what any Minister in the previous administration did because those Ministers did things that were not necessary in keeping with what Ministers should do. I said that, Sir, and if he wants me to elaborate, I shall feel at liberty to do so.

Mr. D. J. H. THOMPSON: Thank you, Mr. Deputy Speaker, what the Honourable Member for St. Peter is now implying in this debate is that all of the criticisms which we see in this report about the over expenditure of millions of dollars, about the expenditure of money on projects, Mr. Deputy Speaker, which were not provided for in the Estimates, this list of comments in the Ministry of Education, the Police Department, the Marketing Department in the Ministry of Agriculture, Customs, the Ombudsman, the Ministry of Finance, none of these have anything to do with the Minister.

Hon. D. A. C. SIMMONS: On a point of order. Are you saying that I gave instructions to the Police Department to overspend?

Mr. D. J. H. THOMPSON: What I am saying is that you were silent in the evidence that was put before you and refused to accept responsibility but when Members of the Democratic Labour Party were on that Side, that any over expenditure of money outside of the relevant Head or any of the other issue.... 3.45 p.m.

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, on a point of order, Sir, the Member is misleading the House. The Member is saying that the Attorney General was silent when the enquiry was being made, Sir. No Minister is aware of when an audit is taking place, Sir, and to say that a Minister was silent is to imply that he was aware and chose to ignore what was happening. I would want those words to be withdrawn and struck from the record, Sir, because that is untruthful. No Minister knows.

In fact, Sir, Ministers only become aware of the Auditor General's Report when it is laid in the House. Mr. Speaker, it does not even come before Cabinet.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, Sir, the Honourable Members on that Side have continued to speak about these matters as if it is only now that civil servants are responsible.

Mr. DEPUTY SPEAKER: Members, let me hear the Member for St. John.

Mr. D. J. H. THOMPSON: They do not want to hear me. They think they can put me off but they cannot put me off but all this will be going into the record. You can object until midnight because I have all the time in the world. You are guaranteed that because today is Tuesday and you do not have a lot of time to do anything this year so let us talk right through to the end of the year.

Mr. Deputy Speaker, Sir, Honourable Members on that Side, when they were over here would have attributed all of that... Look I want to give you an example, Sir. Would you believe we had a debate in here and the Honourable Member for St. Peter when faced...

Rt. Hon. O. S. ARTHUR: Is the Member for St. John, Sir, seeking to deny that the Member for St. Michael West intruded in the affairs of the St. Joseph Hospital, Sir, beyond the legal authority for Ministers?

Mr. B. M. TAITT: On a point of order, Sir, the Prime Minister is being...

I have to be very careful what I say when you are in the Chair, Sir. The Prime Minister is unfair and irrelevant. What he is doing is speaking to the Press. He does it all the time. He is speaking in here for the Press to pick up what he says. I categorically deny...

Mr. DEPUTY SPEAKER: The Member for St. Michael West I am saying to you, Sir, that no one can speak to the Press from here. They have to speak to the Parliament through the Chair.

Mr. B. M. TAITT: I categorically deny any such allegation. This Parliament has pronounced on it and when the time comes we will hear about it.

Certain remarks made by the Honourable Member for St. Michael West were ordered to be expunged from the record by Mr. DEPUTY SPEAKER.

Member for St. John,

Mr. DEPUTY SPEAKER:
continue your speech please.

Asides.

Mr. DEPUTY SPEAKER: The Member for St. Michael West, please take your seat.

Listen, I do not want you to get into an argument with the Chair today because I am not in that mood for arguing with you today.

Mr. B. M. TAITT: I know when you get in the Chair how it is with me. I know I have no luck in this House when you are in the Chair.

Mr. DEPUTY SPEAKER: *(Standing)* The Member for St. Michael West would you please take your seat?

Mr. B. M. TAITT: Any time. I know what you have promised me. Yes, Sir, I will be obedient. But on a point of order, Sir, I want...

Mr. DEPUTY SPEAKER: *(Standing)* The Member for St. Michael West would you please take your seat. The Member for St. Michael West will you please cease to speak and let us carry on the debate in the Chamber.

Asides.

Mr. DEPUTY SPEAKER: The Member for St. Michael West, I have come to the end of my tether with you and I do not want to do anything that I might be sorry for down the road or you might be sorry for also. So I am warning you. If you continue with that behaviour in here "today I will have to take the necessary steps. That is all. The Member for St. John, would you please continue?

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, Sir, I have to make this point very clear because to the extent that the Honourable Member for St. Michael West made the point in this Chamber that there was an element of intellectual subversion which took place in Barbados in 1994

which led to conclusions which are not only unreasonable and unfair, Mr. Deputy Speaker, but in the context of what we now have before us in this Chamber, these so-called provisions which are to make Ministers responsible and this kind of "paipsey" legislation which is to give effect to the all powerful edits of the Honourable Member for St. Peter you will see, Mr. Deputy Speaker, Sir, the difference. I want to give you an example. In 1994 the Honourable Member for St. Peter was part of the Public Accounts Committee and on page 6 of that Interim Report under the heading Failure to Respond to Audit Queries, this is what they said: "The Auditor General has reported that the Ministry of Health was issued with 40 memoranda containing queries during the period 1st January 1986 to 31st March 1992 and 19 responses were received by 9th June 1993." This is how they commented on that, Mr. Deputy Speaker. "Breaches such as these undermine the system of financial control, lead to financial laxity and can spawn corrupt practices".

In 1998, Mr. Deputy Speaker, Sir, the Auditor General Report and these are the responses to the Auditor General Memorandum. I can assume that the same corrupt practices which Honourable Members as then members that Committee referred to still obtain under this administration led by the Honourable Member for St. Peter. Laxity, corrupt practices, and the undermining of the system of financial control. Because by 1998, Mr. Speaker, Sir, look at the Ministry of Health alone...

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, no audit query in this administration has gone to the Minister of Health. I am not in a position to say that certain matters were not drawn to a Minister of Health in a previous administration. I am going to say that as regards any implication that audit queries might have been raised by the Auditor General about a matter and it is only a query, because a query is basically further particulars as to what happened here. No audit query has ever been directed, Sir, to the conduct of this Minister of Health. The keeping of accounts in the Ministry of Health may be the subject of an audit query going to the Permanent Secretary. But I am glad, Sir, that he has chosen the Ministry of Health. I can say categorically that no queries have been raised by this Minister of Health and I put the question again to him. Can he say the same thing about a previous Minister of Health with whom he is familiar? 3.55 p.m.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, let me repeat what I said about the audit queries. There were 40 memoranda issued between 1st January, 1986 and 31st March, 1992 and 19 responses received by 1993 and the Committee concluded that breaches such as these undermine the system of financial control, lead to financial laxity and can spawn corrupt practices.

In 1997 alone in the Ministry of Health and the Environment 32 audit memoranda were issued and the number of replies received...

Mr. DEPUTY SPEAKER: Sorry to interrupt you, Member for St. John. The Member for St. Michael West, I am trying to hear what the Member for St. John is saying and you are continuing to interrupt and trying to disrespect this Chair and I will tell you that if you do not cease I will have no alternative to do what I have to do this afternoon. I am warning you.

Mr. D. J. H. THOMPSON: The Honourable Member is not interrupting me. The Honourable Members on that Side do not want to hear it but I am going to get it into the records.

Mr. B. M. TAITT: On a point of privilege. I wish to put in the record that I have been in this House and I have been honoured in this House for 25 years of parliamentary service and I wish to put in the record that I feel oppressed when Your Honour is in the Chair.

Mr. DEPUTY SPEAKER: Member for St. Michael West I am going to ask you to withdraw the remarks or make an apology to the Chair which I prefer or I will have no alternative - we have about four sessions to go in this House and while I am in this Chair I will have to ask you not to come here until you apologise to the Chair and remove those remarks. I will ask that while I am in the Chair that you be not present in this Chamber.

Mr. B. M. TAITT: I did not come in here on a bicycle. I was put in here by the people. You cannot say that when you are in the Chair I must not be present. What do you think this is? Do you think it is a Star Chamber? You cannot tell me that when you are in the Chair I must not be in here. I was elected.

Mr. DEPUTY SPEAKER: Member for St. Michael West, please take your seat. Let the Member for St. John continue.

Mr. D. J. H. THOMPSON: Nobody interrupted me.

Mr. DEPUTY SPEAKER: Member for St. Michael West, let us get some quiet and some decency.

Mr. B. M. TAITT: On a point of order, Sir. I am entitled to the same privileges as other Members in this House. The Member for St. Peter is saying things about me and your right ear is not hearing.

Mr. DEPUTY SPEAKER: Member for St. Michael West, I am asking you to take your seat.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, in 1998 - 50 audit memoranda issued, 4 replies. If the then Public Accounts Committee had seen that what would they have said? I assume that they would have said that breaches such as these undermine the system of financial control and leads to financial laxity.

Rt. Hon. O. S. ARTHUR: On a point of order, Sir. The Member for St. John is the Chairman of the Public Accounts Committee. If he wants to have a Public Accounts Committee enquire into any of the queries he is entitled to do so but he has abdicated his responsibility as Chairman of the Public Accounts Committee and now is coming to argue by innuendo that because queries are asked it means there is corruption. A query is just as it says, a query. The Auditor General asks for more particulars and he is admitting a failure in his discharge of his responsibility as a Chairman of the Public Accounts Committee to be saying that he believes that there is corruption but he is doing nothing about it.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, I am following a report to which the Honourable Member signed his name, O. S. Arthur, M.P. on June 2, 1993 and in those days he was saying that when you do not respond to queries that that leads to breaches which undermine the system of financial control, leads to financial laxity and spawns corrupt practices. I am saying that with only 40 memoranda between 1986 and 1992 and 19 replies, that the Ministry of Health by 1998 had improved in its spawning corrupt practices, financial laxity and its system of financial control because by 1998 they almost got as many queries in one year than in the entire period between 1986 and 1993.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, On a point of order. There is no Public Accounts Committee report that says that the issue of queries is the same thing as corruption. If they are not addressed they could leave. A query is just to ask i'or more particulars. The Member is seeking to mislead the House by suggesting that because the Auditor General asked a query about some records at the Ministry of Health that it is corruption. It is not one and the same thing. It is deliberately misleading the House and I am asking that all of that be struck from the record.

Mr. DEPUTY SPEAKER: I would ask the Member for St. John to continue.

Mr. D. J. H. THOMPSON: I am quoting from the report and I understand that report to be saying that when you do not reply to queries and there were only 40 between 1986 and 1992 to which there were 19 responses "that breaches such as these undermine the system of financial control, lead to financial laxity and can spawn corrupt practices". I am quoting from page 6 of the Interim Report of the Public Accounts Committee, paragraph 36, subclause 4 under the heading Failure to Respond to Audit Queries. That is the problem with you all, that you do not remember what you said in 1993 and 1994.

You forget about the witch hunt and all the dirt that you sought to dig up and throw at the members of the Democratic Labour Party and when your record cannot stand up to the scrutiny because the same Auditor General in the space of one year can identify 32 issues that he could query in the Ministry of Health alone for which he got 19 replies, the same number of replies that he got between 1986 and 1992 and the Right Honourable Member for St. Peter does not want the public to know. Even the Ministry of Finance they asked 22 questions of "Corrupt practices! Financial laxity!"

Rt. Hon. O. S. ARTHUR: On a point of order. Mr. Deputy Speaker, the Member is deliberately misleading the House. He has been clear that at least this Auditor General is not diffident about speaking at length. He cannot say that any of the audit queries referenced in any Auditor General's Report cites ministerial corruption. He is asking the House to draw the inference that audit queries cited by the Auditor General in 1998 refers to ministerial corruption.

I am saying that is not supported by any fact. The Auditor General Report does not say so and the House therefore cannot draw such an inference. I am asking, Sir, that to the extent that there is no basis in fact for the position being taken that it should be withdrawn from the House. It is also, Mr. Speaker, Sir, calling into question the integrity of Ministers and I am saying that that is unparliamentary. If the Member has evidence that Ministers are corrupt he must present it. But he cannot just refer to the fact that queries are raised that has nothing to do with ministerial conduct and refer to corruption. I am asking you therefore, respectfully, to rule. 4.05 p.m.

Mr. DEPUTY SPEAKER: The Honourable Member for St. John, the Honourable Member for St. Peter said that you have made allegations about corruption to the Ministers of the Cabinet.

Mr. D. J. H. THOMPSON: Let me clarify it for you. Mr. Deputy Speaker, Sir, I want to quote from the interim report of the Public Accounts Committee, laid in this House from the 22nd June, 1993 by H. DeB. Forde, Chairman. Page 6, paragraph 36, subclause 4, under the heading "Failure to respond to audit queries" and I quote, Sir.

"The Auditor-General has reported that the Ministry of Health was issued with 40 memoranda containing queries during the period, 1st January, 1986 to 31 st March, 1992 and 19 responses were received by the 19th June 1993."

The report goes on, Sir.

Aside.

Mr. D. J. H. THOMPSON: I did not write it. The people who wrote this report are as follows...

Aside.

Mr. D. J. H. THOMPSON: Or those who are still in this Chamber. Let me deal with them. I can verify that the Honourable Member for St. Peter...

Asides.

Mr. D. J. H. THOMPSON: But that was Opposition politics, so he may not remember that, Sir. You know he talked about that today. Good Opposition politics - it is a phrase I like. It is not advice I will follow, but it is a phrase I like. Page 30, O. S. Arthur, M.P., D. A. C. Simmons, Q.C., M.P. Those are two of the people presently in this Chamber who wrote this report.

Now, they concluded that 19 responses to 40 queries - they came to the following conclusion and that is between 1986 and 1993, 40 queries in six years in which they got 19 responses.

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, on a point of order. That report was also signed by Mr. Tudor and Mr. Bowen and Mr. Blackman, Sir, and that the reference to the fact that queries not being answered could lead to corruption, was in fact asserted to Mr. Tudor in particular, who brought to our attention the fact that queries about the failure of the Minister to respond to certain things about St. Joseph Hospital was evidence of corruption in the Ministry, Sir. That is the sense in which that report has meaning. But it does not mean that every query is evidence of corruption. The Members of the Democratic Labour Party signed to that and we were led on therefore to investigate the queries that were not being answered because we were told that there was evidence of corruption in the Ministry of Health.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, if I wrote a report and then stood up in here and tried to say that other people wrote it, you would be entitled to question my manhood. Is this man serious when he gets up in this Chamber?

Aside.

Mr. D. J. H. THOMPSON: ...a report to which he puts his signature. I did not put mine to it.

Mr. DEPUTY SPEAKER: The Honourable Member for St. John. You are referring to an Honourable Member as "the man."

Mr. D. J. H. THOMPSON: Oh, I apologise, Sir, and I withdraw it.

Asides.

Mr. DEPUTY SPEAKER: Please continue.

Mr. D. J. H. THOMPSON: Thank you. The Honourable Member signs a report, but now comes in here and when you read it back to him he tells you, "Oh no. I did not write that part. Tudor put that in." Then you read another paragraph he says, "That is Simmons and his computer." Then you read another part he says, "No, not me, that is Harold Blackman." Then you would read another part and he would say, "No Brady put that in."

What kind of person, Mr. Deputy Speaker, Sir, or individual are we dealing with in this Chamber if that is the kind of conduct....

Asides.

Mr. DEPUTY SPEAKER: On what point do you rise?

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, Sir, on a point of order. The Honourable Member for St. John is deliberately misrepresenting what I said. I rose simply to say that the public accounts...

Asides.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Peter, please continue.

Rt. Hon. O. S. ARTHUR: He is nervous about the polls, Sir, you must forgive him.

Asides.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Peter you are on a point of order. Would you get to your point, please?

Asides.

Rt. Hon. O. S. ARTHUR: David, continue the debate. I am finished with this.

Mr. D. J. H. THOMPSON: In 1994, the then Committee, not any individual said that 40 memoranda with 19 responses could lead to breaches which would undermine the system of financial controls, lead to financial laxity and can form corrupt practices.

We are now in 1998 and in 1997 in the Ministry of Finance.

Aside.

Mr. D. J. H. THOMPSON: Well, let us deal with all the Honourable Member's Ministries together. Four - Governor General, 6 - Parliament, 21 - Prime Minister's Office, 10 - Cabinet Office, 8 - Ministry of Civil Service, 3 - Ombudsman, 5 - Accountant General, 22 - Ministry of Finance.

Aside.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, Sir, the Honourable Member for St. Peter said that failure to respond to those memoranda could undermine the system of financial control, lead to financial laxity and can form corrupt practices. The Ministry of Finance replied to 16 out of 22. The Ministry of Education replied to 4 out of 46 that is even worst than the Ministry of Health in six years. The Attorney General 20 out of 41, Ministry of Agriculture 5 out of 62, Mr. Speaker, Sir. The Ministry of Health 19 out of 32 in one year. The Ministry of Labour, well not much work goes on there so it is 2 out of 8. The Ministry of Public Works 4 out of 50. The Ministry of Housing 10 out of 20.

That is the sorry record, which between the time of this report and now we have come to and the Honourable Member for St. Peter, trying to obfuscate that he did not want me to get that information out in the public domain that there are Ministries now, which in the space of one year have had more audit queries, Mr. Speaker, Sir, than the Ministry of Health had in the entire six years between 1986 and 1992.

The Honourable Member for St. Peter as part of a Committee said at that time, breaches such as these undermine the system of financial control, lead to financial laxity and can form corrupt practices. I am saying that corrupt practices can be found, may have been found even in 1997. I do not know. The Honourable Member for St. Peter will have to tell me if that is so, because he said that those breaches can lead to it and that there could have been significant financial laxity.

Rt. Hon. O. S. ARTHUR: On a point of order. I am saying categorically for the record, Sir, that none of the queries raised by the Auditor General in any year has drawn reference to any corruption on the part of any Minister, Sir. I am asking the Honourable Member for St. John again, can he also say that before 1994 any of the queries did not involve corruption on the part of a Minister with whom he is well familiar?

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, I know that the man who retired from the Public Service in the Marketing Department was almost a Minister because he travelled more than any Minister. Every time I was overseas, he was back from a buying trip, London, New York, Miami. Every time I was on an airplane, the last time I came out of London he was on the same flight as me, Mr. Speaker, Sir. So he must be a Minister.

He travelled a lot. Now he is retired from the Public Service under what some people are saying are suspicious circumstances. He had access to a number of Ministers in the Barbados Labour Party and boasted of it. I have not made any allegations against Ministers because I do not have the facts yet, but when the facts are available.... I know I can talk about former Ministers, one who acted as Prime Minister, who, as I say, has been empowered to go on the call-in programmes every Monday, and he received \$28 000 for work which has never up to the time he received that money been undertaken at the market where it is to be undertaken. If the Honourable Member for St. Peter really wants the facts on these matters, we will give those facts but the point is I am not wasting my energy in here. 4.15p.m.

The Honourable Member cannot come to a public meeting and correct the record there. I cannot go to one he is having and correct any record either. The facts will come out and the Honourable Member is not going to jump up every five seconds to interrupt me.

Certain remarks made by the Honourable Member for St. John were ordered expunged from the records by Mr. DEPUTY SPEAKER.

Mr. DEPUTY SPEAKER: The Honourable Member for St. John, continue your speech.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, I made it and I will make it clear that whenever we bring these allegations to the attention of the public we will bring it in fora where we are not fettered, interfered with, muzzled or in any other way distracted from letting the public know what is going on. There is no virtue to me calling out the names of Ministers in here for people to get up and tell me to withdraw remarks, get up and object to it and talk about rules. We will do it in full view of the public and if you do not like it, issue a writ against the Democratic Labour Party.

There is plenty of information not only recently. We could talk about polyclinics. We could talk about a whole set of things because a lot of information in Barbados people will give you 10 and 15 years after it happened assuming that a limitation period has passed but there is no limitation on my mouth. There is none on the Honourable Members' mouths and a lot can be said in Barbados about the practices.

Let me tell you, Mr. Deputy Speaker. I could not build a house out of Government. When I was in Government, the house I lived in was the same house I went to in 1991. When I demitted office, I went back to that same house, the same exact structure.

Mr. Deputy Speaker, I understand fully well why the Barbados Labour Party would want to make allegations against the Democratic Labour Party. I understand why they continue with green eyes to look upon people who function

on the basis of honesty and integrity. That is why I understand the Honourable Members on that Side would like to keep me in here talking but my discussion with them is not going to be in here, Mr. Deputy Speaker. There is a lot that can be said about Members on that Side. The Honourable Member asks us to make allegations.

We are dealing with the Financial Administration and Audit Act. Making people purportedly personally liable under this legislation is not going to have an effect. There is only one way to make them personally liable and that is for the electors of Barbados to be told the truth about some of the financial practices which have been occurring in Barbados in the past few years. That is the answer. The public of Barbados will make the personal level, not anything I say in here, not this fanciful hoax in the Financial Administration and Audit Rules which suggest that Ministers are personally liable. Independent evidence put on the public platforms and elsewhere would clarify that and the ultimate arbiters of that will be the voters of Barbados.

I thank you for that, Sir.

Mr. B. M. TAITT: Mr. Deputy Speaker, there is no one who can doubt that there is need for some amendment of the Financial Administration and Audit Act. It has been in existence since 1971. The Rules accompanying it were made in 1971 and anyone who has been part of the administration of this country, especially at the level of Minister would be aware that there are some aspects of the Rules and some aspects of the system which would require some amendment.

Mr. Speaker, I recall that when I was Consul General in New York that one of the hiccups we had was that the Rules required that a receipt be issued for every transaction according to the Financial Administration and Audit Act and the accompanying Rules. I recall very well the dilemma which the people who functioned in the Consulate General in 1967 in the United States had where there was no provision for the issuing of a stamp on a receipt because it is something unknown and unheard of and we found ourselves in a dilemma because we were functioning within the ambit of the Barbados Government and the entity called Barbados. We were functioning in an environment that was light years ahead and the officers who were functioning, and they were not a lot of officers, had great difficulty because when you issue a passport in New York, or when you issued a transaction in New York there was no Barbados stamp to put on it but the Rules required that and no provision had been made for the Rules to accommodate the Foreign Service.

Even as we speak, I do not see in these amendments anything that will take account of certain difficulties which occur in the practical application of the daily services provided by certain officers overseas that they break the rules. Now some Puritan will say that the Rules are the rules and they should apply.

Aside.

Mr. B. M. TAITT: I said Puritan. I know what I mean. Purists are pedantic but the Puritans are wicked, the ones I know. They will say that they break the Rules. They will say that the Rules are there and they are to be enforced but the truth is that like the Parable, which Your Honour might not be aware of, where Jesus said if your ass falls into a hole on the Sabbath Day, what are you going to do? Jesus said when your ass falls into the hole on a Sabbath Day that you take it out. Now, I do not expect Your Honour to be familiar with that Parable.

Mr. DEPUTY SPEAKER: I happen to be very versed in the Bible, and we are wicked people, some of us.

Mr. B.M. TAITT: I take Your Honour's admonition that if you say that you are a wicked person, I accept that, Sir. I have no quarrel with that.

I was making the point which Jesus was trying to make with some hardheaded people that the rules were not designed in such a structure as to prevent the people for whom the rules were made to live by the rules.

Now there are some for their own political purposes who have taken these Rules and have used them in such a manner as to mislead the ordinary people who do not understand that these Rules were made to retain a certain integrity in the administration of the country. These rules when they were made in 1971 had followed ten years of Government by the Democratic Labour Party and that Democratic Labour Party Government was led by a man who, whatever else might be said about him, in his administrative capacity and understanding, he was pristine. 4.25p.m.

It was that Honourable gentlemen, the late, the Right Excellent Errol Barrow who brought the Act in 1964 because he had come into a morass of confusion where people believed that there were functioning under the British system of Government whereas he had worked inside the British Government as a bureaucrat and he understood the system and he knew that what was being practised here did not necessarily adhere to what was supposed to be the system in the United Kingdom. The Financial Administration and Audit Act was an attempt to put in structure, put in form what Englishmen had learned over 800 years.

One of the problems that we have in this country is that there are people who try to practise things for two years that others have perfected in 200 years. We have people who masquerade as knowing what they are talking about, who pontificate from on high about the system that we have. In my lifetime I have read the most arrant nonsense emanating from people who purport to be scholars in the field in which they are putting forward their views. Here in Barbados if you wish to see 'bourbons' at work, you only have to read on a daily basis what comes out in the newspapers and you can see the 'bourbons' at work.

Mr. Deputy Speaker, I have been both victim and priest in administration. In administration I had the good fortune to be trained in the field and I have been victim because Sir, in 1993, I think it was 1993, I believe that the highest level of pain, if you pardon the expression, that I have suffered as a public person, I suffered in 1993 when two Q.C.s and a potential Prime Minister sat on a Committee of this Honourable House.

Sir, what came from them and the result of it is not the problem and was not the problem because from a political point of view, they did what they had to do. I have no quarrel and I have never had any quarrel with them at the political level because if from the political point of view you find that calling a rabbit something else helps you to achieve your objective, that is probably what the Honourable Member for St. Peter calls 'opposition politics'. I had come to accept that two of those distinguished honourable gentlemen had an appreciation for the law.

Mr. Deputy Speaker, there are not a large number of things that I have an appreciation for and that I find that the intrinsic value of it is so high that you can almost equate it with Nirvana. Unfortunately, I find that the law has that effect on me. I had come to believe that these two distinguished gentlemen, for whom I have not lost all of my respect, I had come to accept that these two distinguished gentlemen were, despite whatever else they did, they would never allow that golden thread which runs through the bedrock of the rule of law to disappear from their vision of what is right and what is wrong.

I have read and re-read what they put out by way of something called an Interim Report of the Public Accounts Committee. The only thing I have to say about that is this. Nowhere in the history of Barbados has more prominent people written more devastating words than in this document. Not devastating to the victims of the document but devastating to principle. They knew as they have subsequently said to me from time to time that one of the precepts of the legal system which operates in Barbados and which borrows its existence from the system in Britain is that no man can be a judge in his own cause. They also know that everyone must be heard. These are two gentlemen, the other one I put him off. He has been fortunate to have submerged to the top but these two gentlemen, I expected that they would have accepted the principle that everyone has a right to be heard.

It has haunted me. I have to be honest with you, Mr. Deputy Speaker, that they have not had the courage and the decency to apologise publicly. I have no doubt that at some point before they come to the end of their careers as public persons that they will do so.

There is a famous case, it is a Canadian case, Sir, where two words in a headline 'culpable neglect' formed the

basis of a libel decision in which two brothers got \$8 000 in 1932. Sir, if they got that money now, they would have to get a pan cart to carry the money.

Asides.

Mr. B. TAITT: \$8 000 in 1932. Because a newspaper published two words in a headline 'culpable neglect'. Those distinguished ladies and gentlemen on the front bench on that Side who have had extensive exercise in the study of the law will know that case.

Hon. D. A. C. SIMMONS: On a point of order. If I can just read something into the record. I am reading the same Report from paragraph 139 and following and page 29. It is headed invitation to Minister Taitt.

"139. During the course of our investigation, certain evidence was adduced which seemed to reflect adversely on the Minister of Health. It was the decision of the Committee that the Minister should be invited to respond to or make comments on or otherwise explain his position in respect of that evidence.

140. Consequently, the Secretary to the Committee was directed on Monday, June 7, to issue an invitation (not a summons) to Mr. Taitt to attend the sitting of the Committee on Friday, June 11, 1993.

" 141. We have been advised that on Tuesday, June 8, 1993, the Secretary telephoned Minister Taitt and told him of the Committee's decision indicating at the same time that a written invitation would follow. The fact is that the written invitation was not sent until Thursday, June 10, for the reason, as we were told, that there was no member of the Staff of Parliament available to type the letter of invitation.

"142. In fact, when the Chairman was apprised of the state of affairs on June 10, he immediately allowed the facilities of his private office to be used in order to have the letter typed. This Committee is quite disgusted that petty bureaucratic bungling in the management of the staff of Parliament should have caused embarrassment to the Committee and the Minister. It is our hope that this is the first and last occasion of such incompetence."

Attempts were made to have the Minister comment on evidence which had come before it and as the Report said, a report which has been signed by Mr. Forde, Mr. Harold Blackman, Mr. DeLisle Bradshaw, Mr. Joseph Tudor, Mr. O. S. Arthur. It was not signed by Hon. W. Bowen. It was signed by me, Sir.

The Committee was clear that an invitation was made and opportunity was being given to a Minister but there was some bureaucratic bungling that precluded that, Sir, before the Report was finally submitted.

Mr. B. M. TAITT: Mr. Deputy Speaker, Sir, if that is the nearest that the Honourable Member can come to an apology, I will accept it if he will merely say that that intervention was by way of saying that it was a bureaucratic bungling. If that had come from a fledgling first year student, I would accept it for what it is worth. Coming from a man of such distinguished experience in the field of law and coming from an Honourable Member whom I happen to know is steeped in the law and in the natural law. I happen to know that the Honourable Member is and I happen to know....

Asides.

Mr. B. M. TAITT: Well, that would not interest them but... I happen to know that the Chairman of the Committee is a man who has brought to this Honourable Chamber the most advanced statute on natural justice and its consequences in the Commonwealth and passed it in Barbados. I know therefore, Sir, that they were being political. I have forgiven them and I have told them that. 4.35 p.m.

I am not now making this comment as any attack on them. I am making this comment for the record because, Sir, a career or a reputation that has been destroyed cannot be restituted. There can be no restitution of a career that has been destroyed in the pursuit of politics where the ordinary people do not understand that what was done was in the pursuit of a political objective and therefore I need to put it in the record. These days, Sir, any time you walk outside you are subject to assault by somebody with a gun. You never can tell and I may not have another opportunity to put it in the record and therefore I am putting it in the record that these two distinguished and Honourable Gentlemen ought to have curbed the enthusiasm of another one who himself, believing that a Minister had committed what he chose to call corruption, wanted to see some person hoisted on a petard.

Mr. Deputy Speaker, it is now 5 years since that time and none of the effects linger like the failure of those who should have known better to allow for the correct thing to happen. If there had been bureaucratic bungling in the courts the judge, in pursuit of justice, would have adjourned but it was necessary for the report to be published by a particular time and hence computers in private offices were brought into existence, and the report had to reach Parliament by a particular time if the objective was to be met. The report said that the Minister was culpable. That is what the report said, Sir. The report said that the Minister was culpable and both of those gentlemen know that a person cannot be culpable unless that person had been heard. That is trite law. It has operated to the destruction, not of the person, not of the victim who at the time when the issues were being examined was suffering under another disability that has nothing to do with this. The rest of the victim's family has had to live with

these cascading, pointing outbursts from time to time which suggest that corruption was the order of the day at the considerable expense.

Because one cannot be a judge in one's own case, one sought and got the opinion of those who could be dispassionate. One is therefore able to say with impunity that justice was not the order of the day and whereas a criminal, a person who robs and steals, a person who meets people at night and takes what they have, a person who goes into stores during the broad daylight and takes what people have, such persons get the benefit of the justice system and get compassion. Others who have done nothing more than seek to serve have been the victims of political activity which by itself is not dangerous but which when coupled with a failing principle is downright dangerous.

Sir, for those reasons I have some difficulty with one or two of the changes which have been suggested in the legislation and, Sir, I put all of that preamble because when I make my position clear on those changes I have no doubt that the miscreants who write editorials from time to time, those who borrow money from people and do not pay them back, those who have taken money from their employees, those who have said to people if you pay me \$1,500. I will take care of you. Do not worry. Those criminals who have not been prosecuted yet but who are still able to write editorials in spite of the fact that they are editor of nothing, and who will write more editorials on hearing that I said what I said in here, those kinds of persons I know what they will say when I make my position clear on the reservations I have.

The principle which is inherent in the Financial Administration and Audit Act as it now exists which says that a Minister is inviolable in relation to a policy position do not understand the philosophical basis for that position. It is a very simple one, Mr. Deputy Speaker, it is this. The only person in the administration of a country who is accountable to the people is a Minister. There is no civil servant who is accountable to the people. Your Honour, were you to become a Minister tomorrow and hold Ministerial Office, until the people decide through the Prime Minister before an election or at an election that Your Honour should not hold Ministerial Office, it is a manifestation of the sovereignty. It is a very subtle point. Unless it is understood...

Aside.

Mr. B. M. TAITT: Toppin is only dazed about the politics but this area, I can say with impunity that he is on board on this. It is the politics that he does not handle very well.

Sir, it is a fundamental principle of the kind of Government which we purport to run. It is practiced in the

United Kingdom. When the present Prime Minister of Britain attempted to make certain adjustments he too had discovered that 800 years of history cannot be put aside because of some new approach.

The difference between Barbados and Britain is that Barbados does not have the capacity which allows people to understand that the Highest Court is within the Parliament. It is a very difficult concept and it is like moving beyond the atmosphere and going into the stratosphere to get that understood. I have seen over 30 or 40 generations of students that only a few understand it. When they understand it, it is good. You cannot say higher than that. When creation was completed, God said that it was good. The people are the law - I am not in the pulpit - and therefore the people are the only people who can pronounce at that level. Therefore when you make a decision as a Minister you are making a decision of the people, by the people, for the people and no functionary, whoever he may be, can say that you are wrong. They can say that you made a mistake. They might disagree with you but the right to make that decision on behalf of the people is pristine. It is fundamental. It is shorn of all of its glory. It is the basis of the Governmental system which we purport to have. 4.45 p.m.

That is the reason why in the British system they have no law like the Financial Administration and Audit Act. They do not need one. They have no written constitution. They do not need one. If we had 800 years of history we would probably throw away the constitution too. But we have a constitution because it was necessary for us, bearing in mind that we were coming to it new as did a number just before us, that we needed to write down the thing because our people had been taught that if it is not written down it is not real. So there is no quarrel with that.

It is necessary for us to understand the basis on which the things which are written down have been written down. Therefore, Mr. Deputy Speaker, when one says that one does not accept that you should put a fetter on a Minister it is not to recommend or endorse chicanery in Government or chicanery in office. It is to preserve the principle. It is not this set of Ministers or this set of Ministers that one is concerned about. It is the set of Ministers to come.

If you start tinkering with the principle by trying to legislate it and you say that a Minister is accountable to the extent that you can quantify it because the Honourable Member said that he would not be able to qualify it on the language that he has but to the extent that you say a Minister is accountable for the losses, and I say this to the Honourable Members on the Other Side, you are beginning to put a fetter on which you do not intend. With the best intentions, you are putting a fetter that will come back to haunt you.

My recommendations to the Honourable Members are to leave well enough alone. There are checks and balances which allow for where error has been made. Where error has been made you can even go so far as to have a commission of enquiry although I think that the Honourable Member, the Attorney General can advise the Government that when they are going to have commissions of enquiries they should take heed of Lord Salmon's admonition as to how such a commission should be put together.

I believe that Lord Salmon's admonition in that famous lecture in which he puts the law as it existed when he spoke in India is the correct thing because you do not have abuses in commissions of enquiry if the Chairman of the Commission is a jurist of some experience. Such a jurist knows the limitations, the perimeters and the parameters within which things should be done. Wherever there is deviation all kinds of abuses occur, people begin to play to the gallery, people begin to seek political favour by the things they do and the end result of the things they do is further condemnation of sometimes the innocent.

Enough about that. Suffice it to say we have checks and balances in our system. The Financial Administration and Audit Act should be amended and most of the amendments which are here will find no difficulty because we who have been on the Public Accounts Committee and it is ironic that I have been on it for almost all the time I have been in here, would have known that there are decisions which ought to have been made.

Sir, for almost too long permanent secretaries were required to operate under the \$25 000 rule. They were put in a position of impossibility and I am sure that with lawyers of the quality of some who have practised in this country if they had to go before the courts of law they could argue the doctrine of necessity and succeed. Twenty-five thousand dollars in 1964 is equivalent to \$110 000 in 1998. All one has to do is to show that. What happened is that where a permanent secretary goes over \$25 000.... All the other permanent secretaries were going over \$25 000 but that permanent secretary as he came to the bottom of his career has had the calumny heaped upon his head that he gave out contracts and he broke the law.

Strictly speaking, he broke the law. I do not think so. My understanding of the law is that it is a living creature. My understanding of the law is not the strict reading of the words. My understanding of the law goes with the minority of people who in 1932 and 1933 decided that if you bought a drink from a manufacturer and it had a snail in it and it caused you to blanch that the manufacturer was culpable. I go with them. They were in the minority. I go with the majority who in the 1960s in a case called *Padfield v. The Ministry of Agriculture* said that a Minister is personally responsible for a tax.

I am saying, Mr. Deputy Speaker, that the law is a living creature and if left to be interpreted by genuine judges it will always seek justice. There are those who would falter, those who would sleep but generally speaking good judges are always able to take the letters that are written, the words and sentences and make them perform what they are supposed to do.

When we come to amend this Act you will not get much resistance from us except the principles outlined by the Honourable Member for St. John, the Leader of the Opposition. He is saying be careful, you are taking a step which seems like a knee-jerk reaction on the face of it. It looks like you are doing what is required. If you step back and examine you should not condemn future Ministers to some of the difficulties we perceive this legislation will bring to them.

If you think of a Minister who is of poor means at the moment, and that is not difficult because most of the Ministers in Barbados have been of poor means, there are many people who would balk if they understand what you are talking about. The only conciliation is that it is unlikely to happen so regularly as to create a major problem. The last time I know it happened was when a permanent secretary who was subsequently vilified at a different level and humiliated, a woman who had the temerity to write to a Minister and say, "I disagree with what you are doing." She is the only one I know of on record. I cannot say who it is Mr. Deputy Speaker, but she is the only person I know of on record who wrote to a Minister and told him what you are doing is foolishness and I do not agree with it, and she followed the rule. That permanent secretary is one of the finest officers I have ever had the privilege of working with. And during that time officers have told me, "I don't think you are right, Minister." And I think that Ministers wish to have, if a Minister has any quality, such a Minister wishes to have a permanent secretary who would say, I don't think you are right, if you feel strongly about it. 4.55 p.m.

Mr. Deputy Speaker, we are saying that the Government will have no stain if it re-examines these two areas which we have brought to their attention. I am also saying, Sir, that this provided me as a person with the opportunity to put on the record dispassionately, especially in the absence of the Press my own personal feeling of disappointment that political ambition caused people to step down from the high level of principle. It is undesirable to us as politicians to allow that to happen anymore.

And while the political season is upon us and it will be necessary for us to attack the policies hopefully of each other, those who act as our agents either on the political platform or otherwise need to get some guidance on the

political parties. I can say with impunity that the Democratic Labour Party will not have any political assassins out there. We do not consider it necessary or desirable that the only way we can get rid of the Barbados Labour Party is to load the place with political assassins. I do not mean with violence. I mean political assassins in the sense of going on the platforms and decimating people's character.

We believe that there are enough errors on the part of the Government that we could articulate our position and that we will prevail. In fact, I know, Sir, as you do that we will prevail, as Your Honour does.

Aside.

Mr. B. M. TAITT: The Honourable Member is being provocative, Sir. He wishes me to speak about Your Honour's position, but I know you represent my sister, you represented my late father, you have said that you are going to attack me viciously, but I know, Sir, that you will take your defeat like a man when the time comes. I know if it comes to that, Sir, you will have no difficulty.

Mr. Deputy Speaker, I wanted to take this opportunity to put on the record my position on the financial legislation and I am grateful to Your Honour.

Hon. Miss B. A. MILLER: Mr. Deputy Speaker, Sir, I welcome these amendments. Anything which would add to the accountability of people in public life, transparency, I would support.

I have heard some Honourable Members this afternoon make the point, particularly the Honourable Member for St. Michael West who spoke that we have checks and balances enough and to leave well enough alone.

In my judgment, Sir, it is not well enough. The Honourable Member sees it in terms of checks and balances. I think that what we have in Barbados is a series of anomalies, not checks and balances. We have this incredible situation in Barbados where Ministers are neither fish, foul nor good red herring. We are paid from the public purse but we pay our own national insurance contributions.

You have a situation where, in our system of Government, Ministers cannot hire or fire anybody. That is a myth in Barbados but Ministers have no power to hire anybody or to fire anybody although a Minister in the past has attempted to fire a civil servant without success. The Honourable Member for St. Michael West is deeply conscious at a time he was Minister, he attempted to send home a civil servant. It cannot be done under our system of Government.

A Minister cannot authorise the spending or the commitment or in any way or any wise of money and I think that that is a good thing too. But you have the situation where the permanent secretary in our system of government is the chief accounting officer. The permanent secretary in every Ministry, including the Ministry of Finance is the chief accounting officer.

So you have this situation where you have a Minister who is the chief policy maker and who can give directions to a permanent secretary which have financial implications flowing from those directions and the permanent secretary is bound to carry out the directions of the Minister.

But, as has been pointed out sometimes implications will offend against the Financial Regulations. Every single cent, Mr. Deputy Speaker, Sir, which is spent by way of public funds must be voted by this Parliament in Barbados.

It helps to remind us that one of the major functions of Parliament, and it goes back to the very beginning of the Westminster model of Parliament, was to levy taxes and vote monies. And that is why one of the most important, if not the most important debates which take place in our Parliament are those which have to do with the passage of estimates of expenditure and then the Budget which says how we are going to spend these monies. I am concerned. The Honourable Member for St. Michael West quoted just now a permanent secretary who was a woman who had the courage to say to a Minister you are wrong. She was not the only one, nor was she the first. Because even before we had a woman as a permanent secretary in Barbados, I well recall a permanent secretary who was my first permanent secretary and a most excellent one, I learned well from him, he too had the courage to write on a file "this is wrong". The Minister at the time, the late DaCosta Edwards, still went ahead and did the wrong thing. It became the subject of public scandal and became indeed the subject of a public inquiry that people forget about.

People forgot that there was a Hanschell inquiry in this country. That permanent secretary developed a stomach ulcer. That was part of the price he had to pay for it, but he had the courage to write it on the file.

Mr. Deputy Speaker, Sir, in a situation where the Minister is not the chief accounting officer, has not the power to raise funds, does not have funds vested in him or her, the proposed amendments here and one in particular, Which requires instructions to be put in writing, advice to be put in writing, in my judgment can only do good and no harm for the record. As I said at the beginning, this is about accountability.

The real truth is that our financial administration and audit processes have to be brought now into the twenty-first century and we need indeed to bring some aspects of it into

the twentieth century before we can even get into the twenty-first century. There are many Victorian aspects to this and in modern governance sometimes it is just impossible to do the peoples' business.

Let me give you an example that I have raised in here on more than one occasion. In our missions abroad, we have a head of mission who may be a High Commissioner or who may be an Ambassador or who may be a Consul General and those people can be political appointees or they may be career foreign service officers. 5.05 p.m.

In each of our Missions abroad, we also have someone who is a member of the Foreign Service and who is described as an authorised representative. Unlike the permanent secretary at home, he is really the chief accounting officer in the Mission. Can you believe, Mr. Deputy Speaker, Sir, that in modern times, in 1998, that an Ambassador, a High Commissioner, or a Consul General cannot sign a cheque, cannot take somebody out to dinner to do business on behalf of the Government of Barbados and cannot sign a cheque? If the kettle in the Mission burns out or the kettle in the residence burns out, you cannot sign a cheque. It makes doing business impossible. There are many examples.

Right here at home doing business on a daily basis as well points out time and time again how antiquated our approach to these matters are. In my judgment they need a total overhaul. I hope that in the long awaited Constitution Review Commission's Report that we are going to see some references to this whole matter of financial administration in a modern Barbados, some of which may require constitutional amendment or, perhaps, constitutional invention. You will need new measures to take care of new ways of doing business, but no matter how antiquated on the one hand, no matter how modern on the other hand, what is required of us as Ministers is accountability at the highest level.

I would prefer, Mr. Deputy Speaker, to err too far on the side of accountability than too far on the side of non-accountability. In that spirit, I would very much wish to be supportive of the amendments which are before the House. I thank you, Sir.

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, I rise to conclude this debate on the understanding that all Members who wish to speak have already spoken. The one important point of substance raised by the Leader of the Opposition pertains to the question as to whether it falls within the province of the Auditor General in the process of carrying new value for money audits to be able to have the prerogative to review the objectives of Government's policy.

We ourselves had to make a determination as to where the boundaries of the judgement to be exercised by the

Auditor General, in that process of exercising judgment, should begin and end. We were not, Sir, arbitrary in making that determination. We felt that where there were constitutional constraints, or where the Constitution was clear in vesting prerogatives in Cabinet, that those powers vested in Cabinet should not be subject to the questioning of the Auditor General.

The Constitution of Barbados, Mr. Deputy Speaker, is clear only in relation to one of the functions of the Cabinet, that the Cabinet shall be the principal instrument of policy. Sir, it is clear to us that to the extent that the Constitution vests the power of policy making in Cabinet, that Cabinet's objective in setting policy which is a constitutional obligation now cannot be the subject of a review. Therefore, we have not been arbitrary in limiting the Auditor General. We are following the Constitution.

I would like to repeat, Sir, the essence of what I am saying. It is entirely within the prerogative of a Cabinet to say as a matter of policy that there should be a hospital in St. Peter, a hospital in the North or the St. Joseph Hospital. That is the prerogative of Cabinet and it does not fall to the jurisdiction of any Auditor General to say whether a Cabinet was right or wrong in following that as a policy objective. That is the prerogative of Cabinet. Therefore, we are being very clear in limiting the scope of the functions we exercise by the Auditor General to ensure that they do not collide with the provisions of the Constitution particularly where the Constitution vests power.

I do not think, Sir, that if we perceive of this issue in this particular matter that there ought to be divide on the issue. The Auditor General himself who was part of the Committee, and before I came to the House I, met with him in light of what the Opposition was saying and he is happy with the nature of the provision because it, in fact, shields him from the possibility of being inadvertently drawn into political controversy because he does not want the power to review policy objectives which are the prerogative and the sole prerogative of the Cabinet. That is the basis upon which we have put this amendment into the legislation and it is the basis upon which we feel confident to recommend it to the country.

The rest of the Leader of the Opposition's speech was to set the tone for a campaign. The interesting point in all of it was the simple point that he is not too concerned with saying things in here where he will have to face the immediate response of the people whom he accused, but he is going to take it out there in the belief that he can speak as he wants. The public has already come to understand that they must treat statements by the Leader of the Opposition issued on public platforms with the considerable circumspection that those statements warrant.

They are well aware that this Leader of the Opposition spends his time treating politics as a blood sport and that for him politics is about raking and scraping in the political gutters to find muck to throw at one's opponents, and that politics is about being on the high wire inviting Barbadians in their multitudes to come to Queen's Park to hear about the secret deals entered into by a then Opposition and the International Monetary Fund. They have come, sensibly so, to discount and devalue the utterances of the Leader of the Opposition until such time as responsible people happen to be in a position to respond to them.

As regard his challenge to the powers of the Auditor General, I do not want to constrain the powers on the Auditor General beyond what is required by the Constitution. This legislation only constrains it by reference to what is in the Constitution.

I feel, for example, that the Auditor General should have the power to review the carrying out of Cabinet decisions, particularly where those Cabinet decisions have financial implications. I feel it hypothetically, Sir, that if a Government is negotiating with a monopoly oil company, for example, and has agreed as part of the extension of the contract of that oil company to give them a 12.5 per cent after tax rate of return on capital employed, and that a Cabinet was to say that to the extent that the determination of capital employed is going to be crucial, and to the extent that the extension of the contract with the monopoly should have a 10-year period, that there should be no mention of a revaluation of assets and that if the Cabinet has decided that, and then a Minister has a letter written to the company to the effect that there will be revaluation of assets, contrary to the Cabinet decision, I feel that is a proper matter for consideration of the Auditor General. I also feel that if that decision by a Minister is contrary to a Cabinet decision that puts that oil company in a position where it could lay claims against the public purse running into millions of dollars because they are now in a position to claim that they are entitled to revalue their assets contrary to a Cabinet decision, that that is a proper matter for the Auditor General to comment upon. You had an instance there where the Minister acting contrary to the advice of the public officers and contrary to the decision of Cabinet, had committed the taxpayers to millions and millions of dollars in losses. 5.15p.m.

I think, Mr. Deputy Speaker, that if you had a situation as well where in a subsequent reincarnation that Minister's law firm was in a position to benefit from the decisions of the Minister that caused the taxpayers so much money that that should be a proper matter for the Auditor General to enquire into. Sir, you will hear more about these things in due course. I will just leave that here because I feel that those are the kind of legitimate powers that I want to see the Auditor General have, that no Minister should be able to

defy a Cabinet decision and unilaterally commit the country to a decision on his own volition that cause the taxpayers millions and millions of dollars. We do not want that, Sir. Nobody, I am sure, on this Side of the House, will ever support such conduct on the part of any Minister whoever he or she may be. Those are the kinds of things that I would like to see the Auditor General, as I know the Honourable Member for St. John would like to see the Auditor General be in a position to deal with.

Sir, the Honourable Member for St. Michael West, I feel genuinely sorry for him. On three occasions on the floor of this House, Sir, I said three times this evening as regards queries about Ministry, that queries do not go to Ministers. I can say without any peradventure that none of the queries issued by the Auditor General between 1994 and 1998 called into question the conduct of any Minister or raised any imputations about ministerial corruption. I say that, Sir, without fear of contradiction. I shall repeat it, Sir. None of the queries raised by the Auditor General about the practices in Ministries called into question any conduct of any Minister or raised any issues concerning ministerial corruption.

I challenge the Honourable Member for St. John to do the same thing on behalf of Ministers with whom he served. Three times during the course of this presentation I gave him the opportunity and he refused to do so. I can speak, Sir, with absolute certainty for the Members on my Side. I wish that he was in a position to do for the Members on his Side, Sir. That is why I say that I feel sorry for the Honourable Member for St. Michael West.

I am in a position to say, Sir, that when the Auditor General writes about a query about education, it is about why something was not posted on time. Why the relevant record of an LPO was not kept. Those are what the queries mean. The Honourable Member for St. John was in a position to know because as Minister of Finance he knows that the queries do not come to the Minister and that queries are asking for further and better particulars. I am in a position this evening to say, Mr. Deputy Speaker, without fear of contradiction on behalf of my Members of this Cabinet that the queries are in the nature of queries of an accounting nature...

Mr. B. M. TAITT: On a point of order. The Honourable Member has said on the Floor on three occasions that he feels sorry for the Member for St. Michael West. I have been a Minister and he went on to make two or three points. The reasonable inference from what he said would seem to suggest that there must be some audit queries which in some way impugn the integrity of the Honourable Member for St. Michael West.

I say categorically that I have been a Minister of the Crown since 1971 from time to time and never in that period to the present has there been any audit query which raised

any question about the integrity of the Minister when I was Minister. What the Honourable Member for St. John is asking to be done, can be done because audit queries cannot be about Ministers since the same Financial Administration and Audit Act and the Rules which the Honourable Member quoted makes it pellucid that the permanent secretary is personally responsible for financial administration. I think it is innuendo and hyperbole for the Prime Minister to go on trying to leave the impression that because he says it of the period for 1994 to the present that the period before, the queries were suggesting something else. I really think it is infelicitous and disingenuous on the part of the Prime Minister to continue making these suggestions.

Rt. Hon. O. S. ARTHUR: The Member for St. Michael West, I think, rose stoutly to his own defense. He reminded me, Sir, of the boy who stood on the burning deck when...

Mr. B. M. TAITT: It is probably equal to the time when, the Honourable Member with tears in his eyes spoke to the country and asked them to have mercy on him. We all have stood on the burning deck from time to time.

Rt. Hon. O. S. ARTHUR: I would urge the Honourable Member for St. Michael West never to take that chance with his own Members because he would be out on his back immediately. Do not take that chance with your Members. Mr. Deputy Speaker, I really feel sorry for him because the work of the Public Accounts Committee of which I was a Member has been brought into a challenge....

Asides.

Rt. Hon. O. S. ARTHUR: Sir, I have a full mortgage and I am prepared to open my accounts to anybody in Barbados if they want me to. The Member for St. John is nasty in an aside. He made reference in here about houses being built and repaired when people were serving in Government. His was too. I have a mortgage, Sir, and it is there for the public to see.

Asides.

Rt. Hon. O. S. ARTHUR: Sir, he wants to draw reference to a house because he wants me to talk about a house at Stanmore. That is what he wants me to do.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, on a point of order. I have never built a house in my life, Mr. Deputy Speaker. The house I am living in, I bought it in 1989 when I got married and I have lived in it since then. It is the house to which I returned and if any renovations were done, they were done last year when I was in Opposition, the same time the Honourable Member was doing his. I have not called his name, I do not even know, I have never been to his House, I do not know where he lives or nothing like that, Sir. I do not make that kind of thing my business and therefore

the Honourable Member for St. Peter must not get too excited if his own Members open their mouths and want me to say something. I have said that I am not going to say it in here, so do not panic. You want me to out everything in here so that you can answer all the questions for the Press but you will answer some more between now and whenever you ring the bell.

Mr. B. M. TAITT: On a point of order, Sir/Since the late Cameron Tudor has died, I am the only person that I know who has a house in Stanmore. Stanmore Crescent is where I have lived from the time I came back to this country in 1971. The Honourable Member, the Prime Minister has visited Stanmore on his way next door from time to time and he has only seen it from the outside. He has never been into my house.

Asides.

Mr. B. M. TAITT: Unlike other people. But I invite him and his entire Cabinet and all those who wish to see it. It is a very modest little place and he can come and visit it. You talked about the Honourable Member for St. John being nasty and saying that he wants you to talk about Stanmore. I just wish the Honourable Member and Your Honour to be aware that anybody in Barbados, especially the Prime Minister and his Cabinet, they only have to give me a little notice and they are free to come and visit Stanmore. It has not changed in its character much from what he has seen when he used to pass there before these special times on his way next door. It is there for everybody to come and see. There are Honourable Members in here who know it and these nasty references are to excite the public into believing. There are people in this country, Mr. Deputy Speaker, who believe that my house at Stanmore equates with the Prime Minister's house at West Terrace. I wish the Prime Minister to know that I had a mortgage from the time I bought my house and that my house does not match up to his at West Terrace. If he wants to do comparison of houses the Prime Minister is free to come and look at mine. I have passed and looked at his and I will not have.... 5.25 p.m.

Aside.

Mr. B. M. TAITT: It is not up to the \$300 000 house that you were able to get within a short time of your becoming a Minister.

Mr. DEPUTY SPEAKER: Now, the Member for St. Michael West you have made your point of order.

Mr. B. M. TAITT: It has an air conditioned unit for which I paid and the records show that I paid for it. Mine was not had like how yours has been had. My house was got

by a mortgage not like how yours was had. Yours will be discussed outside of here.

Mr. DEPUTY SPEAKER: The Right Honourable Prime Minister.

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, the Member for St. John...

Mr. DEPUTY SPEAKER: The Member for St. James South, please let the Right Honourable Prime Minister continue.

Rt. Hon. O. S. ARTHUR: His attitude that he will make accusations out there where he cannot be immediately be responded to characterises the nature of the politics of the Member for St. John and represents a style of politics that the Barbadian public has come to repudiate because they have seen from him already, Mr. Deputy Speaker, Sir, approaches and statements made in the public domain intended not to be challenged.

Mr. DEPUTY SPEAKER: The Member for St. John.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, I just want to make it clear for the Honourable Member for St. Peter. I do not hide behind parliamentary privileges. Anything I say in here I am prepared to repeat on a political platform and the only reason why I am going to say everything I have to say on a platform is so that the Honourable Member cannot interrupt me when I am telling the truth to sidetrack me, but also if I am not telling the truth he can take action and he would never be able to accuse me of hiding behind privilege. On this Side, whatever we say in here we are going to be prepared to back up in the full glare of the public and if necessary to defend our honour in the court. That is the point that needs to be made.

Rt. Hon. O. S. ARTHUR: It is the empty statement of a political leader who took a whole crew out to sea in a ship and drowned them on the strength of an allegation that an opposition party had entered into a secret deal with the International Monetary Fund. His credibility, Mr. Deputy Speaker, Sir, in Barbados and his statements on public platforms have and will forever in Barbados, and I will give you that assurance, will forever in Barbados be treated for what they are, statements of a political animal who believes that a momentary triumph, not in here, Sir, because in here he is an Honourable Member, he always tells the truth in here, Sir, but outside gives vent to unbelievable lies.

Mr. DEPUTY SPEAKER: Right Honourable Prime Minister, I am quite sure you would want to withdraw that.

Rt. Hon. O. S. ARTHUR: I withdraw, Sir, but I would want to say that there is a thing called a believable lie and there are some politicians of the past, Sir, who were wonderful at it. They would tell an untruth and it would only be discerned as an untruth about six months afterwards, Sir. The Member for St. John, Sir, he is not in that category, Sir. You are able to discern his immediately, because they spring from a fantasy that is so real and so grave, Sir. The basis of it is that all of the transactions of the International Monetary Fund are by law required to be made public and the International Monetary Fund cannot have an agreement with an opposition party, only with a sovereign state and that is what makes it so unbelievable. But it says something about his men that they could allow him to hoist them on that kind of petard where they themselves should be able to exercise judgement that what is being put to the public is nothing but a farce and the public, Sir, has come, whether it be in relation to the Kola syrup, whether it be in relation, Sir, to casino gambling, a whole range. That is why, Sir, at the end of the day it has all added, Sir, to the situation where the public standing of the Member for St. John is not only lower than his party, Sir, but is of a nature that one would associate with a fringe party.

These things have all welded together to form a cement, concrete, of hardening public opinion against the utterances of the Member for St. John that his blandishments and his sweet tongue now cannot penetrate. The public has come to discern him for what he is and the threat, Sir, that he is going to go out of here and say things that he is not man enough to say in here where we can deal with them is characteristic of the sad state to which politics has been brought. It was the same thing with the VAT, Sir, that he was going to take the VAT to the streets rather than debate it in here and the people on the street, Sir, told him by their absence from the meeting, the Democratic Labour Party is not into anything. Go back to the Parliament and deal with it in the Parliament. So we have nothing to fear from the threat of the Member for St. John that he will be taking it to the street, Sir. That is where he is at his best so he alleges, Sir, but we will persevere. This is good legislation, Sir. I commend it to the House. I beg to move that this Bill be read a second time.

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

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

COMMITTEE

Mr. CHAIRMAN: The Honourable House is now in Committee.

Clauses 1 to 5 inclusive were called and passed.

Clauses 6 to 9 were called and passed.

Clause 10 was called.

5.35 p.m

Rt. Hon. O. S. ARTHUR: Sir, I had anticipated in my second reading speech that we had proposed that clause 10 should read, "section 25 of the principal Act is amended by deleting subsections (2) and (3) and substituting the following."

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

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

Clause 11 was called and passed.

Clause 12 was called.

Hon. D. A. C. SIMMONS: Mr. Deputy Speaker, in clause 12 subclause (3) the Leader of the Opposition has suggested the inclusion of a word in the second line before the word "efficient". I think we could include the word "economical". So it would read:

"The Auditor General may carry out examinations into the economical,..."

That is preferable I think to "economic". I looked it up in the New Shorter Oxford dictionary. It says economical - characterised by or tending to economy; careful of resources, not wasteful; sparing; thrifty. I think that is preferable to "economic".

I therefore move that the word "economical," be there inserted in line 2 of subclause (3) before the word "efficient".

Mr. D. J. H. THOMPSON: I want to thank the Honourable Member for St. Thomas for inserting that because I think that is in keeping with the definition of value audit.

We are still concerned notwithstanding what the Right Honourable Member for St. Peter has said about subclause (4) of clause 12. We feel strongly about this particular subclause and I think we put our position to the House adequately. We are just recording our opposition to it. We do not support subclause (4) and the record should show we do not support it.

Rt. Hon. O. S. ARTHUR: I beg to move, Sir, that clause 12 as amended stand part.

I have taken notice of the objections of the Opposition and we can agree to disagree in good faith in this particular issue without any sense of rancour. In moving I just want to say that we on this Side are not constraining it as an attempt to muzzle the Auditor General. We do not truly believe that

the Auditor General is in a position to say that free education is a bad policy. That is not part of an audit for him to say that he would be enquiring into the policy motives, and we stand on that.

An Auditor General may properly say that within the context of the carrying-out of a free education policy that money spent on a school was not properly spent. That would be a proper audit function, but he cannot review the motives of Government's policies and we think safeguarding him from colliding with the powers vested in Cabinet to be responsible for the construction of policy in this country.

I do not know that it is in any way a muzzle on the Auditor General but it is to set a line clearly that there is the value audit, judgments have to be exercised but it is not part of the function of an audit when a financial audit or value for money audit to say whether Government policy is right or wrong. That is for us as politicians and for the public and for us as politicians to sort out but not for the Auditor General. Once you get into that realm, Mr. Chairman, we generally feel that there has to be a definition of the boundaries. It is in that context, Sir, that I am going to agree to disagree with the Leader of the Opposition on this point.

I would say, Sir, that I have discussed it with the Auditor General and he also feels that it protects the integrity of the political independence of his office because the Auditor General does not want to be put in a position where he now has to become the adjudicator of what is good policy or bad policy. That is not his function.

There have been times when in doing financial audits that the Auditor General has done things that other accountants have not agreed with and there are not even questions where judgment was involved. We will know from the strictures in many Auditor General's Reports about how to show statutory and non-statutory expenditures. Historically they are shown in a vertical column and then it was shown under the Democratic Labour Party by way of a note and we queried it saying it was unconstitutional. That was a great debate in the Ministry of Finance and it was one of the strictures that the Auditor General wrote about in the Auditor General's Report that the Constitution and the Act say that you must show statutory and non-statutory expenditure separately. It used to be shown separately in a vertical way and then it was shown in a horizontal way and a horizontal showing did not satisfy and that was a case in point where a judgment that was not contentious but only technical was raised but we could talk about this too that we do not believe that the Auditor General must say whether a policy is good or bad. We do not believe so. The power of Cabinet to decide policy is a power that is vested in the Constitution.

I beg to move that this clause stands part.

Mr. D. J. H. THOMPSON: I do not want to prolong this debate but there is a point I need to make because the Right Honourable Member for St. Peter has introduced a new consideration in his reply.

The first point I want to make is that it is obvious incongruity. This legislation reflects Government's policy. The Minister who makes the policy has deferred to the man whom he said should not comment on policy to tell him that he is in favour of putting such a section in the legislation. So the Auditor General wants it that way and essentially the Minister is guided by a policy position that he has to take to reduce into legislation what the role of the Auditor General would be. I cannot work that out.

I must tell you, Mr. Chairman, that I have great difficulty on it. If there is a consultative process let him continue to consult and give him the right to question in place of value for money audits the efficacy of expenditure in relation to policy.

We have to depart from that because, to my mind, exactly what is happening in this debate and what the Prime Minister has just said vindicates the Democratic Labour Party in its view that there is absolutely no need to have such a section in the Act.

The second point I want to make relates to the section of the Constitution that deals with the Cabinet. I cannot remember what section the Right Honourable Member for St. Peter referred to. Section 54. Now the Honourable Member for St. Peter has a fundamental misunderstanding in my view of what the role of the Cabinet is and this is precisely the difference in the C. O. Williams' case. 5.45 p.m.

It is not the Constitution that empowers the Cabinet to do anything because he should really describe what a Cabinet is. It is not. The Constitution gives the Cabinet power to do anything. Ultimately any decision a Minister makes including a decision in relation to the conditions under which Mobil or any other entity operating in Barbados cannot be made by the Cabinet. That is a major decision. He is the person who by law is responsible. He does not have to refer to the Cabinet.

If the Cabinet comes to a position that he really does not like, he can either resign from the Cabinet or the Right Honourable Prime Minister can fire him. But no Minister has to defer to collective decision of a Cabinet on a matter for which he has statutory responsibility. Because at the end of the day, he is accountable to Parliament. There is no such

Rt. Hon. O. S. ARTHUR: What we are saying here, ^ Mr. Speaker, is simply this, that the new Rules that are made by Cabinet...

Mr. B. M. TAITT: On a point of order. Mr. Speaker, Sir, I hate to interrupt the Honourable Member, but on this Side we have been trying to follow.

Asides.

Mr. SPEAKER: Order, please.

Mr. B. M. TAITT: Mr. Speaker, I want to state these, that the Honourable Member is making reference to new Rules. No Rules have been circulated to this Honourable Member. They have not been laid as far as one knows. They have not appeared in the Gazette as far as one knows. How therefore can we follow and that is what the confusion is about. We are not trying to cause confusion. The Honourable Member must understand that the Financial Administration and Audit Act is not useful without the Financial Administration and Audit Rules of 1971. Therefore if you are going to have new rules one has to have those rules in order to understand the new amendments.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, the Rules under the Financial Administration and Audit Act are rules made by Cabinet, Sir. There are signed by the Cabinet Secretary and then they are presented. That is how it goes.

Aside

Rt. Hon. O. S. ARTHUR: Mr. Speaker, when the Financial Administration and Audit Act Rules were amended on April 27, I did not sign them, Sir, the Secretary to the Cabinet signed them and that is the process of circulation. That is what I am saying, Sir, that my obligation is not to get them here. Mr. Speaker that is not my obligation.

Aside.

Rt. Hon. O. S. ARTHUR: I understand the problem.

Asides.

Rt. Hon. O. S. ARTHUR: No.

Asides.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, as to wanting to conceal? The Member for St. John said I could go on to conceal rules that are making Ministers liable? 12.30p.m.

I wish these Rules were in place when the expenses of the St. Joseph Hospital were taking place. That is what I want to say, Mr. Speaker. If there was a rule that said that a

Minister was liable and I was abolishing the rule then I would be concealing something, or there would be a motive to conceal. But I would want to conceal?

Mr. D. J. H. THOMPSON: On a point of order, Sir. I think the point needs to be very clearly made for this debate. I think the Honourable Member for St. Michael West made it and I am very offended as a Member of this Chamber that a debate is proceeding in this House, policy statements have been made by the relevant Minister on purported amendments to Rules which have never been brought to the attention of Members of this Chamber, Rules which should have been Gazetted, which are presently debated which is anticipating the House. Other kinds of documents obviously should have been available to Members of the House before this debate takes place.

The Honourable Member does not have to get into an attacking mode. All we are saying is that due to incompetence, not financial incompetence on this occasion, we will get to that when we debate, but due to a basic incompetence, Members on this Side, and presumably Members on that Side, because they look just as lost, have never seen the Rules which the Honourable Member for St. Peter is quoting from and which he has already announced to the *Nation* newspaper in an interview some days ago and that is the essence of the point we are making. It is disgusting.

Asides.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, I submit to the House that if there was a requirement that I had to bring the Rules by a positive resolution, the arguments being advanced by the Other Side would make sense.

Mr. B. M. TAITT: On a point of order, Sir. The argument over here has nothing to do with the duty of the Minister to bring the Rules. The argument has to do with the courtesy of the House in debate. That is what we are discussing. That is what has been obtaining in this House from its inception and the Minister has been here long enough to know that. We are not discussing the Minister's capacity or otherwise to bring the Rules here.

Mr. SPEAKER: Okay, you have made your point, Sir. What I would like to suggest is I believe that arrangements are being made for the Rules to be copied and circulated....

Rt. Hon. O. S. ARTHUR: And I give the House assurance, Sir, that both the Act and the Rules cleared Cabinet at the same time and the Cabinet decision was supposed to be introduced into the House...

Aside.

Rt. Hon. O. S. ARTHUR: That is the whole point so that there is no attempt by Government, as was said *sotto voce*, Sir, to conceal the Rules. That was weeks ago and if

the Rules are in Parliament waiting to be photocopied and circulated I can only presume that when we have made a decision and we send out things weeks ago that they are circulated. They came out with the Bill.

Asides.

Mr. SPEAKER: Arrangements are being made, please.

Rt. Hon. O. S. ARTHUR: You are saying I am trying to conceal them when there is not an attempt to conceal them. They are in the precincts of this House waiting to be copied. I am speaking about them in anticipation but they were sent to the House as one. That is a fact.

Aside.

Rt. Hon. O. S. ARTHUR: The House understands the spirit in which I am speaking, Sir, that I spoke from the understanding that a package of amendments and that the Rules, I understand only too clearly, that if I was required to bring these Rules and have them ratified by a positive resolution I would have had to lay them, and a resolution supporting them brought to the House, but the Rules are subject to negative resolution, and any Member of the House who feels disadvantaged by what the Rules provide, may bring a resolution in that nature. 12.35p.m.

Mr. B. M. TAITT: On a point of order. In order for a negative or positive Resolution to be brought in relation to rules that are made, they have to be laid in the House. The Honourable Member has not indicated that the rules have been laid. I go further, Sir. If a rule is made under the Financial Administration and Audit Act, I submit to Your Honour that the only Minister who is capable of laying it in here would be the Leader of the House or the Chairman of the Cabinet since it is made by the Cabinet Secretary or the Minister of Finance if it is a financial matter or someone acting on behalf of that person.

Asides.

Rt. Hon. O. S. ARTHUR: The Other Side understand the spirit in which I am carrying out this matter. I spoke from the understanding that both sets of matters were before the House because that was the intention of Cabinet and there are within the precincts of the Chamber.

Asides.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, there has been a number of issues...

Asides.

Rt. Hon. O. S. ARTHUR: This evening we are going to talk about that in here because this administration has nothing to hide. I can say that every contract issued by the GEMS has been the subject of open tender. I wish that the same could have been said, not just of the St. Joseph Hospital but the Geriatric Hospital where a greater scandal perhaps, Sir, waits. How a project that started as a \$10 000 project could end up costing \$15 million is beyond our imagination.

Asides.

Rt. Hon. O. S. ARTHUR: The Honourable Member for St. John should talk about the car that was brought back in the name of a Mr. Armstrong and was sold to CLICO for his use.

Asides.

Rt. Hon. O. S. ARTHUR: Sir, he is saying loud enough on the floor of Parliament that a Mr. Wilkinson at GEMS is driving a car. His mother, a returning national has brought a car to Barbados under the rules. That is the kind of nastiness that you get from the Honourable Member for St. John.

Asides.

Rt. Hon. O. S. ARTHUR: You did not know that? You should go and talk about the car that Leroy Parris has.

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

Rt. Hon. O. S. ARTHUR: I am saying, Mr. Speaker, that if he wants to talk about tendering, we should not talk about the St. Joseph Hospital alone, but the Geriatric too because a story is there waiting to be told. How a \$10 000 project could end up costing millions and millions and millions.

Asides.

Rt. Hon. O. S. ARTHUR: Order, please. Order, please. Honourable Members, please, could we proceed orderly. We cannot go on like this.

Rt. Hon. O. S. ARTHUR: Sir, who is he trying to strike at, Sir? It cannot be me. My office has not recently been burnt down, Mr. Speaker, Sir. Mr. Speaker, Sir, it is not me that said that it was arson. It is not me. I plead innocent, Sir. Save me from the Honourable Member for St. John.

Asides.

thing as Cabinet being responsible to Parliament. The Minister is accountable. The Cabinet, in my view and my understanding of Cabinet Government is an informal meeting of Ministers, the purpose of which is to build a consensus on policy. The other purpose is to ensure that other Ministers are aware of what a particular Minister is doing in a particular area.

I would give you a good example of why Ministers sometimes do not understand their responsibilities. One of the things that brought down the Democratic Labour Party Government was the decision in relation to the appointment of an executive officer in a certain statutory corporation. As far as I am concerned, if I was the Minister the matter would be before Cabinet for information. Because the power to authorise the appointment was the Minister's power, not the Cabinet's power. And the Ministers who brought the matter to Cabinet for Cabinet to decide it were in fact avoiding their responsibility as Ministers to make that decision.

When I was a Minister, I made decisions that were relevant to my Ministry and I stood by them. The Honourable Member for St. Peter cannot come in here and tell me the Cabinet made one decision and the Minister made another. When I made the decision, if the Cabinet did not like it they could tell me and I could opt to resign from the Cabinet, or the Principal of the Cabinet could fire me. That is true Cabinet Government.

Cabinet Government is not this idea that a Minister must hide behind the Cabinet, "The Cabinet decided something and therefore." Nonsense, and the Honourable Member for St. Peter essentially has interpreted this section 54 which says,

"There shall be a Cabinet which shall consist of a Prime Minister; and not less than five other Ministers; and the Cabinet shall be the principal instruments of policy; and shall be charged with the general direction; and control of the Government of Barbados; and shall be collectively responsible therefore."

That does not impose any statutory responsibilities on the Cabinet. It describes what the Cabinet is. It merely declares that it is an instrument of policy and that is why we have always been able to make a distinction between the discretion. The Cabinet actually exercises a discretion under the Financial Administration and Audit Rules and therefore its decision can be questioned. But I know of no other law which vests in the Cabinet the right to make a decision.

The decision is the Minister's decision and when the decision of the Minister and the views of the Cabinet collide, the Minister has to look at his options. Either I am going to go with what the Cabinet recommended or I am not. If I do not, then the Right Honourable Prime Minister has to accept my resignation or fire me. That is the basic principle of Cabinet Government.

So the idea that the Auditor General is now saying that he does not want his responsibilities to collide with Cabinet's responsibilities, Cabinet has no statutory responsibilities except the right to overturn the decision of the Tenders Committee. That is the only statutory responsibility that it has. Other than that it is merely a meeting of Ministers.

If it were otherwise, it would mean that the Prime Minister himself and the decisions that he makes as Prime Minister would be subject to the consensus of the Cabinet. I have never heard, if that is what is being proposed in here, of such nonsense in relation to the Westminster model as we practise it.

The Honourable Member for St. Peter has not convinced me, because I understand the Cabinet system and I understand it very well. Even if I did not in 1994, I came to a very clear understanding, and we would walk through the procedures of a Government unravelling because people took decisions to Cabinet which they themselves could have made and not have the Cabinet involved in the process.

In this exercise therefore, what the Auditor General is advising the Right Honourable Prime Minister in my view, assuming if that is what he is advising him, is wrong. And the Honourable Member for Christ Church South, I wish he was in the Chamber today, because he has always made this point about Ministers making policy and that legislation reflects the policy and if a policy decision is being made it is not for the Auditor General to make it.

When this legislation is passed, the Auditor General cannot take responsibility for it. The Honourable Member for St. Peter as the Minister responsible for bringing this legislation to the House is the person who the public has to turn to and say,

"That was your policy decision to curtail the responsibilities of the Auditor General."

And it is irrelevant what the Auditor General feels about it, because it is a policy decision of the Government of Barbados.

Mr. B. M. TAITT: Mr. Chairman, Sir, I rise to endorse the very clear statement of law which the Honourable Member has just made.

The fact is that in Barbados there has been perpetrated and perpetuated a misunderstanding of what the Cabinet is. When a Minister is allocated responsibility in a portfolio that Minister has accepted through the prerogative power, the prerogative responsibility for the areas that are designated in the portfolio.

For example, the Right Honourable Prime Minister is the Minister responsible for finance and economic affairs. It

is in his capacity as the Minister of Finance and Economic Affairs that he can pronounce on those matters. The Right Honourable Prime Minister has responsibility for the Public Service. He can pronounce on policy for the Public Service.

If the Prime Minister, as Minister of a country with a constitution like Barbados is merely the Chairman of the Cabinet. The Prime Minister has no statutory responsibilities, except the Right Honourable Prime Minister has a portfolio.

The Cabinet, while there is collective responsibility and that is a conventional arrangement where whatever a Minister does, constitutes the policy of the Government and it necessary must be. For example in the C. O. Williams case and I want to quote from it, Sir, where the Chief Justice said the Barbados law was the only one of the few Constitutions where, and I am quoting,

"Unlike any United Kingdom legislation of which their Lordships are aware, some legislation in Barbados confers specific statutory functions on the Cabinet."

Section 39 of the Financial Administration and Audit Act delegates to the Cabinet power to legislate over an extensive field in relation to the control of public finance.

If section 39 did not specifically give that power to the Cabinet, the Privy Council would not have been able to pronounce on the particular issue that was before them. Because the House of Lords had always said and will continue to say that matters of policy are none of their business.

So you will notice that if you read the *London Times*, you will never see the *London Times* saying, "The Cabinet today decided". They always say: "Ministers decided". It is such a subtle point, but it is so crucial. Some of the learning in the region has been very lazy and some of the writing in the newspapers has been even lazier and so they have this concept of some instrument called the Cabinet that decides policy in portfolios. Technically, the Cabinet cannot decide a policy in a portfolio. It is unconstitutional for a Cabinet to decide a policy in a portfolio unless it adjusts the portfolio arrangements to have, for example, a ministerial subcommittee. It is necessary for the Cabinet to have a ministerial subcommittee if they are going to have more than one Minister making policy. 5.55 p.m.

I really think it would do us well if on all sides we would try to educate the public. In fact, they now have a way of dropping the indefinite article so you now hear people saying Cabinet did this, Cabinet did that and Cabinet decided that.

The Honourable Member is perfectly correct. I would have been surprised if he had said otherwise. The Attorney General will have to agree that this is the learning up to now that we have. It is the prerogative power which the Cabinet Minister exercises. The Attorney General has the prerogative power for what, in effect, they call in England the Home Secretary. Nobody else can exercise that.

I recall when I first came back here in 1971 having to point out that if it says that the Minister can control prices that nobody else but the Minister. The Minister cannot delegate that authority to a Permanent Secretary. When the Minister makes an order, if the Minister of Health makes an order, it cannot be signed by the Permanent Secretary although in that respect the Health Services Act gives the Chief Medical Officer certain powers that are equivalent to the powers of the Minister and the Chief Medical Officer can act because that is a statutory power.

Aside.

Mr. B. M. TAITT: I am putting this in the record because there are too many people, you have a lot of young people who are growing up who go into journalism, for example, and they follow what has been there before and there is no system by which people are being trained or given - I am not talking about journalists only but people in the Public Service are not being trained in this kind of knowledge these days and so we are getting into a false sense of knowledge about what constitutes the Government that we have.

The Prime Minister has no power over Ministers except to dismiss them. You might say that is the only power you need but in a sense there are people who believe, and I do not mean this pejoratively, but when you see the Prime Minister march into the bus stand and order somebody to do something related to the Ministry of Transport and Works, the Prime Minister is only "finessing." The Prime Minister knows that he does not have any power to instruct anybody to do anything. The Prime Minister is merely grandstanding. The only person who can give instructions in Transport and Works is the Chief Technical Officer or the Minister.

Aside.

Mr. B. M. TAITT: The point is, Sir, that if the Chief Technical Officer gives a directive and it is not carried out that is a breach of law. When a Permanent Secretary gives an instruction, the Minister has given the instruction...

Aside.

Mr. B. M. TAITT: We who know better would know that you were making some strong suggestions which it would be wise for somebody to hear. But we also know that the Press assumes that once the Prime Minister has spoken, God has spoken but we know better than that, and to his everlasting credit the Minister waited until he had gone to tell them if there is a man, touch it. He said, "Do not mind him;" The Minister understands. The Minister made it clear to the men: "You know what side your bread is buttered do not mind that man coming down here." His actual words were, "Do not mind that short man coming down here talking foolishness." Those were his actual words but I do not wish to create any unnecessary strife.

It is like my friend, the Honourable Member who is responsible for the National Assistance Board. You can talk until the cows come home. Nobody but the Minister can give any instructions. That is why I warned that the Urban Development Commission and the Rural Development Commission were dangerous.

Mr. CHAIRMAN: Keep to the subject. I gave you some latitude. Keep to the subject and move on.

Mr. B. M. TAITT: Once you put it in the statute, that is the legislature. The Parliament is specifically divorcing that portion of the prerogative from the rest of it and that is when Ministers start to lose some of their power. Unless the Commission is grounded in the statutory board, as it is, fortunately the taking away of some of the prerogative unless it specifically says so, as it does with the Permanent Secretary in the Financial Administration and Audit Act, it does not remove the power from the Minister.

The Minister, even though it is a statutory board, still retains the authority and responsibility to run whatever it is that he has to run. That is why the Public Accounts Committee was so woefully wrong when they suggested that, for example, the Minister of the day had somehow performed an act that had been given to statute because, giving the creation of the statute did not, in any way take away the prerogative, or address the prerogative power of the Minister to carry out the policy as had been set out. It is a matter on which there could be disagreement. The learning is there.

Aside.

Mr. B. M. TAITT: It does not take away the prerogative responsibility. The fact that the statutory board has to report to the Minister, anything that the Minister does in furtherance of the responsibility that had been given to the statutory board cannot be questioned. It could be questioned at the political level but in law, if the Honourable Member for St. Philip North has not lost his prerogative responsibility to provide welfare assistance in the country, the mere establishment of an Urban Development Commission to assist, given the history of statutory boards, and the reason for the existence, the mere creation of a statutory board in the

urban development or a statutory board in the rural development does not remove from the Minister the prerogative responsibility to carry out that function. That function cannot be taken away unless Parliament specifically takes it away. The only legislation we have in Barbados where that is done is in the accountability of the Permanent Secretary for the financial administration because the word "personally" was imported into the statute.

It is the only area where the public officer has been given the specific responsibility and that is why the point raised by the Honourable Member is such a crucial point. That is why it is necessary for us to rise and reinforce the point that the Cabinet has no function. The Cabinet can only be viewed as a functionary where it has been given the responsibility as a functionary in a statute. Otherwise when the Cabinet makes a decision, if it makes a decision, or when a Minister within the Cabinet makes a decision, then, it is a policy position and questioning the policy mechanism cannot happen in law, does not happen in law and is not likely to happen in law unless we pass a law requiring it. 6.05 p.m.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, Sir, I welcome the opportunity to try to focus and zone in on the essential issue in this matter. The Auditor General cannot be all things to all people. The Auditor General's report cannot be all things to all people. They cannot be in the nature of economic reports, they cannot be in the nature of the reports submitted to the House as required by this same Act from the pen of the Accountant General. It must be in the nature of an audit. Section 26 of which this amendment forms an integral part, specifies what precisely constitutes an audit.

Sir, it is quite possible for the Auditor General to meet with me and he and I could discuss the composition of the West Indies cricket team and he could offer me advice that he feels that I could render to the West Indies cricket Board as to the policy that should be pursued. Fine, he has that discretion, Sir. He can do that. He may want to talk about the state of the economy but where it comes to the carrying out of the provisions of Section 26 of this Act, his action in relation to the preparation of those Reports must have the features of an audit. That is the point, Sir. An audit by its very nature is described in the body of the report. It does not and has never given the Auditor General the powers to become a policy Ombudsman, it is not his power nor is it the purpose of an audit to speak to policy issues in terms of the objective soundness or otherwise.

Sir, I am saying, let us keep it that way otherwise an audit will become all things to all people. The law is clear as to what an audit should be. A value for money audit must reflect the features of an audit. We do not want the Auditor General to be running off in a supposedly value for money audit to say whether the Government's balance of payment policies were good or whether Government's fiscal policies

were good or whether Government's education policies were good. That is not the purpose of an audit. He is not a policy Ombudsman, Sir. The nature of an audit is defined and we just want to keep it within the realm of what an audit is intended to be.

The Member is suggesting that we should remove the word. It is clear, however, that we are agreeing that he cannot review policy objective. He cannot ever say that a Government cannot have free education in Barbados. That is not his business. We want to send the correct message, Sir. We have seen the Auditor General sometimes make judgements that you wonder about the technical aspects of them.

Asides.

Rt. Hon. O. S. ARTHUR: We have strictures at the Ministry of Finance and our officers were shocked. That you used to show accounts vertically before and you now show them horizontally. Vertically is separate but horizontally is not.

Asides.

Rt. Hon. O. S. ARTHUR: We all agree that the policy matter is not in the realm of an audit. That is why we felt that this is necessary because a value audit will require judgements to be made. A value for money audit is requiring the Auditor General now to look behind the numbers. A financial auditor says look at the numbers and say if the House voted \$1 million for a Head and a million dollars was spent. That is what a financial auditor does and he will say either it was spent or not spent, if the records were kept or not kept, if they were posted on time or not posted on time, if the appropriate officer responsible by law for posting the records did them or otherwise. That is what an audit does but a 'value for money' audit would ask them to enquire behind the numbers and say whether in fact they were spent efficiently or not. We wanted, in doing that, not to go the next step and be tempted to reflect on the policy because that is not his jurisdiction. Once that is understood by all sides, Sir, we are not seeking therefore to muzzle the Auditor General but to make sure that he remains the Auditor General and does not now assume the powers of a policy Ombudsman.

I want to make that distinction and I want to repeat it. We want him to be the Auditor General with enlarged functions but he is not to become a policy Ombudsman. Therefore, Sir, I am going to take the suggested amendment by the Leader of the Opposition that we delete the words 'question or'. That will suffice because the Opposition also understands the point that we are trying to make and I commend this to the House.

Hon. D. A. C. SIMMONS: Just to support the point made, Mr. Chairman.

Section 26 of the Act is very specific, in that Section 26 spells out the three areas of responsibility for the Auditor General. You have to go to that.

"The Auditor General shall:

- (a) be responsible for the audit and inspection of all public accounts whether such accounts are of general revenue paid into, and expenditure, met from, the Consolidated Fund or of special funds or departmental accounts;
- (b) apply to the public accounts such an examination as will enable him to ascertain that in his opinion the accounts are kept on a correct system, that they are punctually and properly posted and that checks against irregularity and fraud are adequate and effective;
- (c) satisfy himself that all standing instructions, enactments and other laws of Barbados relating to finance and accounts are strictly observed;
- (d) examine and certify in accordance with the outcome of his examination the several statements and accounts which are required to be submitted to him under this Act."

All that this amendment is doing in sub-clause 4 is to say, having spelt out the four specific audit and accounting functions of the Auditor General, we want to make it clear beyond peradventure that nothing in those functions must be construed as giving him any authority to review Government policy. That is all we are doing. We are putting it beyond doubt. This is a drafting technique that is familiar to Members of the House. Nothing in this section shall be construed as so and so and so and so. We are familiar with this.

The second point is in relation to the point made by the Honourable Member for St. Michael West in relation to the Interim Report. The point of that was that Section 5(l) of the St. Joseph Hospital Act says as follows:

"The board may delegate such of its function as it thinks expedient for the purpose of effectively transacting the day to day business of the Board to the Chairman, the Hospital Administrator, any committee appointed by the Board or to any of its officers."

All we were saying in the Report is that where you have legislation which clearly sets out a delegatory function then only the persons to whom the function is delegated can exercise that function. This Act was specific, it says:

"The Board can only delegate these functions to four types of people. The Chairman, the Hospital Administrator, a Committee appointed by the Board or any of its officers".

Then they went on to say in the report that in the Minister's attempt to recruit staff, the Board could not give him that power because he was not one of the four delegates provided for in Section 5(1). So any attempt by him to exercise a power of recruitment would have been *ultra vires*. That is all the Report was saying, Sir. 6.15 p.m.

Mr. B. M. TAITT: Mr. Chairman, first of all the Minister by the very definition of the Minister's responsibility, the Board could not delegate anything to the Minister. The Board is advisory to the Minister. The Minister's responsibility is to carry out the functions, including the functions that the Hospital is advising the Minister on. The Minister's prerogative responsibility covered what the Hospital did because the Hospital had to advise the Minister. If you look at the Hospital's responsibility, Number 1 is to advise the Minister on matters relating to. So they cannot delegate to the person from whom they have got a little bit of the prerogative power via the statute. The problem was and here I understand why they did it. I think that in retrospect they would agree that it was a little weird. They determined what constituted recruit and if what they were saying were true then what they are saying would be true. But, Mr. Chairman, nothing of the nature had occurred. They did not define in their findings what they meant by recruit and clearly a Minister with prerogative responsibility as set out could not from the nature of the activity which occurred be said to be recruiting.

To recruit has a specific meaning. I never got into the discussion of that because the mood in the country was not to hear anything like that but I would merely say, the question whether a prerogative power, and I am quoting from a judgement, has been swallowed up by a wider statutory power may depend on whether the statute has imposed conditions or restrictions on the power to which the court attached significance. In other words what the report was directly saying, that the Minister could not be appointed a personnel officer. The Minister could not in the St. Joseph Hospital perform the functions of a recruiting officer neither could he be sent anywhere to perform those functions but there is nothing in the Act which precluded the Minister in furtherance. In fact there is a judgement in which it is his pristine duty to help enhance the functions which have been set out in whatever. So if he went out and found, take for example, if the Queen Elizabeth Hospital was now a board and the Minister responsible for Health was travelling through London and came across a person who could be a first class chief executive officer, the Minister would be in dereliction of duty if the Minister did not bring to the attention of that person the possibility that if they go through

the right processes they could be recruited by the Board. I am making the point now, distance having passed. That is really what it came down to.

Now, the Honourable Minister of Labour cannot be deputed by his Ministry to go and do anything. It is a legal logically impossible situation where a Board that is inferior to the Minister in the truer sense is deputing the Minister to do something. It just cannot happen.

Aside.

Mr. B. M. TAITT: If we were in different circumstances that recruitment would have been given the wider and other interpretation. It fell within the ambit of what objective the judges had in mind at the time to use that interpretation of recruitment but it will not stand the test of time subsequently.

Aside.

Mr. B. M. TAITT: This is very important between us because what we know and what we accept now in argument, or the argumentation, even if we do not agree, was not out in the public place and is still not out in the public place and therefore they do not understand the subtlety. If I had been able to urge the Honourable Member for St. Peter, he would not have been the instigator and mainstay in getting the thing going. My fellows did the best they could in the circumstances.

Sir, I think the Attorney General would agree that I have never tried to vindicate at the personal level. I have always been interested in the legal aspect of the argument that was put forward. The Attorney General will agree I have always only sought to point out, how could you say this in law? And the Attorney General each time he has been confronted has agreed that there were some things which were said in the Report which could not be said in law. Now they may be said in an interim report.

Aside.

Mr. B. M. TAITT: I am fully seized of that and I am also fully seized of the fact that the Report indicated that it did not know if the funds had been returned when the facts had in fact been put to the Committee that not only had funds been returned, a letter has been sent with the cheque returning the money. It so happened it was the first and only time.

I am not here now in retrospect going to quarrel with anybody except to say that the lawyers...

I do not interfere with anybody. The Prime Minister had his reasons, still has his reasons. The Prime Minister has been the beneficiary of my tongue and therefore he has his

reasons. The fact is that the Minister cannot lose the prerogative power by a mere statute unless the Parliament specifically points out that it so intends.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, Sir, I beg to move that Clause 12 as amended at subsection (4) by the deletion of the words "question or" stand part.

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

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

Clauses 13 and 14 inclusive were called and passed..

Clause 15 was called.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, I have already in the second reading speech indicated that the intention of Clause 15 is in essence to widen the scope of the functions exercisable by the Auditor General in instances where a special audit may be required either resulting from a resolution of this Honourable House or by a Minister acting in his own volition to include not only statutory boards, Sir, but any other person or organisation. It is not in any respect to dilute anything as I say, Sir, it has also to be read in conjunction with any other provision in the Act because the Financial Administration and Audit Act itself proposes that statutory boards may themselves be subject to audit other than at the hands of the Auditor General. Notwithstanding the audit can otherwise be subject to the Minister, or the House can require that the Auditor General carry out those audits, and we are saying in relation to that being applicable to statutory boards it should also be subject to any other entity; body or organisation. 6.25 p.m.

The word "if" is importing into this legislation the language that already exists and does not change the language. The language of the original legislation is in fact predicated on the presumption that there may be references to the need for audit and the power of audit in other legislation that Parliament or the Minister notwithstanding can require an audit.

I do not see it as offensive nor intended in any respect to exercise arbitrary discretion. I commend this Bill to Parliament and beg to move that clause 15 stand part.

Mr. B. M. TAITT: Mr. Chairman, Sir, I have no difficulty with the Prime Minister's explanation but I want to draw to the attention of the House and to the Attorney General the language as it is currently written is fraught with difficulty if not danger.

I understand the intention. The original 32 addressed that and therefore there was no problem whatsoever and the attempt to have an audit notwithstanding the statutory board may have its own auditor, there is no problem with that either.

Let me give you a scenario. There is a small subvention that is given to say, the Barbados Workers' Union. As this is written, this says that the "the Auditor-General shall..." Don't mind the "if required". Now let's say the Barbados Workers' Union gets a subvention of \$30 000 or \$40 000 which it does not get. How much does it get now?

Aside.

Mr. B. M. TAITT: Let us say \$300 000, whatever it is that it gets. This Parliament has no authority, I wish to submit, to have other than that \$300 000 audit but that is not what it says here. It says:

"The Auditor-General shall, if required:

(A) by a resolution...

(B) by the Minister, examine the accounts of any person or organisation..."

Now the accounts of any person or organisation means just that, the accounts. This Parliament cannot pass legislation to say that the Auditor General shall examine the accounts of the Barbados Workers' Union.

Hon. D. A. C. SIMMONS: This section only gives a broad power that the Auditor General can act in the situation advanced by the Honourable Member in two circumstances. If required by a resolution of the House of Assembly or if required by the Minister. Clearly if required by the House of Assembly by a resolution, the resolution would state specifically what is the reason.

Mr. B. M. TAITT: If the Honourable Member will give way. This is one of the few times where the word "may" would be more appropriate. You see you are missing the point. Let us say that the Minister directs the Auditor General to examine the accounts and the General Secretary says no. Is that a criminal offence? Is that a civil offence? What are you going to do? How can the Auditor General examine the accounts of the Barbados Workers' Union?

You are saying what the resolution will say. You need your legislation now to say that "to the extent of such grant because what you are doing is saying he shall examine the accounts. I understand the accounts to have a meaning.

It means that you are purportedly to have the power to legislate any person or organisation. I understand and I draw it to your attention that I am unhappy about it. I do not think that this language is correct and I therefore feel that it is unconstitutional. I understand the intention but this language here does not meet that intention.

I will only say that I cannot envision legislation drawn by a Parliament which says - I use the Barbados Workers' Union because it has clout - the Auditor General can examine your accounts. The only clout you have as a Minister if you do not allow us to examine the accounts, you would not get a subvention the next year. That is the extent of your power. You cannot pass legislation here to say that the Auditor General who is a functionary of Parliament will have inquisitorial powers in relation to an agency outside the ambit of the Government.

I am saying that this does not meet your requirement. You and the Attorney General see it from this vantage point. This language is not comfortable and I draw it to your attention.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, Sir, I understand what the member for St. Michael West is saying but the explanation of the Attorney General, I believe is clear and that the Minister in requiring an audit would have to set terms of reference which could only be that the audit should be to account for the use of funds from the Consolidated Fund.

It may interest the House since this is called the Israel Lovell Foundation clause by the member for St. John. In the case of the Israel Lovell Foundation, Sir, we were very clear that any funds received for the Poverty Eradication Programme has to be put into a separate account and one of those 14 conditions was that the Israel Lovell Foundation cannot take money from the Consolidated Fund and put into a general pot. It has to establish a separate bank account for those funds. That is the point, that the audit is to be limited not to the general affairs of the Israel Lovell Foundation but to the use of those funds and they only get them on a quarterly basis as the programme...

Mr. B. M. TAITT: On a point of order. If a permanent secretary does not do it you can deal with him. If a statutory board does not do it you can deal with that. If the Israel Lovell Foundation refuses to let you look at their books, what can you do to them?

Rt. Hon. O. S. ARTHUR: They are also required to make their books open.

Mr. B. M. TAITT: The point is there is no sanction. If I know the Israel Lovell Foundation trustees as they have been put out it is...

Rt. Hon. O. S. ARTHUR: The Israel Lovell Foundation is not being given \$212 000 up front, Sir. They are being allowed every quarter to present a programme.

Asides.

Rt. Hon. O. S. ARTHUR: The Ivy Community Council, which has not been in existence in recent years, but to give an illustration, have put up a programme too and they will be exposed to the same scrutiny that they must put up a programme that can be segmented in quarterly work programmes and that funds will be expended as a condition against work to be carried out and that every quarter they must submit a progress report and that failure to meet any of the other 13 conditions including exposing the accounts to an audit constitutes a breach and that the funds will be stopped. So, if at the end of the quarter the Israel Lovell Foundation submits a work program for the quarterly income and gives a report of how they have used the funds to the satisfaction of Government's auditors, so then the programme cannot be stopped. So that 14 conditionalities, in fact even better than the IMF's conditionalities, Sir, had been put in place. 6.35 p.m.

Aside.

Rt. Hon. O. S. ARTHUR: The Democratic Labour Party executive has formed a group.

Aside.

Rt. Hon. O. S. ARTHUR: I beg to move that this Bill stand part, Sir.

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

Clauses 16-19 were called and passed.

On the motion of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER, Mr. CHAIRMAN reported to His Honour the SPEAKER, the passing of one Bill in Committee with Amendments and Mr. SPEAKER resumed the Chair and reported accordingly.

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

ORDER NO. 9 - THE INTERNATIONAL BUSINESS COMPANIES (AMENDMENT) BILL, 1998

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, I will not be long in presenting this, but it constitutes an amendment set by Government to bring about a convergence between the treatment of domestic and foreign capital which are potentially functioning in the international business and financial arena.

As you are aware, Sir, we are trying to make all of our Legislation pertaining to the international business and the financial industry, compatible with the new rule of international trade which prohibit discriminatory treatment of either local or foreign.

Our International Business Companies' legislation, Sir, does in fact contain a clause at clause 8, which in many respects is discriminatory against local capital. An international business company is really a company established to sell goods and services in the international market. And the existing Legislation recognises that a local investor can own shares and be liable for the assets and liabilities of an international business company, but only up to 10% of them.

So that for example, if a Barbadian was to develop a software programme and was to establish an international business company to sell that software internationally, he would have to find a foreigner willing to put up 90% of the equity in order to have that international business company properly constituted under the law.

We believe that Barbadians should be able to own international business companies which are especially set up to carry out functions involving the sale of goods and services in international markets.

Therefore this legislation, Mr. Speaker, is at section 2 amending that part of the International Business Companies legislation that prohibits residents from owning more than 10% of the shares of an international business company.

Sir, we are now also going to require that international business companies stand in relation to the law in the same capacity as offshore banks. Offshore banks are in fact, Sir, required to submit to the Minister of Finance audited financial statements in the same manner as companies functioning under section 147 of the Companies Act which requires companies registered under that Act to submit audited financial statements to the Registrar of Companies.

We believe, Sir, to the extent that Barbadian companies can now function both in the domestic market as well as in the international market and to the extent that the rate of tax on an international business company is different from the rate of tax attributable to activities of a domestic origin involving transactions only in CARICOM that it becomes important for us to be able to monitor the activities of international business companies for the purposes of tax disaggregation. But for monitoring purposes therefore, we are requiring that an international business company should

now be required to submit, not to the Registrar of Companies, Sir, but to the Minister of Finance, annual audited financial statements in the same manner and for the same period as required by section 147 of the Companies Act.

These two simple amendments, Sir, would remove the existing anomaly and discrimination against nationals as regards the capacity to own and operate international business companies. It will give Barbadians functioning in the international business arena the same flexibility in relation to freedom from exchange control the same access to the lower rates of tax from the profits realised from the sale of goods and services in international business companies, Sir, and it would allow us to be moved a further step in bringing about the convergence between our domestic and our international business sectors to make us fully WTO compatible.

We have done it in relation to insurance. We are doing it in relation to international business companies. The new mutual funds Legislation that will shortly be debated by Parliament is by its very design intended to have the mutual funds functioning in domestic market and mutual funds functioning internationally subject to the same regulatory structures, again from the outset making us WTO compatible.

We will have Legislation pertaining to banking that again treats to this issue of convergence, Sir, and this is consistent with the policy of Government and it cannot be reviewed by the Auditor General, obviously.

I commend it to Parliament, Sir, and beg that this Bill be now read a second time.

Hon. D. A. C. SIMMONS: 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 Rt. Hon. O. S. ARTHUR the House resolved itself into Committee, Mr. D. CARTER in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Honourable House is in Committee.

Clauses 1 - 4 were called and passed.
6.45 p.m.

On the motion of Rt. Hon. O. S. ARTHUR, seconded by Hon. D. A. C. SIMMONS, Mr. CHAIRMAN reported to His Honour the SPEAKER, the passing of the Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Rt. Hon. O. S. ARTHUR, seconded by Hon. D. A. C. SIMMONS, the Bill was read a third time and passed and cited as the International Business Companies (Amendment) Act, 1998.

ADJOURNMENT

Hon. D. A. C. SIMMONS: Mr. Speaker, that concludes Government Business for the day. I beg to move that this House be now adjourned to Tuesday, December 8, 1998 at 11.00 o'clock in the morning.

I would like the Leader of the Opposition to inform his colleagues that we will debate the Money Laundering Bill soon, if not next week, because we have a number of other things, but if we cannot do it next week, then the week after. The Money Laundering Bill is the one in proper form. It is that dated on the top right-hand corner December 1, 1998. One amendment was made from what was circulated over the weekend. Page 5 has changed to put in "Minister" meaning Minister responsible. That is all.

With those observations I beg to move that the House be adjourned to next Tuesday, December 8, 1998 at 11.00 o'clock in the morning.

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

The question that the House do now adjourn until Tuesday, December 08, 1998 at 11.00 o'clock in the morning was put and resolved in the affirmative without division and Mr. SPEAKER adjourned the House accordingly. 6.50p.m.