
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2004

HOUSE OF ASSEMBLY

Tuesday, July 10, 2001

Pursuant to the adjournment, the House of Assembly met at 11.20 a.m. on Tuesday, July 10, 2001.

PRESENT

His Honour I. A. ROETT, G.C.M. B.A., Dip. Ed. (Speaker)

His Honour J. M. EDGHILL, J.P. (Deputy Speaker)

Hon. Sir Henry FORDE, K.A., Q.C., M.A., LL.M. (Cantab.)

Hon. D. A. C. SIMMONS, Q.C., B.C.H., LL.M. (Attorney General and Minister of Home Affairs) (Leader of the House)

Mr. D. J. H. THOMPSON, LL.B. (Hons.) (Leader of the Opposition)

Hon. Dr. R. L. CHELTENHAM, Q.C., M.A., M.Sc. (Econ.)

Hon. Miss B. A. MILLER, B.C.H. (Deputy Prime Minister, Minister of Foreign Affairs and Foreign Trade)

Mr. G. W. PAYNE, LL.B.

Hon. R. C. EASTMOND, B.A. (Hons.), Dip. Ed., LL.B. (Hons.), L.E.C., J.P. (Minister of the Environment, Energy and Natural Resources)

Mr. D. CARTER (Chairman of Committees)

Hon. R. N. GREENIDGE, B.A., LL.B. (Minister of Labour, Sports and Public Sector Reform)

Hon. G. A. CLARKE, B.Sc., Dip. Ed., J.P. (Minister of Housing and Lands)

Hon. R. D. MARSHALL (Minister of Public Works and Transport)

Hon. H. F. LASHLEY (Minister of Social Transformation)

Hon. R. St. C. TOPPIN, LL.B. (Minister of Commerce, Consumer Affairs and Business Development)

Mr. D. St. E. KELLMAN

Miss H. E. THOMPSON, LL.B.

Mr. M. Z. WILLIAMS

Mr. T. A. PRESCOD, B.A.

Rev. J. J. S. ATHERLEY, B.A., B.Sc. (Parliamentary Secretary to the Attorney General and Minister of Home Affairs)

Mr. D. T. GILL, B.Sc.

Hon. N. A. LYNCH, B.Sc., M.B.A. (Minister of Tourism and International Transport)

Hon. A. P. WOOD, B.Sc, M.Sc., M.Phil, J.P. (Minister of Agriculture and Rural Development)

Hon. R. R. FARLEY, B.Sc. (Minister of Industry and International Business)

Prayers were taken by Canon Father Ivan Harewood.

Mr. SPEAKER: The House is now in session.

MINUTES

Mr. SPEAKER: The Minutes of Tuesday, June 26, 2001.

Hon. D. A. C. SIMMONS: Mr. Speaker, the Minutes of Tuesday, June 26, 2001 have been circulated and subject to any motions for amendments of those Minutes, I beg to move that the Minutes stand confirmed.

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

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

ANNOUNCEMENTS BY HIS HONOUR THE
SPEAKER

MESSAGE FROM THE HONOURABLE THE
SENATE TO THE HONOURABLE THE
HOUSE OF ASSEMBLY

The Senate has the honour to extend its compliments to the Honourable the House of Assembly and to reply to the Message from the House inviting the Senate to appoint five Senators to a Joint Select Committee on the Employment Rights Bill, 2001.

The Senate is pleased to appoint:

Senator the Honourable Philip C. Goddard, Senator John E. D. Williams, Senator Dale D. Marshall, Senator Leroy H. McClean, Senator C. Leroy Trotman;

to constitute the Joint Committee with Members of the House of Assembly and to offer every good wish for the deliberations of the Committee.
4th July 2001

Fred W. Gollop
President of the Senate

PAPERS

Hon. Miss B. A. MILLER: I am commanded to lay the following:

1. Annual Report and Accounts of the Barbados National Bank Incorporated for the year 2000;
2. Report of the Public Enterprise Investment Fund for the quarter ending 31st March, 2001.

Hon. R. C. EASTMOND: I am commanded to lay the following:

Annual Report of the National Petroleum Corporation for the period April 1998 to March 1999.

Hon. R. N. GREENIDGE: I am commanded to lay the following:

Annual Report of the Department of Labour for the years 1998 and 1999.

Hon. D. A. C. SIMMONS: I am commanded to lay the following:

The Annual Report of the Barbados Broadcasting Authority for the period October 1998 to September 1999.

CONGRATULATORY AND/OR OBITUARY
SPEECHES

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, on behalf of the Government and all Honourable Members on this Side and indeed all of the Honourable Members of Parliament – I believe I speak for all Honourable Members – that we are very delighted that you have recovered from your recent illness and surgery and are able to be here with us once again to preside over the deliberations of this Honourable Chamber.

I wish to assure you that during your absence you were constantly in our thoughts and we were all very concerned about you but today we are deeply relieved that you have hopefully been restored to full health and full vigour. I think I can pledge also on behalf of all Honourable Members that we will commit ourselves to ensuring that the balance of your tenure is not made unnecessarily stressful, Sir. From time to time the House does become very robust but we will always be sensitive to your Honour's situation and pledge our fullest cooperation with the Chair during the remainder of your tenure in this session.

I trust that no similar misfortune would befall you in the future as has happened in the recent past. So, on the behalf of all Honourable Members, I wish you good health and a long life in the future, Sir.

I am obliged to you.

Mr. D. J. H. THOMPSON: Mr. Speaker, let me join in welcoming you back, and say to you that you have suffered illnesses that lesser men would have succumbed to. I am extremely pleased that you have surmounted those illnesses and, by God's grace, that you have returned to the Chair of this House where we will offer you healthy stress which should stimulate your mind even further and help you to enjoy many more years – I am not going to deal with the politics of it – of enjoyment in our company in one forum or another.

Let me say that I was troubled when you left Barbados and, therefore, to have seen you return in the way you have makes me extremely happy, as it would any other Member of the Chamber. Therefore, I hope, as I say, that you will continue to surmount all of the difficulties and be able to discharge your duties with confidence and usual aplomb.

Mr. SPEAKER: Just let me thank all Honourable Members of the House for the very warm reception. The Leader of the House did speak of my renewed health and vigour. I am not so sure about the vigour but I can assure you that as far as the doctors are concerned I am in good health and I look forward, of course, to once again enjoying the deliberations of the House.

I thank all of those who prayed for me. In fact, I keep saying I am not so sure if there was ever a man who got so many prayers, both in Barbados and in New York. Those of you who came to pray for me, I really sincerely thank you. This morning, it was so touching to me to see two of the maids coming into my room to pray for me and I really most sincerely thank all of you for such prayers. As I said, I look forward to once again being part of this House of Assembly. So I thank you so much.

ORDERS OF THE DAY

SUSPENSION OF STANDING ORDERS

Hon. D. A. C. SIMMONS: 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 today's Sitting.

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

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

GOVERNMENT BUSINESS

ORDER NO. 9 – THE INTEGRATED CIRCUITS (AMENDMENT) BILL, 2001

Hon. R. R. FARLEY: Mr. SPEAKER, I rise to move the second reading of this Bill. Indeed, Sir, I have discussed this with the Leader of the Opposition and with his consent and with the consent of the Leader of the House on this Side I have proposed to include in this second reading speech the issues which will also arise with respect to the package of legislation which is before this Honourable House. 11.30 a.m.

These are, indeed, part of the trade related aspects of intellectual property agreements which the Government of Barbados entered into as part of the World Trade Organisation arrangements. It is part of a continuum which would have been started by the members on the Other Side when they were in office with the accession of Barbados to the World Trade Organisation from April 28, 1994. Therefore legislation today in terms of the Integrated Circuits (Amendment) Bill, the Trademark (Amendment) Bill, the Protection of New Plant Varieties Bill and the Patents Bill are part of the requirements from Barbados for the TRIPS or Trade-Related Aspects of Intellectual Property Rights Agreement under the World Trade Organisation.

That Agreement, Sir, was intended to achieve a number of objectives, to make a contribution towards the promotion of technological innovation, to the transfer of technology as well as its emanations, and to ensure that it respected a mutual advantage and the mutual needs of producers and users of technology and knowledge in such a manner that

would be conducive to the social and economic development of the member countries of the World Trade Organisation. In short, Sir, it purported to want to keep in focus the need to balance the rights of the creators of intellectual property against the rights of the broad users, the consumers throughout the world.

Sir, if we look at the origin of this particular movement in the world, which is, indeed, a new dimension of international trade, for the very first time there is now a mandatory set of obligations imposed on members of the World Trade Organisation with respect to their treatment of intellectual property matters. I must point out to members of the House that intellectual property protection is not new. Barbados has had intellectual property protection going back to the 1940s and there have been various international treaties and conventions with respect to intellectual property going back to the 1930s and 1950s. What is new is that, whereas countries on a voluntary basis acceded or did not accede to the treaties for cooperation in intellectual property matters, today that is no longer a matter of voluntary effort.

It goes further. The TRIPS Agreement is tied directly to the trade in goods and to all other aspects of the World Trade Organisation. In short, whereas a particular country might have been known for wide-scale piracy of copyright works, whereas a particular country might have been known for wide-spread patent infringements in the manufacture of various goods and these did not affect their ability to trade by way of export of these commodities around the world or any other aspect of international trade, now, because of the tie between TRIPS and the World Trade Organisation Agreement, one could have one's country under sanctions for infringement of intellectual property matters.

Basically, Sir, to put it in its simplest context. The USA, through its Super 301 Trade Act, has already put legislation on the books and has already taken a very aggressive approach to a number of countries in the world. For example, in the case of Argentina, they attempted to impose sanctions on the export of Argentinian products to the United States of America because of alleged infringement of intellectual property within Argentina by way of infringement of patents in the manufacture of some products.

Essentially, Sir, the industrialized countries of the world have been at the forefront of the push for having a mandatory system of intellectual property protection around the world. They have ensured in the negotiation within the World Trade Organisation and for the final TRIPS component that they, to a large extent, sought to impose standards that they had developed over years of experience into what made up the minimum standards for TRIPS

internationally. Sir, there was also considerable room left for developing countries to take significant advantage of the negotiating process within the World Trade Organisation to develop the final framework for TRIPS. I would say, to the credit of the developing countries, that they did in fact use the leverage which was left in the negotiating room provided to hammer out some measure of concessions with respect to the implementation of the TRIPS Agreement.

For example, Sir, they were able to insist that the industrialized countries make concessions on the agreement on textiles and apparel within the World Trade Organisation for concessions within the intellectual property framework. More fundamentally, they were also able to ensure that the TRIPS Agreement, by establishing certain minimum standards, also ensured that no country could impose standards higher than the minimum on any member country.

The TRIPS Agreement does not, as it presently stands, represent a universal harmonized, equalised system of intellectual property protection. What it does in fact represent are the minimum standards which countries are expected to meet. Several countries, particularly the industrialised countries have, for their own interests and in their own benefit, imposed higher standards on themselves or within their trading partnerships. Within NAFTA, for example, there are higher standards of intellectual property protection than in TRIPS, and I can give other examples.

What the developing countries have been able to do, Sir, is to insist on sticking to the minimum standards only where it proved to be convenient. Also, there were a number of optional areas where developing countries could accede or not accede and, again, to the credit of the developing countries, they have used these openings in the legislation as well.

Sir, to give some wider background to where all of this is located, bearing in mind that Barbados always had intellectual property protection and, I will also say, quite adequate intellectual property protection. What was needed to bring us up to minimum standards for the TRIPS Agreement really represented a few things: improvements of copyright protection, which were done in 1998 and which were needed in any case, even without TRIPS, because the old copyright legislation did not take account of some of the new technology in terms of the digital storage of copyright material, CDs, computer programmes and the like. It also was in Barbados' interest to ensure that it was part of an international system of protection, particularly for copyright, given that, unlike other parts of the world where piracy was their only involvement with copyright, we, as producers of copyright material, and good material at that, could benefit from the protection available internationally but that was available only on a reciprocal basis.

In order for our musicians, our software programmers,

our writers and other persons producing literary and artistic work to be able to benefit from the larger market which exists in the world and not be limited only to 267 000 in this market called Barbados, it was important for us to ensure that they are adequately protected in the international marketplace. There are certainly some advantages for Barbados to gain from our involvement in this particular aspect of the legislation whereas there might be other developing countries whose whole economic infrastructure was based on a programme of piracy, based on a programme of counterfeiting who would stand to lose.

11.40 a.m.

Therefore, Sir, notwithstanding the origins of the TRIPS, coming as it did from a push from the industrialised countries, coming as it did from a push from the multinational corporations, coming as it does as a mandatory part of the World Trade Organisation arrangements, we have to ensure that we are able as a country to work as much as possible out of these arrangements.

Sir, success for Barbados in terms of involvement in this TRIPS Agreement does not rest merely on the passage of law. The passing of these laws and compliance with the international standards are a necessary but not a sufficient condition for full social and economic benefit to be derived for Barbados.

I want to say that this is only one step and Barbados is doing this not for the purpose of laying prostrate before the international community to say how good they are and, therefore, we are doing whatever the great Lords and Masters of international business say.

We have to make sure that our producers of intellectual property are able to benefit. We have to ensure that our business sector, our NGO sector and private individuals become fully aware of what this will mean for them and how this will touch their lives positively or negatively.

Sir, when I compare the approach taken by Barbadian businesses to that of business in the industrialized world, there is a very marked difference of approach in terms of sensitivity, utilisation and general awareness of intellectual property matters.

The average business person in the industrialized country fully exploits the intellectual property protection that is available, sometimes to the point of downright dishonesty. However, on the positive side, those business people in the industrialized countries will come up with a good logo or name and make sure that the property is registered. For example, the person who started Starbucks coffee would have insured that the trademark and the trade

name under which this business operates are registered so that they have a watertight franchise concept. If anyone in any of the countries where it is registered attempted to do something similar, which could be interpreted by the public to be to the detriment of Starbucks, they would have redress in law.

Sir, that is one example and we can find other positive examples but we can also find, on the negative side, the situation where persons in the United States of America have registered a host of internet domain names of people's names, names of businesses and concept names. For example, if you were operating a business called Roett Incorporated, there are a number of cyber squatters who, in the early days of the internet would have registered Roett.com as a domain name belonging to them. Sir, when you get around to registering your internet name, you will end up having to buy from these cyber squatters what would, in the normal scheme of things, be a logical development for your business.

Sir, we have the experience where an American businessman registered Banks as his trademark in the United States of America. Years ago when Banks Brewery started to export beer to the United States of America, they were slapped with a suit because they were accused of trading and exploiting this American businessman's trademark because, as popular, well loved and well known as Banks Brewery is here, it did not avail itself of protection of its intellectual property in that market. We can go on and on with several examples but the basic point is that the approach which has been taken by businessmen in Barbados, and the story which will repeat itself throughout the Caribbean, is one in which there has been a lax approach to protecting the fruits of their endeavours, their ingenuity and creativity by way of intellectual property. Sir, we hope to change that.

Sir, I am pleased to say that a number of the younger business persons, particularly, in Barbados have recognised the tremendous benefit to be derived from exploiting intellectual property. I give the example of Automotive Art. As you would know, Automotive Art is a popular and attractive concept in terms of a business selling accessories for the automotive industry. Many people may not know that Automotive Art has been franchised throughout the Caribbean region as far north as Puerto Rico and they are also looking to go into the Dominican Republic and beyond.

This is a Barbadian concept, and not only in terms of the colours. So, if you see Automotive Art in Dominica or the Dominican Republic, you will see the same colours, the same type of store display and the business is run the same way. The franchise arrangement also represents the leasing of a system as well as a source of materials so that access to materials to be sold in those stores comes through a Barbadian franchiser.

Certainly, there are many other Barbadian concepts that

are worthy of franchising. Think of what a wonderful thing it would be, Sir, if when we go through the Caribbean region up to North America to be able to go into Chefette, Pizza Man Doc or Desmonds who all serve good West Indian food. We could go on and on, Sir. I believe that some of our rum shop concepts are also good, attractive, franchisable concepts.

Basically, the reason why we have not seen that type of expansionary approach is that there is a fundamental difference in approach among business persons in Barbados who tend to be comfortable with the market which they have in Barbados. They tend to be comfortable with the profit they make and Barbadians, being very decent people, will not go and infringe on one another's marks of business even if they are not registered.

Sir, the reality is that with globalization and greater liberalisation at the regional level, the hemispheric level and on the world level, Barbadians will have to compete with other business persons and if they are to succeed in business they will have to develop that approach as far as the protection and preservation of their intellectual property is concerned.

Sir, whether it be for continued competition in the domestic market, or more fundamentally to enable them to trade internationally and be able to reap the benefits of that trade, then they need to understand what we in this Parliament are doing today and what the TRIPS Agreement is all about. They also need to understand how intellectual property protection can be used to enhance their business and how it can be used to make money for them.

I am pleased to say that the one bright spark in this whole matter, considering the approach of Barbadian business on intellectual property matters, has been the entertainment sector.

11.50 a.m.

You will recall, Mr. Speaker, that over the last several years there have been considerable discussions, at least, on the corporate aspect of intellectual property. There have been a number of workshops and public debates, particularly surrounding the legislation which was developed. In fact, there are a number of musicians, their managers and agents who have been very serious and positively aggressive in terms of developing a grand concept of their music, entertainment or other art forms and seeking to ensure there is adequate protection.

Sir, the problems that they face, I think, in large measure are largely addressed by Barbados' closer and more integral involvement in the international process. Reality is, much of the copyright infringement which occurs, occurs in

relation to producing copies, particularly of music for overseas markets. There is a situation where CDs of a popular Barbadian group found themselves on distribution in the Netherlands before any commercial agreement was struck between that group or the producer of its music and any distributor in the Netherlands. You have a situation where the lead singer in a popular Barbadian group was offered a CD for sale on the streets in New York on Labour Day and it was being sold at a bargain price, far below what the CDs would have been retailed for there. Sir, when he checked the label, it was pirated.

Asides.

Hon. R. R. FARLEY: We know, Sir, that even the worship of the Lord by way of gospel music is not immune from such dishonesty.

Asides.

Hon. R. R. FARLEY: There are persons who, with no respect for the church and for the ministry of the word in song, have been pirating gospel CDs. Can you imagine that? You would think that persons would think of their eternal life, Sir.

Asides.

Hon. R. R. FARLEY: You would think that persons would think of their eternal life or something of the sort before they think about pirating gospel music. It has now reached that ridiculous level. The reality is that, changes in technology have basically made these things possible. The availability of CD burners on computers these days and the ever shrinking size of the technology have made a task that used to require massive equipment very easy. Advances in photocopying technology would allow people to produce very authentic-looking record and CD labels. Sir, very often you cannot distinguish the fake from the real thing. Of course, there is technology to conquer that these days. I would probably speak on that a little later.

The fundamental point is that all of what we are doing today through the introduction of legislation in Parliament to strengthen our role within the international system depends, for its success, on putting a number of things in place. The legislative aspect represents only the normative dimension of the implementation of TRIPS. There are also some administrative matters that have to be dealt with in terms of our ability to enforce the legislation. Granting people rights by law is not worth much if there is not a supportive mechanism of enforcement. I want to say something on this very briefly, Sir.

Intellectual Property Rights tend to be granted in law as private rights. Therefore, in order to be able to redress the infringement of those rights, it is up to the holder of the

rights, whether himself or his agent as the law may allow, to initiate a process either by way of civil action, as provided for in all of the legislation or, where the law provides, by making complaint to the police who will investigate and who sometimes, once the evidence is available, bring criminal charges.

I must say two things. First of all, this particular remedy suffers from the same problem met in attempts to bring criminal prosecution in other areas. There are persons who have information and who do not always come forward. Things are left at the level of anecdote and rumour rather than the offering of hard information to the authorities for their action. I want to urge, particularly in this matter of intellectual infringement where it relates to Barbadian creators of intellectual property, persons with information to come forward. The rights holders themselves have to take a greater action in this regard.

The other point is that the issue of proof becomes more difficult. Sir, because of the miniaturisation of the apparatus required for piracy, it is easy to hide the stuff or to make it disappear. I would still want to remind, though, that there is already in existence in the law, provisions for seeking *ex parte* injunctions by way of *amicus curiae* injunctions, which would allow the affected parties to go to the court without alerting the infringer to what is happening and have the court take action, without the knowledge of the person who is infringing, to move in, seize or do whatever may be necessary to stop the infringement.

Sir, the legislation recognises that because of the nature of the crime involved, the nature of the infringement, once the person gets a tip-off that something is afoot, they can move the computers or whatever the tools of infringement are somewhere else. An *amicus curiae* injunction allows for some element of protection and for the holder of assets and the prevention of persons from leaving the jurisdictions. I want to urge persons to make use of those devices.

Sir, the Government's basic position is that we will do all that needs to be done to put the legislative framework in place. We will do all that needs to be done to put the administrative machinery in place, but we need the help of the rights holders. By providing administrative machinery, the Corporate Registry and Intellectual Property Office, with technical assistance from the World Intellectual Property Organisation, has, for the last several years embarked on a number of training and development exercises aimed at building capacity to administer an intellectual property system in Barbados. There has been training for staff of the Corporate Registry and Intellectual Property Office and this has been done by way of joint programmes within the Caribbean region, where there were training programmes on

the use of information technology and corporate affairs and intellectual property offices to speed up the registration process and related matters.

12.00 noon

There has been training at the World Intellectual Property Organization (WIPO) College for law lecturers at the University of the West Indies to ensure that they are able to establish meaningful courses in intellectual property at our premier educational institutions. This area, in particular, is no longer a special area on the side, but now represents the mainstream aspect of commercial law and one cannot seriously engage in any meaningful representation of commercial interest as a lawyer these days without a full and clear understanding of intellectual property matters.

Sir, we recognize as well, that part of that administrative support machinery requires that we have all of the various law enforcement entities very much on board. The World Intellectual Property Organization, along with the Ministry of the Attorney General has been cooperating in a number of exposure measures and sensitization programmes. Programmes have been arranged for the Customs Department, the Royal Barbados Police Force and later this year, for judicial officers at various levels. Indeed there has been an awareness on the part of the Judiciary of the need for sensitization programmes. In fact, I believe that one of our Judges of the High Court will currently be in China, or that part of the world, attending a workshop on intellectual properties matters to ensure, Sir, that at the administrative and enforcement levels, we have not only public awareness, but a support system which is able to adequately handle matters which will, with increasing frequency, come before them.

So, Sir, what is it that we are doing here today? There are four pieces of legislation which are being asked to be considered in this package. Let me start by giving a background to the legislation.

Currently in place is a Patents Act, 1981. This Act will be replaced by the Patents (Amendment) Bill, 2001 which will be debated later today. That Patent (Amendment) Bill, 2001 makes provision for certain interventions for which patents have been granted. Basically, it is tied into a number of international treaties of which they are already part: the Paris Convention, the Patent Corporation Treaty and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. There are also regulations attached to that.

We also have, Sir, the 1981 Trade Marks Act that makes provision for the registration of marks and related matters, which I will further discuss.

We also have, in terms of current law, a Geographical Indications Act, 1998, which provides protection of what I

call 'geographical indications'. These are intellectual property matters relating to locations and there are also regulations to this as well.

Integrated Circuits Act, 1998, which is to be amended by legislation being advanced today.

There is a Copyright Act, 1998, which replaced the earlier Copyright Act, 1982, and there are regulations to be made under that Act as well.

There is also the Protection Against Unfair Competition Act, 1998, which makes provision with respect to the unauthorized disclosure of trade secrets and other practices which will aid and abet unfair competition in relation to goods and services. In fact, Sir, one of the interesting aspects of this legislation, which perhaps is not widely known nor appreciated, is that this legislation, which now forms part of the laws of Barbados, deals with issues regarding concerns, complaints, rumours and speculations. There have always been rumours that sometimes when business people get together to discuss any acts of business with the hope of cementing a deal in the future, that business A steals the information from business B and, in an unauthorized manner, uses it. Moreover, there have been accusations that, when one approaches a bank in an attempt to obtain finance and information is presented for the bank's consideration for the granting of the loan, somehow, somewhere, after the person who originally applied had been denied, someone else comes along with a similar project. It might just be coincidence, but the Protection Against Unfair Competition Act, 1998, now makes illegal the disclosure of information received in that way.

Also, Sir, the matter of information sent to Government. It has always been cause for concern, where businesses or individuals have come up with unique ideas and are required to submit certain business proposals for Government's consideration or approval, that there have been accusations that those authorities have disclosed such information to their friends and other persons. Sir, if, in fact, those things do or did occur, there is legislation where action can be taken against the authorities for the disclosure of this information.

In fact, Sir, one of the things that is not often used in Barbados is a very simple non-disclosure agreement. It is amazing that you can go to any organization in Barbados where you have to expose a certain amount of personal information in order to do business and there is no non-disclosure agreement signed. In fact, Sir, I believe that it should be part of the standard arrangement in Barbados and perhaps, be one of the things with which Government agencies have to deal, particularly by way of rendering technical assistance or giving permission of one kind or another. It helps to boost confidence in the individual making

use of the particular entity. It introduces a high level of business ethics where people can be more confident in knowing that:

3. under the terms of the non-disclosure agreement, information advanced on the proposed business activity will not be illegally disclosed, and
4. in the event that that happens, there will be redress under civil action.

Sir, there already exists intellectual property legislation with respect to industrial designs. The Industrial Designs Act, 1981, and then re-enforced in 1985, is, again, a piece of intellectual property legislation not frequently enough used in Barbados. The Industrial Designs Act relates to visual or ornamental features of products or the non-functioning aspect of a product. A person may have a patent concerning the working of refrigerators or air conditioners, or motor cars, but then other persons can get into the aesthetics, making the product look better, therefore, everything from the craft product to designs on fabric, to furniture designs, to any ornamental aspect of our work, can be protected by way of the Industrial Designs Act.
12.10 p.m.

In fact, we have been running a number of seminars through the Barbados Investment Development Corporation, the Barbados Manufacturers Association and the Small Business Association to encourage persons who are into design to register these designs. Sir, we use the design competitions which we run every year as an opportunity to have persons in Barbados focus on designs and how these designs can be protected.

In fact, in one of the entries in the competition three years ago, the person came up with a design for a lightweight, collapsible display stall made of aluminium. They subsequently registered the industrial design in several countries of the world and it received the interest of a German manufacturer, who subsequently paid royalties to the Barbadian designer for the manufacture of that item. Sir, that is how we can exploit much more of our intellectual property but that is already in the laws of Barbados.

What will be new, Sir, is the Protection of the New Plant Varieties Bill, and what will repeal the existing legislation will be the legislation as it relates to the Patents Bill.

Sir, I will give some information on these bits of legislation, for example, what are the policy objectives and what is it that we are trying to achieve. Essentially, as far as the patents legislation is concerned, there are a number of things that we needed to do. First of all under the new arrangement with the TRIPS, the period of protection for

patents has to be increased from fifteen years to twenty years and that is one of the minimum standards.

As I said before, Sir, in terms of minimum standards – and perhaps I should give you some idea of what they are, minimum standards on what the rights are on enforcement, on dispute settlement and things of that nature. Sir, we have to amend this law on patents in order to increase the term of protection.

There were a number of things that needed to be clarified within the legislation, concerning the applicability of various filing dates. Those are technical amendments which really do not need any extensive debate. For example, what were the major policy aspects which this new Patents Bill would introduce? Sir, we took the decision to have a new Bill because of the extensive nature of the amendments, so we repeal the existing Act and have a new Bill which relates to the criteria for the granting of patents and the issue of what we call compulsory licences.

Sir, the basic standard which is now in the TRIPS Agreement, concerning the granting of a patent, is that the product must be tested to ensure that it is novel, inventive and is industrially applicable. It has to be new and unique, and it has to advance the state of the art knowledge in the particular area, but it also must be capable of being produced on an industrial or commercial basis.

Of course, the majority of patents as they are registered in Barbados are for products invented internationally. We still have to raise our levels but I do believe that there are one or two Barbadian patents which have been put up for consideration.

One of the areas of major international concern relating to patents has been the matter of patents in the pharmaceutical industry and the TRIPS Agreement made provision for countries to make decisions in that regard. Honourable Members will remember the debate in the international community concerning South Africa, where pharmaceutical companies in South Africa took the Government to court, claiming that the Government, by way of legislation, had infringed on their rights as patent holders. And, Sir, what did they perceive their rights to be? They perceived that their right was to be able to dictate the terms and conditions under which they would sell their patented medicines to South Africa, specifically HIV/AIDS medication, which is essential for preserving the lives and improving the conditions of persons suffering from that particular complaint. Sir, that was a very important case as far as patents are concerned.

In fact, under this legislation for patents, there is a provision in sections 49 and 50 for what are called compulsory licences, where the Government of Barbados can ensure that in the interest of national security, national

health or national nutrition – for the protection of any key sector of the Barbados economy or any other public interest – patent holders cannot prevent the use of that patent in Barbados, and that is important.

Sir, in fact, there are a number of countries around the world, mainly developing countries led by Brazil, which are, even as we speak, sponsoring a Resolution at the World Trade Organisation (WTO) in Geneva, speaking to this issue of intellectual property and public health. Barbados, along with some other countries in the Caribbean, have co-sponsored that Resolution, which seeks to draw to the attention of the WTO and have them prescribe that countries around the world must be in a position to use their compulsory licences. And, generally speaking, that the intellectual property legislation, and the approaches taken by patent holders particularly, cannot be such as to put a country in a position where it cannot discharge its obligations with respect to public health.

We will not face that problem in Barbados because our legislation will ensure that we are in a position where, if difficulties should arise in terms of negotiating with suppliers of drugs concerning their refusal to deal, inadequate supply, the information gap or even access to medication, it will not be an infringement of their patents to do whatever is necessary, by way of domestic manufacturing or parallel importation of drugs. The new arrangements with respect to patents also put constraints on the ability of a country to do importing, but our legislation and the policy which underpins this legislation sought to ensure that Barbados did not find itself in that position, and that was an important aspect of the policy.

Sir, with respect to patents, another important discussion has been on the matter of how to treat the registration and protection of biologically related inventions and creations, whether in the form of new plant varieties, surgical methods or other related measures. We have made the decision, Sir, first of all to go the route of having separate legislation for the protection of new plant varieties and that we would not allow for registration as a patent, matters which related to therapeutic treatments, surgical methods and things of that nature.
12.20 p.m.

Also things that already exist in nature, things relating to the human body and its parts, would not be patentable. Those may be seen as abstract far out things, Sir, but the fact of the matter is that in some parts of the world they have pushed this idea of patenting to a ridiculous limit. There are several things which, at the end of the day, are essential for widespread application to save lives and to improve the quality of lives which would be pushed beyond the access of poorer countries of the world, and even poorer people in

those countries, if we push things to that ridiculous limit. So we are not going there in terms of this particular legislation.

Now, with respect to the matter of the protection of new varieties of plants, like I said, the option was either to have a section in the Patents legislation dealing with that or to create an entirely new Bill. A decision was taken to create a new Bill and as I said this is one of the minimum standards which are required under the Trade-Related Aspects of Intellectual Properties (TRIPS) Agreement. Basically, what this provides for is what is called Breeders' Rights. In fact, the matter with the benefit of this legislation, if we go back further, would have been more beneficial to us years ago than perhaps it is now. Many persons forget that Barbados was the leading research nation and the leading developer of new varieties of plants, particularly sugar cane.

Asides.

Hon. R. R. FARLEY: I am told that we still are.

Asides.

Hon. R. R. FARLEY: Sir, many people forget the Sugar Cane Research Station at Groves, St. George where for many years...

Asides.

Hon. R. R. FARLEY: I am being told for centuries. But whether the years are less than a century or more than a century, nevertheless Barbados would have experimented with a series of different types of crops. In fact, growing up in that part of the country we got to know the different varieties of canes by number. There was 141s, 242s and 611s.

Asides.

Hon. R. R. FARLEY: I helped plant them and cut them.

Hon. D. A. C. SIMMONS: On a point of order. There was also one called the Banana.

Asides.

Hon. R. R. FARLEY: We knew them by the numbers, Sir, and they all had their different characteristics. As a matter of fact some of them were clearly designed to stop people from sucking them because the peelings were so hard you could hardly get anything out of them. For example, I think it was the 141s that were long, red, juicy and very soft. I remember in my district the guys sucked nearly an entire field of canes and it was determined that that particular variety could not be planted near residential areas because it was susceptible to being eaten by the boys in the district.

Asides.

Hon. R. R. FARLEY: Sir, the reality is that sometimes when you went into a cane field to cut the canes you saw – you know in the military how you have a hollow square – a hollow parade square in the centre of the field because the boys would move in like this vacation, especially in the Easter vacation, and sit and they would devour canes for the entire vacation period.

Asides.

Hon. R. R. FARLEY: Now, Sir, I am enduring the Honourable Member for St. Lucy. He wished he had come from St. George and knew about these variety of canes. They did not have those varieties in St. Lucy. St. George was the best place for the canes.

Asides.

Hon. R. R. FARLEY: The reality, Sir, is that the issue of creation of new plant varieties is not remote to Barbados because Barbados led the way in that regard. I know of other experiments that have been going on. They are into tissue culture in Barbados. I have seen the Ministry of Agriculture and Rural Development come up with a number of miniature plants. There are miniature orchids and one or two other varieties...

Asides.

Hon. R. R. FARLEY: No, I am talking about orchids which can be stored in a bottle 3 inches tall and which come to full flower...

Asides.

Hon. R. R. FARLEY: I am saying, Sir, that this legislation, therefore, is not remote, abstract or airy-fairy. It is really up to us, granted that we have to implement as far as that wider framework, and granted it would give protection to some of the large producers of these genetically modified organisms in the world, to ensure that our culture and our long tradition of research into plant varieties is continued. The same way we experimented with sugar cane for pest resistance; we experimented with sugar cane to get canes that would grow pretty straight and not fall easily under wind conditions to facilitate mechanical harvesting; and experimented with sugar canes to improve the yield of sugar per acre of canes. I believe there was some rumour that someone even experimented with a fireproof cane but I believe that that was only a rumour.

Asides.

Hon. R. R. FARLEY: The reality is that we have always had this experimentation in plant varieties and we need to continue. What this legislation would do is to protect the

Breeders' rights, so that those persons who have invested money to come up with these new varieties of plants, will be able to have a system of licensing, so that they will be able obviously to recoup their expenditure. It is really a form of incentive. So rather than your spending your time and money to create a new variety of a crop and then you would not be the one to benefit economically from it, as has been the case with Barbados for many years, this legislation will allow an opportunity for a system of licensing to develop. Of course, this particular matter has also raised some questions in the wider scientific community.

The issue of the production of genetically modified foods is one which consumers quite rightly have some concerns about. The countries which are leading in this particular area are the United States of America, which according to the statistics grows some 74 per cent of the genetically modified foods in the world, Argentina with 15 per cent and Canada with 10 per cent. The bulk of those crops is represented by soya beans. Some 82 per cent of the soya bean crops now are really genetically modified organisms. Other genetically modified crops are corn and maize by some 30 per cent, cotton by nine per cent and canola and rape seed oil by nine per cent and there has been some experimentation with potatoes at one per cent.

So far, the main areas where the research and modification have been going on are for resistance to herbicides, resistance to insects, and for producing foods with special characteristics aiming, for example, to have tomatoes with a longer shelf life so that they would not rot on you as they would have various individual quality traits. Of course, the concern would be over the ability, or whether there was the ability, of any of these crops to cause any problems, first of all, in the environment in which they are located through the risk of causing other plants with which they may interact through pollen transmission and other aspects of plant interaction, to, in fact, create mutant strains.

So, for example, in the process of creating corn or soya bean or some other crop that is resistant to herbicide – because you know we do have a problem where sometimes the herbicides that we have to use, either on our own property or the property next door, may drift over and damage our crops, and that is a major problem – we may ask what is the possibility of the herbicide resistant strain of crop interacting with the weeds in the same field to produce a strain of super weeds.

In my days growing up, the two super weeds we knew where devil grass and nut grass because those were extremely hard to get rid of. You would take the top off and the bottom is still very much there. Will there be some herbicide resistant strain of weed which can be accidentally created by way of experimentations with the crops? Are

there other risks to animals and human health in terms of toxicity and food safety, allergies and antibiotics release?
12.30 p.m.

Will there be other risks concerning genetic pollution, as I said, with the transfer of one pollen seed to another? Also and more fundamentally, there are issues concerning ethics and issues concerning cost. Now on the ethics side, Sir, should there be a mandatory requirement for foods that are genetically modified to be labelled as such to ensure that the consumer has the fullest and widest choice? Now there may be nothing wrong with genetically modified foods, but suppose there is. At least the consumer who wants to be on the safe side should be put in a position to know what is going on. As it stands now, most of the genetically modified foods are already consumed in the industrialized countries. But like everything else, you can rest assured that with the consumer backlash that is occurring there will be consumer expressions of concern and some reluctance to utilize these foods, and that they would look to send them out to the export markets. The industrialized countries have been known for many years for producing a number of products for export only, whether it is in chemicals or insecticides, food or whatever you can think of. They figure that if it is not good enough for them it might be good enough for us in this part of the world.

I am, therefore, pleased that a number of the agencies of the Government of Barbados that have responsibility for setting standards with respect to imports have adopted a series of standards which are based on the highest standards in the industrialized countries. Therefore, the same standards that they have are the standards that we have and we will not be susceptible to that particular situation. In terms of our own production, Sir, I think that we need to look closely at having a system of mandatory labelling so that consumers can have their choice. But there are some concerns, of course, about the potential high cost of agriculture and ultimately some aspects of some food. The reality is that there are really just a few large food corporations in the world. Monsanto and some others are into a number of different but related aspects of agriculture. Research is going on in terms of having a number of what they call designer crops which they hope would have special traits and which would respond to certain triggers in the fertilizers and other treatments which are applied. This would mean that, to produce some of these newer genetically modified crops, one would have to be purchasing the various inputs required for the production of those crops from the creator of the crops themselves. That, of course, would be a matter of concern for us and a matter which the international community is keeping very much under its purview.

Sir, the legislation which we have for the protection of new varieties of plants makes provision for the grant of exclusive rights to persons who have created these new varieties and, hopefully, there will be some Barbadians and

their plant varieties in there. It also establishes the mechanism by which the administration of this legislation will be done.

Now there are a number of models which have been used around the world in terms of developing this law. We have chosen what we consider to be a practical model relative to our circumstances. Like other aspects of intellectual property protection, the Department of Corporate Affairs and Intellectual Property will ultimately administer the legislation. However, expertise concerning what constitutes a new variety of plant and related matters are not within the usual competence of the Office of the Registrar of Corporate Affairs and Intellectual Property.

Sir, we have therefore chosen a model which has been used by a number of other countries where the legislation will be jointly administered by the Corporate Affairs Office and the Ministry of Agriculture. The Ministry of Agriculture, through the Chief Agricultural Officer, will provide all of the technical evaluation which is required to determine whether, in fact, a plant variety is new. There is a difference between a new plant variety and an old one which has been discovered. This Bill will not cover discoveries. If you discover an existing variety of something in a cave or tree somewhere, that is just a discovery. You can get on the CBC News or National Geographic but you will not get a right under this legislation.

Sir, the joint administration will ensure that the Government of Barbados is able to give the highest possible technical evaluation to the applications which are made and, therefore, will be able to come to some fair and reasonable conclusions as well as deal with those related matters.

Sir, those points represent bits of legislation and the key issues which have to be raised. Now with respect to the Trademarks and the Integrated Circuits Bill, these are the other two pieces of legislation that are before us. The Integrated Circuits amendment is really a simple technical amendment. It speaks to the issue of definition. More fundamentally, the 1998 legislation did not make provision for the Minister to make regulations under the Act. Regulations are required in order to give effect to, and to be very clear to those who are applying on, the process, means of evaluation, forms that are to be utilized and fees that are to be paid. Therefore, the absence of that power to make regulations has hampered the introduction of this particular legislation.

With respect to trademarks, the amendment there speaks to one or two technical areas. It basically seeks to bring the provisions of our existing trademark legislation into line with the trade-related aspects of industrial property. This is clarifying a number of issues related to the grant of trademarks, issues related to the procedure for what are

called proposition hearings. In other words, Sir, when an application is made for a trademark in Barbados, a notice is usually published in the newspaper indicating that the Registrar is being asked to consider the grant of a trademark and to invite persons who have a difficulty with it to oppose the matter. But bear in mind, Sir, that trademarks represent those distinguishing marks by which products and services are known one from another. When you are driving down the road, as I would in my Nissan, and I see ahead of me a car with a circle and the three tell-tale lines in it, I know that it is a Mercedes. If I see a circle with the lines running differently, it might be a Toyota, and we can go on and on. When we see certain colours, we associate those colours with Chefette or KFC.

12.40 p.m.

The distinguishing marks by which products and businesses are known from each other – because the new concept in trademarks includes what used to be known as service marks as well and is in fact the trademarks legislation – make up one of the more fundamental and most widely applicable pieces of legislation concerning business around the world. It is important, therefore, where consideration is to be given for the grant of a trademark, which is a new mark, to distinguish a particular business from others, or to distinguish a particular product, that other persons operating in the market have an opportunity to indicate that this is coming too close to theirs or they have a problem with this or that. There were some difficulties with the former legislation in the way opposition hearings were conducted and how decisions were made. Those have been clarified.

The other fundamental issue as far as trademarks are concerned was other definitions incorporating some of the newer concepts of the new WIPO Treaty. Just let me look at my notes, Sir.

The other matter which I was thinking of is the regulations. There were a number of measures which the Customs Department needed to take as far as the reciprocal arrangements which we have to make in cross-border measures. There are two things. These days, quite a bit of the copyright infringement is done electronically by way of the computer and the Internet and there is not much that cross-border measures can do in that regard. There is still a considerable amount of trade in counterfeit items where everything from the Nike logo is counterfeited on caps and shirts, where there are countries in the Caribbean that are famous for either putting on counterfeit marks on goods or for re-labelling goods. I remember the case with two Caribbean countries where a shipment of shirts was shipped to Barbados and the Customs examined the goods and found the labels marked made in the particular country. They checked through a few sample boxes, not necessarily for those shirts but for other things, and discovered that whoever had done the job of removing the original label and stitching

the new label had not been careful enough. They found a couple of shirts with labels which read, “Made in China”, “Made in Taiwan”, “Made in Hong Kong”, and made in various parts of the world. That company was importing finished products from outside the CARICOM region, taking off the labels, putting on another and shipping them on to Barbados to enter free of duty as an original CARICOM product.

That situation happens as well to companies that have established brands, whether it be Nike, Polo or River Bay. One of our manufacturers here has come up with a good brand of polo shirts under the brand of River Bay and, in fact, is trading under that name, having stuck that name on the polo shirts. He is now penetrating the hotel market by way of provision of hotel uniforms and golfing shirts. He has developed his whole product line, not just polo shirts, as the River Bay Collection. When that brand becomes sufficiently well recognised as it penetrates the Caribbean region, you will find there may be persons in other countries who will want to produce a polo shirt and put the River Bay brand on it as well.

What is needed, Sir, is for Barbados, as well as other countries which are part of the international trading system, to be able to intercept those goods at the border and to be able to seize them and prosecute. Therefore, we have amended the Trademarks Act to empower the Customs Department, through the Comptroller of Customs, to seize goods and to facilitate prosecution based on trademark infringement.

As I said, it is not just a matter of Barbados doing that to facilitate other people, or to get in the way of importers of various items from various sources making a living. We want to ensure, by the reciprocity which is part of the system, that the Barbadian authorities and producers of intellectual property in Barbados are honoured and respected as the brand or the trademark of the product makes its way around the world – whether the actual item is manufactured in Barbados or elsewhere, because it is conceivable that a Barbadian designed shirt or a Barbadian designed product bearing the trademark of Barbados can be made elsewhere. The reality, for example, is that in terms of some items like solar water heaters, because of the cost of shipping over a distance, it may make more sense to produce in locations close to the market.

Therefore, new clauses have been introduced to create criminal penalties for wilful trademark competing on a commercial scale, and for the seizure, forfeiture, and destruction if ordered by the court, of infringing goods and related matters. All that is needed really is for rights holders, persons who own the trademark, to offer evidence to the

Comptroller of Customs to cause the Comptroller of Customs to take action. This particular provision is a provision which is being introduced around the world and is being done under the guidance of the World Customs Organisation which has developed a dialogue to enable countries to be able to introduce this particular provision. That represents the major change as far as the trademark legislation is concerned. Sir, these changes which we are making today would bring to a conclusion the process which would have been started back in April 28, 1994 with Barbados' accession to the World Trade Organisation and the attendant responsibilities that were attached there.

As indicated by remarks at the start of this second reading, we are approaching this matter not by way of obligation but by way of compliance because they set only what are the minimum standards and we obviously have to ensure that we meet those. However, recognising the realities of Barbados and the fact that we are producers of significant intellectual property, we need to go the next step to ensure that we fully exploit what we so freely and so lavishly produce.

We have to change our nature, Sir. By nature we tend to be a generous and giving people and that is a good thing, Sir, but with respect to our approach to business matters, with respect to the works of our creative talent, we need to recognise that there are individuals and corporations out there, with a spirit which could only be inclined towards larceny, who would feel no pangs of conscience about copying, counterfeiting and pirating the creative works of our Barbadian people.
12.50 p.m.

The responsibility rests, therefore, on all of us in this Parliament, as well as those in the Corporate Affairs and the Intellectual Property Department, to support this legislation through the administration and promotion of this legislation which, even though it is known on the day it is passed, if not promoted, will not prove to be beneficial.

The Corporate Affairs and Intellectual Property Department needs to increase its public education programmes, its training programmes for its staff members, the artistic communities, the manufacturers and the business people generally.

The law enforcement authorities like the Police Force, the Customs Department, the Judicial Officers at all levels, as well as consumers should all become aware of the critical importance of intellectual property matters and the fact that over time, they will increasingly face a number of intellectual property related matters. Consumers also need to recognise that they have an obligation to offer their support through the purchase of lawful goods and services only.

Sir, I hope that this matter receives the full support of

this Parliament and country. I hope the day comes when we would see a burst of energy from business people in Barbados and the Caribbean in our drive to exploit fully what is ours.

Mr. Speaker, I commend this legislation to the House, notwithstanding the origin of the TRIPS Agreement and the push that came from the nationalised countries and their private sectors, because there is considerable room for creators of intellectual property in Barbados to benefit. With those remarks I commend this Resolution to the House.

Sir, I propose to make this set of speeches the debate for these four pieces of legislation. We have already had concurrence from both Sides of the House in this particular matter.

Mr. Speaker, I have just been reminded that I should let the House know that the TRIPS Council has set up a review process and that Barbados is well prepared for its review in November of this year. Honourable Members will recall that under the TRIPS Agreement there are three levels of countries, ranked according to the length of time they have to present the agreement. The developed countries had one year and they implemented theirs in 1996. The middle income countries have five years. Barbados is in this category and 2000-2001 is our period. The least developed countries have eleven years in which to implement so they will come later down the road.

Already we have given notification to the WTO of the legislation that we have in place and measures that we have taken in accordance with the TRIPS Agreement. Part of the process involves countries around the world sending questions to Barbados. It is not a simple matter of going to an inquisition on a given date but rather, for openness and transparency, any member of the WTO can pose questions about the legislation as well as the inner workings of the business administration of intellectual property matters.

Within the Corporate Affairs and Intellectual Property Department, one of the Deputy Registrars has been designated to handle all the questions coming in. Already, based on the series of questions that has been asked of the United States of America, Canada and Britain, we have developed our own format using questionnaires that have been sent to other countries, and we have done our research and have our answers ready.

This reminds us of the extent to which our involvement in international organisations can constitute a burden because it requires administrative and technical resources to be able to adequately respond. Sir, thankfully, Barbados is in possession of the technical expertise and our public service can respond and fully participate. Other countries have not been so fortunate.

I also want to commend the Officers of the Corporate Affairs and Intellectual Property Department for their work in this matter and to commend the Advisory Committee on Intellectual Property, a private sector committee established in 1999, chaired by Pat Cheltenham, Q.C. which has reviewed all of Barbados' legislation and the TRIPS Agreement and were able to bring a level of practicality as well as a deep understanding of these matters to a marriage of what is required in terms of the international obligations signed in 1994. They have also created opportunities through discretionary features which we had and helped to create legislation which, at the end of the day, represents the best interest of Barbados and the best future, not only of Barbados but, in the wider international community, for our creators of intellectual property.

I owe a debt of gratitude to the Advisory Committee on Intellectual Property and I am pleased to be a part of the Corporate Affairs and Intellectual Property Department in this matter. I want to let them know that the work is not finished. This work will be finished when we see a change in attitudes of Barbadians generally, concerning the protection of their creations and the fullest possible exploitation to our economic and social benefit of the use of this creation in Barbados and the rest of the world.

Mr. Speaker, I beg to move that this Bill be read a second time.

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

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

SUSPENSION

Hon. D. A. C. SIMMONS: Mr. Speaker, I beg to move that this Sitting be now suspended until 2.15 p.m. today.

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

The question that the Sitting be suspended until 2.15 p.m. was put and resolved in the affirmative without division and Mr. SPEAKER suspended the Sitting accordingly.
1.00 p.m.

RESUMPTION

Mr. SPEAKER: This Sitting is resumed.

Mr. D. J. H. THOMPSON: Mr. Speaker, these four pieces of legislation, three of which are substantive and one which represents an amendment to a recently passed piece of legislation, are not, in anyway, being objected to by the Opposition. I believe that the Honourable Minister has quite clearly outlined the reasons why it is necessary for this

legislation to be passed and, in some cases, versions of existing legislation updated. I believe that nobody who would have been aware of what has been happening relative to the WTO and the subsidiary, or, perhaps, you might want to call them analogous agreements, would object to amendments which are compliant with, even though the Minister does not like to use that word because it may sound as if he is meeting the conditions specified by a third party. I do not want to invoke his ire by saying compliant with, so I should say in advance of the same legislation which is going to be passed by other countries in the Commonwealth to become compliant with TRIPS.

I am extremely worried, however, Mr. Speaker, about the level of awareness among persons functioning in a non-governmental capacity of matters such as this. Sir, I refer to the trade unions and members of the private sector. I am not talking about the private sector organisations. I am talking about key players in the private sector in Barbados, persons who would utilise the provisions of these pieces of legislation and persons who may be opinion leaders in the private sector in Barbados relative to their obligations.

Sir, only this weekend, I read the interview which was done with the manager of a major supermarket chain in Barbados. In dealing with a controversial issue, which I am not going to get into, he made the point in the interview that the Government of Barbados did not offer the distributive or retail sector as an area for opening up the market. I was amazed that a prominent player in the distributive sector in Barbados was not even aware that the Government of Barbados would not have to offer it because it was already and has already been opened to competition.

Under our laws, anybody is entitled to come into Barbados and establish a supermarket. We do not have alien landholding legislation neither do we have a requirement for business licences. As long as they comply with Town and Country Planning permission and as long as they can get the requisite work permits under our laws, there is no restriction, whatsoever, on anybody establishing or operating in the distributive or retailing sector in Barbados.

Sir, every day you see prominent people – you have senior public officers writing newspaper articles – giving the impression that we have had a restrictive regime in the distributive sector in Barbados and that for years Government has been protecting the distributive sector from foreign encroachment. That is not so. It has never been a sector that has been protected.

If any of the major supermarket chains in the United States of America wanted to operate here, except for the requirement to register their name under the Franchise Act – and that is another matter that I will get to later – there is no restriction whatsoever and we need to understand that.

We are living in a dream world when we seek to give the impression, as he did in that interview, that we have been protecting the distributive sector in Barbados. It has never existed.

Sir, what exists in Barbados, and this is what I thought the Minister of International Business and Industry would have spoken about, is another piece of intellectual property legislation, which he has totally ignored. Why, I do not know. I thought that it would have been an ideal opportunity for him to explain its relevance or irrelevance in Barbados today. He does not have to have responsibility but it has the same relevance as other pieces of intellectual property legislation. The Honourable Member has to accept that.

Mr. Speaker, the Franchise Act says that if you want to operate under a franchise or if you wish to use a logo, technique or apparatus, which is part of your operation as a foreign company or a company that is not a citizen or permanent resident of Barbados, you have to get a licence to operate in Barbados.

Mr. Speaker, I will give you an example of what we are talking about. Many years ago, McDonalds wanted to come to Barbados but to do so they would have had to apply for registration under the Franchise Registration and Control legislation for a franchise. Eventually, the persons who applied got fed up and they still opened up the same business. They did not use the logo nor were they required to get a franchise licence. Sir, that stands the same for Barbadians as it does for Caribbean nationals and those outside of the Caribbean. Therefore, we are getting ourselves worked up about the debate in Barbados that only focuses on the question as to whether a franchise licence can be granted to a foreign company to operate in a sphere of activity which is not protected anyway. The difference between their operating here and not operating here is a use of a name.

In other words, if they decide to come into Barbados without using the international brand name, they could set up the exact operation in this country and would not be required to apply to anybody, other than the Town and Country Planning Department for permission to build the building, and the Immigration Department if they need to have work permits or whatever else they may need.

Sir, we need to understand that we have never had a protected regime in the distributive sector in Barbados. We have never had a protected regime in the retail sector. St. Lucia has business licences; St. Vincent has business licences; every business that is established has to actually apply for a licence and the Minister has the discretion to grant it or not grant it. We have never had that in Barbados. St. Lucia has alien landholding; Trinidad used to have it; Grenada has it and they can use those pieces of legislation to protect their local businesses from international competition, although that is not one of the reasons they gave in the

legislation. The discretion of the Minister is so wide under those pieces of legislation, that it is conceivable that he could stop an international business from operating.

Mr. Speaker, what we need to do, in the context of the debate that we are having now in Barbados, is to work out for ourselves if what we are calling for is legislation that would protect Barbadian businesses from predatory pricing from unfair competition, protect consumers from defective products and protect us from dumping. Sir, that is what we should be looking at. Fast track the legislation that has been promised for sometime, relative to fair competition and consumer laws, and get them on the statute books. If your market is already open and you do not have any of that legislation to protect your citizens, it is no wonder that you are having the kind of debate that you are having in Barbados now about the prospect of a large international operation coming into our country.

Sir, I raised this point because even where you put in place legislation that may deal with aspects of intellectual property like trade marks, patents and that kind of thing, you have to look at that legislation against a background of the business environment that is applicable to your citizens; or if you are in a single market and economy, to the persons who function within that single market and to persons who are trying to get into the single market by other means.

The second point that needs to be made is that a country like Barbados, which is in the lead of the single market and economy, is going to be required by virtue of Protocol II to the CARICOM Treaty to eliminate the restrictions which apply to CARICOM nationals. Now, they may not eliminate their restrictions relative to us as fast as we do it for them and, perhaps, the Minister of Foreign Trade can explain how you are going to resolve that difference. I heard the Honourable Attorney General talking about the question of the freedom of movement and how some countries have opened up in accordance with the agreement and some are still adopting restrictive practices. I believe that is an important consideration because when we modernise and harmonise a lot of our legislation, it provides an opportunity for other CARICOM nationals to establish operations in either the territories from which they come or other territories and then get an *entree* into the Barbados market.

Sir, a good example that you could give would be, if a St. Lucian businessman established a Wal-Mart in St. Lucia under a franchise or, if he did not have a franchise, if he had a business licence for it, or incorporated a company, then came to Barbados and said that he wanted to establish such an operation here, my understanding is that he is providing a service as a franchise holder.

2.25 p.m.

That is the service in question, not the type of business that he is doing. It is irrelevant that it is a supermarket, because the restriction is relative only to the franchise, which is, as the Minister will tell you, the intellectual property in the logo and in the business techniques, *et cetera*, used by the operation that you are seeking to establish. How would the Government of Barbados justify the existence of the legislation known as the Franchise Registration and Control Act, which very clearly restricts its application to persons other than citizens or permanent residents of Barbados? I believe that question needs to be addressed because it does not directly arise in any of the other pieces of legislation. And in the event that it does, it is clear that there is going to be harmonization relative to the Trade Marks law within the region, harmonization relative to the Patents Law, e-commerce legislation and all of the other legislation, if you are going to have an effective Single Market and Economy.

Therefore, Mr. Speaker, the reason why I have raised these issues is, as I said, to point out that there seems to be, particularly in the top echelon of the business sector of Barbados, a lack of appreciation for how the WTO Agreements, the CARICOM Single Market and Economy, the Protocol to the CARICOM Treaty and the tenets and principles of the new trading environment are going to impact on countries like Barbados. Persons are obviously seeking information as to how governments, like ours, are going to be able to operate within the law in relation to applying restrictions and/or conditions to persons who want to operate in our market when the full application of the WTO and the CARICOM Single Market and Economy comes into being.

One way to do that is, as I said, by introducing the Fair Competition legislation which is internationally acceptable. The other way is to look at the anti-dumping legislation which is also an internationally acceptable method. There may be environmental health and town planning regulations and laws. There may be immigration policies, as a means of helping nudge investments in a certain direction, but you certainly will not have at your disposal in the future, pieces of legislation like the Franchise Control and Registration Act, to either stop or restrict, even with conditions, the operations of many of these international businesses and large conglomerates. And it is not only in the distributive and retail sector that it is going to be relevant. But the only time you will hear the hue and cry in Barbados – and you are hearing a little of it now – is when it starts to impact on the professions: lawyers, accountants...

Asides.

Mr. D. J. H. THOMPSON: Well, eventually it will start to affect them. That is why in the context of the debate that we in Barbados are having, one would have anticipated something more incisive coming from the legal community on how legislation that we have, whether it is repealed or

modified, will have an effect on operations in the private sector, including service providers. But, as I said, we do not have any of that, apart from the persons in Government who are intimately involved, or legislators like us who may have access to information. It is a major hurdle where the vast majority of persons in the private sector are neither acquiring the information, nor are they, themselves, trying to interpret and put into context what is happening in the world, so as to provide a road map or some kind of vision for their own businesses and for the rest of the business community in Barbados.

The question of what will happen once you have the full impact of the CARICOM Single Market and Economy is going to be very relevant, from the point of view of the legislation which the Minister passes today. I believe that if we do not start to talk about these pieces of legislation, all of our new financial and economic trade and regulatory legislations of any type are going to have to be seen against a background of our moving into a Single Market and Economy. And I still do not think that the debate in which we are engaging on these kinds of issues focuses enough on the fact that that is part of the reality we have chosen for Barbados and hopefully for the rest of the Caribbean. Therefore, our discussion should always focus on the impact of those changes and the impact of the WTO and the Protocol to the CARICOM Treaty, the impact of the development of other trading blocks throughout the world, where now they are speaking of the African Union where people are preparing themselves to take on obligations and to locate their own economies in the context of what is happening outside.

So I will reiterate that in this debate, or very soon, the Minister of Commerce, Consumer Affairs and Business Development is going to need to explain to us where the Fair Competition legislation is, in terms of its drafting; where is the legislation relative to consumers and anti-dumping and all of the other companion pieces of legislation to the Fair Trading Competition, and how soon will they be brought on stream. Those are the pieces that, to my mind, will effectively explain to the private sector exactly what kind of trading environment will exist in Barbados, once the full effect of the CARICOM Single Market and Economy and the WTO Agreements comes into being. Therefore, all that I am doing is sending a warning shot to the Government that it has an obligation to the country and to the people of Barbados as consumers and contributors to the development of this country to carefully explain where these new pieces of legislation fit into the new trade architecture in our country.

2.35 p.m.

Hon. Sir Henry FORDE: Mr. Speaker, Sir, it is very nice to hear your voice.

Mr. Speaker, Sir, I enter this debate to support the legislation but also possibly, I hope, to register my concern about the ready acceptance by the Third World and the non-developed world of the steps taken by the more developed countries to expand the scope of their economic domination, which has been a feature of dominance in the last three or four centuries.

Mr. Speaker, when we were a colony, the British Government caused our Parliament to pass legislation, as it caused the Parliaments of all of its colonies to pass legislation, which automatically recognised any trademark registered in the United Kingdom within the particular colony. Sir, if a trader in the United Kingdom registered the trademark, Chefette, for instance, in relation to a food operation, it automatically had effect in another country, like in Barbados and in Dominica.

I believe that there will be some concern shown by Honourable Members if they realise that that legislation was only repealed, I believe it was 1977 or 1978, by the Barbados Labour Party Government in Barbados. There is even more concern for me as a West Indian that that legislation is still the legislation of St. Vincent and the Grenadines. Sir, what we had was imperial and effective domination of the trade aspects of its colonies, by a country which towered over everybody else. In those days, Britain ruled the seas.

We now have the position where the only super power is the United States. It is ahead of us, Mr. Speaker, in scientific development. Other than Russia, there is no other country with the technological capability of dominating outer space and the experiments being done in outer space are unknown to most of us, except that we know many of them are trade related.

We know, for instance, Mr. Speaker, Sir, that it is easy to develop and grow new varieties of plants in outer space, in order to be the leader in genetically modified foods. When the United States, Britain, France and others in the Uruguay Round were negotiating what is called TRIPS (Trade-Related Aspects of Intellectual Property Rights), they were several years ahead of us in the underdeveloped countries in preparing the legal international framework for the domination of their traders and their businesses for years to come. I sound the mark, Sir, and I will sound the warning. It is not every one of these developments that we can welcome, believing that we are able to protect ourselves against them, even when there are opportunities there for us.

Sir, let me bring it down to the practical. Barbados and the Caribbean, for well over a century and a half, were leaders in the production of raw material through cotton. In those days because we were a colony, it was in the interest of the United Kingdom to register our trade mark and West Indies Sea Island Cotton was registered as a trade mark or

merchandise mark and had some dominance throughout the world. If you look at the old papers, you will see that in 1936, the then Duke of Windsor, playing polo, would have been advertising shirts of West Indian sea island cotton, because the cotton was exported from us and manufactured by them, and they protected their rights against the Japanese and other people.

Sir, although we are beginning here in our Parliament to try to give protection to our manufacturers, traders, designers, musicians, cultural and other artists, yet we must be deeply conscious that unless we are fully aware of the implications of the international environment, we might not even succeed. I say that in relation to cotton because even now we cannot get respect for the trademark from the Japanese, and indeed the Japanese have registered, in Japan, West Indian Sea Island Cotton as a mark.

We have fought a battle in the United States over this mark. We do get some protection still in the United Kingdom, because we have a good law firm – Osmund, Galt and Rose, with Mr. Peter Martin being the most knowledgeable – representing us there, and which has represented successive Governments. We are not able to withstand the attacks from Switzerland, Holland, other parts of Europe and the Far East, on a very vital trademark or merchandise mark, that is key to the diversification of our agriculture.

Sir, whenever I get into this area, I am really concerned, not that Barbados is slow but that we really have not got the total expertise locally – although we have more than some of our regional brothers and sisters – to fight this battle of our resources in the area of intellectual property rights.

Sir, the three biggest industries are the creative industries – what I call the creative industries because they do not call for a good deal of rolling stock or inventory, they call for intellectual capacity and ability and we have that in the Caribbean – the industries of music and culture in general, and sports.

Sir, the biggest exporter of those industries in the world is the United States of America. Therefore, in the United States of America – where there is no barrier to these things – you sit in your house, Mr. Speaker, and you are automatically attracted to the television and bombarded by the music of the United States of America. But you have to pay for it, Sir.
2.45 p.m.

You sit in your house and you watch sports programmes, now I see that they are even bringing the football here, but you have to pay for it and they have protection for that. We, however, produce music of a quality as good or better than theirs, if you take Gabby, for one,

yet the protection necessary for our intellectual artistes to get reciprocity within the market of the United States of America is not functioning properly. That is what bothers me, Sir. We have the intellectual capacity to compete but we do not seem to have the other capacities to ensure that, even when we give them protection within our own markets, we are getting protection from them within their markets and therefore the Honourable Member for St. John is right on this point.

We have to begin to look at the whole area of trade-related intellectual property rights to recognise that we are not going to be strong enough, even with updated legislation, in protecting our people, who deserve this protection, unless we first enlist the assistance of the people directly affected – the artistes, the sportsmen, the musicians, the dancers, the painters and the agriculturalists. We must enlist their support and they must understand that we have to teach them as much as we can about what is involved in this exercise for them because it happens to be their talents that are being exploited and that exploitation is greater outside of our boundaries, even although there is exploitation within the boundaries here too.

You would hear someone taking the calypsonians' music, recording it and selling it in the United States of America to someone else. We have calypsonians who have died and gone along who have lost their property rights because they did not know how to protect themselves outside. One or two smart people have bought up the copyright and their children and their successors have no benefits from those rights. Those are the areas that we have to fight.

Likewise, the Honourable Member has spoken about franchises. We have several areas that we can franchise. We are very good in food-related businesses but not one of our people who have produced outstanding food diets whether it is in curry or in chicken has attempted to franchise their business overseas.

One of the difficulties I have with repealing an Act such as the Franchise Act is that we ourselves are not getting protection and reciprocity overseas and one of the things that you would have to deal with is not the Trinidadian who might be the people in any wholesale business whether it is PriceSmart, One Shop, ShopSmart or Smart Mart.

Asides.

Hon. Sir Henry FORDE: In truth and in fact, what is happening – and the Honourable Member is right about this again, we have to study the Caribbean – is that we have seen the politics and the economics of division by multinational corporations who are coming in through other countries, whether they are coming in through Jamaica or Trinidad and Tobago, and establishing shops in the other islands and are merely using the name of a franchisor. People are not paying attention to that. Do not believe that a big American

corporation is going to go into St. Vincent and the Grenadines or Barbados or anywhere like that. What they are doing is having front men who are merely buying the franchise. Under the Franchise Agreements you have, therefore, to pay X percentage of your gross – not your net – and the export of foreign exchange starts that way.

Asides.

Hon. Sir Henry FORDE: Sir, I have fought this battle for too long not to understand what is happening now. Unfortunately people only gloss over and see what they think is a sweet, but do not realize that down the line we are going to be cutting off our noses to spite our faces in many of these instances. I am not satisfied that we have gone rapidly to get a single market. We need the numbers – the five million or the ten million – of the Caribbean together in order to negotiate properly with the bigger countries.

I heard, Sir, *sotto voce* from the Honourable Member for St. Michael South Central, that that is easier said than done. He was a chap when I was preaching this doctrine. Do you remember the Under-40s, Sir? We warned the Caribbean then that, unless we evolved an economic system and a political system that was able to strengthen the Caribbean negotiating position in the long run, we would all be out there fighting for ourselves but not able to do it as well as if we were fighting together. The Honourable Member for Christ Church South is not here today but that is a battle that those of us who believe in the ultimate Caribbean union started. It is still a pertinent battle today, Sir. It is now coming home to Caribbean people the significance of what we were saying 30 and 40 years ago. Let us deal with it easily, Sir. The Honourable Member is quite right in talking about freedom of movement.

I am prepared to compromise with the United States of America and others along these lines. They can bring in their PriceSmart, their Mart, their K-Mart and they can use their franchise name to earn money but wherever it results in the displacement of Barbadian or Caribbean workers they must pull down their immigration barriers so our people can go and find the jobs where the jobs are.

Now, in Europe they have pulled down the barriers and removed and amended Franchise Acts and Trademarks Acts to harmonise, as the Honourable Member for St. John said. They have also said that where that takes place and there is dislocation in social areas, then you can put in the money so that those workers would not be hurt. That is what happened in Ireland and that is why Ireland, which was a backwater country 20 years ago, can now be a leader in exporting investment to Barbados to have the level of development you see going on in Sandy Lane. They got the protection.

I am asking and I am really appealing to the Government of Barbados, which has played a leading role that we must, therefore, insist at the next World Trade Organisation (WTO) round that we cannot have trade liberalisation in the manner demanded by the United States of America and others unless we have freedom of movement of people. So that if the jobs happen to be in Massachusetts, in Silicon Valley or in the new Silicon Valley in Europe – which is near my University Cambridge, one of the fastest developing areas – then Barbadians, Trinidadians and Guyanese must be able to move to those jobs as well.

Asides.

Hon. Sir Henry FORDE: Sure, they may be able to come here too but the chances are that we would have our people with intellectual ability being able to move to them as well because the Honourable Member raised the point... 2.55 p.m.

When we changed our legislation in order to fuse the professions among the lawyers from solicitors and barristers, one of the things that we argued very strenuously back in 1972 was that we could not see English barristers and Scottish and Canadian lawyers having the right to come and set up shop in Barbados and practise automatically unless those persons who were coming out of our University of the West Indies and the Hugh Wooding Law School had the automatic right themselves to go and practise in the United Kingdom.

Sir, I believe that our Faculty of Law has produced at LLB level persons who are as outstanding as any of the people I went through college with in Christ College, Cambridge. I do not see that the University of Cambridge where I was educated as a lawyer has anything on the University of the West Indies, whether at Cave Hill or elsewhere, in terms of the standards of the graduates who are coming out.

I believe that the Hugh Wooding Law School and the Norman Manley Law School have produced lawyers of the same calibre but our lawyers, who are knowledgeable not only in Caribbean law but the whole area of the common law because they still do the British law, are not able to go and practise in the United Kingdom, even if they can get a work permit. So, we said in 1973 that a British barrister or British solicitor could not automatically come and practise in Barbados.

The Caribbean has not held together on this, Sir. They can still go and practise in Trinidad and Tobago, in St. Vincent and the OECS because too many West Indians have an inferiority complex and continue to believe that the Privy Council produces better lawyers and justices than their own systems of court. Psychologically there has to be something wrong with us.

I sat side by side with Lord Steyn who is in the Privy

Council, a brilliant man, but I did not see that he was more brilliant than many of us who passed through there at the time. I really do not understand this idea in the Caribbean that if you have something coming out of England or out of the United States, and particularly with a different pigmentation, that it is automatically better than anything that you produce in the West Indies. That same attitude goes not only toward the intellectual capacity of our people, it goes towards their handiwork, whether it is in handicraft, whether in tailoring, whether in furniture, whatever it is.

We are therefore going to have to educate our people about their intellectual capacity, their intellectual property rights and the trade-related issues. TRIPS – we need to take them on some trips, Sir, to understand that no matter how much the legislators may amend the laws to give them their protection, we need a psychological change in our countries and we need to get the Caribbean to understand that we have to band together as Caribbean brothers in the first instance in order to have a large enough market and a proper sharing of our resources to negotiate with those outside of our boundaries.

Let me deal with one particular issue, solar energy. I believe that the tropics, the Caribbean and Africa, where there is always an abundance of sunlight, should be in the vanguard of the development of solar energy. The United States is not pushing it yet. They are looking for energy resources. Ask the United States how much money it has spent in developing solar energy. We have made strides here under Professor Headley at our University of the West Indies and under James Husbands and the Hoyos brothers in these fields. We have not protected the trademarks. We have not protected their patents or their industrial designs. As a matter of fact, I doubt whether they have done very much about the intellectually related trade issues arising from their discoveries.

Sir, we have to find some way to break this bottleneck and I would expect that the Caribbean governments should have been finding the resources to develop solar energy because it would then make our countries competitive in manufacturing, and elsewhere, with the United States of America and other countries. Cheap energy! An area of research. I know Professor Headley has done excellent work, but it is these things that we have to say to the people of Barbados and the people of the Caribbean have a practical importance for us, and in the long run make the difference between the standard of living that we can afford in the Caribbean. Therefore, when the Honourable Member for St. John or the Honourable Member for Christ Church East speaks on these matters, and I agree with everything that they have said, Sir, they arouse in me, however, that old fervour which first brought me into politics. It is the recognition that we are not going to be given anything for free by the

developed world, the recognition that we have within ourselves the intellectual and other abilities and the fibre to do as well as they do but we seem to lack, in the midst of that, a few qualities and one is the ability to work together as brothers and sisters in the Caribbean. We lack that after 30 years of politics. I do not think that we are any nearer the dream of getting the Caribbean together, despite the single market and the free trade areas, despite the efforts. How can it take the Caribbean all this time to be talking about a single market? What waste of effort to be rushing to these Heads of Governments conferences to talk the same thing that we have been preaching around here from the 1960s. What are we doing? We have to wake up, Sir. I do not know that we can achieve it in my lifetime.

I think one of the greatest failures of my political life, I would say, is that those who believe with me in the strength of Caribbean unity were never able to put the flesh on the idea. While I welcome this legislation, I have to say to the Honourable Minister that I wish that he and the young team he has who are advising him will be able to go to the negotiations deeply conscious of the context in which we have to negotiate the next round of the WTO.

We must not yield at all to the United States, in particular, and the developed countries of Europe on any of these issues. Our Protection of the New Plant Varieties Bill is not so much to protect our knowledge. We were the first country to develop the grapefruit. How many of our children in school know that? That was a plant variety developed in St. Joseph. We were outstanding and still are outstanding in sugar cane. How many of our children know that? We have to learn to protect these things.

Sir, it hurts me that this sea island cotton which we produce is the best cotton in the world, better than Sudan's, better than Egypt's, better than the United States of America's, better than India's, and yet we cannot have proper protection for the cotton industry so that where we are losing out now in sugar we would be in a position to challenge the world and go right through cotton in three stages - not only at the production level in agriculture, but also going towards the manufactured products.

3.05 p.m.

Sir, I am sorry if I sound emotive on this issue but I wish the Minister well and I trust that not only the technical aspect will he manage but that we will get a bipartisan approach on these trade-related issues.

I say this to the Government of which I happen to be a Member sitting on the Back Bench. The time is long since past when Governments go to these negotiations without taking their Oppositions with them. There should be no divide on these trade-related areas. I feel very strongly about this because you will never see a Canadian delegation, a Belgian delegation or a United Kingdom delegation going to these important talks without carrying along the Opposition.

Although there is division between the Republicans and the Democrats in the United States Congress you will find that on trade-related issues, they go together to these negotiations. I hope that we would take that leaf from their book and use it to our advantage.

Mr. D. St. E. KELLMAN: Mr. Speaker, first of all I want to welcome you back to this august Chamber. I want to start by saying that if I never achieved anything in my life of politics, after listening to the Honourable Member for Christ Church West today I am convinced that I have achieved something. If he continues at this rate there will be no need for me to speak in this Parliament any more because he would have taken my role and continued to lay the wicket.

Sir, I would like to start by saying that these four Bills before us today could be easily torn up.

Asides.

Mr. D. St. E. KELLMAN: Sir, nobody can tell me what is the local trademark that we want to protect, the new plant varieties that we will be protecting nor the type of designs in Barbados that we want to protect. One would have thought that, in bringing this Bill, the Minister would have enlightened this Parliament about the various things in Barbados that we are protecting. Sir, the truth is that after these Bills have been amended we will recognise that there will be a lot of advertisements in the newspapers and the *Official Gazette* bearing various names of partnerships, saying that a particular trademark is now registered in Barbados but the company registering the trademark will not be a Barbadian company. It will be somewhere in Miami, London, or somewhere else.

Sir, I am yet to pick up the *Official Gazette* and see a local company registering a patent, trademark or any design so that we can say this is a particular product that we would like to go with.

Sir, the whole problem is that we in the Caribbean are now passing laws in our Parliament that should not be passed. Can you imagine that the world is now one State but we are still discussing how the Caribbean will come together to agree on Protocols and trade with each other, when other nations in the world are teaching their people how to trade with the whole world? If we cannot go on the practice wicket to practise, how can we go on the test wicket to play?

Mr. Speaker, this business of amending laws and passing Bills is what I call foolishness. We need an educational programme in Barbados to tell Barbadians how to protect Barbados further down the road and to make sure that we have foreign exchange and foreign reserves

to protect our future. The truth is that we are only providing a batting wicket for the rest of the world to dump their goods on us.

Sir, I have already said in this Parliament from the time the WTO got involved that there are certain people who know how to make profits and Government must understand that they must be in the forefront to pick out those items which have export potential and do everything within their power to make sure that those items impact on the world market. The private sector, who were always given concessions to look after the local market, will not change overnight and get foreign exchange for Government on the international market.

Mr. Speaker, people come from all over the world and tell us how good our beer is but if you travel through the world you cannot find our beer. We are told that our beer cannot be exported because of some connection to Guyana. Sir, twenty years from now we will still be telling our children and grandchildren that we cannot export beer because we cannot make the necessary foreign exchange to propel our country, yet I must agree with this Bill.

Mr. Speaker, I am interested in the product or service that can bring the necessary foreign exchange into this country to make sure that when other countries dump their goods on our shores we have something to counter the imports.

Sir, we in Barbados have to learn one simple economic equation: Exports equal imports. If you want to expand that equation it would be: Exports equal imports minus reserves.

Mr. Speaker, if we are importing the same thing we are exporting, we are not going any further because at this moment we owe everybody money and we need to make sure that our exports are greater than our imports. I do not know of any discussion in Barbados today which will show that we are doing anything to make sure that our exports are greater than our imports.

Mr. Speaker, I am a very realistic person and I recognise that my interest in politics cannot be what is important to me. It has to be important to the eleven-year-old children graduating from primary school to secondary school. Sir, it is important to make sure when these children come out of school that there is an opportunity for them to have a job in this country. If we keep importing but exporting nothing, what future or hope could we give to these eleven-year-old children?

Sir, all of a sudden we come to Parliament with these amendments that look good and fit into the world affairs but the world does not care anything about Barbados. The world only cares about itself and people are only interested in themselves. The only people not interested in themselves are

the people of Barbados. We feel that we can get along okay and that foreign exchange is not the key factor anymore. We feel that we can go out and buy and spend Barbadian dollars anywhere. What is needed in this country is an educational programme to teach Barbadians about import substitutions and the need to generate foreign exchange.

3.15 p.m.

Barbados is a very unfortunate country. The truth is, if we check our history, Barbados should not be in the position that we are in at the moment.

Sir, from the time when sugar was king, and my history has taught me that Barbados happened to be one of those nations that has always produced sugar profitably when it was important in those days, the same thing that happened then will happen again because Great Britain took all of the profits. It has always been one of the G4 countries but now it is one of the G8 countries. The same thing that they did when we were a colony, they are about to do it again.

We sit here and pretend that we do not know what happens with world affairs and what happens in the world is not important to Barbados. We have to stop fooling ourselves. Nobody cares about Barbados. Their goods must come into Barbados but our people cannot leave Barbados. Check it carefully. Their goods can come in but our people cannot leave. We have always heard of a country where money falls out of the sky and where there is honey but you cannot get a visa to visit the country where money falls out of the sky and where there is honey. Yet, when you go to our supermarkets you can find all of the goods. Why would any country want to dump their goods on you and not allow your people to visit their country? Ask yourself that question.

Do you know what it is all about? It is about maintaining market share. Do you know what is the beautiful thing? They have also worked out that instead of sending their goods, designs and their intellectual property to somebody else, all they have to do is set up their agents in your country and you will have no say because trade liberalisation would guarantee their manufacturers a market in your country. They will set up their agents and then send the goods directly to them.

Sir, am I to believe that in this Parliament, in the year 2001, we are so backward that we cannot understand what the Prime Ministers that formed CARICOM were trying to achieve in the early 1960s, 1970s and even the 1980s? Am I to believe that we are more backward than they were? Do you know what we have been doing? Every year we have been producing brilliant students at the University of the West Indies but we can get not a single opinion out of those students. You do not know if the direction in which we are going is right or wrong. Sir, all of a sudden we are

producing brilliant students without an opinion. Do you know what it means? We are wasting our time. Sir, anytime that you have brilliance and you are not getting output, there is no need for the brilliance because brilliance should bring output.

I know that many people will be offended. The last time that I spoke in this vein, one man came out and had an opinion but I am expecting more of them to come out. In the 1970s and 1980s, you could not hear anything discussed in Barbados unless it had about 10 or 15 opinions coming from the University of the West Indies. All of a sudden you cannot even get 1/15 of an opinion from within that institution of knowledge. Do you know where you are getting the opinions in Barbados? You are getting them from on the block.

My question to the Government is, are you wasting your time up there or should you spend some more time listening to the opinion on the block? The wisdom thinkers are now the people on the block because that is where you get a sensible opinion, coming out of the guys on the block. The problem with us, is that some of us need to go back on the block and understand what is going on. I do not want journalists or the radio misquoting the Commissioner of Police, that he said something about clearing the block. The Commissioner of Police understood what he was talking about and he had no intention of clearing the whole block. The truth is, anytime there is a programme to clear the whole block, the first person on the block that you will have to clear is me because I am always on the block in the market at Moontown where I get my wisdom; where I get my knowledge to come and lay a case on behalf of the masses of the people in Barbados.

There is a saying that the pig lives an easy life. Every morning the pig is fed and the donkey works hard. When the butcher comes with the knife to end the sweet days of the pig, the donkey is still there working.

Asides.

Mr. D. St. E. KELLMAN: Barbadians must always remember that what looks good is not always necessarily good. Self interest is not the interest to practice. It is the interest of the country that we have to practice. Sir, all these Bills, as pretty and big as they look, they do not mean anything in 2001 until we can get our productive sector back on track.

If the Honourable Member for Christ Church East can tell me that he is happy with our productive sector, then I can welcome these Bills. If he can also tell me that he is happy with the amount of foreign exchange generated by the productive sector and that the amount of foreign exchange coming from the productive sector can easily match our import bill, then we have some good Bills in front of us and we should all support them. The truth is, if we do not go cap in hand and support and borrow to boost our foreign reserves, we would not have anything called foreign reserves.

Sir, they robbed us of our sugar and they kept the sweet returns. Now we have something called tourism. What have they done to us? They encourage us to get involved in something called all-inclusive tourism where, of all the companies that I know that deal with all-inclusive tourism, not one cent is received in Barbados. It is received somewhere outside of Barbados.

Do you know what is also amazing? Previously you would have been charged by the tourism officials on the amount that you are going to spend on the room. All of a sudden you are now being charged a commission on things that the tourists do not even get. We cannot see that that system is in place to make sure that the G4 countries' workers get a larger piece of the cake. Not only do they get a large share of the cake, they hold on to our foreign reserves even before we can see them.

I want this Parliament and the people of Barbados to ponder on these things and tell me where we are going. The truth is, if we do not make bold steps in this country, we will be worse off than we were in 1991 because we would have travelled the road twice and we would not have learnt a single thing by travelling that road.

I can understand the problems the consumers have with the distribution sector in Bridgetown. I think that more of us need to get up and put some licks in them, because if we had understood what globalization was all about when we introduced VAT - what is happening now and the noise that is occurring within the public of Barbados - we would not now have this noise because somebody would have recognised that VAT was introduced prior to the full impact of globalization and it would have been necessary to encourage the private sector to pass on the gains to the consumer and to keep them happy.

3.25 p.m

Someone would have recognized that VAT was introduced prior to the full impact of globalization and it would have been necessary to encourage the private sector to pass on the deal to the consumers and keep them happy, but the Government allowed them to "price-couch" and the consumers got so angry within that period that now they are prepared...

Asides.

Mr. D. St. E. KELLMAN: You would not understand this, but now they are prepared to take Barabbas before they take the true one. Imagine that consumers are prepared to take Barabbas because they have grown frustrated with what has happened to them over the years, they do not care

who comes. The important thing is that once it looks like a good thing they are prepared to accept it. And do you realize something? We are looking at the private sector, but this is what I am getting back to now, Mr. Speaker. Do you remember that triangle that I have always spoken of, where I said that the bottom has dropped out? I used to tell you, Sir...

Asides.

Mr. D. St. E. KELLMAN: No, no, that is why all of you will always be in trouble because you think and behave in a particular way and expect everyone to behave like that. And of course, I am not speaking to Mr. Speaker, because he knows better.

Mr. Speaker, in this Parliament, I have already said that we are supposed to have a three-sided relationship: the private sector on one side, the Government on the other and the worker/consumer at the bottom. And after VAT the Government got their taxes increased, the private sector got increased profits and the worker/consumer got nothing, apart from high prices and low wages. I had said that but everyone had forgotten. The truth is, now that the worker/consumer has dealt with the private sector, he is going to deal with Government and its high taxes. And do you know what is going to happen? You will soon hear the taxes in Trinidad are lower than in Barbados and the next thing you are going to hear is that Barbadians will soon want Mr. Basdeo Panday to be Prime Minister of Barbados.

Mr. SPEAKER: The Honourable Member for the City.

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I have heard a lot of flannel and fuzz being talked in here, coming from the Other Side. I know that the Honourable Member for St. Lucy wants to go to a funeral, but I would just like him to wait a few minutes to hear what I want to talk about.

I am hearing this afternoon, from the Other Side, about how in Barbados and in the Caribbean we are behind the game. That we should have been telling the people this and that already and we should be educating the private sector, *et cetera*.

Mr. Speaker, the blame for that lies squarely over there. In 1989, the then Prime Minister of Barbados should have been doing what the now Prime Minister of Barbados is doing, struggling his best to establish a Single Market and Economy in the Caribbean. In 1989, the then Prime Minister of Barbados was busy telling us about how the Barbados economy was performing like Sir Garfield Sobers and speaking about a Parliamentary Assembly in the Caribbean without a political union. In 1989 we were hearing all of that foolishness.

Then in April 1994, before we came to power in September, the Honourable Leader of the Opposition, who was the then Honourable Minister of Finance, was waltzing Barbados into the WTO and we did not hear one word then about education of the people. We did not hear about seminars nor town meetings, *et cetera*, because he was busy beating up the grass up at Royal Westmoreland.

Asides.

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, Barbadians are not fools. Caribbean people are not fools. They well know that we are living in a time of very dynamic and very rapid transition. They well understand that nobody is going to do business with a market of 250,000 people. In the Caribbean we are looking at almost six million people. They understand why there has to be a Single Market and Economy.

The Right Honourable Minister of Finance keeps reminding his colleagues in the Caribbean and the people of Barbados that even the days of the CARICOM Single Market and Economy are limited, because we are committed to a Free Trade Area of the Americas by the year 2005. What that means is that the Caribbean Single Market will be subsumed in the Free Trade Area of the Americas in the year 2005 and, if we had been doing what we ought to have done in 1989, we would have been ahead of the game. And so I listened to all the hot air that I hear coming in this Chamber about what we should be doing.

The Opposition too has a task in this matter. The Honourable Member for Christ Church West said that there cannot be any partisan politics in this; that all of us have a duty. But I am hearing a lot of backward talk and I wonder at what I am hearing today, Sir.

The Honourable Member for St. Lucy thinks that all we are doing here today is foolishness, but the only way that we are going to access the globalized marketplace of the world is through the practice of a lot of legislation and this is only scratching the surface of it.

The Attorney-General has said that he has seven draftspersons in his office. He should have 25. There are some Caribbean countries that have an Attorney-General's Chambers with only two draftspersons, some with only one, because the same plethora of legislation that we must pass is the same basket of legislation the big developed countries will pass and those countries have Attorneys-General's Chambers larger than all the governments of the Caribbean put together.

I keep telling the story. A few years ago, my Danish counterpart said to me, "...this thing with the WTO is serious, [he has] a division of only 400 persons dealing with the WTO alone..." and so as not to be rude I did not

laugh out in his face. I smiled and said, "...let me tell you something, across the entire Caribbean, the Attorneys-General's Chambers do not amount to 400 and those countries have to deal with the WTO, FTAA, Europe, Mexico and the Single Market and Economy too. Therefore, it is not a good thing for one, being a people's representative in Parliament who acknowledges that we have to be part of that machinery to help educate the Barbadian public and, by extension, the Caribbean public, to be condemning this legislation as rubbish, irrespective of which side of this Honourable Chamber we sit.

I want to commend the Honourable Minister of Industry and International Business for bringing this legislation in Parliament well ahead of November 2001 when we have to pass the test, so to speak. We have to have the review of this and other pieces of legislation. There are some countries which are even behind the game in this respect and, frankly speaking, I really do not know how they are going to catch up but I have to concern myself with Barbados today.

I wish to give my support to the measure before the House and to the other measures to which this general debate will speak.

Mr. Speaker, Sir, it is true as has been said earlier today by Both Sides of the House, that the private sector – not only the public sector – has to get out of its own mind set. Do you know what part of our problem is, Sir? We cannot go on borrowing all the days of our lives. We have to grow up. We cannot go on crying about the fact that we were once colonial. And we are still in that mind set. Our markets have always been guaranteed, always have been protected. We have never had to trade on the open market and that is what we are facing now. We still are not going to be able to trade on the open market.

Do you think, Mr. Speaker, that in the 21st century and with barely 60,000 tons of sugar we could compete with Bangladesh which has millions of tons? We cannot.
3.35 p.m.

We have to make serious and hard decisions about whether or not we can continue to grow raw sugar for export in Barbados. Sir, what are we going to do about molasses? For the last twenty years, we have been subsidising the molasses which we produce in Barbados, buying molasses from Guyana and other parts to make Barbados rum which, happily now, is beginning to be branded.

When we were growing up, Sir, our rum was sold in bulk in Europe and other places. It is only in recent years that we can go into a club or a restaurant anywhere in the world and see Mount Gay, Cockspur, or whatever. And that is where we have to be going. We have now to target these market niches and we are not going to do it with a private sector that is going to be recalcitrant and wants to continue to

be backward in this matter.

In Barbados over the years, the distribution sector has wholesaled the goods and put on their markup. They sell them to the retailer who puts on his markup and the consumer pays at the end of the day. They cannot pretend that they do not know what was going on elsewhere in the world with trade liberalisation. They cannot pretend that they do not know what it means because they cannot be living in the world and not know. They have seen Barbadians, for several years, going to San Juan, Margarita, Miami, New York and London, once and twice a year, buying all kinds of goods and sending home barrels with all kinds of merchandise.

Sir, what does that tell you? They could have been doing that for us. They could have been wholesaling to us. We did not need ShopSmart and PriceMart to come in here and do that. The local distributor trade could have been doing that so that the K-Marts, Wal-Marts and Targets of this world would be looking to compete with them...

Aside.

Hon. Miss B. A. MILLER: ...but to wipe them out at a time like this...

Aside.

Hon. Miss B. A. MILLER: They have to come around to this understanding and do it quickly.

Mr. Speaker, Sir, the Ministry of Foreign Affairs, over the past few years, has held seminars, town hall meetings and put out all kinds of brochures but, in the end, we are always preaching to the same small group of people because the people that you really want to target are not the ones who are going to come to Queen's Park to the town hall meetings. But they are the ones who will pick up the telephone and call the call-in programme. That is not going to educate them, with all respect to the Honourable Member for St. Lucy and the fellows on the block; that is not going to educate them as to the way of the world, and the new way of doing business in the early 21st century.

Sir, all of this talk we are hearing about K-Mart and Wal-Mart and all this kind of thing, my generation lived through a period in Barbados where we saw small shops disappear. A man called Branford Taitt presided over that, as Minister of Trade at that time. We saw the mini-marts come; we saw the supermarkets come; we saw the master marts come; we saw the backlash with the convenient stores carving out a niche. It all goes around and comes around but do you know what is coming now, Sir? It is not coming. It is here already, something called e-commerce. Some

enterprising young journalist needs to do a little research and look and see what is happening with the same K-Mart, Wal-Mart and Home Depot. All over the United States today, their first quarter figures are down. Why do you think they are looking to come offshore? Because many of them are declaring bankruptcy in the United States of America and in other parts of the world.

I went to England as a student and I saw Marks and Spencer. In Panama and everywhere in the world I went, I saw Marks and Spencer.

Asides.

Hon. Miss B. A. MILLER: Marks and Spencer is on the skid today. All of this is happening on my time and you just cannot watch it happening and not ask yourself, why? The Government of Barbados, under the Right Honourable Prime Minister, and we are fortunate to have a trained economist as a Prime Minister and Minister of Finance today, is explaining this day and night. He just came back from the Heads of States meeting in the Bahamas and spoke until his voice left him. He was hoarse but you know what the Bible says, Sir, that those who have ears to hear must listen. Some people hear but they do not listen and some people are distracted with other things.

In my generation and yours, Sir, when they taught us at the primary level, as I recall, they taught us about a fellow called King Canute. There was even a picture in the book with this King with a crown on his head and he was standing up on the beach, telling the waves to go back. We cannot be King Canute in the year 2001, Mr. Speaker, and we do not have any fallback position now. There are a lot of misguided people in Barbados who think, because we were a colony of Britain, that somehow Britain is going to protect us today. That is not so. In the fight we are having now with the OECD – if you never knew it, you will certainly know it now – there is no fallback position. There is no more colonial home to which we can go and hide now. We are out there on our own two feet and we have to paddle our canoe as best we can.

Mr. Speaker, Sir, I am one who believes that we have the capacity and the capability but it is no good having that if you do not apply it or if you do not use it. We have bright, young people today and I am impressed by the diversity of their interests. They are into music and dance and they are academically bright. The investment that we have made in the social sectors is paying off for us now but too many of them are being encouraged to squander what we have. That is why so many of my generation tell them, “You know, in my day I had to do this and I had to do that.” Now, I am not one who believes that because I had to scrounge in my day, and God knows I had to scrounge...

Asides.

Hon. Miss B. A. MILLER: Oh yes. There was no free education then. I had to scrounge but I am not one who believes that because I had to scrounge, everybody has to scrounge too. I am glad for them and I try to give them as much encouragement as I can but they are being led astray.

We are dealing with people now who come and see it and assume that it was always there and that it is always going to remain. But it is changing every minute. The young generation understands the new technology and they will be able to go forward but they do not yet have their hands on capital. Sir, it is that generation which still has the capital that is showing a level of recalcitrance which I just do not understand. These are people who travel. They watch every channel on the television, know what is going on in the world and Barbados cannot be any different.

Last week, I had to be in Jamaica. The Director General of the WTO, Mr. Mike Moore, invited the Trade Ministers of the Caribbean to a two-day seminar. His message can be summed up in two points, Mr. Speaker, Sir. We were, of course, making the case for smaller economies and for special and differential treatment because we do need some interim time. We do need time for the transition, some time to allow us to retool and redeploy our resources in order to be ready and repositioned when the year 2005 comes.

Sir, but his message was two-pronged. One, there is no way in this life that the WTO is going to admit, or is disposed to admit, of any special new category to smaller economies. It is not going to happen. He told us that, plainly. He also told us that any approach to the WTO must be approached on a one by one basis. His message was very plain, Sir.

He also told us where we stood in respect of the new round. We are still equivocating in the Caribbean about what is left over from the old round which has to be settled before it can move to a new round. The reality is, Sir, that, in a manner of speaking, the new round is virtually underway because they have moved from the old round which was agriculture to services.

3.45 p.m.

Now, 14 countries of the Caribbean cannot stop a new negotiating round. Mike Moore could tell us how, within Africa, the big countries like South Africa and Egypt have committed. Pakistan and India are still on the verge of commitment but arguing for certain things. It is clear as day that we cannot stop a new round but why are we not now preparing ourselves for that? We are steadfastly now still looking back at the old round. We are not going to get the old things from the old round unless we can actually get negotiations going again. We have, as I say, to go with the

flow and stay with it and try to pull in what is still outstanding from the old round while we are moving forward to the new. These are important matters.

The very next day the President of the Inter-American Development Bank came to Jamaica to sit down with us as well. Now, at the Summit of the Americas in April, in fact, as far back as November last year when the trade ministers met in Buenos Aires, we managed to secure something within the Free Trade Area of the Americas (FTAA) that we still cannot yet persuade the World Trade Organisation (WTO) of, that is, special and differential treatment for the smaller economies. We are now trying to identify and to define what is special and what is differential. President Iglesias was there and called us out on the veranda and said he would help us. He said he would persuade the Inter-American Development Bank to help us because we do not have the capacity and they have to help us build capacity to get through this particular period. Of course, when it gets implementation, then we are going to need his help as well.

He then went to Quebec and told the 34 heads of this hemisphere that the bank was committed and, so, he was, in fact, coming to meet with us for one day, Saturday last week, to tell us – well, we were hoping he was going to tell us – how this is going to work because for some time we have been talking about a regional integration fund. Do you know what he came to tell us? He told us there will not be any new money.

Now, I know of my certain knowledge – because I can talk to this man, I chaired a Committee for him at the Inter-American Development Bank – that he is talking to donors looking for new money but clearly that has not yet been nailed down. So he told us that there is no new money and that the existing windows at the bank is where we have to go. So these are the realities. Nobody is doing us any favours. They are not going to put money at our disposal to help us. We will get a little technical assistance here and a little technical assistance there but they are not going to give the Attorney General 10 more drafting people. They are not going to give the same Minister of International Business five or 10 more lawyers and throw in a few economists as well as some tax specialists and some development planners. That is not going to happen. So these are the realities and Honourable Members must understand the importance of the step that is being taken here today.

When the Honourable Member who is the Minister of International Business has to face the review before the TRIPS Council, it is not going to be an easy passage for him. So let me take the opportunity to advise other Honourable Members on Both Sides of the House, and whoever will listen, that the date for the review of Barbados trade policy is set for late May 2002 in Geneva. The Organization of the Eastern Caribbean States (OECS) as a group just had theirs. They were asked over 1 100 questions. As some Honourable Member said here today – I think it was the Honourable

Minister – any country can get up and ask any number of questions. The United States of America asked 182. It is like an exam. What I mean by that is that some of the time you actually have to be sitting there and you have to be prepped with your advisors and you have to be able to defend your trade policy. So there is a lot more legislation that has got to be put in place.

It is very wrong for the Honourable Member for St. Lucy to suggest that this is rubbish and that this is not going to make a difference. It is going to make a difference because we cannot deal except in this way. There are some things in this world that you have to do. When you are born, your parents must go and register your birth and you will get a birth certificate. You have to do that. There is no country in the world where you do not have to do it and this is our way in. If we do not pass the relevant legislation then whatever benefit can come to us... and there are significant benefits to come to us, but we have to position ourselves to get them. There is a lot more legislation that is coming down and these things have to be made clear and made known.

That is why it is so important for a small country like Barbados, with just a few Missions in the major capitals of this world and particularly those capitals where negotiations are going on like Geneva today,... You know how the negotiations are working at Geneva, Sir. At the meeting with Mike Moore we all naturally brought our Ambassadors – well those of us who had, it was only Barbados, Trinidad & Tobago and Jamaica – from Geneva and I took the opportunity, of course, to have a good working session with those whom I took from Barbados with Ambassador Erskine Griffith, who is doing a most excellent job and he said to me that we all need to understand the urgency of it.

A lot of this negotiating is done at people's private dinner tables. When an Ambassador tells me to come to dinner tonight and asks me – Barbados is at this moment sort of the spokesperson for the Caribbean now – can I commit the Caribbean to this; when I fax or telephone you, you have to be able to give me an answer straightaway. You cannot tell me that you have to wait on the Attorney-General's Chambers to give you an opinion on this, although you know that you should get an opinion on it, because by the next morning the vote is cast.

We in the Caribbean and the developing countries as a whole have missed many deadlines already. We have deadlines now coming up, starting November of this year, on this side of the Atlantic in respect of the Free Trade Area of the Americas. Mr. Speaker, Sir, it is fast and furious and, in these next four years of negotiations, a small country like Barbados has to be very mindful of what it is doing in its Missions. That is why our Missions abroad, particularly the Missions in Brussels, Washington, Geneva and in Miami – even though headquarters of the Free Trade Area of

the Americas (FTAA) has now been switched from Miami to Panama and we do not have a Mission in Panama so the people we have on the ground in Miami who have been specially trained to do this will still have that job on their hands – now have to become business locations. We have to put trade specialists and economists on the ground in those places, particularly right now in Geneva because, when the new negotiating round starts in November or when it is decided in November of this year that it will start, it will be impossible for the four people I have on the ground in Geneva to do all of that work. It is just impossible so they have to be places which are ferrying back ... every day – I mean the faxes are flying and e-mail is flying. So we hope at least to be abreast of what is going on even if we cannot be ahead of the game.

Small countries like those in the OECS have to depend on the larger countries of the Caribbean to keep them informed of these matters and it is the same thing with the drafting of the legislation. The Attorney General and the Honourable Minister will be able to say that we have to do a lot of comparative analysis. You have to look and see what Trinidad and Tobago and Jamaica are doing in this region. We still have to look outside of this region to see what other like economies and like-minded States are doing so that you can tailor ...

Asides.

Hon. Miss B. A. MILLER: Oh yes, of course. I mean to. Even to get to what is Barbados' position, we have to look at that, and then decide how we are tailoring, not only for today's needs, but we have to be looking down the road to 2010 and 2020. Sometimes you have to move with what you have knowing that in a few years time you are still going to be doing amendments. So this House of Assembly had better prepare itself for the fact that it has a lot of work to do. 3.55 p.m.

That is why I am determined in this year of our Lord and before this House, I hope, Mr. Speaker, Sir, to put the Standing Committee on Foreign Affairs and Foreign Trade on the ground in here. People had better start thinking about who will volunteer to do what because there is a lot of work to be done. It is a committee that must embrace the private sector. It must embrace labour. Labour has a major role to play in this and the Honourable Minister of Labour will tell you that. Everybody needs to be putting his shoulder to this wheel. The media has a major role to play as well. They are part of the opinion forming process in this country, as in every other country. Barbadians still respect the media and the media is going to have to make itself knowledgeable on what we are talking about. You are going to hear a lot of terms. People will be talking about the WTO, TRIPS, and others. They will have to know what we are talking about and what the relevance is for Barbados because we cannot do it by ourselves. Every sector has to put its shoulder to this

wheel. Fifth-formers and sixth-formers will have to begin to understand how the new economy will work because in no time at all they are going to be in the workplace and it will be a different workplace than the workplace of today. We have been talking about this for a long time but it is happening now and it cannot be put off. We may well be prepared to sit through some midnight sessions in here to get the legislation through. This is not something that you can rush through and get up and just talk all over the place for the sake of talking. You have to understand the application of it. If, as the people's representatives, we are going to be part of the process of educating the people, then we do have a duty to make ourselves knowledgeable. For his excellent exposition, I thank the Honourable Minister as he introduced this matter and started the piloting of these important Bills through this House.

Mr. Speaker, I am very much obliged to you.

Mr. SPEAKER: The Honourable Member for St. Michael North West.

Mr. M. Z. WILLIAMS: Mr. Speaker, first let me take this opportunity to welcome you back to your Honourable Chair. At this time, I would also like to make my contribution to the Bills before this House which relate to Intellectual Property as far as Barbados is concerned and its position with the WTO, the World Trade Organization.

Sir, some weeks ago there was a statement that was made that this Barbados Labour Party Government has done nothing for the entertainers of Barbados. I think that statement was made in relation to the dispute that was going on between the NCF and BATMAN. I think that I heard that statement about two weeks ago. I would like to go back as far as 1981-82 when the then Barbados Labour Party Government made provision for the betterment of the artists and performers of Barbados. In 1981-82, the Copyright Act was put in place in order that the Barbadian performers and artists could benefit. I would like to deal with this since there are eight different areas under the TRIPS Agreement. I would like to deal with the copyright aspect as it relates to the performers and producers of sound recordings and music in Barbados since that is an area with which I am more familiar. This is an area that most Barbadians would relate to because it touches the heart of Barbadians in terms of the entertainment industry.

Sir, I must say that, 20 years after, it is a privilege to see that we are making it better for the Barbadian entertainers to benefit and to achieve something for their works in terms of the industry. It is quite understandable that for many years, in fact, some 35 years ago, a lot of the wealth of Barbados was either repatriated to Britain or other places and they benefited from the work of the Barbadians.

Those of us who were involved a few years ago would know that there are people like the Performing Rights Society. I remember a gentleman who walked around Bridgetown with a book who collected funds from various establishments in Barbados. He represented the Performers' Rights of Britain.

I would like to ask myself since there were recording artists who recorded before the period of 1966 and onward, Sir, how have they benefited in terms of receiving what is rightfully theirs from the Performing Rights Society of Barbados? I am going on to show you that this is going to be beneficial to Barbadians in terms of this piece of legislation as against what they were faced with for many years.

Sir, the Performing Rights Society that we have known over the years has collected lots of funds from Barbados but the money was repatriated back to Britain. In terms of the local artists benefiting, I cannot say that I have heard of any of the local recording artists or any of the performers in terms of their works who have benefited from it. I also know that the RIAA, the Recording Industry of America Artists, is in a similar situation where funds have been collected by way of the play lists which were done at the radio stations of the day. It is only within recent years, Mr. Speaker, that the play list has stopped but it has been re-introduced as a result of the involvement of (COSCAP), the Copyright Society of Composers, Artists and Publishers and (BAMCI), the Barbados Association of Musicians and Composers. This would mean that somewhere along the line, for those of us who are familiar with the industry, regardless of what one may say, COSCAP is the umbrella body of BAMCI. The position relates to a lot of things that have been said about those bodies, but I read a year or two ago in the newspaper where the performers and producers of Barbados were able to receive benefits from the collections that were done by those two organizations which are locally based. Sir, we are dealing with the copyright and the interest that Barbadian artists will benefit. We know for a fact that a lot of music over the years on the radio stations, where you had almost 90 per cent of foreign music being played, this was to the benefit of the foreign bodies which I have just named, the Performing Rights Society of Britain and also the Recording Industry Association of America (RIAA). They benefited from our play list in those days because 99 per cent of the music played was their music.

Sir, we have a situation now where we have seen that a percentage of the local music now varies within the area of just under 40 to 60 per cent. I would like to hear one of these days in terms of the music on our radio stations that instead of the 60 per cent we are asking for, we have almost 100 per cent played. That would mean that the play list which is now being re-introduced at the various broadcast stations, where they have a responsibility to the two bodies which I have just mentioned, somewhere along the line will augur well for the entertainers in terms of receiving benefits for their music and works.

Sir, this will show you that this piece of legislation that

was prepared 20 years ago because of the foresight of the then Barbados Labour Party Government is coming to a reality for the benefit of the Barbadian entertainers.

If I may continue, Mr. Speaker, we must also look at the fact that we are being involved as part of the signature to the WTO. We also are talking about Barbados producing things and being identified on an international level. I would also say that there is something that Barbados can produce and benefit from on a world level and make this a patent. While sitting in this Chamber, I would like to congratulate the Minister of Sports and the Chairman of the Sports Council for having the foresight in looking at what we call "road tennis" which is a local and indigenous game. This is to be promoted in a couple of weeks across Britain.
4.05 p.m.

I personally believe that this is something that could become a patent as far as Barbados is concerned in the sense that it is an indigenous game and a game that we could say goes as far back as 1929-1930. I would like us to also consider the local gear made by local craftsmen which has always been used in the game. I hope the day will come, Mr. Speaker, when Barbados will be able to produce the gear and to have the gear autographed by some of the top sports people in road tennis. I am positive that that is one of the areas that Barbados can benefit from.

In terms of the size of the court, the balls and the rackets, Barbados can go to the international market and say that this is ours, we have copyrighted or patented this. Even the rules, I would go as far as saying that Barbados, in establishing the rules for road tennis, has something that it can patent and have become known throughout the world.

When one looks at this piece of legislation which is before this Chamber one may see it as something that deals mainly with the attorneys or with the legal brains of Barbados. Definitely, this is something which the legal brains will have to grapple with but, in terms of the ordinary people who are involved, the lay persons, the entertainers of Barbados, the sportsmen of Barbados who are not familiar with the benefits that might occur at a later date, I will agree that the day is soon upon us where we will have to start to do what is known as an educational process to explain to those people who are involved.

The entertainers go into the recording studios and spend lots of money recording and releasing their music, sometimes losing thousands of dollars as a result of the pirating that is done. I had the privilege of travelling and seeing Barbados' music being produced or being sold in certain places without the artists of this country knowing that their music is being sold in those countries. I had the privilege once of being in the United States and there was a

group there called The Fantastics. The Fantastics from Barbados released in the United States a similar jacket but The Fantastics did not receive any of the royalties or any of what we would consider to be a percentage of the sales of that music because as far as they were concerned at that time they were not protected. We also know, for example, as far back as 1995 when one of our local artiste, Ras Iley, recorded Spring Garden on Fire. Spring Garden on Fire was re-recorded by a Jamaican artist, but it is the work of the Mighty Gabby who wrote the lyrics and also produced the song, and was done by Ras Iley but it was re-recorded by one of the top bands in Jamaica, Byron Lee. I say that to say that they did not receive any benefits from it.

When we look at this piece of legislation that is coming before us – and Barbados is going to be part of the World Trade Organisation and all the signatories to the World Trade Organisation have to have some type of respect for the works of the respective countries – I personally believe that we are on the right track. Only today, if we read today's paper we would have seen that Sister Marshall is also complaining about the pirating which exists not only in Barbados but through the region. Then we are in good waters in terms of protecting our local artists. I can go on.

When we talk about patents, it is unfortunate that we do not have the Minister of Education and Culture in our Chamber today, but we could also talk about the copyrighting of Crop Over where, by right, several things can be done using the Crop Over logo of the NCF, not only at a regional level but also at an international level. This would give Barbados, as the Minister of Trade has said, the benefit of foreign exchange coming into Barbados as was the case years ago when we repatriated our money to the various countries for the services and the materials that they used. Today we are seeing a transformation where Barbados is on the threshold of receiving for the works of the artists, performers, recording artistes and producers of Barbados what is rightfully theirs.

I must say, Mr. Speaker, that this piece of legislation is not just for us to pass in this Chamber and say to ourselves that we have done it. I think we need to get out into the nooks and crannies and let the people know about this legislation because the person who keeps a dance and does not want to pay COSCAP for the licence is putting the local artistes at a disadvantage. For the persons who hold shows and who, years ago had to pay performers' rights for the music being played but are against this present situation of paying COSCAP because they feel within themselves that it is unfair to them, it cannot be unfair in the sense that the charter has now come back to Barbados in terms of Barbadian artists, in terms of Barbadian producers, in terms of Barbadians who are involved in the exercise, down to the area of sports, receiving what is rightfully theirs.

It is quite unfair for the Opposition to have said only a couple weeks ago, and I will repeat this because it must be sent home to those who are listening, to have accused this Government of not paving a way for the benefit of the artists and performers of Barbados. It is unfair to go on the mass media or at a public meeting to say those words when they know in fact that over the last twenty years the Opposition has done nothing to enhance betterment for the performers of Barbados since 1982. Another amendment was made in 1994. I would like to challenge the Opposition. What have they done between that period of time to give Barbadian artists the betterment?

Let us go even further. In 1966 we had Independence, 35 years ago. Between 1966 and 1981, I still would like to challenge the Opposition on what they have done for the performing artistes of Barbados in terms of bringing back the charter to Barbados rather than being critical of this Act. Between 1981 and the year 2001, I would still like to challenge the Opposition – to prove my point clearly that credit must be given where credit is due – and I would like to say to the artistes, the performers, the talented people of Barbados that now is the time to feel comfortable that their works will be respected.

I will talk about the play list as I go along in the sense that some of us in this Chamber do not relate to the play list. Those of us who are involved with the broadcast stations would know what the play list is all about in terms of the music being played. We say this for a reasonable point. I want to refresh the memories of those of you in this Chamber that we used to listen to a lot of R&B music on the radio stations and I for one am sending out a challenge from this Chamber to the FM stations in Barbados that play a lot of music that does not relate to the Barbados psyche. When they play that music, what they do is send money out of this country to other places. I would like to take this opportunity to extend a request to the FM stations in Barbados, more so than the AM stations, because I believe that the AM stations in Barbados give an average of 75 per cent or 80 per cent of local music. Still, I would like to see 100 per cent. The 100 per cent music does not mean that you are monopolising the airwaves with local music. What you are doing is that you are giving the Barbadian performers and artistes a pay day in the sense that the radio stations have then to pay for the works that have been carried on the airwaves.

4.15 p.m.

Sir, I want to look at manufacturing because I heard the Honourable Member for St. Lucy saying that producers in Barbados cannot produce enough to be recognised by world markets.

Sir, this is the year 2001 and technology is the name of the game. Barbadians can now prepare a website and exhibit their art via the internet. Mr. Speaker, the day will come when the debates from this Chamber will not only be

heard on the airwaves but Barbadians living anywhere in the world will have a chance to read these debates on the internet.

Sir, I think I have done justice to this piece of legislation before us today. The TRIPS Agreement is a significant piece of legislation for performing artists in terms of going to the bank and, because of this, they can become independent and not have to wait on Britain or America.

Mr. D. T. GILL: Sir, I rise to make my contribution to this debate. I was really impressed and educated by the speech of the Honourable Member for St. Michael North West. Sir, the Honourable Member for the City spoke and the one thing which kept coming through in her speech was the time frame in which business persons have to get themselves ready for the imminent changes laid down by the World Trade Organisation for 2005. This inertia to which the Honourable Member refers is tied to the fact that the subject matter does not deal with tangible, quantifiable objects. Sir, it could be said to be abstract in nature.

Sir, everyday the WTO puts out reams and reams of paper speaking to registration, be it related to beef, spirits, textiles or chemicals. This goes to show that unless countries have themselves well-equipped and well educated, we will be left standing on the shores.

Sir, as I see it, a country's survival, particularly among the underdeveloped countries, rests firmly and squarely on the threshold of scientific and technological smartness. Gone are the days when patents were clearly designed or speak to any tangible object like a cane harvester, for example. Sir, today, it is about knowledge, raw intrinsic knowledge. Even bacteria are now working to carry out basic synthesis which would have once taken a factory the size of Bridgetown. Today, South Korea is being referred to as the epitome of information technology.

Sir, the area of this Bill that particularly concerns me is the area dealing with new varieties of plant species and genetically modified crops. These genetically modified crops have their pluses and they have their minuses. We in Barbados must be very wary as to where we stand lest we become the dumping ground for such products.

One of the drawbacks is the problem which our indigenous crops might face if these new species get into our environment. Sir, in some instances they can actually wipe out our intrinsic crops. In other instances, it is a case of competition where the new species competes with the old species. This is a basic law of adaptation where the environment will favour the new species over the older species.

Sir, over and above that, we must be very wary with respect to allergic reactions which these genetically modified crops may introduce into our population. Barbados is a population where one third of our children suffer with asthma and related respiratory tract ailments, all of an allergic nature.

If you take a small group of footballers or cricketers overseas on a tour, after they reach the destination they will fall ill on your hands because one third of them are chronic asthmatics. Sir, in any classroom at least one third of the children are away because of such reasons. We cannot afford to compound that issue by bringing food and nutrition into our environment which would help to aggravate the situation.

Sir, I do not know if it is still being used but, until recently, there was an additive called Propanoic which our bakers put into the dough to give it a longer shelf life. This additive is a known allergen. I do not think that the profession takes any serious approach as to the quantity used in its manufacturing and production of bread. Sir, these are things we have to be very careful about.

On the other hand there are pluses when it comes to how to feed bigger populations and deliver food at a cheaper cost and how to produce a more resistant strain, be it sugar, wheat, carrots or tomatoes. It is a necessary tool in counteracting various pests and pest-oriented diseases and in improving crop yield per hectare in any given crop period.
4.25 p.m.

Sir, we have heard quite a bit of talk today about Barbados' achievement in sugar cane. We have a history, which is well documented, of cane breeders and technology as far back as John Redman Bovell, the man whose picture graces the \$2 bill. Barbados rubs shoulders with Mauritius and Australia when it comes to cane breeding, technology, new strains and varieties.

Sir, we are probably at a juncture where the mass production of sugar cane may not be giving us a decent return on investment. But there are other areas, to which an earlier speaker did allude, which are separate and distinct from the cane breeding, newer strains and newer varieties, and those are the by-products. I am of the opinion that we do not just come to a conclusion to remove the sugar cane plant completely from our landscape but rather to use its by-products, whether it be in the spirits industry, the pharmaceutical industry, the nutrition industry for livestock or, which is the mainstay, which is going to be environmentally and ecologically of great necessity. Sir, this tells us how we can now establish and promote ourselves in a different sub-sector of the sugar cane industry.

Yesterday, I was reading a Dr. Lucas who made mention of the fact that there is now a new sweetener. The technology was mastered by the Japanese. This new century is going to be dominated, in no small measure, by the blue chips and genetic sequencing, whether it is to treat ailments or to direct our flights from one continent to another. This new century is going to be dominated by such scientific and technological breakthroughs.

Dr. Lucas made reference to taking the genetic materials from a berry found on an African bush and inserting it into bacteria which will use that gene to produce sweetener as a by-product in their metabolic functions. Sir, this is nothing totally new because they are many of us who lead our lives, day to day, by being users of insulin. There is no way that the number of insulin users throughout the world could just wait on the older ways of manufacturing insulin from slaughtered cattle or pigs and refining it for human usage. Sir, this only goes to show that day by day we are having more and more significant scientific breakthroughs to cope with the demands of world taste, preferences and compatibility.

In recent times we have seen the Barbados Horticultural Society going to Chelsea and winning gold awards, using heliconias, lilies or anthuriums. Barbados has always had a good tradition of people who understood flowers, whether they were academic, botanical or practical. Sometime ago there was a Mr. Tim Hoyte and a few other people who understood the techniques of grafting and budding. There was also a Mr. Roach who, I was made to understand was the uncle of the Honourable Member for St. Peter, who mastered the art of floral grafting and budding.

Asides.

Mr. D. T. GILL: Sir, whether there were the gardens at the National Petroleum Corporation at Wildey or the one at Government Headquarters, one could see and state without doubt that those gardens were looked after and manicured by Mr. Roach. Sir, were he alive, he would have been one of my constituents. His relatives still live in the constituency.

Mr. Speaker, today we have newer techniques available to us, like the tissue cultures which will take you a step closer to the same genetic engineering to which I earlier alluded. We have here in Barbados, a Professor Tinto at the University of the West Indies who is working on nature species and who has been able to isolate a type of citrus flarin which has been used in the treatment of HIV conditions and hepatitis. Mr. Tinto's work is being supported by a Canadian laboratory which is extremely interested in his work.

We do not have to spend all our time in the time-

honoured manufacture of garments and the production of commodity crops. If we are in commodity crops, then let us look at new strains, varieties and the uses of the by-products and shift away from the mainstream uses for production. Now that I am on this topic of the uses of local plants and herbs for medical purposes, I would like, Sir, because mention is made in the Bill, to address generics, as in generic drugs in drug therapy. There is an international body which pushes and fosters the use of generics, particularly in the Third World and other developing countries. I am very wary of that, Sir. There are generics and there are generics.
4.35 p.m.

Sir, the Honourable Member for St. Michael North spoke to the price but, Sir, generics in life-threatening conditions in seriously ill people have no place whatsoever. In the final analysis, a person ends up spending as much money for those generics as if he had used brand name drugs for a short period of time.

Asides.

Mr. D. T. GILL: You have been using them? You may only need a glass of water to cure the ailment in the first instance.

Sir, there are a lot of fly-by-night generic houses that would like to dump their products in the Caribbean. Sir, when you look at the labels and inserts they are written in languages other than ours and I do not know how well one would be able to trace their roots back to their origin. And, Sir, I will say that I have no confidence whatsoever in most of the generics that come here, not even the ones put out by the ethical companies and I am going to make that quite clear.

While on that point, Sir, a very recent fad is the healthy lifestyle fad. Now, if anybody from the Orient, as far as I can see, can come up with a package, a vial or a bottle, it means that it is supposed to work. People know absolutely nothing about the product. They do not know if the product is compatible or not and there is little or no research being done. But you must read the fine print...

Hon. D. A. C. SIMMONS: On a point of order, Shilling Oil works.

Asides.

Mr. D. T. GILL: I am not speaking about the things that you rub with. They are time-honoured and work. What does not work are the ones in the little vials that you have to use 20 capsules a day, three after each meal. There is no scientifically documented proof that they work and if they do work, they take a long time to do so. But what we do get are people using them at the same time as the prescribed medication and persons do not even know which one is working.

About a year ago, we had the craze of a juice on the market named noni juice and everybody used it. Years ago, any boy who grew up would have used this noni fruit for catching crabs. The same thing with wild pine, you use it when you go catching crabs. But suddenly, this juice coming out of Tahiti, is now the juice that can cure any and all ailments. Well, Sir, I personally know of two persons that this juice almost took to the great beyond. People do not know what effect it has on the brain, the liver, or the heart and as the Honourable Member for Christ Church West Central said, there is no recommended dosage, nothing.

At this point in time where trade is being liberalized and there is a lot more movement I am saying that Barbadians must be very weary and should know whether a can of carrots or tomatoes were genetically modified or not. We should have the option to read and understand. We should also have the option to see what are the active ingredients in any of these juices. Sir, we should also have the option to read any scientific study and these products should not just come into any shop for use.

I remember last year, while I was in England, I bought a garlic supplement and in the very finest print there was an ingredient which had the ability to lower the blood pressure. The question was asked, is it that ingredient or is it the garlic which would lower the blood pressure? Therefore, Barbadians must not only be alert, but must also be given the choice in being able to see and reason for themselves.

Sir, whether it be at the Eagle Hall Market, the Cheapside Market, or at the street corners, nowadays we cannot even get a banana which has been ripened through the natural process. This shows the infiltration of the technology of the mega plantation the world over in having these bananas gas ripened, but when you look at the banana, one quarter or half of it is ripened. In the afternoon when you look again, you see half ripened and the other half not and after a day that entire banana breaks down and loses its taste. Therefore, I am saying the further away we keep from some of these new techniques and consumption patterns, the better off we would be because Barbados already is a country which is riddled with hypertension, diabetes and asthma.

Mr. Speaker, Sir, with those remarks, I make my contributions. I thank you.

Mr. SPEAKER: The Honourable Member for St. Michael North.

Hon. R. St. C. TOPPIN: Mr. Speaker, I too want to begin by saying how pleased I am today to see you here with us, particularly since we have a very strong bond, perhaps more of a geographical nature than others may have with you, but welcome back Mr. Speaker.

Mr. Speaker, after the opening remarks of the Honourable Minister of Industry and International Business, I did not think that I would have had to participate in this debate today, but the Honourable Leader of the Opposition always likes to drag me into debates. Apparently he likes to hear exactly what I have to say and has, therefore, forced me, as I would say, to make a few comments.

Although I have the responsibility for the area of business development and consumer affairs, I do not have responsibility for the area of franchising and such like. What I would like to say, Mr. Speaker, is that I am not one of those persons who are protectionist by nature. I really do not support protectionism – I do so only in exceptional circumstances – but for a very long time now this Government, and I in particular, has been on every possible occasion urging local business communities to accept that globalization, trade liberalization and their impact on Barbados were near at hand. The time has now come when we do not have to speak in a futuristic manner about these concepts anymore because, in my opinion, they are both now upon us. It is a fact, an undeniable truism, that in a matter of weeks PriceSmart is going to be operational in Barbados. That is no longer speculation, but a fact and, therefore, I think that it is incumbent on local business enterprises to refrain from the approach that they have been accustomed to over the years of seeking protection and rather, as we have been urging them time and time again on every possible occasion, get their house in order to deal with the consequences of globalization and trade liberalization. 4:45 p.m.

Concepts such as strategic alliances, mergers to some extent and joint ventures should no longer be strange words, ringing in the ears of local business enterprises – including local, small enterprises – for the simple reason that the Government has been urging this on that sector for some considerable time.

Sir, this Government recognised that inevitably, Barbados would have reached the position it has reached today, where foreign, bigger entities would be establishing, pursuant to commitments at the WTO and the like ... decided that it was necessary for us to have a fair trading commission to address the issue of competitiveness. Also, with the advent of new entities, it meant we were going to be witnessing an element of competition.

Therefore, we had to address the issues of competitiveness, efficiency, quality and the like to ensure that the local business sector would be able not only to survive, but to thrive in the face of the competition and that competition would become a normal way of life, as it were, in Barbados – not only among all local establishments but also between local establishments and foreign entities that were going to establish in Barbados.

May I say that I think our local entities must recognise that, in the same way foreign entities can establish here, they can similarly seek to establish elsewhere. I would urge them to refrain from the approach of seeking protection from the Government.

Sir, if in their bid to establish elsewhere they meet difficulties and there is no reciprocity, then I am the first one to say that is what I would call an exceptional circumstance, which would justify our looking at the issue of protectionism again. However, as I said at the start, I do not by nature support protectionism.

In recognition of this competition, the Fair Trading Commission was established. I want to say, for the benefit of the Honourable Member for St. John, that the Fair Trading Commission is very much in existence and is currently in the process of recruiting staff. There are a number of important matters that they will have to be dealt with. They are empowered to function in relation to utility companies in Barbados but these are not issues that they are going to be able to address overnight. They have to first get the staff, which they are currently engaged in recruiting, and they are also currently engaged in training for the staff being recruited.

We are moving to a totally new type of approach in the area of utility regulations. In moving from a rate of return type regulation, we are looking at incentive type, compatible rate setting mechanisms, all of which require study and training for those people who are going to be employed there, so they are able to administer that new, rate setting regime. It is going to address the issue of the cost of utilities, which constitutes a very integral part of the cost of doing business to any entity. Sir, that will in itself ensure that, by the savings in operating expenses in utilities, businesses will, in fact, be able to be more competitive.

Sir, the Honourable Member asked where we were going in relation to consumer protection legislation and competition legislation. On this occasion, I am not going to respond as strongly as the Honourable Member knows that I do whenever he raises these non-points because, by now, the point should have been clearly made that these are not trivial pieces of legislation. This legislation was well and carefully thought out before it was brought to Parliament.

Sir, other countries in the region have sought to rush this legislation and have met with many problems. The idea of having a fair trading commission was first introduced in Barbados in 1998 and approximately two years later, January, 2001, there was a Fair Trading Commission in Barbados. Some countries in the region have taken seven years to put legislation like this in place and, even after taking such time, they are finding tremendous problems in relation to the legislation. Countries like New Zealand have taken a number of years as well and they too, have problems.

Sir, this legislation will not be rushed and it cannot be rushed.

Sir, the legislation is in a process of consultation, before an advisory committee. I am not one for giving deadlines. I set target dates and I work with these target dates but my Ministry does not draft legislation. The drafting of legislation is done by the Attorney General's Department which is under-manned – needs staff – and therefore things cannot happen magically or overnight and it is not an area that can be pressed.

I am surprised that the Honourable Member raised this point. It shows that he does not seem to be reading or tracking what is going on because, only recently, there was a seminar held at Grand Barbados in relation to the fair competition legislation where a wide cross-section of interest groups in Barbados came and put their views. We had consultants making presentations in relation to the policy concepts and already a first draft of the fair competition legislation is being distributed and work is being done on the legislation on a daily basis.

With respect to consumer protection legislation, a seminar is scheduled for Monday 23rd July but already we have the Consumer Protection Act which is at a very advanced stage. It is currently before the Advisory Committee and it will be discussed at the seminar.

We also have a Consumer Guarantees Act which is currently in draft form. Sir, without giving a deadline, we expect that the legislation that the Honourable Member mentioned today will be brought to Parliament as soon as possible.

The Government and the Ministry recognise that, with the advent of globalisation and the influx of foreign entities, we have to ensure that they do not try to come and are not allowed to get away with any of their unfair trading practices. Mr. Speaker, it is for this reason that this Government, recognising that this day would come, decided in 1998 that it was necessary to set up a fair trading commission to handle all of these various issues, to ensure that the country of Barbados, the Barbadian public and the Barbadian consumers would all be able to benefit from the reality of the onset of globalisation.
4.55 p.m.

That, Mr. Speaker, is exactly where we are today and as soon as it is humanly possible the legislation will, in fact, be before Parliament. It is being worked on, as I said, on a daily basis.

I thank you, Mr. Speaker.

Hon. R. R. FARLEY: Mr. Speaker, I rise at the conclusion of the second reading of this Bill to thank all

Honourable Members for their contributions on what I think was a very, very full debate.

Indeed, Honourable Members with the exception of the Honourable Member for St. Lucy are all agreed on a few very simple points. Of course, the Honourable Member for St. Lucy not only disagrees with the legislation but disagrees with his leader, the Honourable Member for St. John, who I must salute for not betraying his deep understanding of these international trade matters and for taking the high road in terms of a very reasoned, mature and constructive contribution on an issue which, at the end of the day, is not a political issue subject to the cut and thrust ...

Asides.

Hon. R. R. FARLEY: Mr. Speaker, the reality is that this is part of the new economic process in which we are engaged. Honourable Members were able to properly locate this issue of intellectual property protection and exploitation within its proper context, first of all, in terms of the need for harmonization of our approach to this matter within the CARICOM Single Market and Economy and further into the Free Trade Areas of the Americas, as well as in terms of the wider participation in the international community.

Indeed, as was pointed out, it is not only in this area of intellectual property but in other non-traditional areas of cooperation that we within the CARICOM Single Market and Economy have to wake up and move fast. In fact, from a perspective of basic precepts it is very important in all of our CARICOM Single Market and Economy actions that we have to ensure that we set a higher standard for our level of collaboration and cooperation than we do for the international community so that our intellectual property cooperation within the CARICOM Single Market and Economy must be TRIPS plus and our trading relationships within the CARICOM Single Market and Economy must be Free Trade Area of the Americas plus and WTO plus. What that means basically is that these international agreements set a minimum standard for cooperation and a minimum level for harmonization between countries which are individual sovereign countries and which may not have any other forms of cooperation.

If we are moving beyond just a single market in goods, however, and are seeking to establish a single business space, I would trust that we have not deviated from the ultimate pinnacle, that is, our political union, but that is a longer term objective. So if we are to come to that single economic space in which to do business, then minimum standards will not suffice. So that in this area and, indeed, one of the areas in which the Caribbean has not spoken much amongst themselves but which they are speaking about to others, is an area such as Government procurement.

For example, within the Free Trade Area of the Americas, Government procurement is one of the areas under discussion. Therefore, individual Caribbean countries could be asked to consider opening up the purchase of goods and services by their individual governments to member countries within the Free Trade Area of the Americas. However, we have not yet moved to the stage within CARICOM where that type of procurement happens and those are issues which we have to treat.

So that the establishment of and the agreement on the fact that the implementation of intellectual property protection systems compliant with TRIPS is important was agreed but, more fundamentally, all Honourable Members are agreed on the position that we have to do much better, as a country, in terms of exploiting the available protection to the economic benefit of our Barbadian producers.

Honourable Members were able to provide a number of examples of areas in which some improvement could be made and, in fact, I will want to suggest that it is in the area of the new entrepreneurs, the small businesses particularly, and those with some of the newer alternative ideas on products and services, who can benefit most from the protection which is there because at the end of the day, for the most part, the greatest asset which small business persons have and which new entrepreneurs in the marketplace have is their creative thought, the new idea which brought them first to business. They are usually competing in a very uneven playing field in access to capital, to markets and in terms of having a network of clients and other business support services and the only leverage which they have is an idea that they can say is truly theirs.

In the absence of intellectual property protection, the theft of that idea, the sell out of the information and those things which routinely used to happen before can continue. A strong intellectual property protection system, however, puts the owner and the creator of an idea, that new entrepreneur, in a position to leverage the idea to obtain finance or even to sell the idea.

In fact, Sir, as you would be aware, many persons in the new knowledge-based economy make their money by creating new ideas and selling those ideas to larger companies. Large companies, it is acknowledged, do not usually have the environment in which new ideas, new products and new services are created. That is usually done by small operators, whether they be in the area of information technology, creating new hardware or software, whether it is in the area of food and beverage services or whatever area you name, Sir. Barbadian producers, therefore, need to take advantage of this fact as one means of making a meaningful insertion into the new economy and I will, therefore, commend this legislation to them in that regard.

I, certainly, would want to give the House the assurance that we see this legislation as being only a step in the direction in which we want to go. We do not see this legislation as automatically creating an ocean of contentment and a notion of opportunity which would automatically lay itself open as the Red Sea was parted for the Israelites to move out of Egypt. It will require work. None of this will be automatic. Certainly, the agencies of Government stand ready and have already started on the process of education, of enlightenment and further as part of the technical assistance programme of \$5 million per year for the next three years which is being provided to the manufacturing sector in Barbados.

One of the components in that technical assistance programme is the exploitation of the intellectual property potential of various Barbadian manufactured products. We will assist them in tangible ways to get to the point where they have their trademarks registered; where, if there are inventions that are patentable, that they have patents in place. Generally speaking, by whatever means is required, to ensure that they are able to benefit from the excellent ideas which have certainly been theirs.

5.05 p.m.

Also, Sir, we need to work in reverse directions as well. There are some products which have excellent brand name recognition whose potential the owners of that name, for various reasons, are not able to exploit fully. For example, Sir, – and I am not taking any tales out of school by saying that – Windmill Products has over the many years of its operations, particularly in its earlier days, built up a market recognition and a loyal following of customers for the various products which it makes. However, over the last few years when we were doing our market research and other examination of markets in the UK for the export of Barbadian products, we were informed that the distributor there cannot get enough of the product to sell.

In cases, Sir, where the country has a product and a brand which is known, is recognizable and has potential, then we have to do the reverse. We have to create or enable establishments which can make the products and encourage collaboration with the owner of the intellectual property to license other producers to produce under that brand to make sure that between them, Sir, we are not losing out on the opportunity.

I would hope, Sir, that some of the newer entrants to the market, for example, Hi-Pac, which has come onboard in the last month or two with steamed flying fish in a can, trading, I believe, under the brand of Island Cuisine. They have several other things – a beef and potato roti mix, a chicken and potato roti mix and there are several other everyday Barbadian and Caribbean foods – which are now being placed in convenient packs by way of canning and

placed in a situation where storage is no longer an issue therefore facilitating the use of cheaper shipping routes for export. Products such as these are protected by intellectual property so that imitators, competitors who recognise the potential, would not suddenly swoop in and steal some of these ideas.

The Ministry of Industry and International Business will be working with a number of these creators of very exciting and innovative products, recognising that there is significant potential for a marriage between excellence in manufacturing and securing our place in the market through intellectual property works.

I would want to applaud and support the Minister of Foreign Affairs and Foreign Trade for her indication to this Honourable House of Assembly of a plan to establish a standing committee on foreign trade. We really have to make use of mechanisms such as this to ensure not only that the Parliament but the wider public, as well as the special public who will all be affected by these matters of international importance which we debate in this Chamber from time to time, are all very much aware.

I think that every person who spoke quite properly lamented the fact that, if there is in fact one major drawback to our being able to achieve success from this strengthening of our intellectual property legislation, it has been the slowness and the lack of due care and attention demonstrated by the private sector to matters which are, at the end of the day, fundamental to the private sector. There is no benefit in the creation of this legislation to Government. The benefit is really to the owners of the rights who are really private persons. What Government is doing is discharging its obligation to create a system of protection for the property of these individual persons, recognising not only physical property as being important but ideas, that creations of the mind are also very important and that, in the knowledge based era in which we live and the fact that cultural identity and creation and industry are also very important aspects of the new economy, we are discharging our responsibility to create a framework but it will remain but a framework, a shell of possibility if the private sector, in all of its manifestations – the old private sector, the new private sector, big private sector, small private sector, white private sector, black private sector – does not wake up and get up off their hind legs and take the necessary steps to exploit the potential.

In short, Sir, we are really calling for change of outlook – where previously Barbadian business persons were content to do their business locally, raise their prices to get whatever profit target they set, based on this small population base, they now have to be truly international in orientation. Barbados is but a place where they live, Barbados is but a place where they have their headquarters; but their market,

their natural market, has to be considered at the very least as being the Caribbean. Certainly, I would think that any business person who is really interested in establishing a business and making a profit would not ignore the more liberal access to the 800 million persons resident in the Free Trade Area of the Americas and the US\$17 trillion in GDP which form the value of the economies of the Free Trade Area of the Americas.

Sir, looking towards the longer term future and the wider range of possibilities, recognising, for example, the interest and the commitment of the Government to establishing further meaningful relationships with Africa, particularly in terms of our economic relations; recognizing that steps have been taken to establish or give meaningful and practical effect to existing diplomatic relations with countries on the African continent and, through the work of the Ministry of Foreign Affairs and its foreign missions as well as the Pan African Commission and a number of cultural exchanges and other initial points of contact, to look to ensure that we use the fact that technology has removed geography as a constraint on international trade and commerce, we will be able to use the strengthening of this intellectual property regime to better enable us to trade freely and to look to new sources and new markets for the goods and services which we produce.

In an earlier statement to this House, I indicated that one of the means by which the Ministry, through the Barbados Investment and Development Corporation, would be seeking to assist the manufacturers of Barbados to find new markets and to expand the range of consumers that they have for their products would be through the establishment of an e-commerce sector. I am pleased to report, Sir, that that site was launched as part of the industry celebrations for this year during June. The site which currently has some hundred or so Barbadian products hosted on it is supported by a fulfilment centre in Boston that is operated by a Barbadian who has for many years been a distributor of a range of Barbadian products, from Barbadian soft drinks to snacks and other foods and beverages and other exports. The fulfilment centre is a centre that does the shipping of tangible goods. So you would store a reasonable amount of the products in this warehouse in Boston which then makes it possible for you to fulfil orders in a shorter time and not incur the high cost of shipping small quantities of items between Barbados and the United States or Canada, for example.

We will be looking to add more products to the website as well as establish fulfilment centres in other areas of the world to enable speedy fulfilment of orders from Europe, for example. We will be seeking to ensure that the products which we have on our website are being adequately protected by way of intellectual property.

I also want to indicate that this is only one of several very creative and innovative means by which we will be seeking to broaden the penetration of Barbadian products and services overseas. I indicated at the launching of our website that efforts should be made to broaden the range of products and services available because that particular website could easily be used as a means of distribution for Barbadian music and art and for the sale of Barbadian medical, legal, engineering and other services. It is a matter of utilising today's technology to solve an age old objective of expanding the range of goods and services that we sell to the rest of the world.

Sir, in conclusion of this debate I want to say that Members on Both Sides of the House recognise the importance of putting this legal framework in place. We also recognise the importance of urging and assisting Barbadian businesses to take advantage of it and to give the assurance that we are much in that mode of seeking to build on this base which we have established.

Sir, I want to thank all Honourable Members for their contribution and I beg to move that the Bill be now read a second time.

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

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

On the motion of Hon. R. R. FARLEY the House resolved itself into Committee, Mr. D. CARTER in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is now in Committee.

Clauses 1 – 3 were called and passed.

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

On the separate motions of Hon. R. R. FARLEY, seconded by Hon. D. A. C. SIMMONS the Bill was read a third time and passed and cited as the Integrated Circuits (Amendment) Act, 2001.

ORDER NO. 10 – THE TRADE MARKS (AMENDMENT) BILL, 2001

Hon. R. R. FARLEY: Mr. Speaker, we have agreed that we would debate these Bills together and this is to give

effect to the Agreement on Trade Related Aspects of Intellectual Property Rights, 1994.

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

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

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

On the motion of Hon. R. R. FARLEY the House resolved itself into Committee, Mr. D. CARTER in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is now in Committee.

Clauses 1 – 3 were called and passed.

Clauses 4 – 10 were called and passed.

Clauses 11 – 14 were called and passed.

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

On the separate motions of Hon. R. R. FARLEY, seconded by Hon. D. A. C. SIMMONS the Bill was read a third time and passed and cited as the Trade Marks (Amendment) Act, 2001.

ORDER NO. 11 – PROTECTION OF NEW PLANT VARIETIES BILL, 2001

Hon. R. R. FARLEY: Mr. Speaker, this Bill provides for the protection of new varieties of plants and gives effect to the Agreement on Trade Related Aspects of Intellectual Property Rights, 1994.

I beg to move that the Bill be now read a second time.

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

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

On the motion of Hon. R. R. FARLEY the House resolved itself into Committee, Mr. D. CARTER in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is now in Committee.

Clause 1 was called and passed.

Part 1 was called and passed.

Part 2, Clauses 1 – 4 were called and passed.

Part 3, Clauses 5 – 14 were called and passed.

Part 4, Clauses 15 – 21 were called and passed.

Part 5, Clauses 22 – 34 were called and passed.

Part 6, Clauses 35 – 41 were called and passed.

Part 7, Clauses 42 – 48 were called and passed.

Part 8, Clauses 49 – 57 were called and passed.

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

On the separate motions of Hon. R. R. FARLEY, seconded by Hon. D. A. C. SIMMONS, the Bill was read a third time and passed and cited as the Protection of New Plant Varieties Act, 2001.

5.25 p.m.

ORDER NO. 12 – THE PATENTS BILL, 2001

Hon. R. R. FARLEY: Mr. Speaker, this Bill will revise the Patents Act and replace it with this one to give effect to the Agreement on Trade-related Aspects of Intellectual Property Rights as well to give effect to the Patent Co-operation Treaty, 1970 with respect to international patents applications and related matters.

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

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

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

On the motion of Hon. R. R. FARLEY, seconded by Hon. R. C. EASTMOND, Mr. SPEAKER left the Chair and the House went into Committee on this Bill, Mr. D. CARTER in the Chair.

COMMITTEE

Mr. CHAIRMAN: This House is in Committee.

Clauses 1 to 4 inclusive were called and passed.

Parts 1 – 6 , Clauses 36 – 39 were called and passed.

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

On the motion of Hon. R. R. FARLEY, seconded by Hon. R. C. EASTMOND, Mr. CHAIRMAN reported to His Honour, the SPEAKER, the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. R. R. FARLEY, seconded by Hon. R. C. EASTMOND, the Bill was read a third time and passed and cited as the Patents Act, 2001.
5.35 p.m.

Hon. R. R. FARLEY: Mr. Speaker, just speaking briefly before the adjournment. On the conclusion of my second reading, I omitted to include the staff of Corporate Affairs and the Advisory Committee, to thank the very heavily stressed persons in the Drafting section of the Chief Parliamentary Office, those persons who are required to do all the drafting of legislations coming before this Parliament. We have been at odds, from time to time, regarding certain speed, sequence or other issues relating to the drafting of these legislations. The same way that it is possible to be frank when we want to express our concerns or dissatisfactions with matters, then we can be equally frank with the offering of thanks and congratulations. The reality is that this legislation on Intellectual Property was not just a one-time drafting exercise. It represents a long-term commitment on

the Office of the Chief Parliamentary Council to their involvement in the process of this intellectual property policy framework going back from April, 1994, coming through to the present. They have served on a number of committees and working groups, have done courses and have been able on their own to give us final drafts, having become experts in the area of intellectual property.

I would, therefore, want to use this Parliament to thank that department, particularly Sir, one person who can no longer be captured under the tents of the Chief Parliamentary Council, Mr. Justice Sherman Moore who, himself, did much of the drafting of the earlier pieces of the legislation and who contributed, in no small measure, to these matters coming to where they are today. With that background experience he should serve the Bench well, when he has to adjudicate on a number of matters which will ultimately get there because of their critical nature. I thank you, Mr. Speaker.

Hon. D. A. C. SIMMONS: Mr. Speaker, that concludes Government's Business for the day. I beg to move that this Honourable House do now adjourn until next Tuesday, 17th July, 2001, at 11.00 a.m.

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

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Mr. Speaker read the following Message from the
Honourable the Senate:

MESSAGE FROM THE HONOURABLE THE
SENATE TO THE HONOURABLE THE
HOUSE OF ASSEMBLY

The Senate has the honour to extend its
compliments to The Honourable the House of
Assembly and to reply to the Message from the
House inviting the Senate to appoint five Senators
to a Joint Select Committee on the Employment
Rights Bill, 2001.

The Senate is pleased to appoint:

Senator the Honourable Phillip C. Goddard
Senator John E. D. Williams
Senator Dale D. Marshall
Senator Leroy H. McClean
Senator C. LeRoy Trotman

to constitute the Joint Committee with Members
of the House of Assembly, and to offer every
good wish for the deliberations of the Committee.

Dated the 4th July, 2001.

FRED W. GOLLOP
President.

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(iv) Annual Report and Accounts of the
Barbados National Bank Inc. for the year
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Fund for the quarter ended 31st March, 2001.

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Annual Report of the Barbados Broadcasting
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Annual Report of the National Petroleum
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Hon. R. N. GREENIDGE 2

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Hon. D. A. C. Simmons welcomed Mr.
Speaker back to the Chamber after his recent
leave for illness and surgery and wished him
continued good health.

Mr. D. J. H. Thompson also welcomed Mr.
Speaker back to the Chamber and wished him
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- GILL, Mr. D. T. (St. Michael South Central)**
- GREENIDGE, Hon. R. N. (St. Philip North)**
- KELLMAN, Mr. D. St. E. (St. Lucy)**
- MILLER, Miss B. A. (City of Bridgetown)**
- SIMMONS, Hon. D. A. C. (St. Thomas)**
- THOMPSON, Mr. D. J. H. (St. John)**
- TOPPIN, Hon. R. St. C. (St. Michael North)**
- WILLIAMS, Mr. M. Z. (St. Michael North West)**