
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 2003 – 2008

HOUSE OF ASSEMBLY

Tuesday, February 15, 2005

Pursuant to the adjournment, the House of Assembly met at 10.15 a.m. on Tuesday, February 15, 2005.

PRESENT

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

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

Mr. D. J. H. THOMPSON, LL.B. (Hons.)

Mr. L. R. TULL, Q.C., M.A. (Oxon).

Hon. R. C. EASTMOND, B.A. (Hons.), Dip. Ed., LL.B. (Hons.), L.E.C., J.P. (Minister of Labour and Social Security)

Hon. G. A. CLARKE, B.Sc., Dip. Ed., J.P. (Minister of Public Works)

Mr. R. D. MARSHALL (Chairman of Committees)

Mr. R. St. C. TOPPIN, LL.B. (Hons.)

Mr. D. St. E. KELLMAN

Hon. Miss H. E. THOMPSON, LL.B. (Minister of Housing, Lands and the Environment)

Hon. Miss M. A. MOTTLEY, Q.C., LL.B. (Deputy Prime Minister, Attorney General and Minister of Home Affairs) (Leader of the House)

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

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

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 Energy and Public Utilities)

Hon. R. R. FARLEY, B.Sc., J.P. (Minister of Education, Youth Affairs and Sports)

Hon. Miss C. Y. FORDE, J.P. (Minister of State, Ministry of Education, Youth Affairs and Sports)

Mr. R. D. JONES, B.A. (Hons.), M.A. (Ed.), J.P.

Dr. D. C. ESTWICK, B.Sc., M.B., B.S.

Mr. C. A. MASCOLL, B.Sc. (Econ.) (Hons.), M.A. (Public Finance) (Leader of the Opposition)

Hon. D. D. MARSHALL, LL.B., (Hons.), L.E.C., (Minister of Industry and International Business)

Mr. M. A. LASHLEY, LL.B., (Hons.)

Hon. K. D. SYMMONDS, B.A., LL.B. (Minister of State, Ministry of Foreign Affairs and Foreign Trade)

Dr. W. F. DUGUID, B.D.S. (Comm.), F.D.S., FDRCS., J.P.

Mr. R. L. SEALY, B.Sc., M.B.A.

Prayers were taken by Canon Father Ivan Harewood.

Mr. SPEAKER: The House is now in session.

MINUTES

Mr. SPEAKER: The Minutes of Tuesday, February 8, 2005.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I beg to move that the Minutes for the Honourable the House of Assembly for its meeting of Tuesday, February 8, 2005, be confirmed subject to any omissions, observations and/or corrections.

Hon. R. C. EASTMOND: 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

Mr. SPEAKER: Honourable Members, I am in receipt of the following Message from the Honourable the Senate.

“MESSAGE
from
THE HONOURABLE THE SENATE
to
THE HONOURABLE THE HOUSE OF ASSEMBLY

The Honourable the Senate has the honour to inform the Honourable the House of Assembly that at its Sitting on the 9th day of February, 2005, Clause 17(b)(3) and (4) of the Travel Services (Amendment and Validation) Bill, 2005, was amended by inserting immediately after the words “travel agent” the words “or tour operator”, so that the said amended Clause 17(b) (3) and (4) shall now read:-

“(3) where a decrease in any amount of any security is not made good within the time stipulated in subsection (2) the Registrar shall suspend the licence of the travel agent or tour operator for a period of 60 days.

- (4) Where the travel agent or tour operator
- (a) makes good the decrease referred to in subsection (2) before the expiry of the period of suspension the Registrar shall revoke the suspension immediately.
 - (b) fails to make good the decrease referred to in subsection (2) by the end of the period of suspension referred to in subsection (3) the Registrar shall revoke the licence.”

AND the Honourable the Senate transmits the amended Bill to the Honourable the House of Assembly inviting concurrence in the Amendments to the said Travel Services (Amendment and Validation) Bill, 2005.

Dated the 10th day of February, 2005
Sir Fred Gollop
President.”

10.30 a.m.

Mr. SPEAKER: May I inform Honourable Members that this matter will be dealt with as the first item of Government Business.

PAPERS

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I am commanded to lay the following:

1. Financial Statements of the Barbados Marketing Corporation for the years ended March 31, 1992 to March 31, 1993 and the period April 1, 1993 to August 31, 1993.
2. Annual Reports of the Barbados Agriculture Development and Marketing Corporation for the periods September 1, 1993 to December 31, 1994 and thereafter the years 1995, 1996, 1997, 1998, 1999 and 2000.
3. Financial Statements of the Barbados Agriculture Development and Marketing Corporation for the period September 1, 1993 to December 31, 1993 and the years thereafter, 1994, 1995, 1996, 1997, 1998, 1999 and 2000.

CONGRATULATORY AND/OR OBITUARY
SPEECHES

Hon. R. C. EASTMOND: Mr. Speaker, between 1961 and 1971, there served in this Honourable House a distinguished, humble and dignified personage known as John Berkley Yearwood. He would have come to This Honourable House in 1961, under the system of Double Member Constituencies and served alongside whom we now call the Right Excellent Errol Walton Barrow, as representative for the constituency of St. John.

John Berkley Yearwood entered this world on August 3, 1924 and was born significantly in the parish of St. Lucy. He was the son of Mr. and Mrs. Mortimar Yearwood and among his siblings are: Violet Jordan, Doreen, Rufus, James, DeCoursey and Percy Yearwood, and the late Reverend Emaline Harding.

John Yearwood married Coral Crawford on June 28, 1951 and would have celebrated 53 years of marriage on June 28, 2004. He fathered four children: Wendell, Sandra, Joel and Carolyn. He has also been the proud grandfather of Justine and Taegue.

John Yearwood was known as a devoted family man and would have been a shining example to all those with whom he interacted and, indeed, all those who would have heard of his example and the manner in which he lived.

His introduction to elective politics was in 1961, at a time of a political watershed in the politics of Barbados, when, operating as a flag-bearer for a party which was then

using a broom and trumpeting the slogan "Sweep Them Out", he ran for the constituency of St. John and was successful under the system of Parliamentary elections that then prevailed, the Double Member Constituencies.

Mr. Speaker, between 1966 and 1971 when he was re-elected, he served as Chairman of Committees within this Honourable House, and lest I forget, after he did not run again for elective office in 1971, he became an Honourable Member of the Other Place.

Mr. Speaker, he would have been Parliamentary Secretary in the Ministry of Housing and Lands, Labour and National Insurance at one time in his career. Sir, if you would permit me, I would wish to outline particularly non-political contributions that pointed to the directions in which he decided to serve outside of this Parliament.

He was a champion of Friendly Societies and was a pioneer in the Credit Union Movement. Mr. Speaker, there was a time in the history of this country where Barbados had friendly societies, popularly called lodges among the villagers. They were not the fraternities that are also called lodges but the older people had a way of calling these friendly societies lodges. These friendly societies would receive contributions from members over a period of one year and at the end of the year, members would get back their savings and any share in the surplus which was to be distributed.

Mr. Speaker, under that system, not only did these friendly societies encourage savings and thrift, they also made provision for welfare-type services, where John Yearwood and others would band together to help those who had suffered bereavement by making payments for what we in Barbados call 'the turn-out'. He was also a member of the Perseverance Credit Union and a member of the Endeavour Credit Union. I believe the term Endeavour Credit Union is still very much in existence.

Mr. Speaker, one of the striking things about John Yearwood was his absolute determination and devotion to raising the plight of the working class, which explains precisely why he would have worked so hard and so tirelessly in the credit union movement, doing so on the cost. Sir, what I mean is that John Yearwood would have put in a lot of energy in the credit union movement between 1960 and 1965, at a time when there were disturbing rumblings in Barbados over what had transpired in a credit union called The Civic. He was not deterred by the negatives that came out of The Civic and pointed Barbadians to a philosophy that fraternity and thrift could help uplift the masses.

As an Honourable Member of Parliament, he was known to be dignified and particularly respectful of the Rules of the House. He did his utmost alongside Errol

Barrow, for his constituents. Sir, of note, he took an active interest in the Commonwealth Parliamentary Association, an interest matched only at that time by the late Reynold St. Clair Weekes. The two of them, as ordinary working-class people, were particularly enamoured of the Commonwealth Parliamentary Association, and their enthusiasm for service in that organisation has been well-established.

John Yearwood was also a member of the Board of Management, the Governing body of the Lodge School. He sat on the Transport Board. He also made a contribution to the development of the National Assistance Board, and served as a director of the Sugar Industry Bank.

Sir, before entering Parliament, he had established himself as a rural shopkeeper at Gall Hill, St. John and there was able to interact with those he would have represented and also to offer his kindness and generosity to those who were unable to pay for their groceries and who often benefited from the credit he would have extended.
10.40 a.m.

Sir, in his last years, he was associated with a business directly below St. Mary's Church and even though he had now advanced in years, there are those who would remember him as a man who was caring, nationalistic and as a man of the people.

Mr. Speaker, the history of this Parliament would show that parliamentarians have come here since Adult Suffrage in 1951 from all walks of life. If we reflect on the contribution of Reynold St. Clair Weekes, the late Mr. Smith who used to represent St. Joseph, Patsy Springer and certainly the contribution of John Berkley Yearwood, we would have to conclude that this Parliament has always had a place in here for the typical ambitious working-class person who, despite being born in poverty, was able to rise above the constraints that would normally keep one back in poverty and press on to serve at a high level. He was a typical grass root, working-class politician, the type who was always available to people and interested in services.

Mr. Speaker, today it is my honour to lead the obituary and tribute on behalf of a true nationalist, a democrat, a person who had the courage both to take part in politics and the courage of conviction to serve in an organisation which he saw was positioned at the time to do service in Barbados.

It will go as a distinct honour in his name and to his credit that his running mate would have been a person who today is one of Barbados' National Heroes.

Mr. Speaker, I therefore ask that this House prepare the normal Resolution and pass it to his family. To his family, on behalf of Honourable Members on This Side of the House, we extend our deepest and sincerest condolences.

I thank you, Sir.

Mr. R. L. SEALY: Mr. Speaker, in begging to second the Resolution by the Honourable Member for St. James North, I want on behalf of Honourable Members on This Side to salute the life of John Berkley Yearwood. He was a stalwart of the Democratic Labour Party and even in his infirmed state he continued to take a keen interest in the public happenings of this country. The Honourable Member for St. James North went through the biographical details with depth and I need not repeat but would certainly say that in 1961 when he was elected, he was one of the triumphant shopkeepers that was elected in the team of the Democratic Labour Party that year. It was the first time that the Democratic Labour Party was called upon to play a role in Government and having the like of Reynolds Weekes, Russell Lowe and John Yearwood, not only ensured that we were able to bring what has been reflected upon as the greatest social revolution this country ever had but allowed the Democratic Labour Party to be very grounded.

Sir, heavy weather is often made and rightly so of the Right Excellent Errol Barrow and also of members of his Cabinet like the late Sir James Tudor, Sir George Fergusson, Edwy Talma and John Yearwood. Mr. Speaker, their contributions are not always remembered as they should be because, unfortunately, it usually takes their withdrawal from earthly existence for us to recognise them but, nonetheless, we should still do so.

Sir, it is a testimony to his character that when the decision was made to move to a Single Member constituency, he graciously gave way to his younger and arguably less popular colleague even though he was highly thought of in the constituency of St. John. We know that the transition from Double Member to Single Member constituencies was not smooth in some rural constituencies and it was a blessing that he was able to take such a high road.

Mr. Speaker, I did not know him very well but I know two of his offspring. The one message that came through at the service of thanksgiving for his life at the St. John Parish Church is that he was very family-oriented. No doubt it would have been instrumental in him being able to experience 53 years of marriage, which in itself is an achievement in this day and age. He always remained close to his children and grandchildren along with his achievements at the national stage. I am sure that those same earthly qualities which saw him functioning so effectively at

the community level and at the family level would also explain why he was so effective when he had to serve on the national stage, be it on the Board of the Sugar Industry, the Transport Board or as Parliamentary Secretary in the Ministry of Housing and Lands.

Sir, I am glad that the Honourable Member for St. James North, stole a bit of the thunder away from This Side. It is not often remembered that he was a pioneer in the Credit Union Movement. He was a founder member in both the Perseverance Credit Union and the Endeavour Credit Union. He should also be remembered for playing as seminal a role in the credit union movement, as in the politics of the country, the Democratic Labour Party and St. John.

His commitment to international causes actually started there because he was one of the first Barbadians to represent a co-operative at an international conference for such in Germany in 1963. His commitment and belief in the credit union movement and in the friendly societies is without doubt. Sir, later on he was able to play a role in the Commonwealth Parliamentary Association of which he was a life member. I am sure that Association would also take necessary note of his death and send the relevant correspondence to his family.

Mr. Speaker, we on This Side have truly lost a Member. He was a loss not only to the constituency of St. John, which he represented, but a loss to the community of St. Lucy, from which he sprang and of which he remained quite close. He was a genuine and loyal supporter of this Party and a true servant of Barbados.

We on This Side associate ourselves with the Resolution of sympathy to his family noting the life and contribution of John Berkley Yearwood.

Sir, I am obliged to you.

Mr. D. St. E. KELLMAN: Mr. Speaker, I too rise to associate myself with the comments which I heard previously by the Honourable Member for St. James North and the Honourable Member from St. Michael South Central. It is clear that St. Lucy has been able to make a significant impact on the development of Barbados. The Honourable Member of whom we now speak was able to contribute to that development. It is not by accident that in a small area of Checker Hall that you could have two men bold enough to leave their moorings and travel to the constituency of St. John.... be accepted by the constituents of St. John and carry out a mandate to make sure that the working-class people of Barbados were able to have a voice in these hollow Chambers.
10.50 a.m.

Sir, the Yearwood family was always known for shopkeeping. Sir, wherever you go in St. Lucy, whether it is Checker Hall, Nesfield, Crab Hill or Pie Corner, shopkeeping has always been a profession. In the early days when black people could not get involved in business, the Yearwood family was always involved in shopkeeping.

It is not by accident that it was not only the Yearwood family but it was also the O'Neale family. If you understand the history of St. Lucy you would know that there was a close association between the O'Neale and Yearwood families. It is found in a particular area called Nesfield where there were four houses and shopkeeping was conducted from these premises. Everybody got on well in that area even though the population in that area was less than ten.

Sir, the history is that there has always been a connection between the Yearwood and O'Neale families. Later on in life there was a particular marriage between those families. I must admit before I am accused by the Honourable Member for St. James Central that I now want to declare an interest in this particular debate.

Asides.

Mr. D. St. E. KELLMAN: My grandmother's father was a Yearwood and her mother was a Broomes. It so happened that the Yearwoods are related and the Broomes are related to the O'Neales, so that is the marriage.

Mr. Speaker, when two young men left St. Lucy and went to St. John it was not by accident because they had many things in common and they were able to carry that particular bond to develop the lives of Barbadians who were underprivileged at the time.

Sir, I am saying that we have to understand that in 1961, when the late John Yearwood gave way to the late Right Excellent Errol Barrow, it was not by accident. It was a deal worked out as early as 1961 because he appreciated the relationship that was developed during their childhood.

Mr. Speaker, if you visit Checker Hall you would see the family businesses of both families. This is seen in the operation of shops in those areas. Those people who believe that shopkeepers are people who should be ignored must understand that is not the case because that is the salt of the development of this country. The history of great men has been built around shops in the early days and will continue to be built around shops.

Asides.

Mr. D. St. E. KELLMAN: We must understand that the development of Barbados came from a particular social background. I always say to my comrade the Honourable Member for St. James North that it is not by accident that

poor people viewed stocks as animals to be kept in the backyard, while the rich saw stocks as shares in businesses. People do not understand that the stocks in most poor families, were stocks that came from the shops because it was the feed from the shops that developed the stocks.

Asides.

Mr. D. St. E. KELLMAN: I am saying that the development of the late John Yearwood should not be any surprise to anybody because he understood what he wanted and it was not about himself, it was about the people and that is the most important thing. Politics is about people and not about personalities. Sir, we cannot mixup the Ps.

Mr. Speaker, when history is written in this country it should not only show the development of the late Right Excellent Errol Barrow but it should show the man who had the command of St. John and who gave way to the late Right Excellent Errol Barrow because he saw in a man an ability that he did not see in himself. He understood the importance of the development of Barbados. I am saying that this Parliament cannot ignore the contribution of the late John Yearwood because he made a significant move in 1971, when other persons could not decide among themselves to make the same decision. A man who gave up so much should be acknowledged and acknowledged at the highest level inside and outside of this Parliament.

Mr. Speaker, in this country, sometimes you have to reach the top for people to appreciate your contribution. In my opinion, the late John Yearwood reached the top and we have not acknowledged it in the way it should have been acknowledged. This is our day to acknowledge it and correct it because they would not have been many people who would have been able to make the bold decision to give up something that they knew they had full control over. As I said before, it is of significance that two men left St. Lucy, went to St. John and they were both accepted by the people of St. John.

Sir, there is a particular bond between the two constituencies that will never be broken. That is the bond between the people of St. Lucy and St. John. We will always acknowledge the people of St. John because they acknowledged the sons of St. Lucy without questioning anything about them. It is significant that they were offsprings of shopkeepers.

Sir, in this country we must understand that when the masses have excelled that we should honour them. If the late John Yearwood were from a different breed and type then there would have been no doubt that before he died he would have been called Sir John Yearwood because he had

name, John. It is not difficult to have the name John and do not get the title Sir. We also have to understand that we have to start appreciating when a person has contributed so much to this country so that the young people of Barbados can appreciate their own.

Sir, if there is one failing of our people is that we do not know how to honour our own.

Asides.

Mr. SPEAKER: Order, please, order.

Mr. D. St. E. KELLMAN: It is a good thing that this is an obituary debate. I think that it would be a good thing to tell the Honourable Member for St. James Central the importance of such a debate and how you discuss an obituary debate.

We have to understand that whether the late John Yearwood was a Member of the Barbados Labour Party or a Democratic Labour Party Member, that the same speech that I am making today would be made because you have to respect the contribution of the late Honourable Member. The Honourable Member for Christ Church East would agree with that particular point.

Mr. Speaker, we have to understand that we have to honour our own. If we do not honour our own, the society will continue to be the way it is because they are crying out for us to honour our own. No cosmetology can do it. We have to do it in a significant way. I am saying that this Parliament must understand what we have to do in order for us to appreciate ourselves.
11.00 a.m.

Sir, some people believe that you could just put a coat of glossy paint and you make a name change, and that is significant. This is not significant, and what we have to do is to make sure that we do things tangibly.

The late John Yearwood would have been known by a man of whom I refer as Sir Oliver, of Haymans fame, and Sir Lloyd of Shamrock fame. These are men with whom he would have discussed the development of Barbados. He might have passed and gone, but his memory will still live on and, I think the Honourable Member for St. James North would agree with me that we still have Sir Oliver of sugar industry fame and Sir Lloyd of Shamrock fame.

Therefore, what we have not done for the late Mr. John Yearwood, we need to do for these two Honourable men, so that the youngsters would have people that they could live up

to and appreciate that hard work would help them to get something in life. Sir, if these two gentlemen should pass on without that contribution, then the fight of the O'Neale and Yearwood families would have gone in vain.

I thank you very much, Sir.

Hon. G. A. CLARKE: Mr. Speaker, I would want to pay my respect to the family of the deceased, John Berkley Yearwood. I met him as a school boy and I say that I have always recognised the true quality and genuineness of the man. He was hardworking and honest as Honourable Members have said before. I believe that one of the things we must recognise John Yearwood for, is not only his contribution to the Credit Union Movement or the Friendly Society but the way in which he went about to help develop his society.

Sir, the late John Yearwood served with the late Right Excellent Errol Barrow and while the Prime Minister of the day was busy looking after the affairs of the country, he was busy looking after the local politics. It is to his credit, Mr. Speaker, that the Gall Hill playing area was developed and he also helped to develop the area of Massiah Street.

I believe he would have played a developmental role within the society to a large extent and we need to look at how he would have developed those areas surrounding Gall Hill where he worked as a shopkeeper, and how he would have helped the local people not only in terms of credit, but he would have helped to develop the St. John society to a large extent.

Sir, only yesterday at one of our meetings, I made the point that former Parliamentarians, to my mind, are not treated as they should. We come here to pay respect when they have passed but I believe something must be done to get former Parliamentarians not only to participate in current developments in our country but to make a contribution to the life of the Parliament.

Sir, while we sometimes honour these gentlemen and ladies, we need to go beyond that and find a role for these persons who would have made a contribution to the society in their time. I believe that this Parliament in the near future should look at, not only honouring them, but how they can make a contribution to the development of our modern times.

Therefore, I would like on behalf of the constituency of St. George North in which he also played a role and on behalf of my family to offer my condolences to the family of the late John Berkley Yearwood.

Mr. SPEAKER: I would like to associate this Honourable Chair with the sentiments expressed. This House with acclaim accepts the Resolution of sympathy and so directs that this Resolution be sent to the grieving relatives.

As a mark of respect, on the passing of the late Honourable Member, I now invite all Members and all present to join with me in observing one minute in silence, please.

One minute in silence was observed.

SUSPENSION OF STANDING ORDERS

Hon. R. C. EASTMOND: Mr. Speaker, I beg to move the suspension of Standing Orders Nos. 6, 16, 18, 20, 42(5), 43 and 44 for the remainder of this day's Sitting.

Hon. R. R. FARLEY: I beg to second that, Sir.

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

Mr. SPEAKER: Government Business is the order of the day. Order No. 5.

GOVERNMENT BUSINESS

ORDER NO. 5 – THE COMPUTER MISUSE BILL, 2005

Hon. D. D. MARSHALL: Mr. Speaker, this morning we need to debate and pass the Computer Misuse Act of 2005. This piece of legislation is one perhaps about which we need little fanfare, but notwithstanding the fact that it is not a glamorous Bill, it serves an important part in the move that this Government is taking to ensure that the use of Information and Communication Technologies, called ICTs, play a critical role in our development.

Research shows that the genesis of today's computer dates back to the 1600s with something which has been described as a basic slide rule. The computer, as we know it today, more accurately has its genesis in the 1940s. Sir, I believe some of the Honourable Members would remember having slide rules when they were in secondary school, but those faded out in the early 1980s or late 1970s to give way to the first pocket calculators.

Since then, the world of computing has taken off and we moved away from a discussion of such things as mainframes to what we now so glibly refer to as the personal computer. I certainly recall the kind of investment that it took when I bought my first laptop computer in 1990. Its cost then was approximately US\$5 000. Today, Mr. Speaker, the cost

of a very powerful personal computer is now a mere hundreds of dollars. As the spread of the computer developed, the cost of the technology came down, and today's computer is truly personal.
11.10 a.m.

Mr. Speaker, I am happy to see today that the penetration of computers in Barbados is higher than anywhere else in the Caribbean and is certainly higher than in most places across the globe. Credit must be given to the Ministry of Education and its Education Enhancement Programme, which we called EduTech 2000, which is ensuring that computers become as pervasive as any text book or any dictionary in the lives of our primary and secondary school students. Our society has gone from an environment, a mere decade ago, where a computer was something that only the rich could get their hands on, to a stage today where the cost of the technology is so low that it is within the reach of most Barbadians. Barbadians who are not able to benefit from being able to make a personal investment can still benefit through the Education Enhancement Project that is there to satisfy the needs of their children through the work of the Ministry of Education, Youth Affairs and Sports, that is ensuring that all of our students have computers to hand.

Mr. Speaker, I begin with this perspective to establish that computers have now become second nature to Barbadians. However, with this pervasiveness also comes a significant responsibility. It is an individual responsibility, but it is also a responsibility that is placed on the Government.

Mr. Speaker, because of the availability of the technology and because of the fact that it is so user-friendly, you now have an environment where people are able to interact in a positive way with each other, but in a very negative way as well. I would like to remind Honourable Members of this Honourable House that in 1999 a virus, called the Melissa Virus, which was developed by a now notorious individual named David Smith, out of the United States of America, affected a huge number of businesses across the United States of America and Europe. That virus, in its brief life, caused over US\$80 million in damages.

Mr. Speaker, research shows that individuals who write viruses are often students who have great skills and who embarked on writing a virus simply to show the world and their peers their programming ability. So when I say that there is a responsibility which is personal and a responsibility in terms of a Government, it must be seen in this way. Individuals have an obligation to themselves, to their data and their equipment to put in place such things as would safeguard their data and their computer.

Mr. Speaker, while those may be technologically based, the responsibility of Government is to ensure that there is an adequate legislative framework which would seek to protect data and computer systems from unauthorised access from persons, who if they have access might seek to abuse the system, and for related matters. Therefore, this piece of legislation comes at a right time for us.

Mr. Speaker, notwithstanding the fact that there has been computer misuse legislation in various parts of the world for over 10 years and in some cases 15 years. The fact is that the haste in that legislation serves to have some impeding features because legislation developed in the 1990s did not take into account the tremendous growth in the internet and the pervasiveness of computers and the technology that we have today.

That early suite of legislation enacted in places like the United Kingdom, Singapore and Malaysia have now outlived, in a sense, their usefulness and those jurisdictions are hastily calling for an update of that legislation. In fact, in April of last year the Parliament of the United Kingdom reviewed their Computer Misuse Act of 1990 because it was created before the emergence of the internet. One Member of Parliament stated that the primary threat from hackers today is to the network and not to the individual computer. It was also said that the time was dangerously near when they needed to update the legislation otherwise it would find that it is entirely inapplicable.

Mr. Speaker, we are here 15 years after the earliest Computer Misuse legislation with a Bill before this Parliament that takes into account the emergence of the internet and the significant increase in the importance of computer networks.

Mr. Speaker, this piece of legislation could be seen as being a part of an overall suite which would include our e-commerce legislation, which I think was passed in 2000. Other legislation is to be brought before this House which would also complement this work. We have to recognise that with Government's emphasis on Information and Communication Technologies (ICTs), where much of our personal data will find itself on the Government databases, that this legislation takes on an importance of a kind never before contemplated.

The Government has established in its ICTs Programme a whole range of Government departments which, if you look at the Schedule to the Bill you would see, are defined as restricted databases. These include the Archives Department, the Barbados Defence Force, the Central Bank of Barbados, the Customs Department, the Director of Public Prosecutions, and it goes on and on, all of which are Government departments that store vital data on their databases.

Mr. Speaker, when we think about protecting our personal data, we must also think about protecting our personal data in the context of storage devices that are maintained by Government agencies. If an individual is able to hack into the Financial Intelligence Unit, he or she might be able to find information which, if it were to be made public or were to be provided to unauthorised individuals, could see our fight against money laundering completely shattered, similarly, the information contained in the Office of the Director of Public Prosecutions and information contained in the Queen Elizabeth Hospital as it relates to individuals health records. Sir, there is a whole set of data that is currently kept by Government departments which would see greater protection other than technological protection through the enactment of this piece of legislation.

Mr. Speaker, as I said it is not a piece of legislation that can be deemed as glamorous but it can be stated clearly that it is eminently sensible. I would want, Mr. Speaker, to examine a few of the provisions of this Act as we debate it this morning to try to demonstrate how this piece of legislation would work. I am only too keenly aware that when you start talking technology and computers that many members of the public, because they perceive this as being beyond them, tend to tune out, but I think it is important that as a Parliament we understand clearly the issues and are able to grapple with how these issues are going to be dealt with. Mr. Speaker, one of the important things that we begin by noting is the question of jurisdiction. Normally, jurisdiction is circumscribed by one's geographical boundaries and to put it quite simply, a person who commits a criminal act in St. Lucia or in New York, is generally not capable of being charged for the offence in Barbados. Therefore, our criminal statutes are territorial in nature, that is they apply only to the physical jurisdiction of Barbados.

11.20 a.m.

Sir, the fact of the matter is that the threat which is posed by hackers and by people who may write and spread viruses, is a threat that is not limited by one's physical jurisdiction. Certainly the Melissa virus spread all across the world. Therefore, once one comes to grip with the fact that given the internet and the Worldwide Web, jurisdictions cease to be territorial. It meant that we had to craft this piece of legislation in such a way as to deal with that issue. Therefore, in Clause 2(c) of this Bill:

"This Act applies to an act done or an omission made:

- (c) by a national of Barbados, outside the territory of Barbados, if the person's conduct would constitute an offence under the law of a country where the offence was committed".

Sir, the point here is that the jurisdiction of the Barbados law, insofar as an act of computer misuse is concerned, contemplates our courts being able to deal with a Barbadian national who may, in a foreign jurisdiction, create a virus and then spread it across the world or into Barbados, or a person who may be situated in another jurisdiction and hacks into a computer in Barbados. We are, therefore, seeking to extend the territorial nature of our law in view of the fact that a computer offence can be perpetrated from a place outside the jurisdiction of Barbados.

Mr. Speaker, this is a feature that is not unique to Barbados. In fact, most jurisdictions that are now moving in the direction of computer misuse legislation, are taking into account the fact that the criminal act that one complains of, may have been perpetrated outside of one's jurisdiction. It would be good to mention that our legislation is based largely on a model which was created by the Commonwealth Secretariat by a committee of experts, including individuals from the region, entitled: "Computer and Computer Related Crimes Act". It draws from the experience of all the other jurisdictions which drafted legislation in the early 1990s. Therefore, we will find that a lot of the modern approaches are being taken into account and being implemented but will also see themselves being replicated in other jurisdictions.

Mr. Speaker, this Act in Sections 4, 5, and 6, deals with some interesting offences under *Prohibited Conduct*.

4. (1) A person who knowingly or recklessly and, without lawful excuse or justification
 - (a) gains access to the whole or part of a computer system;
 - (b) causes a programme to be executed;
 - (c) uses a programme to gain access to any data;
 - (d) copies or moves the programme or data
 - (i) to any storage medium other than that in which the programme or data is held; or
 - (ii) to a different location in the storage medium in which that programme or data is held;
 - (e) alters or erases the programme or data, is guilty of an offence and is liable on conviction, on indictment, to a fine of \$25 000 or to imprisonment for a term of two years or to both."

It is important to mention at this point that throughout this Bill the penalties that are being imposed are significant penalties. In some cases, it is as much as \$50 000 for an individual or \$200 000 for a corporation. When individuals unlawfully tamper with computers by launching viruses, the cost is significant. There was research conducted which showed that the median cost of virus disasters was in the region of US\$200 000, with some companies reporting loss of over \$100 000 in a single virus incident. I mentioned earlier that the global cost of the Melissa virus was US\$80 000. Some businesses had losses in the region of hundreds of millions of dollars because of virus activity. Therefore, the penalties that we have put into this Bill reflect the seriousness with which we view this kind of tampering with individual's data and individual's computer equipment. Therefore, we are taking an especially punitive stance when it comes to offences under this Act.

Mr. Speaker, another important feature of the legislation is found in Section 13 where it deals with child pornography. One of the big challenges of the internet is the fact that it is a very easy place to disseminate information or data of any kind and frequently, one is able to disseminate the data in an anonymous way. Sir, both criminal and immoral minds have used this anonymity to spread child pornography high and low. I believe that Barbadians would well remember recent events where pornographic photographs, in one case of a minor, were posted on the internet, and these are things that are still happening today.

Mr. Speaker, the fact is that it is the posting of pornography on the internet which then makes it available to children and to citizens who have no interest in that kind of data. It also represents the exploitation of the children who were photographed. Therefore, by having a strong legislative instrument which deals with pornography, we are not only striking at the heart of its dissemination but at the heart of the exploitation of those children who are photographed. In this case, the fine would be \$50 000 or imprisonment for up to five years or to both. In the case of a corporation, it will be \$200 000.

Mr. Speaker, there was a famous cartoon which depicted a dog at a computer. This dog was busily engaging in an e-mail activity with somebody on the other end, where that caption reads that the beautiful thing about the internet, is that the person on the other side does not know that it is a dog. The point is that when one is dealing with an environment such as this, it is very difficult to prevent dissemination of vulgar or criminal material. It is also equally difficult to identify the individuals who are disseminating this criminal material.

Mr. Speaker, this Bill seeks to provide strong search and seizure remedies to the police, which would allow them, on a warrant being issued, to have access to computers,

where it is suspected that such materials might be either stored or disseminated. The legislation also provides that, not only would the police have access to the information but that the police must be allowed the capability of converting encrypted data so as to make it comprehensible.

Mr. Speaker, as I said, this is especially important because with the levels of encryption today, it is extraordinarily difficult to access data. It is, therefore, pointless to provide for criminal sanctions in circumstances where you are going to hamstring those individuals doing the investigation. This legislation seeks to provide strong search and seizure powers on the issuing of a warrant so that the police can adequately investigate in this area.
11.30 a.m.

I mentioned the case of child pornography but it is well-known that the people are using the internet to annoy by sending unsolicited information, indecent stuff, using it to threaten people and make menaces.

Sir, Section 14 talks about malicious communications. In this particular instance it provides that where a person uses a computer to send a message, letter or electronic communication or articles of any kind that is indecent or obscene, is or constitutes a threat or is menacing in character, then he is guilty of an offence punishable by a fine of \$10 000.

Sir, I do not want to create the impression that the worldwide web, internet and computer technology are being used exclusively by criminally-minded people to torment right-thinking members of society. Sir, not at all because we know of the tremendous value that is to be gained by embracing information communication technologies but the fact is that this Government takes its responsibility to its citizens and the society very seriously and we recognise that we need a strong legislative framework to deal with it.

Mr. Speaker, I have mentioned the issue of encryption briefly and would want to say that it is an issue that continues to dog the internet even today. It is seen as being a two-edged sword. On one hand, individuals are encouraged to use strong encryption so as to protect their data but, on the other hand, we are expecting law enforcement individuals to be able to reasonably have access to that data so that they conduct investigation into criminal activity. It is a vexed question because on the other hand, you are being asked to balance the perceived right of an individual to privacy and, on the other hand, you are being asked to balance the social good which is found where police or law enforcement officers have the capacity to thoroughly investigate criminal activity.

There is no doubt that with the advent of the internet and with the ease of use of e-mail that people are using this

medium to perpetrate criminal activity. This method of communication is instantaneous, it is largely untraceable and, therefore, lends itself to be used by criminally-minded individuals in perpetrating crime.

Mr. Speaker, in Barbados we have no right to privacy. It is a fact that within the Common Law jurisdiction that privacy is not seen as being one of our fundamental rights. While there is substantial jurisprudence on the matter and while the Constitution of Barbados talks about privacy, it does not bestow on any Barbadian a right to privacy. While that may be an issue for further consideration of this House at another time, from as far back as 1800, the Common Law Courts of the United Kingdom were acknowledging that our system was based on a premise that whatever was not prohibited was allowed. Therefore, because there was no prohibition against spying on people or going into their private business, we have had to accept that there was no right of privacy in our jurisdiction.

Sir, notwithstanding that we do not have a constitutionally enshrined right to privacy, we still feel it important in this Bill to put measures in place which will seek to secure the data of individuals.

I am sure that many individuals have heard of instances where information is taken from a particular database and given to someone. Sometimes it may be telephone or medical records and while that individual is not protected in terms of a right to privacy in the law, this particular Bill makes it clear that an individual who procures data, even though they may be lawfully entitled to it, and then proceeds to disseminate it, is guilty of an offence. Sir, this is especially important in today's environment.

Mr. Speaker, I have mentioned to you the long list of Government agencies that are going to have the data of individuals. If you took the example of the hospital, an individual might have authorised access to records about the health of persons and if that individual gives that data to another person who is not authorised to receive it, that individual is guilty of an offence.

Sir, I want to refer Honourable Members to Clause 12(3) of the Bill where it says that a person who has access to certain data but take it and discloses it to another who is not so authorised, is guilty of an offence.

This demonstrates the point that law must be taken as a whole because one legislative instrument enacted will clearly seek to redress issues that might arise in another arena. Sir, this is how good law is drafted. You do not put everything in one Bill because it might end up being repetitive. What you do have is a clear statement which establishes that data cannot be lawfully removed but then unlawfully disclosed to a third party and an individual who received that data is also guilty of an offence.

Sir, notwithstanding that in Barbados we do not have a right to privacy, under our law there is significant provision in this particular Bill which seeks to protect the private data of all Barbadians. Mr. Speaker, I think it would be foolish to bury our heads in the sand and assume that things which are happening in the United States of America and England are not happening in Barbados. I have met teenagers in Barbados who have admitted to hacking into databases not only with Barbados but outside of Barbados. It is a threat that is quite real and we, therefore, need to protect against that type of activity. When these misguided youngsters do it, they do it to show off to their friends and out of a sense of adventure. In fact, often individuals charged say to the courts that they intended no mischief. Frequently, they get no personal benefit from the act of hacking or from launching a virus. The fact is, the cost is horrendous.
11.40 a.m.

Mr. Speaker, this Bill also provides, and I would like to highlight this, that the court can order a convicted individual to pay compensation to any person where they caused damage to that computer or data as a result of the commission of the offence. The fact is, where an individual were to launch a virus in Barbados that destroyed my computer and, perhaps, your computer or tampered with or destroyed our data, we would be entitled to receive compensation ordered under Clause 21 of the Bill.

Equally important, this compensation ordered does not purport to take the place of any civil remedy. The fact is, compensation in this case is compensation paid for damage caused to that person's computer programme or data. It is compensation for the real and immediate damage caused. Sir, the fact is, if someone were to damage the computer data of the Honourable Member for St. Lucy, while there is the direct cost for which he might be compensated, there might also be millions of dollars in consequential loss because he is not able to carry out his normal business functions. So the compensation in this section is meant to be immediate and relate purely to damage that has been done to the data or to the computer system or network. The civil remedy which would allow you to sue in the civil courts and recover consequential damages is still open to you and this is stated quite clearly in Section 21(2).

Sir, this Bill seeks to cover a whole range of activity. It creates as an offence hacking, launching viruses, manipulating or altering data, it is designed not just to tackle the severe and pernicious things like viruses but also more modest acts where an individual might cause significant damage.

In fact, it is arguable that Section 5, which deals with the interfering of data, would cover a situation where you may dismiss an employee and before the employee leaves he

erases data or changes names and addresses. That is not an act of hacking. Nevertheless, it is covered under the Computer Misuse Bill. Sir, where you modify data, where you render data meaningless, useless or ineffective, where you obstruct or interfere with the lawful usefulness of the data, then you are also captured by this legislation.

I reiterate that this not only captures the individual who sits down in the dead of night manufacturing viruses or hack into computers, it would also cover day-to-day occurrences in the lives of the average Barbadian.

Sir, an employee who, out of a grudge, tampers with your system and erases your data or somebody who may come to your home, turn on your computer and then purposely deals with your data in this kind of way; all of these things are covered and it does not limit it to permanent damage. Even temporary damage is covered by the legislative instrument.

Sir, today's environment for businesses is quite frightening and businesses have been forced to spend thousands of dollars investing in encryption and firewall protection but every time the technology advances, there are also in development methods of breaching the technology. Therefore, we have to start taking greater care of how we deal with our personal computers and data. There are many things that are available. There are some free programmes and some may cost a little more but the fact is, notwithstanding the legislation, we have to take personal responsibility for our systems, networks and computers.

Mr. Speaker, we are seeking to encourage a computer literate society and we are sure to see an increased pervasiveness of the technology. It is becoming smaller and cheaper. However, more and more individuals are seeking, out of 'kicks' or whatever the reason that motivates them, to bring damage to the kinds of investments that we make. In our society these things are not going to be too far behind. We need to protect our young people from exploitation through such things as pornography and so on and this Bill seeks to cover a whole raft of offences.

Mr. Speaker, the legislation is modern. It takes into account all of the developments in technology that have emerged over the last 15 or 20 years. It seeks to provide a framework that is fair, while at the same time it tries to provide a framework that will protect to the extent that it provides search and seizure measures, yet it establishes that a policeman cannot simply go and start grabbing things. He has to have a warrant. There is a whole set of mechanisms that seek to protect individuals in a way as to ensure that their fundamental rights are not going to be infringed.

Mr. Speaker, with those words I commend this piece of legislation to this Honourable House. As I said, it is not a glamorous piece of legislation but it is eminently sensible and timely. The pervasiveness of the technology in Barbados is such that we do need to take into account a threat, not just to our domestic networks but we also need to take into account the fact that emerging out of the intellect and skill of the Barbadian that we are training, may also be somebody who may seek to exploit the technology and cause damage to other individual's investments.

Sir, with those words I commend this Bill to This Honourable House.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Michael South Central.

Mr. R. L. SEALY: Mr. Deputy Speaker, I rise to offer a contribution to the legislation before us which relates to the misuse of computers. Obviously, on This Side, recognising the way that computer technology and computers have proliferated in this country, that there is a need to put the legislative framework in place to protect us from persons who may choose to put the computer to wrong uses. Having said that, when we on This Side first looked at this Bill, we had some difficulty, perhaps, in understanding what the overall slant of the Government was as it pertained to the Computer Misuse Bill, 2005.

11.50 a.m.

However, having heard the Honourable Member for St. Joseph perhaps state that it is only part of a suite, we certainly look forward, and wait with bated breath for the furnishing of the other components in the suite, in order that we can have a comprehensive set of legislation that deals with this issue of computers and, I suppose, related matters such as actions in cyberspace and so forth.

The first thing that one notices, perhaps about the Bill is that it seems to be concerned predominantly with large databases which the unauthorised access to databases or authorised access to databases that is misused, would suggest a general leaning towards the big networks, perhaps large computer software companies *et cetera*.

The Consumer Protection legislation notwithstanding, it is clear that there is a need for ordinary users of computers as well who have concerns and can become victims of misuse by other perpetrators of computer crime, they also need to have their level of protection and I will speak to that a little later.

On this issue of the database protection, I would say, Mr. Deputy Speaker, that this underscores a point that we made in another recent debate, in fact, a debate which occurred last week. Honourable Members were told that the

point being made about information pertaining to one's person, no more personal than your actual DNA information was not necessarily in danger of falling into the wrong hands. Here it is days after we had that assurance, we see a piece of legislation to correct the very mischief that we raised legitimately, as Her Majesty's Loyal Opposition.

Mr. Deputy Speaker, I just say once again that we need the assurance that the Government databases, so eloquently listed in the Schedule to this Bill and, in fact, at (h) The Forensic Laboratory...

Hon. D. D. MARSHALL: Mr. Deputy Speaker, on a point of order. I believe it is entirely inappropriate for the Honourable Member to suggest, in fact he said outright, that this particular Bill is coming to remove some mischief that the Opposition would have spoken about in a previous debate.

I believe if the Honourable Member checks the records to see when this particular Bill was laid, he would clearly have to admit that this Bill was laid in This Honourable House at a time prior to Her Majesty's Opposition issuing a single word on the legislation to which he refers.

I would ask that he be made to withdraw those remarks because the Honourable Member is imputing an improper motive on the Government.

Mr. DEPUTY SPEAKER: Honourable Member would you please proceed.

Mr. R. L. SEALY: Mr. Deputy Speaker, it was the Honourable Member for St. Joseph who spoke about the suite. He spoke about the fact that you cannot look at one Bill in isolation, and you need to have a series of Bills. All we are saying is that the puzzle is now fitting together. His suite is now being put together, so I am at a loss to see why he is getting hot and bothered. We have been merely confirming what he has been saying about his suite and just making the point that the concerns made by the Honourable Member for St. Lucy, the Honourable Member for St. Philip West, and the Honourable Member for St. Michael North West, are all now fitting in and coming together.

The larger point, Mr. Deputy Speaker, is not what we passed last week or this week, but how it is going to be enforced. Perhaps that is what the Honourable Member for St. Joseph should get excited about. He mentioned that he had a laptop since 1990. This area of computer technology is not strange to him.

Asides.

Mr. R. L. SEALY: That is not the point but the point I am making here is that, obviously, we need to wake up and realise that as we advance as a country, and the Government relies more and more on these huge databases to store vital, private and important pieces of information, they have to be protected against the hackers out there and those persons who have malevolent intentions.

Mr. Deputy Speaker, I would say at this stage that the strong search and seizure powers that are conferred to the police under Part III of this Bill had better be buttressed with some sound skilled personnel who can see that this Bill is properly enforced.

The Honourable Member for St. Joseph did not necessarily speak to that but I am sure that there are methods in place to understand that, in dealing with these sophisticated criminals out there now, it is not only just a matter of having strong search and seizure, because after you seize and search, you have to know what to do from there. Perhaps the issue of involving some of these same hackers, if many of them, according to the Honourable Member for St. Joseph, are not hard core criminals, but are teenagers who are probably looking for something constructive to do with their lives. Maybe, they can be recruited in the effort to assist in preventing other persons from hacking the databases.

The alternative, of course, is that you are going to have to look for members of the Police Force and have them trained. Certainly, I would think that some of the 'whiz' kids out there are a natural source of persons that we could involve in that regard. Let me also add on this question of search and seizure that, once again, we on This Side do not have a difficulty with the Police Force having all of the means at its disposal to fight crime but we would expect that the rights of the individual are respected in that regard.

Again on personal liberty, we had a debate on that previously, but I just want to mention that quite naturally, we would anticipate that there will be no serious infringement on one's personal liberty in carrying out these strong search and seizure powers, to use the words of the introducer of the Bill.

In that regard as I also mentioned with the hackers, I think that the improved computer literacy which we have seen as a nation, also will call upon us to re-look the whole issue of the instruction of computer skills in our schools.

The Honourable Member touched on the Education Sector Enhancement programme. He did not actually say the word, EduTech, but we have learnt recently, Mr. Deputy Speaker, that EduTech is in for a restructuring. The building works component is going to be pulled out, from all reports,

and there seems to be some move to specialise the work, as it pertains to information technology and, I presume, curriculum reform as well.

I would say, Mr. Deputy Speaker, that to some extent, it underscores the point that we in the Democratic Labour Party have been making for some time, as it pertains to EduTech. We have never opposed the use of computer technology in our schools. Indeed, it is a necessity in this day and age but let us understand that the computer is merely a tool to enhance the basic skills that one is required to learn in school.

12.00 noon.

The computer that the Honourable Member for St. Joseph spoke about is no different from the slide rule that was so popular in the 60s and the 70s, it is just more effective. In essence, your basic skills, numeracy skills, literacy skills, the need to analyse, the ability to think for yourself and the ability to reason, are really what is important. I certainly hope that now that we have sort of taken away the mystique, this whole EduTech thing, that we can see some serious and meaningful reform of our education sector in such a way that we can prepare citizens for this century and beyond not necessarily those who are computer literate but those who have skills that can take them forward into the future.

There can be no doubt, Mr. Deputy Speaker, that perhaps we were just a little too focussed on getting laptops into certain children's possession and on constructing lovely labs, but are forgetting the basic skills. In fact, if one looks at the performance in our education sector in terms of deviancy, in terms of the pass rates and in terms of truancy, one would realise that there is a serious problem in our education sector. The EduTech Programme has not had that appreciable an impact in that regard. It may have helped certain students to be more computer literate, but has it really prepared them to be better citizens, is the question we have to ask. It is a tool that can work in that regard but it is not an end in itself.

Mr. Deputy Speaker, that is what we would say in terms of the overall thrust to straighten out the role that computer technology is playing in our schools because that is critical if we are going to go forward, and certainly, if we are to understand that the computer has more to offer as a positive device than as a negative device which of course is what we are dealing with here today.

Mr. Deputy Speaker, in all fairness many of the computer-related crimes that this Bill speaks to come under the very broad category of what is referred to as white-collar crime. It is not always the case but it could easily be considered as white-collar crime. Many of the young people in this country, the young men 'on the block' as we say, who

often take a battering because they are usually the first ones that tend to be accused of any illegality that is occurring in the community, find that as a nation we are particularly soft on white-collar crime. Indeed, this was mentioned in the *Report of the National Commission on Law and Order* that has been laid in this House of Assembly as something that concerns the young people of this country. There is a feeling that we regard the petty crooks as being the true criminals, whereas the white-collar criminal is more regarded as someone who is smart, someone who can beat the system and is someone who is not really reduced to criminal status, which is what they really are.

Mr. Deputy Speaker, as difficult as it may be to prosecute someone right now, when this Computer Misuse Bill becomes an Act, I want to suggest that the Government of Barbados can demonstrate how serious it is at dealing with computer related crimes and white-collar crimes generally by perhaps dealing with some of the other white-collar criminal conduct out there. For example, the Auditor-General has given us an array from which we could choose. There are several white-collar crimes right there. You can prosecute and perhaps even imprison someone and send the right signal to all the young people out there that you are serious about dealing with crimes of this nature and crimes associated with computer misuse. I do not need to go into the details because I may be called for being irrelevant, but that is just a good example of where we can go by demonstrating good faith at dealing with computer misuse.

Mr. Deputy Speaker, I thank you for the little latitude. The pervasive use of the computer cuts across other areas as well, some of which we have dealt with in here and some of which we need to deal with. There is the issue of copyright matters. In fact, when the Honourable Member for St. Peter was making heavy weather of his creative economy – I do not really like that term *per se*, I do not really understand what it means – I thought that any exploit of meaning in developing the economy would require some element of creativity, it is a Small Island Developing State, so I am not sure where we are going. The point I agree with him on is that in terms of computer related industries and activities, that many young people are doing in a constructive way, web page development, software development and so on. Graphic artists are no longer using paint brushes and easels, they are actually using the highly sophisticated programmes that are available via our computers, so these copyright issues as well would necessitate that we see the cross-fertilisation that occur perhaps in the same suite that we were hearing about.

Of course, closely allied to the whole question of computer use and misuse is the question of e-commerce which the Honourable Member for St. Joseph touched on.

Again, the whole area of e-commerce is largely somewhat underdeveloped in Barbados but it is growing, and we would no doubt see that it would take on an increasingly important role.

I would again hope that the Government would see it fit, perhaps through investments in the Industrial Development Corporation, the Youth Entrepreneurship Scheme and other instruments such as that, to develop businesses and young entrepreneurs in this country so that we can get involved in the producing end of e-commerce not only in the consuming end.

Consumption as you know, Mr. Deputy Speaker, is an area the Governor of the Central Bank spoke about recently. I am saying that we need to curb our consumption patterns because of a tremendous drain that occurred on the foreign reserves in 2004, they were bleeding. The issue of production and the role that computers can play in production is something that we can focus on as we debate this Bill.

Mr. Deputy Speaker, in understanding the ways and means that the computers can be misused, we have to look at how effectively the computer can be used. If I can make a humble request to the Honourable Member for St. Joseph, he is very capable of it, perhaps in his wrap up he could maybe let us hear a little about the overall Government thrust beyond EduTech in terms of seeing the computer and computer related industries as we develop our services and so on so that we can offer to the entire world. It is an area that we can focus on. There are several industries, some of which I have spoken about that can be correctly developed.

Mr. Deputy Speaker, the issue of jurisdiction that the Honourable Member for St. Joseph spoke on is indeed quite complex because as we recognise the whole cyberspace is borderless, but it cannot be free from the law. So I think that the Government was correct in how it worded Clause 2, that a Barbadian overseas can still be held liable, or for that matter, I presume anyone, whose conduct impacts on our territory, under this Act. Indeed, you can get into issues where a person can be in one jurisdiction, from another jurisdiction, impacting a third jurisdiction, so it has a number of complexities. Sir, I would just say that a natural course to somewhat solve that issue is to look to see how our regional grouping can participate with the larger groupings in dealing with this whole issue of the jurisdiction problems that would occur in dealing with the misuse of the computer and with acts of impropriety in cyberspace. Mr. Deputy Speaker, the European Union, as I understand it, has set up an entire arm to deal specifically with matters as it pertains to the internet. I am not sure what our own CARICOM Secretariat has in that respect but I am learning that they have their own challenges,

even with the Caribbean Single Market and Economy that is being delayed now to the end of the year. Of course, the Caribbean Court of Justice now finds itself also fighting an issue before the court. The Jamaica Court of Appeal has ruled against the legislation of the Caribbean Court of Justice.

12.10 p.m.

Mr. DEPUTY SPEAKER: Honourable Member, how would you relate that to the Bill?

Mr. R. L. SEALY: I am speaking in the context of regional information. I am suggesting that our regional groupings must be strong in dealing with these issues of jurisdiction and enforcement.

I am suggesting that we need to give careful thought to having strong participation in these groupings and in the hemispheric groupings as well. This is something that is not at all strange to the Honourable Member for St. Joseph. I believe that as far as the Free Trade Area of the Americas and E-commerce is concerned, the Honourable Member had some lead responsibility.

Asides.

Mr. R. L. SEALY: I am now hearing that E-commerce is not relevant to the Bill. The Honourable Member spoke about E-commerce on four occasions when he was introducing the Bill but now in terms of computer misuse, E-commerce is not relevant. That is, to some degree, the confusion that maybe obtains in the minds of some Honourable Members on the Other Side.

Mr. Speaker, I wanted to speak to the issue on child pornography which was raised in Section 13. There is really no need for any political posturing on this particular matter but I would just say, before getting to the actual child pornography, that what the Act does not say is equally as ominous as what is said. Sir, the Act is totally silent on the issue of adult pornography.

Sir, I am not suggesting that we should imprison or fine anyone for publishing, producing or possessing adult pornography. However, I would want to suggest that the very same children that we are looking to protect from exploitation in terms of child pornography, may very well be two clicks away from all sorts of adult acts, and we may very well be defeating our purpose in leaving out the whole issue of adult pornography.

Mr. Speaker, I would take the word of the Honourable Member for St. Joseph. He said that there is a suite of legislations, therefore, these omissions may be picked up in another area of the suite. I think there may be a strong case

for strong legislative framework as it relates to pornographic material generally. We, on This Side, do not believe that Parliament can legislate what is anyone's personal taste. Certainly, the Government of Barbados should take a position on how it is disseminated and to whom it is disseminated.

Mr. Speaker, prominent Members of this Government have publicly taken some socially liberal positions that are, to my mind, out of step with mainstream Barbados. I am not at all going to suggest that the Government is encouraging persons to publish, to produce or to possess pornographic fare, just to make sure that the participants are not children. I am saying that others who may be more capable, can sit and decide on pornography whether via the computer or any of the more popular means.

Mr. Speaker, I am not sure now but recently it was illegal to import pornographic material into Barbados, though it is still all over the place. The reason why video stores do not exhibit it is that it is illegal. I am told that it is kept in a secret place.

Mr. Speaker, we, on This Side, would support any action that is designed to prevent our children from falling victims to those menacing characters out there; those sick minds, who apparently derive some kind of pleasure from this type of activity. We all know, and the Honourable Member for St. Joseph has alluded to it, of a case that was all over the internet, where the young men had pleaded guilty of corrupting the public morals and had gotten a slap on the wrist as punishment.

Asides.

Mr. R. L. SEALY: I am hearing that they should have been imprisoned and I do not think that very many right-thinking Barbadians would disagree with that. However, what I would say by way of my own observation is that to suggest that someone who knowingly publishes, possesses or produces child pornography for the purpose of its publication, is only looking at a fine of \$50 000 or a term of imprisonment for five years. Sir, this looks a bit too mild to me.

Mr. Speaker, I have only been to Her Majesty's Prison once to visit and I can tell you that for me that was too long. I am not going to stand here and pretend that I can prescribe what is or what is not an appropriate sentence because three days in prison is a lot. Sir, I would just say that in comparing sentences that hackers would be receiving, would be the same \$50 000 fine or five-year terms of imprisonment or both.

“12. (1) Where a person who is not authorised

- (a) to have a programme or computer data; or
- (b) to have access to any programme or data held in a computer

(5) A person who is guilty of an offence under this section is liable on conviction, on indictment, to a fine of \$50 000 or to imprisonment for a term of five years or to both.”

Mr. Speaker, it would seem to me that a hacker and a child pornographer should not be in the same category but there may be other minds present here who will contribute to this debate, who can offer some thoughts on that. I do not know, and I am not going to pretend that I know how long someone should be imprisoned. I am not going to arrogate that power to myself but there are others who may have studied this area and who may be able to comment meaningfully on it.

Mr. Speaker, on this issue of child pornography, and perhaps an explanation should suffice but I note it says at:

“13(2) It is a defence to a charge of an offence under subsection (1)(i) or (ii) if the person establishes that the child pornography was for a *bona fide* research, medical or law enforcement purpose.”

Mr. Speaker, I can understand the law enforcement aspect of it. You may have to hold onto material for evidence purposes or for entrapment purposes but I would be very curious to hear what a *bona fide* research is for child pornography, which is defined in this Act, not as nudity, full nudity or partially but as sexually explicit conduct.

“13 (3) For the purpose of subsection (1)

- (a) “child pornography” includes material that visually depicts
 - (ii) a minor engaged in sexually explicit conduct; or
 - (ii) a person who appears to be a minor engaged in sexually explicit conduct;
 - (iii) realistic images representing a minor engaged in sexually explicit conduct.”

Mr. Speaker, the only thing I can come up with is perhaps someone being evaluated in the psychiatric realm or something like that but I am curious to hear from the drafters. I offer this in good spirit because as I said, the child pornography clause in this Bill is nothing on which we should have any political posturing, but if there is something

that we can rectify, then we should rectify it. Only recently legislation that was rushed through here had to be corrected in the Other Place, and may I add, not by any fine legal mind but by a highly qualified agronomist who pointed out a mistake that was made in terms of the drafting. Therefore, let us take the issue of the legislation as it pertains to child pornography for what it is worth.
12.20 p.m.

Mr. Speaker, I mentioned earlier an area of the Bill as it pertains to the individual user is something that truly concerns us. I sincerely hope that the perpetrator of these viral infections which affect individual users of computers would also become the focus of its own special legislative framework.

Sir, sometimes persons send you an e-mail perpetrating to carry one thing but may have other attachments to it which overloads, interrupts, impedes your systems and sometimes exacting irreparable damage if it contains a virus.

Mr. Deputy Speaker, in spite of Section 14 which speaks to the issue of sending indecent or obscene or communications that are menacing in character, I am curious if this is strong enough to deal with persons who have to ensure the anxiety of seeing their system disrupted as a result of the actions of a useless hacker or someone who feels he can transmit data unnecessarily notwithstanding, the consumer protection legislation from the Fair Trading Commission.

Sir, on This Side, we do not have a fundamental problem with the overall idea of trying to deal with this issue of regulating activity in cyberspace and the misuse of computer but we want our general observations to be taken on board so that we can move towards ensuring that we have legislative framework that will work not only in the interest of the owners of the large databases but the individual users.

Mr. Deputy Speaker, I am grateful to you.

SUSPENSION

Hon. R. C. EASTMOND: Mr. Deputy Speaker, Sir, I beg to move that this House be suspended until 1.30 p.m.

Hon. R. R. FARLEY: I beg to second that.

The question that the House be suspended until 1.30 p.m. was put and resolved in the affirmative without division and Mr. Deputy Speaker suspended the House accordingly.

RESUMPTION

Mr. DEPUTY SPEAKER: This Sitting is resumed. The Honourable Member for St. Lucy.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, I rise to speak on this Bill and to say from the outset that it is very interesting of this particular Bill. Sir, when one looks at the procedure one would have thought that this Bill would have been brought before this Parliament before the Forensic Procedures and DNA Identification Bill, it is clear that this legislation is the legislation that lays the foundation for the Forensic Procedures and DNA Identification Bill. I would hope that this Bill will make sure that no one has the authority to misuse any information that this Parliament might have given permission to in the past. Clearly, this type of information should have been before this Parliament to lay the foundation for information that came before.

Sir, we have to very careful how we deal with procedures in Parliament. If it is not dealt with correctly, one might get the impression that the Government might be hiding something. I would not want to make the judgement that there is a possibility that there might have been a belief that had this Bill been passed previously, the other Bill might not have been past in this Parliament.

Sir, I would not make the assumption that it was cleverness on the part of Government to switch the Bills so that they can achieve a certain objective. I will not make that judgement. However, when one looks at the information, it is clear that particular judgement could have been made. We have to be careful that when we are dealing with Bills that we not allow innocent persons to supply information and that information is not being protected. It is clear to me that this is the Bill that will protect the particular information that might have been given previously.

Mr. Deputy Speaker, civil servants have to be very careful that they do not carry out certain tests knowing that they do not have the particular law to cover these tests that might have been given permission by this Parliament.

Sir, even though these matters might have been brought before the Lower House, we have to be very careful how they are proclaimed and acted upon because it could interfere with the fundamental rights of the citizens of Barbados whom we sought to protect when we voted against a particular Bill.

Mr. Deputy Speaker, the Opposition did not oppose anything, they sought to protect the rights of citizens and it is confirmed today by bringing this Bill before Parliament. All those who thought that we were playing politics, it is now clear to everyone that we were not playing politics but we were protecting the interest of Barbadians last week in this Honourable House.

Asides.

Mr. D. St. E. KELLMAN: The Honourable Member for St. James Central knows that if I made reference to the particular Bill that you will have power. The Honourable Member thinks that because he has been in this Parliament for less than two years that he can trick an Honourable Member who has been in here for ten years and who understands the procedure of this Honourable House. I could appreciate if those remarks were coming from the Honourable Member for St. James North.

Asides.

Mr. DEPUTY SPEAKER: Honourable Member, could you please get back to the subject matter. How does it relate to the Bill?

Mr. D. St. E. KELLMAN: I am saying that we have to be very careful and make sure that the provisions being made in this particular Bill have shown that the Government is guilty of playing with this Parliament.

Sir, when one looks at Section 75 of another Bill, one can easily understand that...

Hon. K. D. SYMMONDS: On a point of order. The Honourable Member is not permitted to be reflecting on sections of a previous piece of legislation. His actual words were: "When you look at Section 75 of another Bill." In addition to that, as if that were not bad enough, the Honourable Member is certainly not permitted to be making suggestions that Honourable Members have come here to play with Parliament. On both counts I think that the Honourable Member must retract and withdraw.

Mr. DEPUTY SPEAKER: Honourable Member, to what Bill were you referring?

Mr. D. St. E. KELLMAN: I thank you very much for acknowledging that I did not identify any particular Bill, so what the Honourable Member is saying cannot stand.

Mr. DEPUTY SPEAKER: Proceed, Sir.

Mr. D. St. E. KELLMAN: We also have to recognise that when we are dealing with the misuse of the computer that we do not limit our citizens. I can appreciate the point that when we are dealing with the misuse of the computer, for someone who wants to commit a criminal act, that is one thing. I do not know that if you have a bright young man who is

expanding his knowledge whether it should be looked at in the same vein. We have to be very careful that with this particular Bill we are not limiting the ability of some young man or woman in Barbados of enhancing their educational skills to a higher level, while at the time the Government is saying that EduTech is the programme to extend computer knowledge to a higher level. Sir, this can be contradictory and we have to be very careful that we are not contradicting what we seek to do within the EduTech programme.

Sir, I can see malicious persons who want to use the computer for their own purpose but young people, out of innocence, who are seeking to improve their knowledge, I cannot see how we can bring legislation to punish them. The computer aspect of the EduTech programme will be self-defeating. I am not talking about the building aspect of EduTech. We have to be careful that when we pass this Bill that we are not limiting the abilities of our young people.

Asides.

Mr. D. St. E. KELLMAN: The point is, if we are in a competitive age, what might look like a problem today might not be a problem two or ten years from now when one looks at what is going on in the world. People have to understand that ten years ago, information that one took through a computer, somebody would have said that was illegal information but today, we see that information as normal information. Ten years from now, what we are protecting, we will have to admit that there is nothing to protect, because technology would have risen to another level and, instead of seeing this as information, we would just be seeing it as data.
1.40 p.m.

We have to be very careful, Mr. Deputy Speaker, how we set about to limit the knowledge base of our youngsters, at a time when the world is moving towards a new direction, and we are introducing something called, EduTech that we claim is for expanding the knowledge of our young people.

I am saying, Sir, we have to be very careful and we also cannot bring legislation in here and believe that because we bring them in separate weeks that they are not related. We have to understand that there is a connection between the two pieces of legislation and we might even have to change our rules as they relate to debating in this particular Parliament. Any clever Government should make sure that they bring legislation in a particular way, so that it cannot be reflected as protecting things that are in the particular legislation.

The timing of information is the key and it is clear to me, Sir, it is not by accident that last week we had a Bill and this week, we are debating this one. In truth and in fact, it should be the other way around, but it has been brought wisely and it has been able to pass The Parliament.

Mr. Deputy Speaker, what we have to do now is to look at both of them to find out what we will achieve from them. We also have to look at the timing of both of them to make sure that there was no plan by the Other Side to prevent the Opposition from seeing a particular point when it comes to debating these two Bills. It is clear to me, Sir, that the Computer Misuse Act Bill should have come before the DNA Bill.

Asides.

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, on a point of order. The Honourable Member cannot reflect upon a Bill that was debated within this same Parliamentary session. Sir, to the best of my knowledge, the last Sitting of this House dealt with the Forensic Procedures and DNA Identification Bill. Therefore, the Honourable Member cannot continue on a path that continues to reflect on a Bill that was the substance of business in this very Parliament.

I am obliged to you, Sir.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Lucy, I am in agreement with the Honourable Member. I would like you to stick to the Bill and forget about what happened last week or the week before. It is against the rules of this House for you to reflect on what happened in the last couple of weeks.

Mr. D. St. E. KELLMAN: I appreciate your ruling, Sir, and that is why I would not get involved in the body of this Bill that has been passed last week. I never did and I will not, Sir, but I can deal with the timing with which the business is brought to this Parliament, and that is exactly what I was dealing with and not the contents of the Bill.

I was dealing with the timing, Sir, because you cannot bring one thing and then afterwards bring information to protect what you brought before. The protection must be first and then the other Bill must come after. This is all I have to say on the particular matter.

I thank you, Sir.

Mr. DEPUTY SPEAKER: The Honourable Member for St. James Central.

Hon. K. D. SYMMONDS: Mr. Deputy Speaker, I am grateful to you. Sir, notwithstanding the almost petulant behaviour of the Honourable Member who just took his seat, I think it is necessary for us to, once again, revisit the context of the exercise that we are engaging in today.

We, Mr. Deputy Speaker, are at crossroads of our economic development and we are essentially trying to bring Barbados into line with what is, perhaps, not only international standards, but to make Barbados as competitive as possible, insofar as our most competitive aspects of our economic development are concerned.

This, Mr. Deputy Speaker, must mean that we have to pay very careful attention to the whole question of the services sector and the way in which we manage, control, manipulate and access information. Information technology is not just about computers. It is also about the rules and the system of governance, and the framework which is built around the whole process of manipulating and managing information.

Mr. Deputy Speaker, having set that context, my learned friend, the Honourable Member of St. Joseph who moved the passage of this Bill, carefully, in my view, prescribed the parameters of this debate. I think one has to conclude that there is much merit in the document which now attracts the attention of this House.

In those carefully prescribed parameters that the Honourable Member for St. Joseph had set, Mr. Deputy Speaker, there were a number of issues which have to be further addressed. I think, Sir, that it is perhaps useful, to use his terminology, which if I remember correctly, he described the Bill as not glamorous. It is however, Sir, a Bill of great utility and import. There may not be a lot of fanfare surrounding it but what we are trying to do in terms of setting a framework for the economic prosperity and the governance of this country, is vitally important.

Sir, the question of the utility perhaps begins with the mention that has been made so far as the Education Sector Enhancement Programme is concerned. Unlike the Honourable Member for St. Joseph, I have always been a comparatively poor and

penniless politician. I cannot speak of having purchased a several thousand US dollar computer, Sir, but I know what it is to be able to rely on the goodwill of well-wishers, friends and family, who had the technology at their disposal when I was a student and did not have a computer.

Mr. Deputy Speaker, it is from that very early stage that one begins to familiarise oneself, not only with what can be done but also, Sir, how you can do things with the technology. I fully, therefore, support the Honourable Member for St. Michael South Central when he suggested that we ought to be looking seriously at identifying, who are the so-called 'whiz' kids – I wish there were a better term or phrase that we could apply to them but that is the colloquial paradox that is used – and try to attract those young people into the relevant sections of the Government Service, so that they can lend of their technological expertise for the future.

I wholeheartedly embrace that point, but what I will say, Mr. Deputy Speaker, is that it is important for us to recognise that through this greater access to the technology, and understanding of the technology, will always come the window of opportunity for persons who wish to use it negatively, who wish for their own purposes, be it rapid financial achievements, to take a route that is undesirable and in large measure, Sir, one may even describe it as immoral. Sir, prior to the passage of the legislation it is very difficult to describe it as being criminal, but we have to recognise that there are some ways in which the computer can be used to the negative long-term effect of the community as a whole. Therefore, what this piece of legislation does is to act as a companion to previous pieces of legislation which came before this House so that one now has a governance structure which seeks to bring a level of control to what might be taking place via the use of the computer that would have a long-term negative effect on this society. I tried, Sir, to place it in that context because it is important that we do not get ourselves bogged down in looking hither, thither and yon at things that the Parliament may or may not have done before.

1.50 p.m.

There is no piece of legislation, Mr. Deputy Speaker, that I can think of that has come to this House that has not had within its body the necessary protective elements so as to ensure that it could be passed as a piece of law and have penalties attached to it. That is a mistake which the Opposition seems

not to be prepared to try to overcome. They were submitting at great length during the course of this debate that we have that deficiency. I would want to assert, Sir, that I can identify no such deficiency in any piece of legislation that has been passed by this House since I have been here. What I would also want to say, Mr. Deputy Speaker, is that they might be better served if they were to try to focus on the issues of the moment which are currently affecting our society and understand the way in which this piece of legislation seeks to correct some of those problems.

Sir, the question of financial fraud is one issue that automatically comes to mind. There is absolutely no doubt that there is a long list of cases in Barbados where computers have been used by way of advancing efforts at financial fraud. I could think, Mr. Deputy Speaker, of one large case, in which I had the honour of being party to the proceedings, in which the Federal Bureau of Investigation (FBI) had to be called down here. I would not name the company. The headquarters of the company was in the United States of America and they were down here selling lottery tickets, that is all they were doing, but the lottery tickets that they have been selling were largely being sold to persons in Canada and Europe.

What would have happened then was that there would have been a cross-border series of transactions taking place all of an entirely paperless nature, so there is no paper trail, and you would have had persons who would have made the contract, because Barbados was the jurisdiction where the contract for the sale of the tickets was taking place, but the financial fraud was that there would have been no sale of the tickets. You get the person's credit card number, money is placed on a bank account but many people in Europe and Canada found that they never actually got the tickets.

Mr. Deputy Speaker, this legislation is important because we had a major loophole in our law. I really welcome opportunities like this, Mr. Deputy Speaker, because unlike the Honourable Member for St. John, I had to go the poor man's route, I went into the Magistrate's Court. There are some of us who are blessed in that they could go straight to the High Court and the Civil Court and make a lot of money, but they never came into contact with the people, which is why they say of the Honourable Member for St. John that he is irrelevant both in town and in the country because he does not come into contact with the people.

Mr. Deputy Speaker, the FBI was called down in that case. The traditional warrant issued in Barbados is to go on to premises and seek to find documents which are pertinent to the alleged fraud. However, when you have an encrypted set of information stored electronically, as is the case of the computer, then the issue which the court had to decide is, do these types of encryptions properly constitute documents as given permission to be searched for under the warrant.

Mr. Deputy Speaker, another limb of the argument was, can the police go into the people's place and have with them persons who are not officers of the courts of Barbados or persons who are not within the contemplation of the magistrate when he or she issued the warrant for the search, and properly take such an individual into the premises and have that individual participate in the search. That was the second issue that had to be resolved.

There was also a third issue that came out of the case. That third issue was whether or not you could properly compel the person who was the proprietor of the premises to assist the police in taking the information off the computer.

Mr. Deputy Speaker, the courts in Barbados were in trouble. We went right up to the Court of Appeal and the Court of Appeal is still unable to hand down the ruling. What we have here is a piece of legislation which for the first time speaks to some of what I would describe as deficiencies in our legislation.

Sir, if, for argument sake, you were to look at Section 16 of the law you would find that provision is made now for the police not only to execute the warrant but to bring persons onto the premises with them who are competent or specialists in the area.

Mr. Deputy Speaker, we have to understand the importance of what we are talking about because I hear from the Opposition all the time... Sir, there is no legislation which does not come into contact with the issue of the public well-being. We do not just come to Parliament and pass a piece of law that stands in the air, it has to touch and collide with the public's well-being. The politics in this legislation is what is being done to ensure that there is a framework in place which ensures the continuation of good governance on issues of fundamental import, such as the one I am talking about where financial transactions involving as it did in that case millions of US dollars could be taking place but the police are nearly rendered powerless because they do not have the full access or they can be frustrated by counsel because the law on the matter is not clear and settled.

Sir, what we are trying to do is to ensure that people who engage in that kind of activity will now have an opportunity to be brought before the courts speedily, efficiently and effectively because of the fact that the loophole in the law has been plugged. Sir, I do not want to presume passage because the Members of the Opposition, all seven of them, are known to vote against pieces of legislation which function essentially in the well-being of good governance, so do not let us assume that there will be easy passage. However, the fact of the matter is that this piece of legislation will empower the police to the extent that they can bring specialists into properties so as to assist with the type of search they are hoping to conduct. That is the advantage of Section 16.

Mr. Deputy Speaker, there are persons who use the computer to send threats or to communicate obscenities with intent to annoy and to distress or to even inconvenience. Section 14 provides that persons who so use the computer to communicate obscenities with a view to annoying and distressing and inconveniencing – as the Honourable Member for St. Lucy is doing to me now, he is distressing me – can for the first time be brought properly under the correction of the courts. Mr. Deputy Speaker, in his response, I heard the Honourable Member for St. Michael South Central seeking to portray a scenario in which the law of Barbados, augmented as it will be by this legislation, would still be deficient because of the fact that the legislation speaks specifically to minors.

2.00 p.m.

Mr. Deputy Speaker, had the Honourable Member been inclined to do some research, had he been inclined to read the legislation, the Honourable Member would have seen that Section 14 speaks specifically to the exact scenario that he is contemplating. Whereas, for an adult person, the adult can, in fact, be captured *via* the computer, engaged in acts which are obscene, and once the obscenity is being promulgated, then the legislation crafted under Section 14 captures it as an offence. Therefore, it must not fall from the lips of the Honourable Member for St. Michael South Central that there is a deficiency or that there is a need for clarity. The legislation is pellucidly clear on that point.

Mr. Deputy Speaker, this legislation goes further. It speaks to using the computer and related technologies for the purpose of issuing threats. Sir, I want to say again... because when you represent the man in the street, you understand how the man in the street has to live and how he may suffer.

Mr. R. L. SEALY: On a point of order. Mr. Deputy Speaker, I hate to interrupt the Honourable Member when he is in his flow, battling with himself because the Opposition has already indicated that we are in favour with the effort.

We are just trying to guide them. Sir, surely to suggest that Section 14, which does not speak to publishing, production or possession and to compare that to Section 13, is really a little ridiculous.

Sir, even the drafters of the legislation do not agree with him because the sentence Section 14 is calling for is \$10 000 or 12 months, as apposed to Section 13, which is \$50 000 and five years.

Section 14:

“Where a person uses a computer to send a message, letter, electronic communication or article of any description that;

- (c) is indecent or obscene;
- (b) is or constitutes a threat;
- (c) is menacing in character

and he intends to cause or is reckless as to whether he causes annoyance, inconvenience, distress or anxiety to the recipient or to any other person to whom he intends it or its contents to be communicated, he is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 12 months or to both.”

Asides.

Mr. DEPUTY SPEAKER: Honourable Member, you have already made your point. Please proceed, Honourable Member.

Hon. K. D. SYMMONDS: Mr. Deputy Speaker, I have come to realise that one must not play at everything that is bowled outside the off-stump and in this particular case, it would be to reduce the debate to the lowest common denominator for me to have to lecture Honourable Members on That Side on the *minutiae* of law.

Asides.

Mr. DEPUTY SPEAKER: Order, please. I would like to listen to the Honourable Member.

Hon. K. D. SYMMONDS: Mr. Deputy Speaker, suffice it to say that when menaces are made *via* the medium of electronic communication, it can be a very serious and destabilising thing for people's families.

Mr. Deputy Speaker, I was making the point that there are a number of situations where men or women, having ended a relationship, which erstwhile had been blissful and passionate, then seek to exploit the other partner by exacting

some sort of punishment on that partner who, a few months before, they would have been cuddling next to. These persons take naked pictures and all of the history that they would have had with that individual and would now turn around and put those pictures on the internet. These pictures would then be used with a view to blackmailing, menacing, or to any number of negative things.

Sir, the issue arises as to what extent did the people who had been victims of this activity have in law, in seeking any sort of compensation. We are living in a society where Honourable Members on That Side, like the Honourable Member for St. John, can enjoy laughing at people who would have suffered that plight but there are those of us who come into contact with the man on the street on a daily basis, who feel that there is a weakness in the law, when it does not adequately protect people who would have suffered from this kind of thing. Therefore, we believe that the legislation has to be so crafted as to plug that loophole.

Mr. Deputy Speaker, I do not feel that these are matters upon which Honourable Members on Either Side should be heard to be scoffing but I would want to say that these are matters which I think Parliament, as a whole, should be able to agree, as they can only lead to the furtherance of social incohesion in the society and therefore had to be corrected.

Mr. Deputy Speaker, in his reply, the Honourable Member for St. Michael South Central spoke about the need for the Police to be able to use specialists. I have touched on

that already but I would want to say that the ability now to bring in specialists is a new plateau which is being offered by the legislation in the assistance of investigating crime in this country.

The Police Force does not now, did not in the past, and realistically, will not ever have within its ranks, all the specialists to do all the crime detection that needs to be done in Barbados. Therefore, via this legislation, we have vested the opportunity for the Police Force to rely upon specialist intervention, in the course of the earlier stages of the investigation. The weakness that before existed is that when the search warrant was being executed, it would have been signed by the magistrate, giving permission to "Inspector White" and "Sergeant Brown" to go on the premises and yes, they may take two or three other policemen with them, but the weakness has always been that these people may not necessarily have been specialists in the area which is being investigated. Therefore, we are broadening the opportunity.

Asides.

Hon. K. D. SYMMONDS: Mr. Deputy Speaker, I want to say that there is a very important aspect of this legislation insofar as the augmentation of the way in which we manage information in Barbados.
2.10 p.m.

I am of the view that we are at a crossroad in our society. We have to make very clear decisions about where we are going and about how we equip ourselves to get there. Part of the advantages that Barbados has is to completely recognise as a country that services are the way forward. Our people have to be as skilled and well-trained as possible and Parliament must empower them by having the legislative framework in place so as to provide the impetus for us to be able to advance along that line of development.

Mr. Deputy Speaker, you cannot adequately speak to the management of information if you do not look at the totality of what information technology and the manipulation of it means to the whole economy of Barbados. The Ministry of International Business in almost every aspect of its endeavour had relied increasingly on information technology and the investment in building capacity in information technology. The whole foundation on which the economy of tomorrow will rest is on information technology and the capacity we built to manage it. Therefore, when we come with a piece of legislation like the proposal for enactment for a Computer Misuse Bill, we are seeking to broaden the platform and usher in a new ethos in the way in which this new business of information management is conducted.

Mr. Deputy Speaker, I am satisfied that those on This Side, who for evermore hereafter, would want to see us with a little red book with thirty pages, tattered and torn which is called a licence and which you carry for life as apposed to an identification card which would have the necessary software that would give you information on every aspect of what are the obligations of the person to the Government. It will show whether road tax or licence was paid and whether the vehicle was insured. Sir, this is happening in across the Caribbean, in North America and in England but Barbados is not to march forward. Sir, the Opposition scoffs at these things but I believe that if we are to have the benefit of reaching that type of technology and if the vision for tomorrow is that Barbados is going to be able to provide that type of ease of access by way of the services that we offer to our citizens and people who do business within our border, then we are going to have the built-in safeguards in a legislative mechanism.

Sir, this is the legislative mechanism which would serve us tomorrow so that we would be better able to provide the safeguards for people who would be relying on the electronic commerce platform and the electronic governance platform of tomorrow. If there are those who are stuck in a time-warp and can only understand governance as it was in the 1960s and cannot appreciate the value of this legislation for a governance platform which would be electronically driven and operated, then Mr. Deputy Speaker, woe betide this country.

Sir, I thank you for your indulgence.

Mr. DEPUTY SPEAKER: The Honourable Member for Christ Church East Central.

Mr. R. D. JONES: Mr. Deputy Speaker, this Bill before us, the Computer Misuse Act is essentially a piece of legislation that engages the mind of Government in an area I consider to be relatively difficult. In my view, it seeks to control an uncontrollable entity and a set of technologies which cascade across the world in many forms and emerge in many patterns and would continue to do so *ad infinitum*. Nevertheless, the effort is one which should be looked at carefully as Government seeks to put this Computer Misuse Act into operation.

Sir, for those persons who have encountered the technologies along the way as opposed to those who have deliberately gone and embraced the technology either in its programming format or its various applications and software, it would be a surprise to many of them as to the kinds of use to which information and communications technology can be put. Indeed, it is no surprise that the last speaker the representative for St. James Central, engaged in mental meandering as he tried to grapple with issues beyond his particular learning or scope. Sir, we fully understand that in our search because it is still a search that we are engaged in relative to where these technologies are taking mankind.
2.20 p.m.

Mr. Deputy Speaker, indeed, if I would want to plunge myself into the impossible, I would argue that the time is coming when man and technology will become one. These interruptions are annoying and unnecessary but, of course, it is part of the accusation that I made against the Honourable Member for St. James Central and the same thing can be said for the Member for St. Michael South and the Honourable Member for St. Philip South. In fact, they would be an excellent company in that regard.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Philip South.

Mr. R. D. JONES: Thank you. They are all Honourable Members. Mr. Deputy Speaker, you would recognise that the interruptions are really unnecessary and you will rule on those.

I am saying that I cannot see the future, and I argue that if we want to delve into the realm of impossibility at this stage because sometimes the mind of man does not expand itself to see the impossible being possible even though that is being revealed every day as we live upon this earth. Nevertheless, as we said in the beginning, Government is trying to grapple with a set of technologies that are almost impossible to control and because of that, to me the legislation is set up in such a way that it becomes unnecessarily intrusive in the lives of people. We must be warned that as the Government sees itself placing its hands or palms into the lives of people, legislation such as this would arise but there must always be caution. One must

always say to the government, maybe you need to rethink some of the paths that you are tracking relative to this.

Sir, in this legislation we are asking the police in Barbados who believe that an offence is about to be committed, to draw on the assistance of the person who it is alleged to have committed the offence or has committed the offence, so we are encouraging persons to implicate themselves in seeking to assist the police. I am not a lawyer nor am I as schooled as the Honourable Member for St. James Central and I would argue that he is not my lawyer but I believe that he is schooled. I have gone to other lawyers for advice but not to him.

Asides.

Mr. R. D. JONES: Section 16 says:

“A police officer executing a warrant in accordance with section 15 is entitled to require a person who is in possession or control of a computer data storage medium or computer system that is the subject of a search, to assist him or an authorized person to

- (d) access and use a computer system or computer data storage medium to search any computer data available to or in the system.”

Mr. Deputy Speaker, you are asking me to implicate myself. You are encouraging me to assist you to retrieve data, information and code, to implicate myself. I do not know any person in their right mind who possesses incriminating data, information or code who would do that. This boggles the mind a bit but, maybe, it is in keeping with the mind-boggling activity which this Government has become noted for.

Sir, it is also seeking to encroach on an arrangement between an internet service provider and the person on the receiving end of the services provided by that internet service provider. That internet service provider might have to reveal to investigating authorities that you, a client, might be in breach of the particular piece of legislation relative to data so that the police would be better able to prosecute.

I know that in other jurisdictions, United States of America, Canada and other places, that they are still seeking to grapple with these issues and we here in Barbados are also seeking to grapple with these issues. It creates a dilemma for the internet service provider who has to break, what I might consider, a certain contract. As I pay for a service, there must be a contract between myself and that internet service provider for some secrecy relative to what comes through their servers into my computer at home or in my office.

I do not know if the State should engage itself in that particular form of activity. I can understand the need for

protection from the misuse of the technology by the unscrupulous or the intelligent. In many instances it is not the novice or simpleton who is able to hack into your networks, servers or computer systems at home. It is that bright, brilliant and particular young man and sometimes woman who engages in these various forms of activity. It is a challenge to break into these various systems. It is sometimes a game and a very sophisticated game that they play relative to see what they can do with their knowledge.

Sir, I am not talking about the individual who receives an e-mail with an attachment of a pornographic image and forwards it to a friend or series of friends. That is a simple task and that is not sophisticated in any form or fashion. Therefore, that can be easily done by anybody who has a basic understanding of the communication technologies that they are playing with. Therefore, we have to ask ourselves the question, how can we get these bright people, especially if they exist in Barbados, and I know that some exist in Barbados, to use their skills, knowledge and talents to help develop this society and economy in a more purposeful and determined way, so that we too become part of the depth of information and communication technologies in the world. That is what is important. How can we create new models of encryptions, security, anti-virus software, new programmes to stop the intrusion of others into your computers or whatever devices you have? Maybe, the simple cell phone. How do we engage our young people here in Barbados to put that wealth of talent and that ability to more productive use?

2.30 p.m.

I am not one of those who, necessarily, is always looking to lock up, lick down and impose all kinds of penalties on persons. Sir, to me, one would have to determine if there is malicious intent on the part of the person or just mere curiosity, which can sometimes border on recklessness in many of these exercises.

Mr. Deputy Speaker, we talk about the authorisation of information, essentially, coding. What are we going to do with the thousands of Barbadians who today retrieve information from other systems, through peer to peer networks, and use that information as a means of generating income, either by downloading music, movies and games where the money is today, and retailing them in Barbados out of sophisticated home structures, in this country. There must be something wrong with that as well but this happens every day in Barbados.

Mr. Deputy Speaker, there are movies which have not been shown on the wide screens but find their way being shown in the homes across Barbados. There has to be something wrong with that, Sir, and this has to be misuse of the technology as well. Therefore, that is something which should be looked into.

We are aware of cases in the United States where persons and companies have been prosecuted for taking material which is not their own. The legislation is timely, or maybe passes the time but, as I said earlier, it is still necessary to bring the legislation because one may have a very limited knowledge of the technology and I have seen

how a lot of it can be used in its destructive capacity.

I am sure there are many parents, who have had to go to Cable and Wireless and explain that they did not go on the computers or call any place across the world. They did not realise that as their children play around and download something call dialers or whatever onto their systems that they are, in fact, building up the resources of others, while their monies are being expended for the payment of calls that they have not made, but were made right out of their computers, and many of them are connected to pornographic sites.

Therefore, I would want to agree with the Honourable Member for St. Michael South Central and disagree, most fundamentally, with the Honourable Member for St. James Central, that one needs even in this legislation to firmly plant from the outset that not only should we be talking of the exposure of infant or child pornography but we should also be talking about the exposure of other forms of pornography, such as adult pornography, when one is dealing with the misuse of the technology.

I know it is not easy to shield children, Mr. Deputy Speaker, because in the dead of night, they creep into the libraries, dining rooms or sitting rooms wherever the computers are located and do their random searches, and they come across naked exposure. I am sure that Honourable Members from time to time might have meandered their way into one of these sites, as they do their searches.

I remembered, Mr. Deputy Speaker, some years ago, I was looking for a quotation from the Bible and lo, and behold, when I put in my information and launched the particular site, what came to me was a series of pornography. I questioned whether I typed in the wrong thing and I went back and searched, but there are people out there who are part of misuse.

I am an adult and, therefore, I can sift my way through that kind of trash but there are persons who might not be able to sift themselves through that trash and maintain their integrity and virtue or, as my esteemed colleagues said, their composure. I do not know which composure they are talking about.

I see the Honourable Member smiling because the Honourable Member is very much aware of the entanglements which can be provided by the searches and meanderings of the uninitiated, relative to information and communications technology.

There is a legitimate concern which all Honourable Members and persons who look out for our young and citizens of this country should engage themselves. At the same time, I must return always to my initial point. These technologies are almost uncontrollable. You can put a small digital camera in the hands of someone and their bedroom business becomes the business of the world. We have seen pictures of all and sundry. We know how the technology can be manipulated. In fact, it is that very notion of the manipulation of the technology that makes it extremely dangerous.

For example, the Honourable Member for Christ Church West, a decent gentleman, might become the victim of someone detaching his head and placing that head on a naked person. I do not know anything about proportions. In fact, it might be disproportionate but the casual observer, looking through their pages, might encounter this and might, in Christ Church West, go about speaking about the Honourable Member in the most disparaging and derogatory terms, because we can do that with the technology.

Sir, this is very real. Someone can implant on my computer, on the computer of the Honourable Member for St. Philip North, the Honourable Member for St. Lucy, the Honourable Member for St. Michael South Central, the Honourable Member for St. John, or on the computer of any Honourable Member, information that they do not know anything about. They can come through your back door, and they can implant on your system, once they have access to it, damaging and dangerous pieces of information and, on the basis of anonymity, they can notify the police who can then, with the presence of a warrant, enter the privacy of your home and take away your computer or other storage devices, which you may have and then you are caught up in trying to clear or clean yourself.

It is all well and good, yes, to bring these things but recognise the substantial and significant danger that these they pose to ordinary decent citizens, like those of us who sit on This Side. One has to recognise that.
2.40 p.m.

Asides.

Mr. R. D. JONES: I have already spoken about the decent and honourable men on All Sides, but I can speak about my Side, I do not know anything about the Other Side.

Mr. Deputy Speaker, the question or the issue that I have raised is extremely real. There are persons who hack into websites even now and alter the information which you place there because they are that skilful and they have been able to gain access even though you thought that you had secured it in such a way. Nothing is safe in this type of environment. Sir, it is all well and good to operate within the purity of the intentions relative to this piece of legislation, but the impure mind, those persons who would want to commit disastrous acts, could implicate a whole mass of persons in their nefarious activities and behaviours and then have them dragged before the law courts of this country, so we must be careful. Do not let us make criminals of decent persons because every single person in Barbados with a computer can be made a criminal as a result of this legislation. Wicked people with intellect can make every one of us criminals as a result of this legislation. That is true.

Asides.

Mr. R. D. JONES: I can say it and I have said it. I am simply speaking...

Asides.

Mr. R. D. JONES: No one has to go to the Honourable Member for Christ Church East office or home and sit at his computer to do anything to it. There are people who can enter from any distance. They can get through the firewalls that you have created to protect yourself and they can go there and plant things on your computer.

Honourable Minister of Education, Youth Affairs and Sports, do not let the others say that it cannot happen. The Honourable Member for Christ Church East sits on the cutting edge now of implanting in the minds of young people in this country knowledge, systems and techniques which hopefully we want as educators for them to use for their good but sometimes they are far ahead of all of us.

Asides.

Mr. R. D. JONES: No, I am not saying that, I am just saying to exercise caution. If the Honourable Member for St. Philip South wants to bury his head in the sand, that is his business, he has the reach, therefore, that is no problem with me.

Asides.

Mr. R. D. JONES: He has to understand that it is all well and good to get up and talk and say these things cannot happen. I am not throwing straws across the trail, it comes from knowledge and an understanding of how these systems can be manipulated and used.

The Honourable Member for St. Michael South Central has already said that we on This Side will not throw a spanner in the works of this Bill but I thought that we should still seek to implant in the minds of the Honourable Members on the Other Side the necessary caution relative to what can happen. Persons who do not even understand the technologies that we are talking about should sometimes remain silent and maybe concentrate on public utilities.

I thank you, Mr. Deputy Speaker.

Hon. N. A. LYNCH: Mr. Deputy Speaker, I just want to make a short intervention to bring the debate back into relevant perspective as it relates to this legislation and many other pieces of legislation that have been tabled in this Parliament relative to bringing Barbados into the 21st Century.

Mr. Deputy Speaker, this legislation, like most of the legislation tabled in this House, which is aimed at bringing Barbados into the 21st Century is once again ridiculed and

laughed to scorn by the Opposition. Mr. Deputy Speaker, I believe that legislators should be focussed and purposeful in their submissions rather than speaking out of both sides of their mouths and being wishy-washy on most of the issues that have been brought to this Parliament.

Mr. D. St. E. KELLMAN: On a point of order. Where is the relevance, Sir?

Mr. DEPUTY SPEAKER: Proceed, Honourable Member.

Hon. N. A. LYNCH: They have to convene a special session for the Honourable Member for St. Lucy.

Mr. Deputy Speaker, we come to this House to be purposeful and to be focussed in our submissions to this House. Coming here and being wishy-washy saying that you support the legislation that is before us and then trying at every turn not to make the Government cautious or to take note as the Honourable Member for St. John has said, and to go the other way round the world against what you claim you are supporting in the Bill, is in my opinion not the way that we should be conducting business.

Mr. Deputy Speaker, I am disappointed in the submissions of the Honourable Member for Christ Church East Central, as an educator, in the way in which he went about his contribution to this Bill. He spoke about an issue of an uncontrollable set of technologies. Mr. Deputy Speaker, the set of technologies of which we speak are not and cannot be described as uncontrollable. What we need to focus on, in terms of information technology, its advancement and improvement, is that over time the technologies become more advanced and therefore controls would need to be put in place to deal with how these technologies are advanced. Mr. Deputy Speaker, to tell the public that they are uncontrollable is in itself to lose the focus of what the Government is seeking to do relative to these technologies.

Mr. Deputy Speaker, Government still needs to look at this matter carefully and I agreed with that. However, Mr. Deputy Speaker, I am most surprised at what the Honourable Member for Christ Church East Central is saying relative to these technologies and whether or not they cannot be controlled in some way and whether or not Government does not have to put checks and balances in place to protect the most vulnerable in our society.

Asides.

Hon. N. A. LYNCH: Mr. Deputy Speaker, I would like to be able to speak.

Mr. DEPUTY SPEAKER: Proceed.

Hon. N. A. LYNCH: Mr. Deputy Speaker, Government is trying to grapple with a set of technologies that in some measure can be controlled. Government is also seeking, as has been the mandate given to us, to protect those that are the most vulnerable and the weakest in our society.

Mr. Deputy Speaker, for the life of me I cannot understand how one cannot see, without seeking to encroach upon the basic and fundamental rights of human beings or those in our society, why a Government seeks to protect those who these technologies may be used in some way to hurt. At the end of the day, Mr. Deputy Speaker, that is the Objects and Reasons of the legislation which is before us.

I wish, Mr. Deputy Speaker, that the Honourable Member for Christ Church East Central would go back again to the Objects and Reasons of the legislation and understand exactly what we are seeking to do rather than going off in all of these wild places because I am sure he has not read the Objects and Reasons of the Bill that is before us. Mr. Deputy Speaker, the Objects and Reasons of the Bill are to create a regime and an environment in which those who use the technologies in an unauthorised way, that can bring hurt and harm to those at the other end, will be protected under the law. Sir, this is a simple piece of legislation which is meant to do what we can, that is to protect the rights of the people in our society. Sir, the State must, as a matter of course, seek to protect those people.
2.50 p.m.

Mr. Deputy Speaker, I see this piece of legislation as an extension of existing pieces of legislation under our laws which deal with issues of, for example, printed matter. Presently, we seek to protect the vulnerable in our society, for example, children, from the use of, purchase of, or access to printed matter or video. This is an extension of that because the proliferation of information technologies available would demand that Government acts in this way.

Mr. Deputy Speaker, I am not going to buy into the issue that it is the novice or simpleton who breaks into these systems but many times it is the educated and criminally-minded persons who, therefore, would be ones to cause more harm. Sir, it is incumbent upon the Government of the day to be able to put the checks and balances in place, in order to control these issues.

Mr. Deputy Speaker, I do agree with the only point made by the Honourable Member for Christ Church East Central where he said that the existing technologies must be used to expand our knowledge and that it must also contribute to the global pool of knowledge relative to

creating new methods of encryption. In addition, that it must be used as a tool for educational advancement, and therefore, trying not to put restrictions in place to dampen that activity is fundamental in the legislation.

Mr. Deputy Speaker, what I do not agree with is when persons start to seek to create in people's minds that the technology is going to be used to implicate ordinary citizens in crimes, and that those people who are the ones charged to police this legislation, would, in their own way, be planting evidence. Sir, when one starts that type of rhetoric in this society, I believe that we are going down the wrong road.

Asides.

Mr. R. D. JONES: On a point of order. Mr. Deputy Speaker, I think the Honourable Member is misleading the House. The Honourable Member would be aware that the use of the term was instantly withdrawn because that was not the phrasing which was meant or which was intended. Therefore, I would believe that the Honourable Member should pursue a different path. That is absolutely incorrect.

Mr. DEPUTY SPEAKER: You have made your point. Proceed, Honourable Member.

Asides.

Hon. N. A. LYNCH: Mr. Deputy Speaker, the main issue of going through the backdoor, putting in things and implicating ordinary citizens, is, in my opinion, an attempt to implicate people and to suggest that those who have been charged in looking after and policing this legislation, have some sinister motive.

Asides.

Mr. R. D. JONES: On a point of order. The Honourable Member surely does not understand what was spoken about. I was not speaking of the Police or of persons who are looking after this legislation. I was speaking about other persons with the knowledge and skills who can do that. Therefore, the Honourable Member was not listening to the debate. All of you are lost.

Mr. DEPUTY SPEAKER: You have made your point. Proceed, Honourable Member.

Hon. N. A. LYNCH: Mr. Deputy Speaker, again I repeat. For the Honourable Member to suggest to this Honourable Chamber that those who are charged with policing this legislation, those who are charged with protecting the most vulnerable in this society, would, under some sinister motive, seek to plant information or would

come through the backdoor to implicate ordinary citizens in crime, is, in my opinion, a misuse of the privilege that has been afforded to the Honourable Member.

Asides.

Mr. DEPUTY SPEAKER: Order, please. I would like to listen to the Honourable Member who is on his feet.

Hon. N. A. LYNCH: Mr. Deputy Speaker, the crux of this matter is whether or not the Honourable Member is suggesting that we do nothing as a Government.

Sir, areas of the Bill such as illegal devices, access to facilitate the commission of an offence, unauthorised disclosure of access code, search and seize, assisting the police, are all in keeping with simply an extension of existing laws, now brought into the 21st Century because of the advent and the advancement of information technologies.

Asides.

Hon. N. A. LYNCH: Mr. Deputy Speaker, I will not go into the *minutiae* of the law but I understand clearly the intent of the Bill. Sir, the Honourable Member for Christ Church East Central has said very clearly that he believes that the technology is uncontrollable, that Government has engaged in an activity that will engage normal citizens in crime and that we are encroaching on the fundamental rights of people, even though he is supporting the Bill. The Honourable Member has not yet outlined any section in the Bill, which, as a layman, he understands exactly what he said it is doing.

Mr. Deputy Speaker, none of the areas of the Bill seeks to encroach upon the fundamental rights of this society and has not proven the same. This Bill has been tabled as an extension of existing laws to protect the vulnerable and weakest in our society.

Mr. Deputy Speaker, I give my full endorsement to the Bill. I am obliged to you.

Mr. C. A. MASCOLL: Mr. Deputy Speaker, this Bill is strange in many respects because it seeks to deal with the misuse of computers but what is most amazing about it, is that it seeks to deal with matters pertaining to individuals being able to get access to establish programmes at various entities across Barbados, for example the Central Bank of Barbados, the Barbados Defence Force, and any company. 3.00 p.m.

What is most amazing about this Bill is that we are not here seeking to enforce any matters pertaining to the users of the existing computers that may impact on individuals

should benefit from the information being provided from these computers. Therefore, this Bill is not sufficiently comprehensive because it ought not to be speaking simply to persons getting access to the information from outside of a department of Government but also ought to be able to speak to the misuse of computers at these various departments.

For example, would this piece of legislation be able to assist people who have suffered extensively over the last year as a result of the misuse of computers at the National Insurance Board? Would this piece of legislation be able to assist Barbadians who were not able to get their pension on time as a result of poor computer programming that ought to be policed by someone in Government? It cannot be that Government is trying to stop people from getting access to information but cannot in any way police itself when it comes to issue with respect to public information.

Mr. Deputy Speaker, it is tantamount to what we have seen. Does it improve the efficiency of the operation of Government at these various departments? Would this Bill solve the problems identified by the Auditor General in his report of 2002 when he talked about issues of internal control, management of arrears, reconciliation of bank accounts, maintenance of inventory records and general records of management?

Mr. Deputy Speaker, this Bill should be able to solve those problems. This Bill ought to be able to improve the efficiency at the departments of the Government and not speak about whether or not someone can get access to information over time by hacking a computer when it is the inability of Government to deal with issues pertaining to computer programming of the National Insurance Scheme.

Mr. Deputy Speaker, would we have a situation in which, as is now being studied by CARTEC, the Value Added Tax Department, the Inland Revenue Department will be able to come together over the next few months as a result of studies that have been carried out over the last year in Barbados. Would this Bill be able to accommodate the coming together of various departments with respect to computer programming and effectively run the departments of Government across Barbados?

Sir, I want to know exactly what this Bill can do.

There are existing programmes at the Barbados Defence Force, the ASCUYDA programme at Customs so where would this Bill deal with real issues of efficiency and effectiveness of computer programmes across the departments of Government in Barbados.

I understand the intent of the Bill to protect and to stop people from gaining access but does it really contribute

anything to the overall efficiency and improvement of the operations of Government across these various departments. Sir, it does not. This is clearly identified when you look at the real issues that ought to be addressed.

Sir, in terms of managing the efficiency and effectiveness of departments of Government, the Government of the day ought now to be concerned with improving the overall quality of service delivery within the context of public sector reform to be able to exercise even greater level of efficiency across the public service, rather than to be concerned at this stage about whether or not somebody can get into a computer programme. Sir, this is not where the focus should be.

We first need to become far more efficient and effective across departments in Government because the emphasis has to be on delivery of the information for the public to consume. The concerns that were expressed by the Honourable Member for St. James North that we will soon be able to pay our taxes online is laudable. What is the purpose of being able to pay income tax online when you cannot today truly access all the persons who pay income tax across Barbados? We do not know what they owe or who is in arrears, so why are we so concerned and obsessed with trying to protect persons who can gain access to these programmes when we should be concerned with whether or not the existing arrangements at these departments can execute on the part of Government the way we would like to see.

Mr. Deputy Speaker, why should we in this country not be able to get better delivery of service out of the various departments like the Customs Department. We have heard concerns about the Electoral and Boundaries Commission and how it was raised as an issue by the Democratic Labour Party. What are the real concerns? Are they connected to protecting an individual from getting access to information at the Electoral and Boundaries Commission? What really was the relevance of the point being made by the Honourable Member for St. James Central? Are we trying to establish a system in which no one would be able to get information? What should be checked is why the information provided by the Electoral and Boundaries Commission in the constituency of St. Michael South varied considerably from the existing report as compared to what was published immediately following last election in the *Nation Newspaper* and the *Barbados Advocate*.

Mr. DEPUTY SPEAKER: Honourable Member, I have given you a lot of latitude but I would like you to get back to the Bill.

Mr. C. A. MASCOLL: Sir, in respect to the drug service, it has not been functioning effectively and efficiently for the last seven years. Mr. Deputy Speaker, should we now be engaged in a piece of legislation that talks about

unauthorised persons having access to major information out of the drug service as part of the Schedule or should we really be focussed on how we can get the Drug Service to function far more efficiently and effectively by way of providing the kind of resources to allow for it to function efficiently and effectively. The focus cannot be on whether or not somebody is going to get access to the information and be able to abuse it. This ought not to be the focus at this stage.

Mr. Deputy Speaker, we are trying to deal with issues that ought to be more effectively managed at this particular point rather than to be fully obsessed and concerned about whether or not unauthorised persons can get access to information in the drug service. Mr. Deputy Speaker, there are other areas with respect to the Schedule. The Licensing Authority is part of the Schedule but what is there that would so concern us now that we would wish to put legislation in place with respect to whether or not a person gains access at the Licensing Authority when there are several other issues to be dealt with of a more fundamental nature than the question of access to information. Sir, there are more critical issues that we have to deal with and I thought that this would be our concern. I thought that this is where we would be most engaged at this point in time.
3.10 p.m.

Certainly, there must be some other reason for the introduction of this Bill at this point. As stated by Honourable Members on This Side, those reasons are very clear to us even if Honourable Members on the Other Side are pretending that they do not understand the reason.

Asides.

Mr. C. A. MASCOLL: Mr. Deputy Speaker, we understand very well that the ability of Government, I suppose, to bring together the Value Added Tax Department and the Inland Revenue Department may be influencing this piece of legislation but I cannot see how we could be so obsessed with it at this point in time. That is where my difficulty really lies with respect to this legislation.

Sir, the Honourable Member for St. Joseph, in his opening preamble, said that there is no real fanfare about it. He said that Barbados in any case is ahead of the game in the region. Sir, with those kinds of remarks there is no wonder Barbados is in the state that it is in because it does not wish to be conscious of its particular state.

Sir, information from the Human Development Index shows clearly that even in terms of internet users across the region, that Barbados has an 11 per cent rate per 1 000. The Bahamas is ahead of Barbados with 19 per cent and Dominica has 16 per cent...

Asides.

Mr. C. A. MASCOLL: I am always authentic in my delivery and information. Nobody can question any information that I bring to this Honourable Chamber. The thing is, this information is in the Human Development Index. Dominica has a 16 per cent per 1 000 population internet usage, Belize and Jamaica are ahead of Barbados, so, when we give the impression that in terms of being part of technology that Barbados is the leading country in the region, we are giving a very false impression of it.

Asides.

Mr. DEPUTY SPEAKER: Honourable Member, please address the Chair.

Mr. C. A. MASCOLL: The Honourable Member for St. James Central is not in the business of doing research. He spouts off information when it suits him.

Asides.

Mr. C. A. MASCOLL: Do you want me to quote the page? I am going to quote the page. It is page 180 of the Human Development Index Report for the year report 2004.

Barbados has 111.5 internet users per 1 000 persons; Antigua has 128.2 per 1 000 persons; Trinidad ...

Asides.

Mr. C. A. MASCOLL: Sir, that is why precisely why the international organisation would have reduced it to per thousand because it understands the differences in population.

The Bahamas has 192 internet users per 1 000 persons.

Asides.

Mr. C. A. MASCOLL: If it were the case that you had to know the population you could not compare per capita income. Therefore, Barbados could not be compared with the United States of America or any other country in the region or in the world. Sir, you bring it to this kind of index because you can then compare. It does not have anything to do with population.

In fact, Iceland, of all the countries in the world, a small set of countries in the north, is one of the most developed countries in the world. Even with respect to internet users, they have a 64.7 per cent per 1 000 persons. The United States of America has 55 per cent internet users per 1 000 persons.

Asides.

Mr. C. A. MASCOLL: I am saying that we are of this view, and we continue to be of it, that Barbados is always ahead of the game in areas like, technology, because we make the false assumption that it is so.

Asides.

Mr. C. A. MASCOLL: Sir, this morning it was said by the Honourable Member for St. Joseph that Barbados was ahead.

Mr. DEPUTY SPEAKER: Honourable Member, please address the Chair.

Mr. C. A. MASCOLL: In fact, Barbados must not believe that computers are so prolific across the length and breadth of Barbados. They may be prolific in companies but we cannot be satisfied with the level of computer usage across Barbados. If we believe that Barbados is ahead then we are already having a false diagnosis and, therefore, we would prescribe the wrong medicine for the prevailing environment.

Sir, there are several other issues that you can attach to this legislation with respect to your capacity or lack of capacity to monitor the misuse of computers. Therefore, one can understand the need for such legislation but let us not fool ourselves that this can be an easy process. It is an extremely difficult process.

Mr. Deputy Speaker, when we refer to internet usage, children getting on a computer and downloading information or the impact of computers on values, we may not recognise that there is now a new emerging language that is being used for e-mail and texting. Even if you were to get a script of your child's correspondence when he is communicating with his friend on the internet or texting, you cannot understand the language because it is highly abbreviated. They use an abbreviation that you do not understand because you do not participate, so you do not know the kind of language that they are using. The computers are even developing different values and social systems.

Asides.

Mr. C. A. MASCOLL: You must know that is even beginning to affect our social value system.

Sir, the ability of children to be able to get on a computer and surf the internet and be introduced to all kinds of pornographic material is extremely difficult to police. Therefore, you still have to go back to the basics of establishing values within the family and ensuring that your

children understand what they are supposed to do. All the policing would not help because the evil is always exciting. It is always exciting to go the other way and the computer is that kind of a beast. When you go on the computer the potential and desire to explore are there. It is time consuming and at the end of the day when you do an evaluation you wonder why you were on it. Initially, people wanted to go on the computer but when you do not have the time to go on the computer you say, why should I go on the computer to deal with all the junk mail. In fact, is this legislation going to stop me from receiving foolishness on my computer? Am I going to be protected from people sending me all kind of garbage on my computer?

Asides.

3.20 p.m.

Mr. C. A. MASCOLL: Mr. Deputy Speaker, every time you go on line, you have to cope with 200 new hits from all kinds of sources. Do not even go overseas and give out an e-mail address.

Asides.

Mr. C. A. MASCOLL: That is misuse. Could you want greater misuse than when you go into your e-mail and receive a whole set of garbage? That is what happens. This is the kind of protection we would like to get. They should talk about that and the need to introduce it. Mr. Deputy Speaker, if I do not wish to receive certain e-mail, the onus should be on the service providers to exclude me from the process. The onus should not be put on me to buy software to guard myself against persons bombarding me with information. The issue therefore should be on that kind of protection which is computer misuse.

Mr. Deputy Speaker, it really bothers me that we believe it is going to be possible to come and enforce all of these things to make this world so much easier. It will not happen and it is not because I am being pessimistic, but the cost of enforcement and surveillance is going to exceed the benefit. Could you understand the resources that would be required for us to effectively protect computer users from the abuse?

The other thing is that when there is a change of Government what will happen to the ability of persons who were there before. Every code system must change, if not do you know what will happen in this society. People would be able to have access to a whole set of information that can be carried over from one administration to the other.

Asides.

Mr. C. A. MASCOLL: Of course, you can find ways to change it but it can happen, so even in terms of the flow of information, whereas you have a computer which would

remain in a company regardless of the shareholders, what happens to a Government environment in which there is need to fight for precious information. These are the sorts of concerns which I think we need to look at, Sir.

Mr. Deputy Speaker, I can understand the members of the public service nodding and shaking but I have to speak this way because even in the current environment where we have a whole set of laws, it always comes down to enforcement. What will be different about this?

There has always been discussion in Barbados about enforcement. Barbados has all the laws in the world and even where you can go and enforce in a visible environment, what is going to be particularly difficultly, is to be able to trace what is happening in this kind of environment. As I said, I do not want to appear to be a pessimist, Mr. Deputy Speaker, but I can understand the problems that would be associated with this issue.

Mr. Deputy Speaker, would we be able to get information on computers, with respect to projects in Barbados? As a member of the society, would I be able to get access to information from Government departments on particular projects? Should I have to hack into systems to find out information, or should I be able to get information?

I would like to think that at some point in time, we would have reached such a stage that certain bits of information become almost accessible to each and everyone. Sir, with respect to the information with respect to our reserves every day, can we know what is the level of foreign reserves at the Central Bank today?

Asides.

Mr. C. A. MASCOLL: Do you see what I am saying? This is a Government and we are supposed to have that information. I have to hack into information at the Grantley Adams International Airport to determine whether or not the cement was mixed appropriately and correctly by the persons involved. It ought to be, Mr. Deputy Speaker, that there is information which should be made available to us, so that we do not have to even dream about getting information in that kind of way.

These are the issues I thought we should be dealing with today, Sir, but to spend an entire day on the question of misuse of computers is really not the best way to spend Parliament's time at this time because there are several other issues more pertinent, even with respect to computerisation of the same private sector.

Asides.

Mr. C. A. MASCOLL: The whole focus should be the question of bringing CARTEC, the study that we did recently on the administration of the tax system, such as the Value Added Tax and the Income Tax. How do you bring the various departments together?

Asides.

Mr. C. A. MASCOLL: Yet, we will be asked to come here and support funding for such a project, but we will not be privy to the information that is being provided or is coming out of the project. Therefore, I think that is where I would have placed my emphasis in this debate and not on something like this which is very unlikely to occur.

Asides.

Mr. C. A. MASCOLL: When I hack into a computer in a department what am I looking for? Whose personal files would I be able to find? Then, why should they not be public? Since we have all kinds of DNA testing and indices that could determine who has this and who does not have this, what would be so special about information coming out of the Central Bank? What is so special about information coming out of the Customs Department? What is so special about information coming out of the Barbados Drug Service? What is so special about information coming out of these various departments of Government?

Sir, in actual fact, that kind of information ought to be available to us on a timely basis. We should not have to wait for four years to get annual reports out of CBC, the Transport Board and the National Housing Corporation. In fact, the emphasis ought to be on computerising these various departments of Government so that information becomes more readily available and on time, so that we can better understand the conduct of Government and what really happens in Government.

Mr. Deputy Speaker, right now, we do not have this information and that is where I thought our focus would be at this stage. How do we, in keeping with the concept of NISE, National Initiative of Service Excellence, make information available to all involved in the process, so that we can all deliver service excellence?

Thank you, Mr. Deputy Speaker.

Mr. T. A. PRESCOD: Mr. Deputy Speaker, I want to agree with the Honourable Member for St. Michael North West who spoke about the waste of time and an untimely effort in bringing this legislation to Parliament. I concur with him on this issue. I believe that what we were just subjected to is a test of your judgement in determining its relevance. I believe that you are a very flexible individual

and you were prepared to embrace and entertain extraneous matters that certainly do not touch the relevance of the Bill before us. It was impregnated with a lot of unfortunate anti-government phobia, exclusively subjective.
3.30 p.m.

Sir, the Bill, although it relates to modern technology, is really an attempt to deal with modern social issues in the society. There are many social issues that can be questioned on the grounds of morality, on the grounds of decency and even in relation to crime. Where it touches on crime, the Bill attempts to address it. However, the Bill is not exclusively targeting the crime of the misuse, but is also addressing a number of moral issues in the society that derived from the development of civilisation and the type of technology we have today.

How do we deal with some of those problems that are likely to corrupt public morals? How do we deal with the technology that enables man to manipulate mechanisms that would allow mankind to harm the innocent psyche of the young children in the society? This is what we are really trying to arrest, not simply the dissemination of information whether you take it or you give it. We have to touch on all of these different dynamics because we are responsible and we have a moral obligation to the society in a modern civilisation like this to protect the fragile in our society, and this legislation attempts to do just that.

Mr. Deputy Speaker, we cannot put a technical mechanism in place to stop the Honourable Member from doing what he ought not to do as a man of principle and obligation. If he wants to go on the internet and be a hacker or whatever euphemism for fraud he chooses to use or crime he chooses to use, he can do that, but even the law restricts those freedoms. That is why modern legislation had to be put in place because when men can contemplate doing such sinister or diabolical things in life, persons who want to stabilise and harmonise the society must see it as their duty to make sure that they deal with persons who are so diabolical that they would be prepared to manipulate the system when they have a right to come here and offer alternative views or compliment the Government on putting principle positions before the House to debate. I do not understand what they are asking for.

The Government is not made up of a Messiah that we can stop anybody from Trinidad and Tobago or from St. Philip passing pornography from one location to the next, as a result of being able to manipulate the system and understanding the information technology better than many other persons. Sometimes the most creative minds are not those who possess the academic heights that one of my brothers on the Other Side spoke about. Sometimes there are some creative minds operating these computers who do not

have the background to excel in other areas of academics or in other skills.

At present, there are so many people who are exploring the computer age and are trying to do things with the computer that are questionable, whether they are passing information in the form of pornography, whether they are deliberately superimposing a head on top of a body using the computer system where they can take the Leader of the Opposition's head and put it on the body of the Honourable Member for St. John, whether they can take voices and distort them on the computer and pass information onto the general public impressing upon persons that people are saying things which they did not say, and even making men look like women and truncating the size of men and reducing them into cartoons. All types of funny things occur with the computer.

The Government do not have the technical personnel and we are not in the position as Government Ministers or Members of the Opposition to debar those things from occurring on the computer. We as parliamentarians have a legal and moral obligation to put legislation in place to stop it. Sir, we have to be able to suppress or deter persons from going within that direction. We can try as much as we can to stop crime, but we will never be able to stop crime, immorality or indecency.

Mr. Deputy Speaker, this is not a piece of legislation that is functioning in isolation of other pieces of legislation that have come before this Parliament or that have been in existence even before the existence of this Chamber. There is legislation in the Commonwealth and out of this Parliament to deter areas of crime. This is a new area that we have to address. We have been in here talking about woman and woman relationships, man and man relationships, homosexuality and everything, but this is just one of the other social problems that we have to deal with in this society.

Mr. Deputy Speaker, it is most unfortunate that we try to slant the debate in such a way to make innocent persons on the outside of these Chambers and those who are privileged to be within the distance or the earshot of the voices in here to believe that the legislation is making an attempt to deal with problems relating to para-statal bodies in Government or the accountability and the transparency of that kind of accountability within Government's departments. We cannot arrest and deal with these social issues when we cannot expect informed minds to be an asset in these Chambers in bringing debates of substance touching on the relevance of the Bills and the Resolutions and the different matters that come before the House of Assembly.

Mr. Deputy Speaker, it is unfortunate when a man or a woman, who is a leader of a Party and who wants to carry the country in a particular direction, can come to Parliament whether it is in this Chamber or the one before or the one in the future and deliberately distort and slant major social issues in order to fill in a blank spot, if he has no substance to add to the important debates that we have here.
3.40 p.m.

Mr. Deputy Speaker, this piece of legislation should not be subject to any form... and that is why I said I agree with him. I have to agree with him that it was a waste of time, when, rather than complimenting or bringing constructive analysis to whatever provisions there are in the Bill, whether they believe that the Bill was not properly structured... Sir, if they believe that the penalties were either too high or too low, I can understand that but they certainly cannot tell me that they have dismissed this Bill as nonsense, when big, 'hard-back' men and women are placing on our screens, morning, noon and night, the pictures of innocent children. Some people end up before the law courts.

Mr. Deputy Speaker, children at night are into a massive computer technology programme across Barbados, whether it is through EducTech or CommuniTech and children are surfing the net and are coming across these things. You are also seeing some of the most degenerate behaviour being exhibited on the screens. That is one of the issues that I can understand any compassionate or committed parliamentarian would see as being a very important element in this particular Bill.

Mr. Deputy Speaker, this debate is not about statutory bodies not being transparent or whether one could have access to reports. Therefore, in the future, I would like to hear a more informed contribution relating to these types of social issues. Sir, one of the charges I have heard in here over and over again is that we have not been bringing any social legislation to Parliament, and because this speaks to computers, it does not mean that it has nothing to do with social issues. It is a social issue. Therefore, it is modern legislation, because of the changes in time that relate to social issues, it can be justified as a piece of social legislation.

Mr. Deputy Speaker, I want to make that brief intervention and hope that what I have said would be taken, not as a criticism for the sake of criticising the Honourable Leader of the Opposition but that we need to come back on tract on a number of important issues. The Opposition needs to take the challenge to the Government and if the Government brings something here, I expect the Opposition, as their right and as their role, to pick this piece of legislation to pieces. If the Opposition finds that they have analysed it and have found no fault with the provisions, then they should

compliment it, so that we will not have the burden of wasting time. Therefore, both you and I have that same concern, why do we waste time or why do we talk for the sake of talking.

Mr. Deputy Speaker, one of the unfortunate things about Parliament is that some men believe that they understand what Parliament mean and would try to tell you what the Latin origins of Parliament mean. Some feel that they must talk, even if they talk nonsense. Every Tuesday we have people rambling all the time on a lot of disjointed matters, trying to talk. We have some men who have a basic knowledge, yet would try to speak on subjects such as nuclear science, forensic science, law, architecture and mathematics. Sir, I have never heard men so specialised in every specialty and still not saying anything worthwhile on any one subject.

Asides.

Mr. T. A. PRESCOD: Mr. Deputy Speaker, there is a time when it is important to be silent because sometimes silence allows some people to gain wisdom. I believe that I have spoken enough wisdom so that the Honourable Member on the Other Side, who now seeks to heckle me, is aware that I have given enough substance within the short space of time, that he too, is more informed than when I first stood.

I thank you, Mr. Deputy Speaker.

Dr. D. C. ESTWICK: Mr. Deputy Speaker, one of the things that concerns me, as I rise to make a contribution on this particular Bill, is that I believe very strongly that a computer is just a mechanised piece of equipment. It is inanimate, therefore, it does nothing else but process what is put in, then it puts out data. By extension, it means that what we are today debating in this Honourable House that is the access of information, how it is manipulated, and in whose interest that information is manipulated. Therefore, this debate is about freedom of information; about who should access that information; about whether that information is being expressed is in the interest of the public at large; about whether it is in an individual's interest; about whether it relates to national security; about whether it affects economic prosperity, *et cetera*.

Mr. Deputy Speaker, I will, therefore, base my presentation on information and not necessarily on information on a computer. Sir, within a technologically-defined age, where the limits that can be placed on the access and manipulation of information is somewhat limited by the type of technology that Third World countries have, I accept that we at times we may try to introduce, within our own domain, pieces of legislation that look at areas such as pornography.

I do not have a problem with that but I have a problem when, in a technological age, I am being told that we are supposed to have less information, that there are now supposed to be restrictions on the access of information; that there are persons who have authorised access to information in many instances where I believe the information is about the people.

Mr. Deputy Speaker, this is a debate about democracy and about the use of information to ensure one's democracy in Barbados. Therefore, when I am being told that without any indication as to what information I am not supposed to have, that if one gets information from the National Insurance Department that one is not authorised to have and that information is given to you by an authorised individual, one can still be charged with an offence in Barbados. That is outlined in Section 12.

Mr. Deputy Speaker, when I look at the Schedule where it outlines every department that would operate in the interest of the people of Barbados, I have a fundamental problem with this Bill. I believe that in a technological age, there is need for greater access to information in a more timely manner and not information going through a multitude of different channels. It is going to have implications to academia and to research, but those who want to be narrow-minded and myopic in their interpretation, let them so be. I do not think this is a Governmental issue. This will have broad and far-reaching implications in Barbados.

Mr. Deputy Speaker, I accept that an individual will not entrust his or her sensitive personal information, whether it is medical or financial, to be placed on a computer network unless there is expressed security and unless the privacy of that information is secured.
3.50 p.m.

I also accept that a business would not entrust their proprietary information and information about finances, products and services to a computer system without the appropriate safeguard. I also accept the importance of privacy and that this is in principle a decision as to whether national information should be private or whether the information about workings of institutions in the interest of people should be private or whether only Ministers of Government believe that they are the only persons who should have access to the information. This is of major importance. If they believe so, they are wrong because democracy does not allow for that. It allows for information to be disseminated so that it can be analysed effectively by the people, assimilated and then decisions can be made in an informed way.

Sir, if the Administration is going to tell me that on the Schedule from A to U that information in the Archives, the

Defence Force, the Central Bank of Barbados, Customs and Excise Department, the Immigration Department, Lands and Surveys Department, Land Tax Department, Licensing Department, National Insurance Department, the National Library and the Registration Department that you have to have somebody authorised to give that information in Barbados, then we are going in the wrong direction.

Sir, I reviewed certain aspects of the privacy legislation and whenever this type of legislation is introduced, you have to look for a balance between what is in the national interest and the interest of the individual. In fact, when one reviews similar legislation in Canada and the United States of America, there are myriad safeguards with respect to the rights and interests of the individual which are not present in our legislation and I will speak to a few of them.

Mr. Deputy Speaker, the legislation speaks about the fines that would be placed on individuals who are unauthorised to access data. I find it interesting that the legislation does not make any distinction or differentiation between the ages of those persons being suspected or to be charged. Am I to assume that these fines as established are supposed to apply to a child of ten years who because of their computer genius may hack into a particular database? Am I to assume that the same imprisonment elements are supposed to apply to minors and their families or am I to assume that they only apply to adults?

Mr. Deputy Speaker, this is serious business because these types of problems have occurred in England, Canada and the United States of America and, as per usual, we have members on the Other Side who believe that these things cannot occur here in Barbados.

Mr. Deputy Speaker, I believe there is clear reason to clarify legal rights and the responsibilities of those individuals who are considered the ones authorised. If I were to look clearly at the areas of legislation covered in the United States of America and Canada, we are in principle speaking about encryption technology and what are the legal responsibilities of those individuals who hold the keys to decrypt a particular set of information.

Sir, am I to assume that if an individual from the public can be charged for illicitly acquiring those particular keys to decrypt information or that the individual who so has the authority to decrypt information so stored in a computer that if the individual gives the information to Government that he is also liable of a charge in the same way the individual is liable to the public? Sir, am I to assume that the National Insurance and collaboration that would occur with all the various departments that the same rule would apply because it is one law.

What is the definition of the computer? Is a computer only defined in terms of what sits on the desk? Is it also extended to the new sophisticated cell phones that are themselves capable of doing everything that can be done by a computer? Mr. Deputy Speaker, I will look at enforcement rights under the law and explain the folly of not clearly defining in law what should be done. Under the legislation if a police officer or law enforcement officer or similar entity needs to access wireless information or electronically stored information where there is an authorised individual responsible for holding the key to access of that information, the police officer requires a court order. What is the time period for which the order is enforced?

Sir, I like to be specific because when I look at other jurisdictions worldwide, they specify a timeframe because when these laws are passed, they cannot be amended unless we come back to Parliament. Sir, if there is a ninety-day time period, you either have to get a subpoena or get an extension from the Attorney-General. Mr. Deputy Speaker, if a police officer believes that a particular crime might be committed or he has evidence that a crime is being committed, right now the allowance is for access to authorised data by a magistrate and a court order. I am concerned that there is no right of appeal. It is said that any time that an individual is forced by law to do something there must be a right of appeal in the Act. Unless it is established in the Act, then it is left to interpretation. This is law.
4.00 p.m.

Asides.

Dr. D. C. ESTWICK: Mr. Deputy Speaker, in a technological age, Barbadians should be having access to information online and if that access does not prejudice national security or affect the public interest, I do not accept the restrictions being placed here today. I will not accept them.

Sir, it would be important if someone would explain to me why it is that a young man in St. Joseph cannot sit down at home and access relevant information on national insurance matters in Barbados. Why is it that he cannot access this information from his home or the public library? Furthermore, it is going to be more restricted based on this legislation.

I do not have time to waste with these individuals who believe that every time that they bring a piece of legislation to this Honourable House...

Mr. DEPUTY SPEAKER: I hope that you are not referring to Honourable Members.

Dr. D. C. ESTWICK: Not at all, Sir. I would say that this Administration in their deliberation... that of every piece of legislation that it has brought here is well thought out and well-structured in the interest of the people. Certainly, I am not going to buy that.

Sir, I want to read Section 12 (1) and (2). Section 12(1) says:

“Where a person who is not authorized

- (a) to have a programme or computer data; or
- (b) to have access to any programme or data held in a computer receives or is given access to that programme or data, he is guilty of an offence whether or not the person, from whom the programme or data was received or through whom access was attained was authorized to make it available to him.”

Sir, think about that. We are saying that even if an individual who is authorised to give Barbadians information and that individual accepts that information, once the information is placed in the Schedule in the back of this legislation that he can be fined for it. That is a constriction of information and access to information. It is an affront to democracy in Barbados. I cannot support this Bill.

Sir, this is an assault on freedom of information in Barbados. That is what this is. I would not be surprised if this is not a prerequisite for the republican apparatus in Barbados. I would not be surprised, so, I am not going to play dead and lie down and turn over two times. I leave that for other Honourable Members on the Other Side.

Sir, section 12 (2) states:

“A person who is authorized to receive a programme or computer data or to have access to any programme or data held in a computer is guilty of an offence where he receives the programme or data or access thereto knowing that the person from whom he received the programme or data or from whom he received the access obtained it through unauthorized means.”

Mr. Deputy Speaker, there is no other explanation or interpretation that is rational, logical. I do not understand it. I want the legal experts and so-called luminaries to get up and explain this to the people of Barbados.

I also want to refer to Section 14. This is one of the most subjective pieces of legislation that I have ever read. Are you going to tell me that there is no interpretation of what is anxiety, distress or inconvenience? How is inconvenience or anxiety going to be interpreted into law?

Do you want to tell me that if I went on my computer and happened to see a message about baldheaded men in Barbados and I send this message to all the Honourable Members on the Frontbench of the Other Side, are you telling me that I am can be charged because I may have caused them anxiety and distress? What rubbish are you telling me?

Sir, the point is, this is too subjective. It cannot be interpreted to anything meaningful. What is anxiety? I can understand what pornography is.

Asides.

Dr. D. C. ESTWICK: Unless you take pictures of your granddaughter naked and call that pornography. We are getting into some very dangerous areas of concern. In the United States of America and Canada there are people who have been brought to justice because they took pictures of their children bathing. We have to be very careful where we go with this legislation and that is all that I have to say.

Asides.

Dr. D. C. ESTWICK: Mr. Deputy Speaker, I want to make one last point and I believe that it is very fundamental. When I started my contribution by saying that Barbadians will not entrust their sensitive information, whether personal, medical, financial or any other data that they consider to be private, I understand the need to have that data properly encrypted. I also understand the need for many governmental institutions to have certain specific data encrypted but I believe that the encryption that occurs and those individuals who hold the keys to unscramble that data must necessarily manage those keys with respect to a balance of public good versus an individual good. That is what this is about.

I strongly believe that, apart from the pornography component, there is nothing in this Bill that says to me that this Bill is not an attempt to reduce access to information that people should have. I also believe that it cannot be argued with any sense of logic that there can be any information in the Archives...

Asides.

Dr. D. C. ESTWICK: We are getting into the ridiculous and madness in this Honourable Chamber. Are you going to tell me that an average Barbadian... Sir, when I look at the Lands and Surveys Department I am beginning to get very concerned about this Bill. Who are going to be these authorised individuals that have the keys to access? I have said before, you are now telling me that if I get the

information, and the individuals who had the authorised keys to access the information give the information and I am not supposed to have it, you are going to lock me up or change me. This is wrong. What nonsense is happening in Barbados?

4.10 p.m.

However, the interpretation is in law, it cannot be interpreted any other way and that is commonsense. This cannot make sense. I think one of the most critical points I would make, Mr. Deputy Speaker, is that we are in an age where we should have more access to information and not restriction of access. This is the point, Sir.

Mr. Deputy Speaker, I understand the danger with respect to the global technological developments. I also believe that as we try to protect our information, we cannot do that at the expense of the fundamental civil freedom that our people have and as a result, Mr. Deputy Speaker, I cannot support this Bill. I believe very strongly that even though there is an attempt to look at elements of confidentiality and integrity of our system, I have a fundamental problem with the fact that I think this information is not being used in the best interest to advance our democracy, to advance information in the domain of the people, and to allow the people, not only to utilise information, but to come to informed positions, based on their access to information.

I thank you very much, Sir.

Mr. R. St. C. TOPPIN: Mr. Deputy Speaker, I must confess as I begin that I am in a state of confusion because, we have today perhaps in its most explicit form, a division in the Opposition. Sir, we heard the Honourable Member for Christ Church East Central saying expressly that he is supporting this Bill today, and we just heard the Honourable Member for St. Philip West expressly saying that he is not supporting this Bill today. We have today, laid bare before us, perhaps, in its voluble form a total division among the Opposition in this Parliament.

Mr. Deputy Speaker, I am going to make a different speech from the one I last heard. I want to let the temperature cool a little and try to bring this debate back into perspective, so that the Opposition, in particular, can understand the context in which what is here before us today reached where we are today.

Mr. DEPUTY SPEAKER: Hold on a second, please. The Honourable Member for St. Philip West, could you please come back into the Chamber?

Please proceed.

Mr. R. St. C. TOPPIN: Mr. Deputy Speaker, this is how the Opposition behaves every week in this Parliament. They walk out, they get back and they hurl the obscenities whether it is at the Speaker or the Deputy Speaker, or another Member of Parliament.

This is how they behave all the time in here and it is about time that, I have to say with all due respect, those in authority show the Members of the Opposition that they do not run this country and they do not run this Parliament. They owe it to their constituents to behave better than they are behaving in this Honourable Chamber.

Asides.

Mr. DEPUTY SPEAKER: Please proceed.

Mr. R. St. C. TOPPIN: Mr. Deputy Speaker, the simple reality is that we now live in an information age where knowledge and information are the keys to success. This Government has rightly decided that it is going to do all in its power to propel Barbados to the forefront of this information age, whether it is in the area of information technology, electronic commerce and Internet usage, the fact is the world around us is moving at a certain pace. If we only look at some statistics, we would understand the importance of what we are doing here today.

Mr. Deputy Speaker, in 1999, global electronic commerce was estimated at some US\$33 billion. Last year, 2004, it had risen to the point of US\$6.8 trillion, in the space of four years. Internet usage has increased at a phenomenal rate around the world. If you compare the rate at which Internet usage expanded with the way in which other forms of technology increased over the years, we can see why we have simply to get on board. If you look at the radio, it took radio some 35 years to reach 50 million households in the United States. It took television 13 years to reach 50 million households in the United States but it took the Internet, a mere four years to reach 50 million households in the United States.

Therefore, Mr. Deputy Speaker, the world is moving on and Barbados, if it is not to be left behind, has to ensure that it does all in its power to make sure that we propel ourselves to the forefront of this information age which we find surrounding us. The Government has not only talked the talk, they have walked the walk, and continues today to introduce a number of measures to ensure that we can propel Barbados forward.

Most commendable, Mr. Deputy Speaker, is the fact that this Government recognises that central to the information age, is the ability to use a computer. We have to be able to access and disseminate information. This is central

to the information age. The Government also recognises the reality that not everyone would be able to purchase a computer, or pay for training to be able to use a computer. In other words, Mr. Deputy Speaker, the Government recognises that there was a digital divide in this country and set about immediately to ensure that we would obliterate that digital divide.

Mr. Deputy Speaker, I was pleased in October 2003 to attend the opening ceremony at the Gazettes Resource Centre, which was then equipped with a number of computers and an entire programme for the people of Barbados. The Government was able to take this new modern technology into the communities so that everyone had a place where they could go to be adequately trained in the use of a computer to be a part of this information age in which we now find ourselves.

I just want to say, Mr. Deputy Speaker, that I want to see the day when that Resource Centre Programme, is spread a bit more. I certainly want to see that programme expanded to Eden Lodge and Cave Hill. I want to see it particularly in Eden Lodge and that was a promise that I made in 2002 and pursuant to that promise and assurance, I gave an assurance as well, that the facility will be established in the context of a new ultramodern community multi-purpose centre in Eden Lodge and I want to know, Mr. Deputy Speaker, that this Government will carry it out on that promise made to the residents of Eden Lodge, as it will subsequently to the residents of Cave Hill.

Mr. Deputy Speaker, this ensuring that all Barbadians could participate in the information age, was really just a part of an action plan that this Government devised from as far back as 2000 to ensure that we would systematically develop an information technology programme for Barbadians. To demonstrate its commitment to this development of information technology, electronic commerce, *et cetera*, Government committed itself to ensuring that as many Government departments as possible and as quickly as possible will utilise this form of information technology to ensure that its efficiency is greatly enhanced and that it would ultimately be able to communicate with and work with the average citizen of this country.

4.20 p.m.

Mr. Deputy Speaker, mention was made of the EduTech 2000 Programme which is working for the benefit of the Honourable Member for St. Philip West. We have therefore seen the Enabling Environment for Private Sector Investment Project (EEPSI), the Customs Direct Trader Import Project, a Customs Computerisation Project, the SmartStream Project and the Supreme Court Registry Electronic Document Management Project, which are all working for the benefit of the Honourable Member for St. Philip West.

All of these are Government projects where Government has demonstrated its commitment to move into the computer age and ultimately to ensure that citizens would be able to function in relation to these departments on-line thus avoiding the hassle of having to go into departments to conduct their businesses in person in the presence of long lines, *et cetera*. So Government has demonstrated a total commitment by way of leading by example in the area of the promulgation of information technology across this island.

Apart from that, Mr. Deputy Speaker, and this is where what is before us comes in most directly, it was important for Government to embark upon the creation of a legislative framework to facilitate the development of information technology, electronic commerce, *et cetera* in Barbados. Already, we saw the introduction of an Electronic Transactions Act. That Act was passed around 2000 and it did a number of things. Most important, it ensured that the same legality that attended transactions conducted by the use of paper, would shroud transactions done electronically. So an electronically generated document or contract is just as effective, binding and legally valid as a contract entered into with paper and with written signatures of the parties for the contract. It dealt with the issue of the certification and the verification of electronic signatures. It dealt with encryption technology.

Mr. Deputy Speaker, I did not think that you were here at that time. I think that you had lost your seat just before that Bill was introduced in this Parliament, so you were not here at the time, Mr. Deputy Speaker.

Mr. Deputy Speaker, that Bill revolutionised the whole approach to the legality of the way in which business was done in this country. Mr. Deputy Speaker, regulations were put in place and that Electronic Transactions Act, those regulations having been passed, is now completely, fully and totally operational.

Mr. Deputy Speaker, we have gone one step further. We have now today a Computer Misuse Act. This is one step further in the process to which Government committed itself to ensure that Barbados propels itself towards the forefront of the information age. This Act has been said, by the Honourable Members on the Other Side, not to be doing many things. I wonder if they are looking at the same Act that Honourable Members would be looking at.

Mr. Deputy Speaker, the object of this Act, as the Honourable Member for St. Michael South said, is very simple. This Act is to protect computer systems and the data in the computers from unwarranted and unauthorised access and abuse. This is not about all the things the Opposition Members went into that the Act should do and a Government department should be in this.

Mr. Deputy Speaker, I have to credit the Honourable Member for St. Michael North West, who might have scored a little point here and there, but he was not talking about this Bill at all. The things he said that the Bill was not covering, it was not designed to do. The Opposition must not sit back and set up straw men and knock them down and thereby declare themselves victorious on non-issues and non-points. We expect better of the Opposition when they come in here.

Mr. Deputy Speaker, this Bill is not supposed to do what they were talking about. This Bill is simply to ensure that unauthorised persons cannot access data. You cannot stop people from accessing data, but you have to penalise those who do, you cannot do anything more than that. If you penalised those who do it, it will serve as a deterrent, and those who are not deterred and proceed to do it and are caught will be punished accordingly. That is what this Bill is simply about, not about fancy talk about the Urban Development Commission or an Auditor-General Report and all of that. That has nothing to do with this. This is a simple point that this little Bill makes. In fact, if there is one criticism I will make of this Bill is that it is really a simple Bill and it took a bit too long to get here because I can tell you for a fact that in August 2003 it was very far advanced.

Mr. Deputy Speaker, this is a very important Bill which seeks to ensure that punishment is meted out to someone who acts contrary to law. You can pass a law saying that you would be hanged for murder but you cannot stop a man from going and killing somebody although he knows he would face the death penalty. So this Act does what it is supposed to do. It prescribes what you should not be doing and punishes you for doing it if you are caught.

Mr. Deputy Speaker, it is difficult to enforce but the difficulty of a task does not justify not doing anything about it. It is a difficult task because you recognise that a cyber crime, as it is sometimes called, can be committed thousands and thousands of miles away from where it makes its impact, so it would be very difficult to enforce it but that does not mean that you have to shirk your responsibility from doing your best to ensure that you seek to stop it. What Barbados and other countries would obviously have to do is to ensure that they are so interconnected with each other, whether by way of a reciprocal arrangement or however they seek to do it, so that they are able to jointly tackle problems and share information to ensure that wrongdoers in the area of cyber crimes are caught.

Mr. Deputy Speaker, there is a Crime in Cyberspace Convention which was signed off by the European Union in 2001. Participation in that Convention is open to non-members of the European Union. I would certainly expect that Barbados and other members in the region and around

the world would want to tap into conventions like that to ensure that there can be a sharing of information so that wrongdoers as far as possible can be caught and be brought to justice.

Mr. Deputy Speaker, the Government has demonstrated by way of implementation of an action plan which was devised back in 2000, this is not knee-jerk work, this is something that was systematically thought out and structured about four to five years ago, and is taking steps along the way to ensure that we can move from stage to stage to ensure Barbados' continued development and its functioning in the conditions in which it finds itself particularly conditions surrounding it in the entire world.

Mr. Deputy Speaker, when you pass legislation to ensure that Barbados and Barbadians could operate in the context of the information age, just about everybody stands to benefit. People now, whether they are on the community technology programme I referred to or if they own computers in their homes, can, if they are consumers or if they are businesses, sit down any time of day or night and go on a web site and come into direct contact with a product or service. No middlemen are involved, so cost is reduced and both the business and the consumer would benefit.

The smallest cottage industry in Barbados can utilise information technology. You can operate from a backyard if you want to or in a 2 x 4 room in a house and be able to penetrate markets relatively cheap in terms of advertising the product and be able to compete far more effectively against other persons and players whom they would never have been able to compete with before because of the fact that the Government is introducing and strengthening the use of information technology all across Barbados which is available to all and sundry. Mr. Deputy Speaker, furthermore this would be a situation made in heaven for those persons who can provide a service or product online, without having to deliver that physical product. For example, a musician who has a song can supply it either digitally or electronically online, upon request from a purchaser on the other end of the net, and can receive payment immediately.
4.30 p.m.

Mr. Deputy Speaker, that is what this technology is about. Therefore, when Government comes to Parliament to ensure that person's work is not tapped into by someone who is not authorised to do so, or whose tapping in is unwarranted, is the Honourable Member for St. Michael North West arguing against that concept? Is he arguing that a musician from his constituency could have produced a song, then to find that anyone could have tapped into their computer, downloaded the song and pirated it, and that Governments around the world must sit back and do nothing about such hackers? Is the Honourable Member saying that is not important to him?

Mr. Deputy Speaker, I would like to know that the works of any one of my constituents who would be creative enough to produce music or who would be creative enough to do anything to be put on a computer, could be adequately protected. Therefore, this legislation seeks to do exactly that.

Mr. Deputy Speaker, I thought I would intervene to restore a sense of balance to what was really a somewhat chaotic situation. I thought I would intervene because having heard the Honourable Member for St. Philip West, I was at a lost. Sir, I am going to stay around, as I always do, for division because for the first time in the history of my being in here, which is over ten years, and I believe that for most Honourable Members who would have been here longer. We have never heard of a situation where one Honourable Member for the Opposition Party, the Honourable Member for Christ Church East Central, has said that he is supporting this Bill and the Honourable Member for St. Philip West, of the same Party, on the same Bench, has said that he is not supporting it.

Mr. Deputy Speaker, I intend to stay here to see how that is going to pan out. Sir, I am indebted to you.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Philip West, could you please stand? About 20 minutes ago, the Honourable Member for St. Philip West showed great contempt for this Chair and as a result of that, the Honourable Member will either be suspended for sometime from this Honourable Chamber or the Honourable Member will apologise for his behavior.

Dr. D. C. ESTWICK: Mr. Deputy Speaker, on what rule, Sir, on what Standing Order?

Mr. DEPUTY SPEAKER: I have made a ruling, and you are further showing disrespect to the Chair.

Asides.

Mr. DEPUTY SPEAKER: I am going to speak to the Honourable Leader of the Opposition, the Honourable Member for St. Michael North West. I am pretty sure that you are aware of the behavior of the Honourable Member for St. Philip West when the Honourable Member for St. Michael North was on his feet. He walked outside, making a lot of noise and talking loudly, and as you know that is against the Rules of this Honourable House.

Asides.

Mr. DEPUTY SPEAKER: As far as I am concerned, if you do not apologise, you will have to leave. I would like to have the attention of the Marshal, and if the Marshal needs any assistance, he could call on me.

Asides.

Mr. DEPUTY SPEAKER: Honourable Members, this Chair is of the opinion that the Honourable Member for St. Philip West will be suspended for the next Sitting. That is the position of this Chair. The Honourable Member for St. Philip South.

Hon. A. P. WOOD: Mr. Deputy Speaker, I rise to make my contribution to the debate on what I consider to be a very important Bill which is before this Honourable Chamber.

Mr. Deputy Speaker, I wish to start by saying that there was a time when I was outside of this Honourable Chamber looking on, and that all along I thought that those who aspire to come into this Honourable Chamber to treat to, in a very professional manner, the business of the people and by extension the country, and that issues that come before this Honourable Chamber which have serious implication for the functioning of this economy would be treated in very serious and professional way. I thought too that when Bills or any other piece of legislation which would come to this Honourable Chamber that has as its genesis, trying to keep this Barbadian society on a moral path, that which seeks to restore and to enhance our values in this country, that which seeks to promote orderly behaviour in society, that notwithstanding on which side of the aisle one may sit, that Honourable Members would treat to the discussion in a very serious and non-partisan way.

Mr. Deputy Speaker, I sat here earlier today and the leading spokesman for the Opposition gave what I consider to be a fairly balanced speech. He was, of course, rambling, which is his style, and I would not criticise him for that. What I got coming from the Honourable Member for St. Michael South Central...

Mr. DEPUTY SPEAKER: Honourable Member, I am not going to allow two persons to be standing on their feet and speaking. It is either you sit or go outside. Proceed, Honourable Member.

Hon. A. P. WOOD: Mr. Deputy Speaker, the Honourable Member for St. Michael South Central, the leading spokesman on the issue today, while rambling, at least when one sought to evaluate and to analyse what he said, we understood that there was an attempt from the Honourable Member to give a balanced response to the leading spokesman from this Side.
4.40 p.m.

Mr. Deputy Speaker, I want to disassociate myself completely from the sentiments expressed by the Honourable Member for St. Michael North West and the Honourable Member for Christ Church East Central when they responded to this Bill. My colleague, the Honourable Member for St. Michael East put in proper perspective when he made his

contribution that this Bill speaks to us trying to do something as a responsible Government with the erosion of the moral fabric of society.

We heard the Leader of the Opposition, the Honourable Member for St. Michael North West in this Chamber saying that he has no regard for this Bill which seeks to provide provisions for the protection of computer systems and the information contained in those systems from any unauthorised access by persons or from abuse by persons authorised to have access. Sir, he is not concerned about the protection of computer systems or the information contained in those systems. Mr. Deputy Speaker, if that is not an act of the dereliction of duty or an act of misconduct in this Honourable Chamber, I do not know what is. It shows the public of Barbados that the Honourable Member for St. Michael North West, as the leader of a political Party, is not concerned about child pornography, financial crime or the society being led along an ordered line.

Sir, I am going to exclude the Honourable Member from St. Michael South Central but other Members on That Side who spoke said they do not believe in protecting computer systems or the information contained in those systems.

Mr. Deputy Speaker, even if I did not want to speak in this debate, I am compelled to rise, rebut, disassociate myself, all the persons whom I represent and those persons over on This Side from those sort of sentiments. It is reckless, wicked and it shows me that these are people totally unfit to speak about how affairs in this country should be conducted.

There comes a time when the line should be drawn about how people come into this Honourable Chamber and pose as representatives of the people. Sir, today is the time that the line will have to be drawn.

Mr. Deputy Speaker, it does not surprise me that none of them are in their seats now because the behaviour exhibited today before you is consistent with the position that most of them have taken on this Bill since this is about promoting law, order and proper conduct in the society.

Mr. Deputy Speaker, I heard the Leader of the Opposition saying that he does not care about anybody hacking a computer system over time. Could you imagine a man being so ridiculous and reckless to say that he does not care about anybody hacking a computer system over time? Sir, it is not important to him to be concerned about child pornography. This is same Honourable Member who has no concern over the value of the education that persons get when they go to the University of the West Indies because

the Honourable Member said that qualifications are not important, that people being brought into the information age, child pronography or crime is not important. However, financial crime, national security issues and maintaining moral values are high on the agenda of everyone else in Barbados.

Sir, it was also unfortunate that the Honourable Member for Christ Church East Central sought to suggest that the stewards of this piece of legislation, the law enforcement officers, would become the abusers of the system. Mr. Deputy Speaker, I started by saying that the time has come when the line has to be drawn because when you come here as a representative of the people, those listening to us outside expect a certain standard of behaviour from us.

It is no secret that the Honourable Member for St. John did not participate and we know why. I will always disassociate myself from that sort of reckless, thoughtless behaviour on the part of any Member of this Honourable Chamber.

Mr. Speaker, the Honourable Member for St. Philip West sought to suggest that this piece of legislation brought here today is a threat to our democracy. Once again, that is a very unfortunate statement because it is beyond my comprehension how a Bill constructed in this way can be interpreted as being a threat to the democracy of this country.

On one hand, this Government is trying to stimulate creativity in this economy. This Government has invested heavily, more money than any other Government previously, over a ten-year period in information and communications technology. We have tried to modernise the functioning of the Civil Service. If that is the concern of the Honourable Member for St. Michael North West who claims to be a big researcher, he should be aware of the things that Government has been doing in trying to bring the Civil Service into the information age.

Sir, we are trying to release the creative talents in this economy by putting information and communications technology at the core. While we do that, those persons who are generating valuable information through the use of information and communications technology will become concern as to how this information which is produced by themselves and which is valuable and intellectual property in some case, must be concerned about how the information is being used.

Sir, a responsible Government which is releasing this creative talent must put checks, balances and mechanisms in place to punish those persons who run afoul of the law as it relates to how they use computer systems and the

information contained therein. Sir, this is what the document is about. It is not about establishing a system so that no one can get information because nothing could be further away from the truth.

4.50 p.m.

Sir, this Government has done things in the area of promoting information and communication technologies and the application of technologies. The Public Expenditure Management Project was designed to enable government to manage its financial human resources more efficiently and the Enabling Environment for the Private Sector Project, was designed to link a number of government agencies to facilitate and make it easier for investors to do business in Barbados. There has been the computerisation of the Land Tax Department which enables landowners to have up-to-date information concerning the payment of their land taxes and which provides reliable information on the status of the collection of land taxes.

Sir, I do not have to speak about the Education Sector Enhancement Programme (EduTech) because a lot has been said about that. If more needs to be said about that the Honourable Member for Christ Church East can do that. We have introduced key computer projects at the Registration Department, Customs and Excise Department, Inland Revenue Department, Licensing Authority, National Insurance Department and the Immigration Department.

Sir, in response to the problems that could be created for a society by digital divide, this Government took it on itself to ensure that this does not become a big problem in Barbados. We said that persons should not be deprived of access to information technology because of a lack of financial resources.

The EduTech programme is a way of ensuring that the digital divide is closed in Barbados but we took the information technology programmes into the communities because we recognise the strategic importance for advancing an economy on information and communication technologies. Across the length and breadth of Barbados we have a community information technology programme which is designed to ensure that nobody is left behind in respect of access to information technology because of a lack of financial resources. Should a Government that has done all those things sit idly by and not seek to put the legislative framework in place to ensure that the computer systems and the information contained in those systems are properly used?

I also want to remind this Honourable Chamber that this piece of legislation before this Honourable House is not in isolation. The Honourable Member for St. Joseph made mention of the fact that there are other pieces of legislation

that, indeed, complement this one. When the Honourable Members on the Other Side seem to think that they are the only people who can do research, they should know that the Government will be bringing pieces of legislation shortly to this Honourable House. For example, the Freedom of Information Act, which would give members of the public greater access to information being held by Government or government agencies. Therefore, if they have a concern that this is going to prevent information from flowing, there are pieces of legislation that would be coming alongside this and a fundamental piece is the Freedom of Information Act but we would not stop there.

Sir, there is the Data Protection Act which is also on its way. The first draft of this Act has already been prepared and it should be available for public review and comment shortly. This Act will simply seek to protect the privacy of the individual. This is particularly important given the prevailing risks of identity theft facing jurisdictions everywhere. These pieces of legislation, including the one before us today, come after the Electronic Transaction Act, Cap. 308B, which has already been enacted in this Honourable Chamber.

Mr. Deputy Speaker, while the Honourable Members on the Other Side are speaking strongly against this piece of legislation, there are others better informed in larger jurisdictions and in larger groupings, who have been taking tremendous steps and making tremendous strides in ensuring that they can deal with cyber crime and financial crime more effectively. While the Opposition is saying that they have no concern over this legislation, they should know that the Council of Europe approved a convention on cyber crime in November 2001. Given the nature of computer crime, consideration will have to be given by the CARICOM Member States to the formulation of some agreement similar to what the Europeans did in the case of cyber crime.

Mr. Deputy Speaker, I am going to close at this point. I appreciate what this Government has been trying to do in the area of financial crime. In addition to this piece of legislation, it is extremely important to remind this Honourable Chamber what this Government is doing in respect of enhancing and, indeed, modernising the communication system of the Royal Barbados Police Force. It is important to remember that. We are spending approximately \$20 million to give the Royal Barbados Police Force access to modern sophisticated communication equipment so as to allow them to become good stewards of this particular Act because the proliferation of the use of information and communication technology has a potential downside.

Sir, there is no law which would prevent those who are given to fraudulent acts from becoming experts in the use of information technology. This Government is aware of that,

hence, we do not have a problem in expending approximately \$20 million to give the Royal Barbados Police Force modern communication systems. This project is ongoing at the moment and it is aimed at allowing the police force to better interlink with other government agencies critical to law and order in this country. The Opposition would have a problem with that project also because I realise that every time this administration brings a piece of legislation or any initiative to this Honourable House which would allow this society a more orderly one, it is met with negative responses from the Other Side and that should tell us something about Her Majesty's Loyal Opposition and that they have a difficulty with this Barbadian society being put on track and being run along orderly lines.

Mr. Deputy Speaker, the project would also allow for the building of adequate capacity in the area of information and communication technology in the police force. Mr. Deputy Speaker, giving them the equipment but not adequate training would mean that they would not be able to make effective use of the equipment. The technology would also allow the law enforcement officers in Barbados to link with law enforcement officers who function at the international level. In a world of enhanced use of information and communication technology, the wrong type of information flows quickly, so the law enforcement officers must benefit from a more rapid flow of information so as to assist in combating crimes that could be caused by the misuse of computers.

Sir, I conclude by supporting the introduction of the Computer Misuse Bill in this Parliament and any piece of legislation that seeks to protect the computer systems and information that is contained therein. As far as I am concerned, this will not stifle the creative talent of Barbadians, or prevent Barbadians from generating valuable information which could be of tremendous benefit, financial and otherwise to themselves or to the country. I take a very opposing view of anyone on the Other Side who suggests that this is an invasion of privacy and there is nothing significant about this. This is just another example and demonstration of the Democratic Labour Party preventing this country from being pushed forward along more orderly lines.

I thank you, Sir.
5.00 p.m.

Hon. R. R. FARLEY: Mr. Deputy Speaker, I rise to give full support to this Computer Misuse Bill, 2005. This Bill, is an important addition to the framework which is so essential for us to be able to properly roll out the digital society and economy which are really part of what is required for development in the 21st Century.

In fact, it is perhaps significant that one of the first pieces of legislation which we passed as a Parliament in the year 2000, was the Electronic Transactions Act, because that legislation for the first time in Barbados' legal history, gave the same level of legal recognition and acceptability to digital transactions, as it did to paper based transactions.

You will recall, Sir, that the gist of that legislation was to provide for the equivalency between paper based documents and electronic documents. It also created an offence of tampering with electronic communication and it also, Sir, provided for the use of digital signatures on electronic documents.

I want to locate that, Sir, within the framework of the fact that not only is Barbados embarking on this course but, indeed, the rest of the world. In fact, Sir, Barbados like countries all over the world has been participating in the World Summit on the Information Society, and several preparatory meetings have been going on.

This, Sir, is very important, not only does it relate to issues of the digital divide between countries but also, the extent to which we can harmonise legislation as it relates to the digital economy, to the use of computers, the governance and use of the Internet, issues relating to how we communicate, how we share information and how we protect the society from the crimes which will become prevalent in the digital age.

Indeed, Sir, I greatly value the contribution which was made earlier today by the Honourable Member for St. Michael East, as he located what would be seen as modern cutting edge legislation dealing with computers, in the timeless philosophy of the role of Government and Parliament and how legislation needed to be created to protect public morals and citizens from unscrupulous fellow citizens. He located this as not just an economic matter dealing with computers but a social matter dealing with how we relate to each other in the society.

Sir, this Computer Misuse Bill, has to be located in that framework. Honourable Members have already spoken of what the Government has done, by way of its own use of information technology and computer based systems for the development of transactions within the Government and between the Government and its citizens.

I want to say, Sir, that today, the modern computer is not a stand-alone device. Its real value is when it is networked. The benefit to Barbados from the use of information technology will only really be fully realised when we come to full grips with the networking capabilities.

In that benefit there are also problems. Therefore this legislation properly recognises the role of networking, the role of the Internet, and the role of remote access. The fact, Sir, that misuse of computers does not require direct access to the physical location of the database or the computer, but via wireless networks, telecommunications and the Internet, that there can be great misuse.

I want to speak, Sir, to some of the issues relating to that aspect of this Bill. First of all, in addition to all the achievements Honourable Members have stated, I want to make the point that the successful liberalisation of the telecommunication sector in Barbados will be one of the greatest contributors to a full explosion of the information society in Barbados.

There can be no doubt, Sir, that this society has laboured under the weight of an archaic system of telecommunications provided by a monopoly provider and that is what had inspired the Government in the first place to seek to change that. We have been successful so far, Sir, and the benefits have been seen in liberalisation in the mobile network.

If you think, Sir, that the mobile network is only about people being able to talk freely, fully and at length, 'come again'. Today, the personal digital devices, the PDAs and the phones are now merging. Therefore, when a person has a digital device in his hand, it is at once a telephone as it is a diary and a calculator. You can play games or type a document in it. You can do spread sheets and schedule your appointments. The blackberry – I do not want to promote brand names – and other personal digital devices are moving offices. Therefore, liberalisation of telecommunications creates the enabling environment for the full exploitation of computer power for the benefit of the economy and the society.

We have already, Sir, created competition in the provision of domestic telecommunication services, not only telephone services but data, and we are on the cusp of the full liberalisation of the international telecommunications sector.

Mr. Deputy Speaker, those are no small achievements, coming against the background of those Members who are missing from the Other Side, having in 1991, with only three more years of the agreement that existed between themselves and Cable and Wireless. Sir, in 1991, rather than letting the agreement lapse in the three years, and then come with a new liberalised non-exclusive regime, they signed up for 20 years of monopoly exclusivity.

Sir, it took This Side over here, those who are in this House, not missing like them, to change that and thanks to that change, we will be able to benefit from this new digital

age. Much of that, Sir, will turn on the fullest exploitation of the Internet, voice over the Internet, and movement of video and other data, but even there the fight is not entirely over. 5.10 p.m.

In fact, Sir, one of the things that would challenge us is not only to make provision for it in the Computer Misuse Bill where reference is made to computer misuse over the internet but also to look at how the internet is governed internationally. In fact, one of the battles in which the developing countries of the world would have to wage at the World Summit on Information Society is to ensure that we are able to deal with two key issues, the issue of managing the governing structure as well as the issue of funding that structure.

More fundamentally, Sir, the internet kind of evolved and at an early stage in its development the United States Department of Commerce contracted a private company, the Internet Corporation for Assigned Names and Numbers (ICANN) to manage the allocation of dot com names and things of that nature. That company continues to do that today. So here you have the world most powerful tool for digital communication, even used for telecommunications, and generally it is the platform on which we are able to enjoy all of the benefits of the information society, but it is controlled entirely by a private company on contract by a single Government so, Sir, you could see where the problem would lie.

Sir, what was interesting is that the European Union has been able to negotiate with the United States of America to get some involvement on terms which they consider to be favourable to them, but where does that leave Barbados, the rest of the Caribbean, Brazil, China, India and all of the countries. These countries have concerns which would cause us to have to create this Computer Misuse legislation. Sir, access to information in their countries can be affected by issues relating to the internet and the fact that the internet allows for cross-border transactions in such a way as would create offences under this Act.

Mr. Deputy Speaker, given the history of international affairs over the last few years, whether it be in issues relating to the fight against money laundering, the fight against terrorism and what the United States of America considers to be its security issues, can we necessarily rule out the possibility that the Government of the United States of America, exercising its control over the company that it has contracted to manage internet domain names and matters associated with that area, may one day end access to some countries or regions or companies to the internet as a result.

Mr. Deputy Speaker, the issue of the technical design of the internet may very well make it difficult for regions of the world with different technical specifications to be able to

gain access. Therefore, the issue of economic democracy and the right of countries and regions to be able to participate and to have voice and presence in a matter which is fundamental to their development in this digital age, is a fundamental one which will be discussed at this World Summit on Information Society. This is one on which Barbados cannot be silent and certainly will not be silenced. I know the Ministry of Commerce has this matter high on their agenda as they participate on behalf of Barbados in this matter. The Minister from the Other Place will be carrying the flag for us in this regard.

Sir, I raise that issue to respond to the presentation from the Leader of the Opposition who, if you listen to him, you would believe that this Bill was a waste of time, that it is not important or that we do not need it, the reality is not only do the threat of computer misuse arise from persons within our shores but from the fact that we are connected all over the world.

Mr. Deputy Speaker, apart from the issue of computer misuse, the fact that our economic future is based on our ability to have free and open access to international telecommunications and telecommunications network, we have fought on the issue of telecommunications, to build capacity and to have access and on issues relating to the governance of the internet to ensure that that does not become the new stranglehold which large countries would put on developing countries of the world. Sir, not only will it now be a matter of a digital divide, it may very well be a matter of digital blackmail, and we can have the very economic life squeeze out of us by any clamp down on access to that international arrangement for the internet. Those are issues which are very much before us.

Sir, the Leader of the Opposition has it entirely wrong when he considers that this Bill and matters relating to it are not important. He totally misread what was intended when he sought to introduce discussion on the Government's own capacity to offer efficient computer services. He mentioned several Government departments and my other colleagues have already spoken to the issue by way of rebuttal.

Sir, I also totally reject the suggestion that this Bill, by seeking to protect citizens in terms of their personal information and in terms of their economic information, is a fundamental breach of their rights. We all know that any person who has any understanding of how societies are structured and the kind of social contracts between the Government and the governed, knows that in order to enjoy the wider benefits of peace, prosperity and good neighbourly relations, that citizens' rights are basically not fettered, they are constrained. I have the right to go where I want to go, but it does not mean that I can trespass on somebody else's

property or that if for security reasons I am not allowed to go in a certain place at a certain time that my rights have been violated. It is a matter of give and take.

Therefore, I rather have legislation which would ensure that if my bank has my financial information on its computer system that only those who are properly authorised, the bank, the Central Bank, the tax people whomever they might be, can get it. If I have a medical history, a broken leg here, a chipped tooth there, a bad kidney here or whatever it might be, that information is only intended for those to whom it properly belongs, my doctor and my nurse, not just any doctor. Essentially, this is the tone and tenure of the legislation.

Sir, we are providing networks to facilitate exchange of information but then we have to set up rules as to how that exchange of information actually occurs. Only this week in the United States of America the police charged a young man for using the internet to attempt a mass suicide programme for Valentine's Day. Mr. Deputy Speaker, these are the realities that we face. We are not in any imaginary world. Can we wait until the misuse of computers result in the loss of lives, of major injury to people physically or to their reputation, for us to take action? Sir, no, that would be irresponsible. In fact, one of the reasons why this Computer Misuse Bill is so important is that one of the grave dangers that we face today in the digital society, is that of identity theft. The only reason why that has not been a major issue in Barbados so far, is that many of our systems were still paper-based, with many well-bound books or thick papers in archives of Government.

5.20 p.m.

Sir, using the United States of America as an example, people have found that their credit have been ruined because someone has gotten hold of information of their identity and, purporting to be that person, has incurred large debts. Some people have found that they no longer own the house that they thought they had owned because someone has stolen their identity and has pledged out their property.

Sir, we cannot wait until these things happen to our citizens, for us to take action. In fact, in all this legislation that we are bringing, in support of the digital society, we have learnt from the examples, failures and successes of other countries.

Mr. Deputy Speaker, I want to commend the Ministry of Commerce for doing extensive work and research over the last several years, since 1999/2000, on not only this legislation but on other aspects of building the information society and for recognising that freedom is maintained very often by having very clear and wide-ranging regulations.

Sir, living in a free society does not mean a society without rules but one where rules are structured in such a way that the rights of the majority are protected and that if there is any inconvenience to be suffered, that inconvenience would be kept to a minimum. Sir, such is the direction in which this legislation has taken, by learning from the experiences of others.

Mr. Deputy Speaker, we are not going to leave our citizens exposed to the vagaries of private sector profitability, where some companies may fail to put security arrangements in place on their computer systems in order to save money. We, as a Government, in moving towards the digital platform, will be no less than scrupulous in ensuring that all protections are put in place.

Mr. Deputy Speaker, the scare tactics that have been used by the Honourable Leader of the Opposition to suggest that what we are doing is seeking to reduce access to information, is a most ridiculous charge. If one were to follow the Honourable Member's argument, it would mean that there would be these computers out there and that whosoever will, can go into these computers and can get whatever information they would want.

Mr. Deputy Speaker, basically the Honourable Leader of the Opposition is saying that he wants to be able to go into any and every computer in Barbados and get any and all information that he would want. The Honourable Member would want to go into the Central Bank's computers, not to get what is there on the website for the public but to get behind the firewall to see everything. The Honourable Member said he wants to check on the daily foreign reserves balance.

Mr. Deputy Speaker, therefore, as long as that information is secured behind a firewall, that would stop anyone from checking to see who has bought foreign exchange and at what price, or who has transferred money from Barbados to pay for their child's education, *et cetera*. Therefore, this Government is not going along with the Honourable Member. We are saying that this legislation is important for efficiency, for high productivity and for us to be able to utilise information technology but that we, as a Government, is also putting ourselves under the strictures of the legislation as it relates to computer misuse. It would mean that neither ourselves nor our agents, none of the 25 000 public sector workers, none of the 51 ministries, departments or statutory boards, will be able to play fast, footloose or careless with information collected from the public in the course of the duties that are performed.

Mr. Deputy Speaker, I look forward to the private sector following the lead of Government because where this has to lead is that in making digital transactions, private companies must declare what is their private policy.

Companies cannot simply say: "Come online and shop, come online and place your order, or come visit our website". Companies need to assure you that the information is going to be used for the intended purpose, that the transactions are being moved on a secured site and that persons will not be subjected to junk mail and unsolicited promotions. Sir, Government is setting high standards because we fully expect that companies in Barbados will move to use the platform of the internet and, indeed, companies overseas have been using it to target us already.

Mr. Deputy Speaker, I want to fully support this legislation as being an important contributor to building a framework of certainty, predictability and reliability, as we move boldly and with confidence into this 21st Century, and that we are able, both within our borders and across international borders, to leverage the information technology that is available, through the successful reform of telecommunication, for us to seize the opportunity to market our goods and services internationally.

Mr. Deputy Speaker, a vast number of persons depend on the internet for information these days. Therefore, I can see everything from tourism promotion of Barbados being shifted from being exclusively on television network and in magazines, to banners and advertisements on the internet, and for our tourism authority to be buying space on some of the more popular websites, so that we would not necessarily have to advertise on CNN television but we could advertise on CNN website or whatever may be the more popular websites.

Sir, I can see this as a means of promoting our pepper sauce, our jams and jellies and our indigenous products all via the internet. Sir, already I know that a number of small tourism operators have been reaping success. For example, in my constituency, those persons with small properties, sometimes a regular two-bedroom or three-bedroom house which they rent out to groups of tourists, they do not buy space in glossy magazines but instead promote it on the internet. Some of them are on websites, while some take their bookings via e-mail. Sir, these persons are using the digital age to good effect. I wish that some of the larger properties would take note and would do likewise.

Mr. Deputy Speaker, I can see the promotion of our music, our calypsonians, gospel artistes, jazz artistes and a range of talented musicians that we have, being able to use the lower cost and easier ability to manipulate the medium, to do their promotion via computers and the internet.
5.30 p.m.

We want to make sure that legislation such as this prevents the international 'scamsters' out there from frustrating their efforts or defraud them as they seek to use

the modern medium of the internet in promoting their product and services for their personal benefit and the benefit of this country.

Sir, like other Members on This Side, I strongly support the legislation and commend all those who have contributed to us getting to this point. I believe that this major piece of legislation would once again confirm the presence of Barbados firmly and squarely in this digital age in the early years of the 21st Century.

Mr. Deputy Speaker, I thank you.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Joseph.

Hon. D. D. MARSHALL: Mr. Deputy Speaker, I rise to wrap up this debate. I am grateful for the vigour that has been shown by Members on Both Side. Never mind that the criticisms of the Opposition may demonstrate to some degree misapprehension or a misunderstanding of the purposes of the legislation, their contribution was still welcomed.

I am especially grateful to the Honourable Member for Christ Church East for honing on the fact that Barbados has to position itself in a global context. It is quite clear to some of us who have some involvement with the international sectors that frequently, a decision on whether or not a particular investment will or will not take place in a country such as ours, will be dependant on the perception of the overseas investor of how regulated is our society and their perception of whether or not we have a strong legislative framework in areas of importance to them. For example, investors in the United States of America would look at our tax structure and what our social climate is like.

Mr. Deputy Speaker, the Opposition has sought to introduce a red herring into this debate. It is truly a sad thing that they should stoop so low because this Bill is not about restricting access of the public to information but about protecting data. It is not a Data Protection Act but about protecting data from the pernicious acts of people who want to manipulate the data of other people without lawful cause. It protects our networks from improper access by individuals who would want to damage the data.

The Opposition sought to put a fear in the minds of the public of Barbados that the administration of the Barbados Labour Party is seeking to whittle away the rights and freedoms of citizens and that we are seeking to mask it by introducing a Bill today that seeks to limit access to information.

Mr. Deputy Speaker, it is clear in my mind that the Opposition does not understand how Section 11 of the Bill works. They do not seem to understand that it is not

in the interest of the public for data held by those bodies listed in the Schedule to be freely made available to individuals.

The Honourable Member for Christ Church East spoke about what could have happened if individuals were able to access the records of the Central Bank of Barbados but what about the data of the Director of Public Prosecution and the data of the Office of the Attorney General. What would happen if they could access the data of our law enforcement and that of the Defence Force?

Sir, the fact is that information that is captured by Government can be categorised as sensitive, in which case there is good public cause for restricting access to it. The other category would be non-sensitive and certainly, this administration of the Barbados Labour Party has practised a degree of transparency that in my respectful submission, the like of it has not been seen in this country before.

It is a fundamental part of the information policy of this Government that all of its citizens be empowered technologically and consistent with that approach is the fact that departments of Government are encouraged and mandated to start putting information on websites.

I suspect that all of our Ministries have websites and there is a whole set of documentation that is now available in relation to my Ministry online. The point is that Government has to be seen as being part of the people and not apart from the people. Sir, information that is non-sensitive or that can be public, Government is encouraging that this data should be available on website for free and open access not just to Barbadians but across the world. The Opposition is trying to parlay this into Government seeking to prevent the average Barbadian from getting access to data.

I wonder how the Opposition would feel if a hacker were able to get into the database of the Democratic Labour Party and disclose their membership all across Barbados. I am sure that the mere thought of that would horrify every Honourable Member on the Other Side of this Chamber. Sir, what is good for the Medes is also good for the Persian. Therefore, in the same way that they would posit that all data of individuals should be open for scrutiny by any and everybody, then certainly, they would be more than willing to make their data available as well. Mr. Deputy Speaker, I fear that they would disagree with me on that score.

It is of fundamental importance that sensitive data whether it captured by parastatal organisations, doctors, accountants, pharmacies or lawyers in private practice, it is vitally important that the place where that data is stored is inviolate.

Sir, the fact is that nobody would be allowed to walk into a pharmacy and ruffle through the records of the pharmacy to see what medication Mr. X or Mr. Y is taking. The mere thought of that would horrify any Barbadian, so how is it possible to argue that the data should be available to the whole world simply because it is digitised and available on computer.

5.40 p.m.

Mr. Deputy Speaker, a careful reading of this Bill would show that throughout it we talked about people who are unauthorised, people who do not have lawful cause and people who wrongly access computers without lawful excuse or justification. That is the measure of a person's conduct in this arena. Do you have a lawful excuse or justification?

Sir, an Honourable Member on the Other Side spoke about Section 12 and expressed great horror that a person who is authorised to receive data should find himself afoul of the law if he receives data from an individual who improperly obtained it. Without wanting to be too convoluted, the fact of the matter is, if I am entitled to receive data as the Minister of Industry and International Business in relation to companies, it does not mean that if that data was stolen digitally from a database from where and I readily accepted it, my receiving the data should be given the clothing of legitimacy simply because there was a legitimate mean through which I could get it. It does not work that way. The fact of the matter is, by making that kind of conduct illegal, it removes any incentive for an individual to obtain it by foul means so it does not horrify me. If I am able to receive by an authorised way, then my law and conscience should tell me that is the way to receive it. If I proposed that the way in which I should go about my affairs is to get it in an unlawful way, then I must bear the consequences because I am now an accomplice to the unlawful theft of that data. It is clear to me that the lines of a lawful or unlawful when it comes to the arguments about this Bill are blurred in the minds of the Honourable Members of the Opposition.

Mr. Deputy Speaker, this legislation is not some pernicious act on the part of the Barbados Labour Party to keep information or data secret from the public. In fact, if that were the case, then this Bill would represent a tremendous conspiracy across every single country in the Commonwealth.

I mentioned in my presentation earlier this morning that this Bill was in large measure based on a computer and computer related draft model law which was prepared by the Commonwealth Secretariat on the direction of the Member States of the Commonwealth. It was, in fact, The Computer and Computer Related Crimes Act. It was a model which was settled on by a committee of experts drawn from Malaysia, Singapore, Canada, England, Dominica and one or two other countries in the Commonwealth. I was not on

one of our colleagues of Dominica was on it. Many meetings were held and several reports were made to the Secretariat who then made reports to the Heads of Government Conferences from time to time and all of which were then brought together in this model law.

Sir, if this Bill is a product of some wickedness on the part of the Barbados Labour Party administration to try to develop a society where people do not have access to information, then it represents an enormous conspiracy. We recognise that the Opposition is loath to do any meaningful research when it comes to matters such as these.

Mr. Deputy Speaker, I believe that the Bill is a little late but it is timely. In 2003 it was still a work in progress and I know there have been further development. We are satisfied that this legislation hits the nail on the head but more important it has been framed in a flexible way so as to be able to take us into the future.

Sir, when we talk about computers we often conjure up in our minds a picture of a desktop computer or a laptop computer but in truth and in fact our telephones are now computers. The telephones have data stored in them and I would be equally offended if an individual were to take my telephone and retrieve all of the numbers and then call up people and spread all kinds of misinformation. I would be as offended by that as if they were able to hack into my computer at home, get my e-mail addresses and do the same thing in the digital world.

We have to move as quickly as the others who are pressing on in this digital environment. We talk about the digital divide but it is not sufficient just to equip our citizens with the technology while not fulfilling our responsibility as a Government by ensuring that the data that we encouraged them to accumulate and digest is protected.

We on This Side of this Honourable House are of the view that the time has come to put this legislation in place and we are satisfied that it has taken into account all of the relevant concerns and issues. It is a solid piece of legislation which comes commended by all of the work that have been put into it by the individuals at the Ministry, the consultants who have drafted it, the Chief Parliamentary Council Office and also buttressed by the many hours that would have been put into it the model of the Commonwealth Secretariat Expert Committee.

Mr. Deputy Speaker, with those final words, I beg to move that this Bill be read a second time.

Hon. R. R. FARLEY: I beg to second that, Sir.

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

On the motion of Hon. D. D. MARSHALL, seconded by Mr. R. D. MARSHALL, the House resolved itself into Committee, Mr. R. D. MARSHALL in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is now in Committee.

Clauses 1 to 5 were called and passed.

Clauses 6 to 11 were called and passed.

Clause 12 was called.

Hon. D. D. MARSHALL: Mr. Chairman, I beg to move the following amendment to Clause 12. (1). That amendment has been circulated but for the sake of completeness it would be to delete paragraphs (a) and (b) and substitute a new (a) and (b). Sir, Clause 12. (a) to read:

- (e) to have a programme or computer data; or
- (f) to have access to any programme or data held in the computer."

I would also like to move an amendment in subclause (2) inserting the word "to" immediately after the word "or" appearing in the second line.

Sir, with those amendments I beg to move that Clause 12 as amended stand part.
5.50 p.m.

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

Clause 12, as amended, was passed.

Clauses 13 to 15 were called and passed.

Clause 16 was called.

Hon. D. D. MARSHALL: Mr. Chairman, I beg to move an amendment to Clause 16, the amendment being the deletion of, "the marginal note" and substituting the following words namely, "assisting a police officer".

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

Clause 16, as amended, was passed.

Clauses 17 and 18 were called and passed.

Clause 19 was called.

Hon. D. D. MARSHALL: Mr. Chairman, I beg to move an amendment to Clause 19, the amendment being the insertion in paragraph (a), of the word, "Internet" immediate after the word, "the".

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

Clause 19, as amended, was passed.

Clause 20 was called.

Hon. D. D. MARSHALL: Mr. Chairman, I beg to move an amendment to Clause 20, subclause 1 by inserting the word, "may" immediately after the word, "judge".

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

Clause 20, as amended, was passed.

Clauses 21 to 23 were called and passed.

The Schedule was called.

Hon. D. D. MARSHALL: Mr. Chairman, I beg to move an amendment to the Schedule, by deleting the word, "licencing" at (M) and substituting the word, "licensing".

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

The Schedule, as amended, became the Schedule to the Bill.

On the motion of Hon. D. D. MARSHALL, seconded by Hon. R. R. FARLEY, Mr. CHAIRMAN reported to His Honour The DEPUTY SPEAKER, the passing of one Bill, with amendments in Committee and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. D. D. MARSHALL, seconded by Hon. R. R. FARLEY, the Bill was read a third time and passed and cited as the Computer Misuse Act, 2005.

RE: SUSPENSION OF DR. D. C. ESTWICK

Mr. DEPUTY SPEAKER: I would like to inform all Honourable Members that the position of this Chair this afternoon was that the Honourable Member for St. Philip West is suspended for the remainder of today's Sitting.

This is rooted in Rule 40.2(A) of this Honourable Chamber.

ORDER NO. 7 – TO MOVE THAT THE HOUSE RESOLVE ITSELF INTO COMMITTEE OF SUPPLY TO CONSIDER THE GRANT OF THE SUMS OF MONEY FOR THE SERVICE OF THIS ISLAND

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. R. R. FARLEY, the House resolved itself into Committee of Supply, Mr. R. D. MARSHALL in the Chair.

COMMITTEE OF SUPPLY

Mr. CHAIRMAN: This House is now in Committee of Supply.

RESOLUTION TO GRANT THE SUM OF \$5 511 053 FROM THE CONSOLIDATED FUND AND TO PLACE IT AT THE DISPOSAL OF THE GOVERNMENT TO SUPPLEMENT THE ESTIMATES 2004-2005 AS SHOWN IN THE SUPPLEMENTARY ESTIMATES NO. 10, 2004-2005 WHICH FORM THE SCHEDULE TO THE RESOLUTION AND THAT THE EXPLANATORY NOTES TO HEAD 19 BE AMENDED AS SET OUT IN SCHEDULE II TO THE RESOLUTION

HEAD 19 – MINISTRY OF FINANCE AND ECONOMIC AFFAIRS

Hon. Miss M. A. MOTTLEY: Mr. Chairman, the sums which are required under Head 19 are to meet a number of myriad areas, particularly utilities, and other Personal Emoluments in relation to salaries and allowances, National Insurance Contributions, travel and rental of property.

These relate, Mr. Chairman, to the ASYCUDA project which as you know provides for the software framework and hardware framework within the Ministry of Finance for the Customs and other Revenue Departments there.

The issue of the purchase of furniture for the Treasury Department.

The issue of emoluments in order to meet salaries and national insurance for staff employed in the Accrual Accounting project and its Support Unit.

The issue is, Mr. Chairman, in order to meet the sum of money necessary for connectivity to connect the Licensing Authority on a wide area network to the Ministry of Finance and Economic Affairs. This will facilitate our being able, eventually, to be able to accept payment of funds for

Licensing Authority matters online. Mr. Chairman, this supplementary also covers a sum of money for the rental of office space for the Project Office for the ASYCUDA Migration Project which I referred to earlier and for the cabling specifically of that office. These therefore represent myriad sums of money to be able to tidy us up before the end of the financial year.

6.00 p.m.

I therefore ask that Head 19 stand part.

Hon. R. R. FARLEY: I beg to second that.

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

HEAD 20 – MINISTRY OF COMMERCE, CONSUMER AFFAIRS AND BUSINESS DEVELOPMENT – \$40 236

Hon. Miss M. A. MOTTLEY: Mr. Chairman, this small sum of money, \$40 236, is to meet the shortfall that is there in relation to the payment of salaries and National Insurance Contributions to carry us safely to the end of the financial year.

I beg to move that Head 20 stand part.

Hon. R. R. FARLEY: I beg to second that.

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

HEAD 29 – OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS – \$7 182

Hon. Miss M. A. MOTTLEY: Mr. Chairman, the sum of \$7 182 is being requested of this Committee in order to help pay the utilities bills that the Office of the Director of Public Prosecutions has projected that it will incur between now and the end of the financial year.

I beg to move that Head 29 stand part.

Hon. R. R. FARLEY: I beg to second that.

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

HEAD 30 – ATTORNEY GENERAL – \$3 210 329

Hon. Miss M. A. MOTTLEY: Mr. Chairman, by far the largest amount of the supplementary before this Committee today relates to the Office of the Attorney

General in the sum of approximately \$3.2 million. These sums are required to do a number of things, but the largest amount of which is a sum of \$2 260 851 is to meet the cost of providing allowances, in particular the flexibility allowance for members of the Royal Barbados Police Force.

I think that Honourable Members are aware that this flexibility allowance is paid to members of the Royal Barbados Police Force when they work beyond their normal times for work. Given the fact that the police have been able to produce the types of results that they have in the last year, I think all Honourable Members would agree that this money is well-deserved by members of the Royal Barbados Police Force. We therefore want to ensure that by so supplementing the vote we are in a position to satisfy the claims which would accrue as a result of time already put in on the part of the officers.

Mr. Chairman, we are also requesting the sum of \$87 761 to meet the payment of subsistence allowances to those police officers who went to assist in the efforts in Grenada in the post-Ivan environment. A supplementary is generally for those things which could not have been contemplated at the beginning of the year. To that extent we are asking this House for this supplementary so as to pay the appropriate subsistence allowances to those officers who went down to Grenada to help its people in their time of great need.

We are also requiring a sum in order to deal with the exchange rate changes in order to allow us to supplement the amount that we pay as subscriptions and contributions to the extra-regional associations to which the Royal Barbados Police Force is a member particularly Interpol.

Mr. Chairman, under the Office of the Attorney General itself an amount of \$489 944 is required in order to meet the cost of payment to lawyers in the United Kingdom for the conduct of just only four Privy Council cases which include the case that is well-known to Honourable Members in relation to the mandatory death penalty, the matter of Boyce and Joseph against the Queen which was heard twice. The case of Michael Huggins versus the Queen which the Crown won on appeal and the case of Tennyson Griffith and others versus the State, judgement of which was rendered in December and related to the capacity of the court to detain people at Her Majesty's Pleasure when under the age of 18 or when under the Mental Health Act.

Mr. Chairman, that sum of \$489 844 was not the Government's full liability. Indeed, our full liability for the cost to the lawyers for the Crown and the extent that we pay the appellants' legal cost would have been in excess of \$550 000. Therefore, we are simply supplementing what we had in our vote.

What cannot escape notice, Mr. Chairman, is that the cost of going to the Judicial Committee of the Privy Council in London is very high. Barbados' entire contribution to the Caribbean Court of Justice in respect of the life of the Caribbean Court of Justice is US\$13.2 million – because that money is going into the trust fund, the operating expenses will be financed from the interest of the trust fund, and hence the court would not need to touch at all the US\$100 million – but when you compare that to the fact that in one year we are paying out over \$550 000 in respect of just three or four cases, Mr. Chairman, you begin to understand, apart from the reasons for the completion of the process of sovereignty and apart from the reasons for the interpretation of the Revised Treaty of Chaguaramas, in the establishment of a CARICOM Single Market and Economy, that it makes good financial sense for us to belong to a court for which the cost that the Government would have to pay would be considerably less. To begin with you do not have to cover the airfare, you do not have to brief solicitors in England and you do not have to brief counsellors in England and indeed the cost to the average litigant would be considerably less because the court will function as an itinerant court, in other words, it will hear cases in the various jurisdictions.

Mr. Chairman, while others may be having difficulties in relation to whether they will go in both the appellate and the original jurisdiction, the Government of Barbados has made it clear that it is our desire to enter the court both in its original and its appellate jurisdiction and that like Guyana we would do so upon the inauguration of the court.

Mr. Chairman, there would be amendments that would come to this House to reflect the further protocols that have been signed but for the most part all that we really need to do is to proclaim the legislation once the Heads of Government signed off on the inauguration of the court.

Honourable Members may be aware that this matter has engaged the attention of the Legal Affairs Committee and the Proprietary Committee for the Establishment of the Court, which I chaired over the course of the last few days, such that we can find an appropriate way forward given the Judicial Committee of the Privy Council's decision of three weeks ago that affects the Government of Jamaica in relation to the manner in which it sought to pass legislation establishing the court.

Mr. Chairman, suffice it to say that I would not speak anymore on this issue because I anticipate that when the Heads of Government meet in Suriname within the next two to three days they would treat to this issue, so I would not wish to pre-empt any decisions that they would wish to make in this regard.

The last major amount under this Head, Mr. Chairman, is for utility payments where we anticipate there would be a shortfall and to that extent we are seeking to bridge that shortfall by the request for the supplementary here today.

With those few words I beg to move that Head 30 stand part.

Hon. R. R. FARLEY: I beg to second that.

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

HEAD 19 – EXPLANATORY NOTES

Hon. Miss M. A. MOTTLEY: Mr. Chairman, I beg to move that the Explanatory Note to Head 19 be amended as set out in Schedule Two to this Resolution.

Hon. R. R. FARLEY: I beg to second that, Sir.

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

On the motions of Hon. Miss M. A. MOTTLEY, seconded by Hon. R. R. FARLEY, Mr. CHAIRMAN reported to His Honour Mr. DEPUTY SPEAKER, the passing of one Money Resolution in Committee of Supply and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the motions of Hon. Miss M. A. MOTTLEY, seconded by Hon. R. R. FARLEY, the Resolution was read a first and second time and agreed to.

ORDER NO. 8 – TO SEEK THE CONCURRENCE OF THE HONOURABLE THE HOUSE OF ASSEMBLY IN THE AMENDMENTS MADE BY THE HONOURABLE THE SENATE TO THE TRAVEL SERVICES (AMENDMENT AND VALIDATION) BILL, 2005

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, earlier today, His Honour the Speaker would have made an announcement from the President of the Honourable Senate, to this Honourable Chamber, indicating that during the passage of the Travel Services (Amendment and Validation) Bill, 2005, there was a further amendment which was not made in the Honourable House of Assembly when the Bill was debated here.

Sir, that amendment was done in order to treat to a typographical error which inadvertently left out the words “or tour operator” when everywhere else in the legislation, in using the words “travel agent”, the words “or tour operator” had been mirrored because of the nature of the obligations imposed by that legislation.

Mr. Deputy Speaker, I regret that I was not here to be able to have noticed it but the reality is that the Bill passed this Honourable House and went onto the Honourable Senate without the amendment being made in Committee.

Mr. Deputy Speaker, therefore, in the circumstances, I ask that we now agree to the Resolution that the amendments made by the Honourable the Senate, in relation to the Travel Services (Amendment and Validation) Bill, 2005, be agreed to in the terms that I have described and in the terms that have been announced previously by His Honour the Speaker at the commencement of today’s Sitting.

Hon. R. R. FARLEY: I beg to second that, Sir.

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

ADJOURNMENT

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, this brings us to the end of today’s Sitting. The Honourable House will not be meeting next week, as I believe both His Honour the Speaker and the Clerk of Parliament are due to attend the Presiding Officers’ Conference. In addition, there are a number of other matters that will engage the attention of both the Government and the Opposition, which the Government will shortly be announcing in relation to matters of State, pertaining to visits that we would receive from foreign dignitaries.

In the circumstances, I beg to move that this House do now adjourn until Tuesday, March 1, 2005 at 10.00 a.m.

Hon. R. R. FARLEY: I beg to second that, Sir.

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

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