
THE

House of Assembly Debates

(OFFICIAL REPORT)

SECOND SESSION 1976 – 81

HOUSE OF ASSEMBLY

Tuesday, 28th April, 1981.

Pursuant to the adjournment the House of Assembly met at 12.20 p.m. o'clock.

PRESENT

His Honour W. C. B. HINDS, J.P., (Speaker); Mr. R. St. C. WEEKES, C.B.E., J.P.; Hon. L. S. CRAIG, (Minister of Housing, Lands and the Environment); Hon. C. L. BOLDEN, LL.B., (Minister of Communications and Works); Hon. H. deB. FORDE, Q.C., M.A., LL.B., (Attorney General and Minister of External Affairs); Hon. Miss B. A. MILLER, (Minister of Health and National Insurance); Hon. L. B. BRATHWAITE, (Minister of Agriculture, Food and Consumer Affairs); Mr. J. G. ODLE, B.Sc., (Chairman of Committees); Mr. M. C. C. WARD; Mr. DeL. O. BRADSHAW; Mr. L. L. SISNETT; Dr. R. L. CHELTENHAM, M.Sc.(Econ.); and His Honour E. E. ALLEYNE, LL.M., (Deputy Speaker).

Prayers were read.

Hon. H. B. St. JOHN, Q.C., LL.B. entered the Chamber and took his seat.

MINUTES

Mr. SPEAKER: I am advised that there are no Minutes ready for confirmation.

ANNOUNCEMENTS BY HIS HONOUR

Mr. SPEAKER: I have to announce that I have received copies of Accounts and Statements for the month of February 1981 as prepared by the Accountant General.

PAPERS LAID

Hon. L. S. CRAIG: Mr. Speaker, on behalf of the Minister of Finance and Planning, I am commanded to lay the following:

Statements showing Net Customs and Excise Receipts for twelve months ended March, 1981;

The Mortgage Insurance (Amendment) Regulations, 1981;

The Customs Tariff (Amendment) (No. 5) Order, 1981;

The Annual Report and Statement of Accounts of the Barbados National Bank for the year 1979; and

The Caribbean Common Market (Origin of Goods) Regulations, 1981.

Hon. C. L. BOLDEN: Mr. Speaker, I am commanded to lay the Twenty-fifth Report and Financial Statements of the Transport Board for the six months period ended 31st March 1980.

GOVERNMENT NOTICES

Hon. L. S. CRAIG: Mr. Speaker, I beg to give notice of the following Resolutions:

Resolution to approve the compulsory acquisition of lands at Allen View, Welchman Hall and Sturges, St. Thomas for the purpose of providing an access road to the Harrison's Cave.

Resolution to approve the compulsory acquisition of lands at Oldbury, St. Philip and Paragon, Christ Church, for use by the Barbados Defence Force.

Resolution to approve the lease to Avisene Caesaretta Carrington of land at Pine Road, St. Michael for the purpose of providing playground facilities for the Merrivale Preparatory School.

On behalf of the Minister of Finance and Planning, I beg to give notice of a Resolution to approve a guarantee by the Minister of Finance and Planning of the repayment of a Loan of £2 025 000 sterling and interest thereon from the Commonwealth Development Corporation to the Barbados Mortgage Finance Company Limited.

Also, on behalf of the Minister of Finance and Planning, I beg to give notice of the following Bills:

A Bill to repeal the Currency Act; A Bill to amend the Central Bank of Barbados Act; and a Bill to amend the Exchange Control Act.

Hon. H. deB. FORDE: Mr. Speaker, I beg to give notice of a Bill to amend the Property Act, 1979.

FIRST READINGS OF BILLS

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that the Bill to repeal the Currency Act be read a first time.

Hon. H. B. St. JOHN: I beg to second that.

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

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that a Bill to amend the Central Bank of Barbados Act be now read a first time.

Hon. H. B. St. JOHN: I beg to second that.

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

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that a Bill to amend the Exchange Control Act be read a first time.

Hon. H. B. St. JOHN: I beg to second that.

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

Hon. H. deB. FORDE: Mr. Speaker, I beg to move that a Bill to amend the Property Act, 1979 be now read a first time.

Hon. H. B. St. JOHN: I beg to second that.

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

On motion of Dr. CHELTENHAM seconded by Mr. SIMMONS, a Bill to repeal and replace the provisions of the Barbados Chamber of Commerce Act, 1868, was read a first time.

Hon. H. deB. FORDE: Mr. Speaker, I have handed in a Bill to amend the Property Act. It is a very short Bill, just two clauses and I am seeking leave to deal with it in all its stages today. The reason is that the legal profession has represented to me that due to a typographical error in the Property Act there is some difficulty in getting mortgages through, and I am asking therefore to facilitate the necessary change and if it is convenient for us I would like to deal with it in all its stages today.

Mr. SPEAKER: I understand there is no objection to the request of the Hon. Attorney General; so he may proceed.

GOVERNMENT BUSINESS

Mr. SPEAKER: Government Business is the instant order of the Day.

SUSPENSION OF STANDING ORDERS

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that Standing Orders Nos. 6, 16, 18, 20, 42(5) and 57 be suspended for the remainder of today's sitting.

Hon. H. deB. FORDE: I beg to second that.

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

Mr. SPEAKER: Messages from the Other Place to the Honourable, the House of Assembly, an amendment to the Change of Name Bill.

Hon. H. deB. FORDE: Mr. Speaker, I beg to move that this House do concur in the amendments made to this Bill by the Other Place.

Hon. L. S. CRAIG: I beg to second that.

Mr. SPEAKER: There being no objection, the amendment is concurred in by this Honourable House.

Another message from the Honourable, the Senate to the Honourable House of Assembly, an amendment to the Bill respecting Ships, Crews, etc.

Hon. C. L. BOLDEN: Mr. Speaker, I beg to move that this House do concur in the amendments made to this Bill in the Other Place.

Hon. H. deB. FORDE: I beg to second that.

Mr. SPEAKER: If there are no objections, this House concurs in the amendments proposed by the Other Place.

Another amendment, the Administrative Appeal and Tribunal Act, 1981.

Hon. H. deB. FORDE: Mr. Speaker, Sir, I beg to move that the House concur in the amendments made to this Bill by the Other Place.

Hon. L. S. CRAIG: I beg to second that.

Mr. TAITT: Mr. Speaker, Sir, I am not sure that I have a copy of those particular amendments.

Hon. H. deB. FORDE: They were circulated last time.

Mr. SPEAKER: If there is no objection, the House concurs in the amendments proposed by the Other Place.

Another amendment to the Bill concerning the Court of Judicature Act, 1981.

Government Business is the instant Order of the day.

GOVERNMENT BUSINESS

Hon. L. S. CRAIG: Mr. Speaker, Sir, I beg to move that Item No. 2 under Government Business be the instant order of the day.

Mr. SPEAKER: Item No. 2.

FIRE SERVICE (AMENDMENT) ACT, 1981

Item No. 2 was called – To move the Second Reading of a Bill to amend the Fire Service Act.

Hon. H. deB. FORDE: Mr. Speaker, Sir, this is a very simple measure indeed. There are certain services which are performed by the Fire Service for which there is no public charge and we have been looking at the areas in which Government Departments carry out services of a specialized nature for particular persons and clients in which charges ought to be made.

As you know, Sir, the Police Service, for instance, if an Insurance Company wishes a Police Report, a particular charge is made. No corresponding charge is made for Fire Reports nor is a charge made for emptying or filling a private swimming pool, nor is a charge made for inspecting and installing fire installations and fire aids equipment. These are services

which are performed for particular purposes for persons rather than for the public at large, and the purpose of this Bill is to give power for rules to be made specifying charges which ought to be made.

There were divided opinions in the Legal Department as to whether this should be charged in what is called the *quantum meruit* and I believe the Chief Fire Officer did start to charge some of these fees and we have had therefore to pass Clause 4 to put the matter beyond doubt as to the fees which he has already collected. These fees are paid to the Consolidated Fund and the provisions, of course, are similar provisions in the Police Act.

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

Hon. L. S. CRAIG: I beg to second that.

Mr. TAITT: Mr. Speaker, Sir, I do not propose to oppose this amending Bill, Sir. I rise merely to ask of the Attorney General whether he is aware that recently one of the manufacturing concerns in this country was able to acquire the services of the Fire Department on the occasion of the visit of the President of the Parent Company in Barbados to come to that establishment and wash down the yard.

Now, Sir, if we are amending this Bill to allow the Fire Department to charge for certain services, one would expect that these services would not include janitorial services. One would expect that the services performed by the Fire Department would bear some substantial relationship to their purpose of existence and while one does not wish to embroil the Fire Department in any unnecessary controversy, I think the Government should take care to make sure that persons visiting our shores whether they come as guests or whether they come here as corporate citizens of Barbados, do not come here to feel that certain of our services which could not be available to them in their country of origin can be made available to them because of some special understanding on their part as to what Barbados is made of.

I felt quite put out, to go no higher than that, that it was possible that our Fire Services should be used for such activities. The fact that the President of some Manufacturing Company is coming to Barbados is only important to the Manufacturing Company. It is not important in the total scheme of things in Barbados and it is wrong, if this has in fact occurred, for us to be using the Fire Department and using water to flush down the yard of some Manufacturing Company so that the President when he arrives at this Manufacturing Company would have the proper vision, and that it would present the proper, shall we say, image.

I do not believe that our Government Services ought to be used in this way if they feel that their Manufacturing Company ought to have a clean up.

Hon. L. S. CRAIG: Mr. Speaker, on a point of order, if the hon. member would just give way. Is it an assumption.....

Mr. SPEAKER: Please, the hon. member has not given way.

Mr. TAITT: Mr. Speaker, so that the Minister would recognise that I am not trying to be fractious, I am merely pointing out, Sir.

Hon. L. S. CRAIG: If the hon. member would just give away, Sir.

Mr. SPEAKER: Please.

Hon. L. S. CRAIG: He has given away, Sir.

Mr. SPEAKER: Please. The Honourable Minister, please let the hon. member continue his address. The Minister will have a right of reply. Please do not interrupt the hon. member.

Hon. L. S. CRAIG: I am just trying to find out if it is an assumption, Sir.

Mr. SPEAKER: Please. I am appealing to the Minister. The Minister will have a right of reply. Please.

Mr. TAITT: It has been given to me as a matter of fact. While it was not given to me by a Government Department and therefore the veracity of it might be open, I am a public servant and if I am given information, I take it that the people who have given me the information are honourable people. The fact is that whether that has occurred or not, since we are passing this amendment it seems to me that we ought to make it clear what services are included or ought to be included in the services which are to be paid for. I do not expect the Attorney General to write out a list of services but I think that in general the Fire Department and the Police would have some idea what the broad policy is.

I think it is wrong that any Manufacturer can feel that whereas in Wisconsin or Upstate New York or Timbuctoo he has to have a certain regard for his services where they are, when it comes to Barbados, this is not a Banana Republic, this is a serious country and a Manufacturer who is allowed to make a profit in this country is a citizen. His Company is a corporate

company of Barbados and he is entitled to no better right than any other corporate citizen in Barbados. 12.50 p.m.

I do not believe that any local Barbadian company would seek to get the assistance of the Fire Department to flush down their yard and I think it is retrograde for any company to see that their relationship to Barbados is such that they are in a position to seek the services of the Fire Department to wash down their yard, but worse than that, the Fire Department could feel, or whomever made the decision could feel that such a company could make that request and get it granted. It is not right and I have no more to say on it, Sir. I just wish that the Honourable Attorney General would investigate the matter and if he finds that it warrants it that he draws it to the attention of the Fire Department that those services are for the objective of the Fire Department. We ought not to be in a position, where, if a fire breaks out, where there is one of our tenders and men up at a factory washing down the place. Mr. Speaker, I rest there, Sir.

Mr. SIMMONS: Mr. Speaker, I just want to ask the Honourable Attorney General one question, if he can indicate to what extent the plans for the establishment of a fire station in the parish of St. Philip are any nearer fulfilment than they were last year?

Hon. H. deB. FORDE: Sir, I assume that no other Honourable Member wishes to speak. If I may deal first with the query raised by the Honourable Member for St. Philip. Instructions have been issued to the Permanent Secretary together with the Ministry of Health to identify the area of land on which the station has been built and instructions have been issued to him to deal with the Ministry of Communications and Works for the design of a fire station for Six Cross Roads area. That is the first priority in the Fire Service for the extension of fire stations since I believe that that area is in dire need of such a station particularly with the presence of the industrial estate at Six Cross Roads and the Honourable Member can be assured that I will do all that is within my power to push the plans subject of course always to the overriding right of the Priorities Committee and Cabinet to determine whether funds would be available for construction of the station, but it is intended to have a station there.

We intend as well to upgrade the facilities in Weston St. James, a station which has performed extremely well in the constituency of the Honourable Member for St. James and also it is intended, Mr. Speaker, Sir to place a fire station at Speightstown, as part of the complete redevelopment of the northern area. We intend to redevelop the area at the hill where the police station now is to expand the police and court facilities to modernise them, as well as to bring the Fire Station up to — to establish

the Fire Station and make this available having regard to the tremendous amount of development which is going up in the St. Peter area and which is planned for St. Peter and St. Lucy in particular. This will be done in that area. The Government will also have to give some consideration to the presence of a fire station in the Belleplaine area as we develop the northern and north eastern part of our island. It is intended that District B Police Court and police station will eventually become a fire outpost when the new court house and police station is constructed at Charles Rowe Bridge.

Mr. Speaker, the House would be aware that work has already commenced on a new primary school for St. George. When the building at present occupied in the Charles Rowe Bridge area by the school is released we intend to go on constructing a new court house and a new police station for that area. Those are the plans for the physical expansion of the Fire Services. In the meantime, we are continuing work at the Worthing View Police Station and Fire Station where we have expanded and upgraded the facilities there since we have recruited ladies into the Fire Service and it is necessary to provide proper accommodation for them at all of the several stations.

Now, Sir if I may answer the statement made by the Honourable Member for St. Michael South West. The Honourable Member has merely said that he has information but the information given to the Honourable House certainly does not identify either the company, the place nor the time and it merely speaks to a limited extent of the sort of services of which his informant has told him were carried out. Obviously, I would invite the Honourable Member either to give the information if he cares to on the Floor of the Honourable House so that I can have it investigated, or write to me with the information. There is a procedure for dealing with any officer in the Public Service who may use Government property for his personal well-being, or the well-being of his friends, if the allegation is along those lines, Sir and the normal procedure, if it does not come under the Corruption Bill for disciplinary proceedings to be taken, the Fire Service is disciplined like other Public Services, by the Public Service Commissioner and not by the Minister. If the information comes to me I will have it investigated and if it is reliable, I will pass it on to the relevant disciplinary bodies to be dealt with.

So far as this Bill is concerned, the only services that the Fire Service will render under this Bill at present happens to be the list of services which I read out, issuing of fire reports. Fire reports are given to victims whose houses are burnt down or insurance companies no charges are at present made for them. The emptying or filling of a swimming pool. This is a service that has been performed, Mr. Speaker, Sir from time immemorial in Barbados by the Fire Service and unfortunately, I

researched the file, I found that nowhere during the time in the files that I have looked at during the sixties and seventies nowhere were any charges made and I said that this was a service that I believe that the Government must charge for except they were public pools. So that, it is not unusual both under the last Administration and in the sixties and seventies for the Fire Service to empty the pools not only of industrialists who may come here from North America but the rich people on the West Coast as well, as far as I can see, no charge was made. I have said that we must put an end to this and we have started charging because in my view that sort of service should be charged for in order to ease any tax burden there will be on the Public Treasury and to ensure that the cost of the Fire Services was met reasonably by those people who benefit from the Fire Service.

In relation to that sort of charge what we intend to do is that if it is done by members of the Service when they are off duty, then the amount will be paid into the Fire Service Social Club so far as emptying pools and inspecting and servicing of fire installations and first aid fire equipment. That is done at the moment by the Fire Service, it is in the interest of the public, but once again, no fee is charged for this and that has been done for the last twenty years, as far as I know without anyone being charged for it. So, I can assure the Honourable Member that this Government and certainly this Minister intends to ensure that this sort of service is charged for.
1.00 p.m.

However, there is a category of persons who will be unable in some circumstances where the Fire Service performs a service like pumping water from homes in terms of floods, particularly the homes of senior people, no charges at all will be made for that. We do not consider that that should be charged for. Those are the circumstances in which they are free services.

Sir, whilst I was speaking I asked the Parliamentary Secretary in the Ministry of Agriculture to check for me with the Divisional Officer of the Fire Service, and the Divisional Officer has said that they have no records at all of the Fire Service having carried out any such cleaning.

Mr. TAITT: On a point of order, Sir. So that the information would not be seen as frivolous and vexatious and interfering with the rules of this Hon. House, the company concerned was Intel Limited, the time was during the last four weeks, and the occasion was a visit of the President of that Corporation. Firemen were seen in the vicinity and they were washing down the yard.

Hon. H. deB. FORDE: Now, I will give the hon. member the information I have at present, Sir, and later in this sitting I will check with the Chief Fire

Officer and I will ask for leave of the House to make a statement on it, but I am telling you what is the information given to us by the Divisional Commander with whom we are communicating. He has said that they have no records of any such services being performed for any private person, but where there have been oil spills on roads, or any chemicals had been spilled, and it cannot be done by MCW, the Fire Service will help to clean up such a spill in the interest of the public in order to avoid accidents. Those are the only circumstances he knows about.

The hon. member has now given me the name of Intel and the last four weeks, and I will certainly ask the Chief Fire Officer during the time to investigate this, and I hope that before the House rises today, Mr. Speaker, I will ask leave to make a ministerial statement.

I now ask that this Bill be now read a second time.

Hon. H. B. St. JOHN: I beg to second that.

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

On the motion of Hon. H. deB. FORDE, seconded by Hon. L. B. BRATHWAITE, Mr. SPEAKER left the Chair and the House went into Committee on this Bill, Mr. ODLE in the Chair.

Rt. Hon. E. W. BARROW, Q.C., B.Sc., LL.D. entered the Chamber and took his seat.

Clauses 1 to 4 inclusive were called and passed.

On the motion of Hon. H. deB. FORDE, seconded by Hon. L. B. BRATHWAITE, Mr. CHAIRMAN reported the passing of one Bill in Committee, and Mr. SPEAKER resumed the Chair and reported accordingly.

On the motion of Hon. H. deB. FORDE, seconded by Hon. H. B. St. JOHN, the Bill was read a third time.

On the motion of Hon. H. deB. FORDE, seconded by Hon. L. B. BRATHWAITE, the Bill was passed and cited as the Fire Service (Amendment) Act, 1981.

THE STATUTORY BOARDS (REVOCATION OF DUTY AND TAX CONCESSIONS) ACT, 1981

Hon. H. deB. FORDE: Mr. Speaker, there are certain Statutory Boards which are given certain duty free privileges, and provision is made in each separate Act for this to be granted. The Ministry of Finance began to centralise the granting of these privileges and concessions by using the Customs Act and making particular Orders when it is necessary to do so, and therefore the intention is to revoke the special provisions in special

Acts and to leave it instead a matter to be granted under the Customs Act where necessary.

You will note, Sir, that most of the organisations, the Statutory Bodies concerned, are of a commercial nature, and it may well be that in certain circumstances they should show the true cost of supplies which are being provided for them.

That is the simple purpose of this Bill. I beg to move that this Bill be now read a second time.

Mr. ODLE: I beg to second that.

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

On the motion of Hon. H. deB. FORDE, seconded by Mr. BRADSHAW, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. ODLE in the Chair.
1.10 p.m.

Clause 1 was called and passed.

Clause 2 was called.

Hon. H. deB. FORDE: I beg to move that Clause 2 stand part.

Hon. L. B. BRATHWAITE: I beg to second that.

Mr. TAITT: Mr. Chairman, I wonder if the Minister could assist me. I was not quite sure, I think he said it will all now be done under the Customs Act. Does this mean that the Minister of Finance will have to deal with each specifically or does he propose to have an Order under the Customs Act and include this in the Order?

Hon. H. deB. FORDE: Mr. Chairman, I understand that the present practice is that the Minister deals with particular applications, but there is also a delegation; I believe there is power to delegate, I am not sure, some of the duties to the Director of Finance and Planning. I understand an Order is also made and laid in the House and the practice so far has been that the Orders have been made in respect of certain of those who have not benefited in this particular way.

Mr. TAITT: I am still not clear. I see that the hon. member for Christ Church South Central has been indicating that he is familiar with this. Is it that they will not be given duty free entry normally, but where they are importing something which might require it, the Minister will then bring an Order either by negative or affirmative Resolution? I see he is coming. Perhaps he will explain.

Hon. H. B. St. JOHN: Mr. Chairman, by way of explanation, the rationale behind the Act is that representations have been put to the Ministry of Finance that these Corporations are in essence commercial corporations and that they should not operate on terms and conditions in respect of importation more favourable than normal commercial corporations. The object of the Bill, therefore, is to withdraw the privileges of the duty free importation which was set out in specific Acts. The Schedule sets that out. For these corporations to get any duty free privileges which are not within the general law in relation to duty free, they would have to do like any other person on a specific request in special circumstances apply to the Ministry of Finance.

There is an Advisory Committee consisting of the Ministry of Finance through the Controller of Customs, the Ministry of Trade, and I believe the Ministry of Consumer Affairs is now a Trade Incentives Committee which has been in existence for a number of years. They do the investigation and make a report to the Director of Finance who then makes representations to the Minister of Finance so that will be the position in respect of this. I can think of one or two circumstances where I am almost certain they would get. I believe it is the practice with certain highly sophisticated computerised systems that specific requests can be made in respect of things, but that generally is the rationale behind the Bill.

Mr. TAITT: Mr. Chairman, in light of the explanation that has been given, while one does not wish to oppose this Bill, I would merely draw to the attention of the Government that to include Parks and Beaches Committee and Caves Authority as commercial corporations in the light of representation made by other commercial entities in Barbados would seem to me not to be valid. The Caves Authority as I understand it is getting a subvention from the Treasury, and Parks and Beaches are only commercial to the limited extent that they do work similar to the work which the Fire Service will do. In other words, they are only commercial to the point where if they go and do some cleaning for a church they could charge, but as I understand it the bulk of the funds used by Parks and Beaches come from the Public Treasury, and it would seem to me that in the selection of these agencies where the duty free will be revoked that perhaps not enough care was taken.

One can understand the National Bank and the Port Authority and perhaps the Insurance Corporation, but it strikes me that the Central Bank, for example, can hardly be described as a commercial entity in the context. Perhaps there is some other door which the Government wishes to close, and in the circumstances one had better let it ride and see. I am sure that the real door to be closed has not perhaps been brought to

the attention of the two Ministers; but I will leave it at that. I think I understand what the situation is. I recall C.B.C. some time ago had a problem. This might be the answer to the problem.

Hon. H. deB. FORDE: Mr. Chairman, if I may reply briefly, in the case of the Central Bank, the Central Bank makes quite a handsome profit on the operation of the business of Central Banking, part of which is paid into the Consolidated Fund and part of which I think is kept for its reserves. In relation to the Parks and Beaches, the Government has established a commercial arm of the Parks and Beaches which charges for its services and it tenders like any other person in this line of business on Government and other contracts, and therefore it is reasonable that it should show the true charges. In respect of the Caves Authority it is intended that although the capital outlay on the Caves Authority has been probably an investment in more than a commercial enterprise, that it should be run as a commercial enterprise from now on and the capital investment would be taken as Government equity in the matter; and the Caves Authority would be expected to show a profit and eventually in any event, Mr. Chairman, it is the Government's intention to merge the Caves Authority with the Parks and Beaches Commission and the Parks and Beaches Commission will have responsibility for all caves in Barbados.

The question that Clause 2 stand part was put and resolved in the affirmative without division.

The Schedule was called and passed.

On motion of Hon. H. deB. FORDE, seconded by Hon. L. B. BRATHWAITE, Mr. CHAIRMAN reported the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On separate motions of Hon. H. deB. FORDE seconded by Hon. L. B. BRATHWAITE, the Bill was read a third time and passed.

1.20 p.m.

Hon. H. deB. FORDE: Sir, earlier today, I gave notice of a simple Bill, a three Clause Bill, the amending Property Act and permission was granted to deal with it.

Mr. SPEAKER: You may proceed.

Hon. H. deB. FORDE: Thank you.

PROPERTY (AMENDMENT) ACT, 1981

Order No. 4 was called – to move the Second Reading of a Bill to amend the Property Act, 1979–11.

Hon. H. deB. FORDE: Mr. Speaker, Sir, Section 99 of the Property Act, 1979, concerns Conveyances by Mortgagees under the Mortgagees Statutory Power of Sale, Section 110, or by an express power of sale and more particularly, Subsection 3 of the Section provides that a Conveyance coming within Subsection 1 should be made in the name of the estate owner to be invested in the name of the purchaser.

The Bar Association has drawn to my attention the use of the word "shall" which is presently incorrect and is presently affecting the right of mortgagees under Section 99(1) because the mortgagee himself has to get the concurrence of the estate owner to convey and, Mr. Speaker, Sir, we have checked with the original copy of the Bill to discover that this was a typographical error and the word ought to have been "may".

We have also checked in the Working Papers done by Sir Roy Marshall and, obviously, the word ought to have been "may". Therefore, it is necessary to do an amendment to make sure that no delay occurs in conveyances or reconveyances or conveyances under power of sale by mortgagees. That is the simple purpose of the Bill.

I must say that it was first drawn to my attention by a private member of the Bar and I subsequently got the Bar's concurrence that they would wish the amendment as well and drew to their attention that our Working Draft Paper which was considered by the Committee did use the word "may".

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

Hon. L. S. CRAIG: I beg to second that.

Rt. Hon. E. W. BARROW: Mr. Speaker, I have heard of slips of the tongue when members have indulged in prolixity against half of the population of Barbados and now I am hearing that from "shall" to "may" is a typographical error. A typographical error is when you put "man" instead of "may", not when you put "shall" instead of "may" because one is five letters and the other is three letters.

Now, every lawyer knows that there is a difference. Every lawyer except the present incumbent of the post of the Attorney General appears to know that or appears not to know that. I think that the House is disenchanted with the Attorney General coming in here and shifting blame and responsibility for a bundle of mistakes, embarrassing Barbados, embarrassing Parliament, embarrassing the House of Assembly, embarrassing himself but apparently he is incapable of embarrassment.

I really do not wish to embarrass him anymore than he has been embarrassed recently, Sir, but I just want to

ask him a simple thing. Is the Attorney General stating — I took down his words when he said that they looked at the draft made by the Law Revision Committee under Professor Sir Roy Marshall. Is he saying that when they examined Professor Marshall's draft that that draft was wrong because if he is saying that, then there can be no culpability on the part of the people in the Attorney General's Office if they slavishly did not know the difference between "shall" and "may".

There are books that will tell you, Sir Roland Burrowes "Words and Phrases", Stones, that is another worthy one. I remember that at one time I was castigated for saying that an eminent jurist rejoicing in the same name as the Presiding Judge, had made a statement on the Law of Evidence but what I am saying here is this, Sir, that let us be clear. When it was the Registration of Births, all the legal gentlemen on that side said that they heard the Attorney General come in here and make a statement that astounded all of us to the effect that the Registrar of Barbados had taken it upon himself to have short forms printed.

Mr. SPEAKER: I do not want you to go too far afield. I want you to stick to the Bill before us now.

Rt. Hon. E. W. BARROW: I am only going back to January this year, Sir, no further back than that but why I made the comparison and why I want clarification is this because all of us here who have had any experience with the Registry know that the Registry does not even do the things that you expect them to do far less exercising initiative in getting short forms printed. The hon. gentlemen on the Other Side will understand what I am saying so when the Honourable Attorney General shifts responsibility on to a Public Officer when that Public Officer is not here to defend himself and he is now saying and drawing out the name of Sir Roy Marshall's Committee, if not Sir Roy Marshall himself, is he telling us, I just want to know. This is not a big thing. We are not going to vote against it because we do not want Barbados to be ridiculed anymore than it has been in high places and overseas so we are going to tidy up all the Laws as best we can before he departs the scene, we hope, because we do not know what other confusion there is prevailing in the Statute Law of this Island that is why we want it tidied up. We are voting for it, Mr. Speaker, and you know that we are voting for it.

When you come in and you make statements about people in public positions like the Chairman of our Law Revision Committee and you throw out something like that they look like.....

Hon. H. deB. FORDE: I want to know what he is saying that is wrong so that we can debate.....

Mr. SPEAKER: On what does the Honourable Minister rise?

Hon. H. deB. FORDE: If the hon. member would give way, Sir.

Rt. Hon. E. W. BARROW: Give way on what?

Hon. H. deB. FORDE: To answer the question.....

Mr. SPEAKER: Two hon. gentlemen are on their feet. On what does the Minister rise?

Hon. H. deB. FORDE: On a point of order, Sir, a point of explanation, Sir, is the point on which I am rising.

Mr. SPEAKER: No, please. The Honourable Leader.

Rt. Hon. E. W. BARROW: You see even at this late stage the hon. member cannot even make up his mind, Sir.

Mr. SPEAKER: Do not mind that. Kindly address the Chair.

Rt. Hon. E. W. BARROW: An Attorney General should know the difference between a point of order and a point of explanation.

Mr. SPEAKER: Never mind. Address the Chair.

Rt. Hon. E. W. BARROW: But you know, Sir.

Mr. SPEAKER: That is my duty.

Rt. Hon. E. W. BARROW: Yes, Sir. You know he is highly hyper-sensitive so I would only like to assure the hon. member that I am not attacking him but he appeared to cast a slur on the Law Revision Commission.

Hon. H. deB. FORDE: So that is why I was rising on a point of explanation.

Mr. SPEAKER: On what does the hon. member rise?

Hon. H. deB. FORDE: On a point of explanation, if the hon. member would give way.

Mr. SPEAKER: I take that you rise to elucidate a point.

Hon. H. deB. FORDE: To elucidate a point, Sir.

Mr. SPEAKER: I think the hon. member has given way.

Rt. Hon. E. W. BARROW: To help him out, Sir.

Hon. H. deB. FORDE: I have not said that Sir Roy Marshall has made a mistake. I have not said that and I have not cast any slur on Sir Roy Marshall but if the hon. member wishes to debate the matter in this manner, he is entitled to.

Rt. Hon. E. W. BARROW: The hon. member has not elucidated anything at all.

Mr. SPEAKER: I agree. You may continue.
1.30 p.m.

Rt. Hon. E. W. BARROW: When he examined the working papers whether the word "shall" or "may", appeared; great cases have turned in English Law from which we follow the precedents whether a word is mandatory, or whether it is discretionary. We are now being told that the wrong word was used and they examined this is what bothers me they examined the working paper of the Law Revision Commission. The hon. member, up to now has not made it clear whether the word "shall" or the word "may" appeared in those working papers.

I am saying, if Sir Roy Marshall said "shall" and it has to be "shall" it shall be "shall", but there is no way that that could be a typographical error and I am only imploring Honourable Ministers when they come in here trying to shift the blame from — a Minister has to take responsibility for the defects of people working underneath him that is what ministerial responsibility means. In the *Cricheldown case* all that Sir Frank Soskice said is that if a Minister gives a directive and civil servants deliberately or wilfully refuse to carry out the directive, then the Minister is not responsible. But, here is a learned and eminent Attorney General taking a Cabinet Paper in and coming to the Honourable House, at least he came to the Honourable House this time, sometimes he does not come at all he comes to the Honourable House and he gets us to pass legislation and then, when he comes to amend it, the Honourable Attorney General says they looked at the Working Papers and none of us know up to today, or up to the minute that I am going to sit down, Sir, whether he was misled by the Working Papers because we do not accept that from "shall" to "may" can be any typographical error. That is all I am saying, Sir.

I beg to reassure the Honourable Attorney General who is getting a bit restless, he is not thin skinned, Sir he is hyper sensitive, he is of a very sensitive nature that this is not going to affect his practice as a Queen's Counsel. We are not criticising his legal ability, we are just saying that he should be a little more careful. We only ask him to exercise care when he is dealing with us. There are some of us here who have to be careful in our legal practices as well.

Mr. SIMMONS: Mr. Speaker, Sir, I just want to clarify the record. Now, the Rt. Hon. Leader of the Opposition got up on a point to chastise the Honourable Attorney General on what is alleged to be a typographical error and he spoke of lapses and slips and in seeking to set things right, he himself was guilty of a slip, or he cannot count. He said that the two words are different to the extent that one consists of three letters and the other consists of four. According to my spelling, Sir, the word "shall" has five letters, and I would like to correct..... he is conceding, Sir.

Rt. Hon. E. W. BARROW: On a point of elucidation, Sir, that is a typographical error according to the Honourable Attorney General's definition.

Hon. H. deB. FORDE: Mr. Speaker, Sir, I wish first to be factual and then I will reply to the speech of the Honourable Member.

Mr. Speaker, in the first place, Ministers of Government do not sit down and do every iota of work like drafting which is done in their departments. When this matter was drawn to my attention, I asked the Parliamentary draftsman responsible to investigate the matter and the statement which I have made to this Honourable House is the report made to me by the Parliamentary draftsman who has checked the working record and reported accordingly to me and that submission was placed in the Cabinet Paper.

It may be difficult for the Rt. Hon. Member to understand this because maybe he has presided over a situation where his Cabinet Ministers did not take responsibility as it all centred on him and all roads led to him according to the Duffus Commission for whatever infelicities there might have been either in drafting, accounting, or any other part of the public business. But in this case, the Ministers of Government take responsibility insofar as a civil servant may make an error.

The Rt. Hon. Member despite his profession in this case professing that he is not really attacking one personally uses every possible opportunity to cast what he considers to be doubts and aspersions on the ability of people to perform their offices. Now, Sir, in this case I am not casting any aspersions at all on the ability of Sir Roy Marshall. I am merely reporting what the civil servants, who in accordance with their duty investigated this matter have reported to me and I believe them. I would prefer to take their word, than to take the word of the Rt. Hon. Member because I have always found his words unreliable, although I have found most of his personal remarks revolting. That is the difference Sir between the two of us but I can take the words of the civil servants and I believe them. I have been in the Honourable House long enough and in the office long enough to find that predecessors in office have on numerous

occasions transcribed correctly in a draft, a particular section of a Bill and a particular word and it comes to this Honourable House transcribed incorrectly, sometimes with sentences omitted sometimes with words transposed, sometimes with misspelling and various forms of error.

Now, Mr. Speaker, Sir, Bills have left this Honourable House in that condition. We have spent a lot of time correcting errors made in the last Administration too, and there are resolutions asked for under legislation that should have been made when the Rt. Hon. Member was the Minister of Finance and which have not come down to the Honourable House in breach of the Constitution of Barbados and the Financial Rules so the Rt. Hon. Member is no example of rectitude either in legal drafting, in financial knowledge, or in anything else and I am not attacking him personally, otherwise I would say something worse than that, Mr. Speaker. He is no example at all of rectitude, he breached the Financial and Audit Act when he was Minister of Finance, he clearly broke the Act despite he professes that he knows the Law and that he was Minister of Finance for fifteen years.

We had to give an opinion saying that he was wrong, we had to come into the Honourable House and correct it after he was out of power. So, it is not an instance now, he would have got up and said that that was a slip, or that he did not understand that that was the advice of the Solicitor General, the Rt. Hon. Member must know that. Who is he shifting? I have heard him in here attack the civil servants and shifted responsibility from himself on to them on many occasions for errors during the period of his Administration. Even his good friend, the present member of the National Bank, he has attacked and shifted responsibility on him. If it were not an election year, you would not hear all of that, Mr. Speaker, from the Rt. Hon. Member, but he could talk as much as he likes, he is still going to get beaten in the election and in my constituency, I am going to beat him by 85%. Mr. Speaker, I will come back to the point.

Mr. SPEAKER: It is election for us all.

Hon. H. deB. FORDE: Mr. Speaker, in this case, it is a very simple matter. My officers have reported to me and they have in fact, in this case, the original draft coming from Sir Roy Marshall had the word "may" in it. Now we sat in a Committee in this Honourable House. The Honourable Member was a member of the Committee, the Honourable Member for St. Michael North Central was a Member of the Committee, there were Senators who were members of the Committee, so I am talking about situations now, Sir. You, Mr. Speaker were Chairman of that Committee. I am talking about these situations in which the legal draftsmen were there. So what is the Rt. Hon. Member trying to say that mis-

takes do not occur? He cannot even tell the difference between four and five himself. I believe that he went to school Sir but he obviously cannot count and if he cannot count, he should not have been Minister of Finance. No doubt the finances of this country came into such a darned mess towards the end of the five year period that he was in from 1971 to 1976.
1.40 p.m.

There was terrible disarray, no doubt saved by the IMF, by the good stroke of fortune and the common sense of the people of Barbados to change you in time from being Prime Minister. You can remain in the Opposition, you will not be there for long. In fact, you said you were not going to sit as Leader of the Opposition ever, and you ate your words and came back in here and sat as Leader of the Opposition, so we cannot rely on your word, far less your judgment, about anything in the law.

Mr. SPEAKER: Kindly address the Chair.

The question that the Bill be now read a second time was put and resolved in the affirmative without division.

On the motion of Hon. H. deB. FORDE, seconded by Dr. CHELTENHAM, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. ODIE in the Chair.

Clauses 1 and 2 were called and passed.

Clause 3 was called.

Hon. H. deB. FORDE: Mr. Chairman, I beg to move that clause 3 stand part.

Hon. L. S. CRAIG: I beg to second that.

Rt. Hon. E. W. BARROW: Mr. Chairman, the purpose of this Bill is to substitute the word "may" for the word "shall" and it took us a long time to find out that Professor Marshall was right. That is all I want to say, Sir. Amidst all the abuse and everything, it was to disguise the fact that Professor Marshall was right. That is all I want to say, nothing more.

Hon. H. deB. FORDE: The hon. member as usual says nothing, Sir.

The question that clause 3 stand part was put and resolved in the affirmative without division.

On the motion of Hon. H. deB. FORDE, seconded by Hon. L. S. CRAIG, Mr. CHAIRMAN reported the passing of one Bill in Committee, and Mr. SPEAKER resumed the Chair and reported accordingly.

On the motion of Hon. H. deB. FORDE, seconded by Hon. L. S. CRAIG, the Bill was read a third time.

On the motion of Hon. H. deB. FORDE, seconded by Mr. BRADSHAW, the Bill was passed and cited as the Property (Amendment) Act, 1981.

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that Item No. 1 be the instant Order of the Day.

Mr. SPEAKER: Item No. 1.

**BILL TO MAKE PROVISION WITH RESPECT TO THE
CONSTITUTION, JURISDICTION AND PROCEED-
INGS OF THE SUPREME COURT OF JUDICA-
TURE; TO MAKE PROVISIONS RESPECT-
ING THE ADMINISTRATION OF
JUSTICE AND FOR MATTERS IN-
CIDENTAL THERETO AND
CONNECTED THEREWITH**

Hon. H. deB. FORDE: Mr. Speaker, this measure is a law reform measure. Its simple purpose is to reform the law governing the establishment of the Supreme Court of Judicature in order principally to update it and to introduce certain other new features in the organisation of the court.

Since attaining Independence in 1966, Sir, the judicial system in our Supreme Court has continued to be regulated by the Supreme Court of Judicature Act, 1956, Cap. 117. This was made possible by virtue of the Constitution as well as by section 80 of the Constitution itself. Only a couple of weeks ago, Mr. Speaker, you would have noticed that we passed through this House the Criminal Appeal Bill which provided for criminal appeals to be regulated under legislation passed in Barbados itself. Some of the court procedure in Barbados is still regulated either under imperial legislation or by the Federal Supreme Court Ordinances passed at the time when Barbados was a part of the Federation of the West Indies. Indeed, the court of appeal rules applying to Barbados are still rules made by the Federal Parliament although several years have passed since the dissolution of the Federation in 1962.

It became necessary for us, therefore, to look at the constitution of the court, and in keeping with the provisions of the Constitution of Barbados to bring legislation before this House which would patriate any part of the laws of Barbados not on our own Statute Book governing the operation of the courts and which would at the same time update and modernise the administration of the court as well as update and modernise the substantive law providing for the jurisdiction, powers and duties of the court.

In this exercise the Ministry has been assisted by Miss Betty Bourne, who is a distinguished Caribbean jurist,

whose services were made available to us under United Nations Development Programme assistance. She has worked generally under my direction along with the law reform section of the Ministry, and particularly with Mr. Errol Chase, the Deputy Chief Parliamentary Counsel, responsible for law reform.

1.50 p.m.

We have also had the assistance of a Professor Carnegie from the University of the West Indies as well as the comments of the Bar Association and the Judges on aspects of this legislation.

Mr. Speaker, there are some features of the Bill that I would wish specifically to draw to the attention of hon. members and perhaps the first significant feature of note is that we are for the first time providing for a Court of Appeal to be constituted out of its own members and not simply by an administrative device whereby Judges of the High Court constitute a Court of Appeal to sit on judgments coming from other brother Judges of the High Court. This was the procedure adopted at the 1966 Conference and it was envisaged then that Barbados might go along with other Caribbean countries in establishing a West Indies Court of Appeal.

The House will recall that a Committee was set up by the Organisation of Commonwealth Caribbean Bar Associations under the chairmanship of that eminent Caribbean jurist, the late Rt. Hon. Sir Hugh Wooding, and having among its members such other distinguished jurists as Mr. Aubrey Fraser, the present Director of the Council of Legal Education. I had the honour, Mr. Speaker, to be Secretary to that Committee. Our report was handed in to the Bar Associations, the Commonwealth Caribbean Bar Association as well as the National Associations and copies of the report were sent to all of the Caribbean Governments in the English speaking Caribbean; but despite the effort to try to study objectively the need for a separate Caribbean Court of Appeal, there seemed to be no real enthusiasm as distinct from mere rhetorical statements for the idea of an ultimate Caribbean Court of Appeal or even a Caribbean Court of Appeal at the second level, and therefore we had, as it was said at the time, in the interest perhaps principally because of economy and to some extent because of the hope that we would have been able to share the Court of Appeal with the other English speaking Caribbean, we have remained without a distinct and separate Court of Appeal other than constituted from among Judges of the High Court.

When this Bill becomes law and is implemented, the Supreme Court of Judicature would now be composed of a High Court with its own panel of Judges, five Judges to be styled Judges of the High Court, and its own Court of Appeal composed of the Chief Justice and

two other Judges of Appeal. The Chief Justice because of his position, Mr. Speaker, will remain ex-officio a Judge of the High Court although he will be President of the Court of Appeal.

We are making some provisions by which from time to time in the case of necessity a Judge of the High Court may be able to act on the Court of Appeal. That is the intention of Part I of the Bill. We have provided for the qualification of Judges of the High Court and in this respect we have followed the existing provisions, ten years as an Attorney-at-Law, and to be on the Court of Appeal fifteen years as an Attorney-at-Law.

Mr. Speaker, there is a new feature here which I think would commend itself I hope, to the House, and I am sure at least one hon. member, that is the hon. member for St. Michael South West, in that practising for a period as an Attorney-at-Law will include any period during which an Attorney-at-Law was a Professor or teacher of Law at the University of the West Indies or at a school for legal education approved by the Judicial and Legal Service Commission. I believe that this feature is a recognition of two things; first it is a recognition of the very outstanding role which the University of the West Indies, its Faculty of Law, and the School of Education have played, continues to play and we hope will continue to play in the legal profession and generally in legal education and knowledge in the Caribbean.

There is no doubt today that our new textbooks or books on case law and articles on Caribbean Law in particular are coming from persons either teaching at the University or persons who themselves had graduated from the University or are studying there. This is a very significant development in the history of the Caribbean. In addition, Sir, we have recognised by this provision that down in other countries academicians have contributed tremendously to the standard of improvement of the judiciary and I can cite that very distinguished Judge Professor Laskin who at present is the Chief Justice of the Supreme Court of Canada who came straight from the academic world to become Chief Justice of his country. That is a precedent that one can observe and follow. Therefore in a fused profession, in a profession where members of the teaching fraternity are certainly contributing to improving our knowledge of law, I think it is right that we should recognise their right to sit on the benches of our country, certainly in the case of Barbados.

We have provided in the Bill for the precedence of Judges. This is normal in most of the modern Bills dealing with the establishment of Supreme Courts of Judicature whether it is Northern Ireland or other Commonwealth countries, the United Kingdom itself which has been taking through recent legislation of this nature.

Mr. Speaker, I would wish to draw attention to the principle behind section 10 of the Bill particularly since last week we had a very interesting contribution and discussion in here on the question of bias and judicial interest and the power of courts to deal with situations where this is shown. I think it is well recognised in law that bias can be constituted by a person sitting as a Judge where he has a pecuniary interest, and the phrase is that no one should be a judge in his own cause. We have provided that in instances where a judge belongs to a class of persons who is liable in common with others to contribute to or be eligible to be benefited by any tax that may be increased, diminished or in any way affected by that proceeding, that the Judge is not incapable of acting in his judicial office on account of this. This again is a standard form provision that one would find in most of the legislation regulating the judiciary, and any basic textbook on administrative or constitutional law would say that that set of circumstances is normally not considered as constituting enough of a bias to disqualify a judge from so acting.

Mr. Speaker, in Part II of the Bill we have tried to deal with the question of the jurisdiction on powers of the High Court. We have maintained wherever possible the existing powers of the court and we have used the formula in Clauses 12 and following which ensure that no power of the court that exists at the present whether under an enactment, a prerogative, a law, custom, a ministerial or other power or duty is in any way derogated from; hence you will see that this is clearly set out in Clause 12 of the Bill.
2.00 p.m.

Another significant feature, Sir, is contained in Clause 15 of the Bill. Hon. members would wish to advert to this. We are envisaging that there will be three divisions in the High Court, the Civil Division as at present exists, the Criminal Division and a Family Division. The reason is that we are trying within the limited resources in Barbados to create a special section of both the High Court and the Magisterial Bench where family matters will be dealt with by a particular Judge or Magistrate over a long enough period of time and in the sort of atmosphere where it will be established what is virtually a Family Court.

Shortly, Sir, I hope as soon as next Tuesday I would hope to bring before the House a Family Law Bill reforming the whole area of Family Law or most of the area of Family Law and I believe that my colleague, the Minister for Labour and Community Services should about the same time be introducing in the Senate, the Other Place, various Bills amending the Adoption Act as well as the Child Care Board Act and trying to upgrade and update the legislation dealing with Family Law.

The work on this is well advanced. We have been sitting on it for some time and I believe that it is modern and model legislation. I think it is long since overdue and we hope to include in the provision the position where commonlaw persons or persons in common-law unions will have similar benefits to those in normal unions.

Mr. Speaker, the House will recall that last year this House passed a Bill reforming certain aspects in Family Law particularly abolishing the distinction between legitimate and illegitimate children and this would only be the machinery for the Family Division in another effort to ensure that matters affecting the family are wherever possible and wherever convenient and prudent be dealt with by the same person in an atmosphere where there will not be the same problem that one would notice, if it was dealt with in a contentious setting and atmosphere.

SUSPENSION OF SITTING

Hon. H. deB. FORDE: Mr. Speaker, I ask that the House be suspended until 3.00 p.m. today.

Hon. L. S. CRAIG: I beg to second that.

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

On Resumption:

Mr. SPEAKER: This Sitting is now resumed. When the suspension was taken, the Honourable Attorney General was addressing the Chair.

Hon. H. deB. FORDE: Mr. Speaker, at that time I was drawing attention to the fact that there will be three Divisions in the High Court and I had addressed the House specifically on the Civil Division and the Family Division and outlined the Bill which we have in mind in bringing before Parliament shortly.

We saw the matters which would be dealt with, we hope, almost exclusively by the Family Division as set out in the First Schedule to the Bill and they concern matrimonial clauses on matters as to the validity of marriages or the annulment of marriages, questions dealing with the paternity of the child, wardship of minors, proceedings under the Minors Act, proceedings under the Marriage Act, proceedings in respect of habeas corpus relating to Children, Adoption matters, matters for the enforcement and maintenance orders of both local and overseas.

It is hoped that in the Magistrates' Court as well, the Chief Justice and the Chief Magistrate, using their

administrative powers will assign to a Family Law Court a Magistrate responsible for all matters dealing with the Family Law and in this way with our limited resources we will be able, of course, to ensure some continuity or treatment of matters relating to the family.

I think it may be convenient here, Mr. Speaker, to say that it is envisaged in this Bill that the Divisional Court will be abolished and so that appeals which now go from the Magistrates' Court to the Divisional Court will go to the Court of Appeal and be dealt with by the Court of Appeal and by way of having so far centralized the Administrative Appeals Tribunal, appeals which formerly went to a large number of bodies, quasi-judicial bodies, will go to the Administrative Appeal Tribunal and from the Administrative Appeal Tribunal to the High Court.

We also envisage, Sir, that at present where appeals go to the High Court from the Income Tax Appeal Board, for instance, these appeals will now go to the Court of Appeal direct and so, Mr. Speaker, I believe that by this restructuring, the Court of Appeal, in terms of work, is not only economically sensible but also would be much more efficient in disposing on a regular basis of all the work which at present comes before the various Tribunals and Courts in this Island.

I will be dealing also with the Jurisdiction, Mr. Speaker, having dealt with the question of the Divisions and the abolition of the Divisional Court. Let me say that we have maintained the jurisdiction that at present exists in the Court to grant declaratory judgments, habeas corpus and various areas. I wish particularly to deal with the question of habeas corpus because very little is written in our Statute Law, indeed, dealing with the question of the grant of a writ of habeas corpus and we have now in Section 18 set out reasonably clearly and we hope to make rules dealing with the matter, the procedures and some of the substantive law as well, but more or less the procedure for dealing with applications for habeas corpus and for the application for certiorari.

Again, members will recall, Mr. Speaker, that not so long ago, I think it was last year, or earlier this year, the House passed the Administrative Justice Bill and to the extent that that made applications for reforming the other prerogative writs. It must be considered a companion Bill to this Section of the Supreme Court of Judicature Bill and we thought at the time of including the provisions under Part II of the Bill but we wanted to give, perhaps, more focus to the improvement of the Administrative Justice as we did in a separate bit of legislation.

Mr. Speaker, the balance of Part II, I think members will see that we have set out to improve the provisions dealing with Contempt of Court, although I envisage, in fact, that with the assistance of our Justice

Williams, we have prepared the first part of a Bill dealing with the Law of Contempt and that in these provisions in this Act the various modicum that we need as guidance to the Court that more provisions will come a little later in the Contempt Bill.

From Section 28 onwards, deals with roughly the Admiralty Jurisdiction. Admiralty Jurisdiction was expanded a few years ago. We have now placed all of the existing jurisdiction and under Section 28 of this Bill in the High Court so that it continues to have the jurisdiction which it had hitherto.

3.05 p.m.

I need not say too much about the powers of the court in relation to mortgages under the normal Land Law provisions, but these Sections from 29 onwards are probably companion Sections to the reform which has taken place in the Law of Property Act. I wish however, specifically, to draw to the Honourable House's attention Section 35 of the Act which deals with the question of the power of the court to award interest.

Under the existing Supreme Court of Judicature Act, the court has a limited power to award interest and in certain circumstances, in relation to personal injuries, the awarding of interest has been done under what the court considers to be its inherent power, but recently, I believe modern jurisprudential thinkers considered that where personal injury is involved, the court should be obliged to award interest although it may do so on the damages awarded for personal injuries although it may do so at different rates of interest and we have tried to include in this Bill, therefore the.....

Mr. SPEAKER: We have to have a little order, please.

Hon. H. deB. FORDE: results of that jurisprudence.

Section 36, Mr. Speaker, is no more than what exists in present law. It restricts the institution of vexatious actions. There have a few vexatious actions before the court by litigants who because of certain conditions, mental conditions, litigate willy nilly even when they have no case and I believe that we have had certainly in my lifetime as a Barrister appearing before the courts, I have seen such actions brought.

Mr. Speaker, Part III of the Bill deals with the court's equitable jurisdiction and this is set out quite clearly in this Part, particularly ensuring that an action before the court will not suffer, will not fall apart simply on the grounds that the court is a court of Common Law, is now as well a court of Equity and its Equity jurisdiction is very clear.

I wish to again emphasise, or to draw the Honourable House's attention to the innovation contained in Part IV of the Bill. This deals with disclosure of documents. This is a very important procedure for ensuring that all the available evidence brought before a court on behalf of a litigant and that important evidence is not destroyed merely because litigation may be pending, or may be threatened and therefore, we are providing in Section 48 and Section 49 for pre-discovery and pre-inspection of documents. That is, Mr. Speaker, there is no case at present going on between two parties, but party A intends to bring an action against party B and there is an important bit of evidentiary material which party A must have for the case and he cannot make an application for the court to get this evidence before it is destroyed and even before litigation commences and likewise you can get a pre-trial, or pre-filing of a case, discovery, inspection of documents and the taking of photographs of vital evidence. We considered this procedure so important and such an improvement that we think that the Crown should be bound by these particular Sections. You will note, Mr. Speaker, that in Section 50 we have provided for the Crown to give pre-discovery of documents as well.

Since I became Attorney General, I have as a matter of direction directed that wherever the Crown is a party to a dispute, the Crown should not as a normal rule rely on Crown privilege to prevent discovery of documents which are in the interest of a subject and would assist them in the litigation of a matter and it would have to be an exceptional case of national security for this Rule not to be followed.

Already, Mr. Speaker, we have seen in the case involving a surgeon and his Registrar at the Hospital that we disclosed the documents and the Crown had to pay for the damage which had occurred to this young man who had been lamed for life. The accident occurred before I was Attorney General, but I considered it very important that this principle should be in operation. It is one of the other areas of widening and ensuring to some extent that the fundamental rights of the subject are respected and it is important to underline this matter, Sir because sometimes people are not aware that the Crown can rely on the plea of Crown privilege to prevent a person from obtaining their full rights before the Court.

Part V, Mr. Speaker deals with the jurisdiction of the Court of Appeal and it is synchronised with the Criminal Appeal Bill which was passed earlier by this Honourable House. I think it is important that the powers of the Court of Appeal should be extensively set out. In many respects, we have been guided by the legislation under the Federal Act, as well as under various other Acts in the Caribbean in this respect, as well as by the most modern Commonwealth Acts which have been passed in

New Zealand, the United Kingdom, *et cetera*. I think that this particular part of the Bill is attractively drawn and there are various typographical errors which I will correct in Committee, but I believe that it is a tremendous improvement to the provisions which we have at present on this matter.

Clause 64 also deals with appeals to the Privy Council. Let me say here, Mr. Speaker that no attempt is being made to abolish at present appeals to the Privy Council. That would mean, of course a change in the Constitution of Barbados, but we are clarifying this Bill the circumstances in which an appeal lies from decisions of the Court of Appeal to the Privy Council as of right, or with leave of the court. We have provided in Section 65 the Barbados Procedure and Appeals to the Privy Council Order 1966 which shall apply to all appeals from the Court of Appeal to Her Majesty in Council.

I shall have something a little later to say about the Rules of the court. It is intended to update that particular Rule and Order and of course to improve the Rules which are hardly ever available nowadays to lawyers far less to litigants, the Rules dealing with appeals to the Privy Council.

Part VI deals with the sitting and distribution of the business of the court. As usual, the Chief Justice will continue to have the sole power to assign judges in the High Court. The division of powers in our Constitution is such that the Executive does not have any responsibility for the assignment of business before the courts of this island and long may this so continue.

You will recall only recently in answer to a question about the holding of an inquest by the Coroner, I had to remind a Rt. Hon. Member, the Rt. Hon. Member for St. John that a Minister cannot dictate and direct to a magistrate or a judge how the business of the court should be organised on a day to day basis. That is a fundamental principle which has pre-existed an Independence Constitution and which we should seek to continue to enforce and it is contained here again in VI. It emphasises that the organisation of the daily business of the court is a matter for the judges, Sir.

Now, Sir in Part VII and VIII, we have tried to provide for the administration; the Registrar would be the principal officer. If I were talking about Permanent Secretaries, he would be tantamount to the Permanent Secretary although under this Bill he has much more power than being merely an administrative officer, he is also a judicial officer and like a Master in Chambers in England, we are giving him various powers of adjudication not only in relation to taxation but to a limited number of areas. But, the day to day administration of the court is the responsibility of the Registrar of the Courts always subject to the overriding responsibility of the Chief

Justice. We have provided for a Court Administrator who is responsible under the general supervision of the Registrar for the administration and organisation and the business of the Supreme Court, the Magistrates Court and the several departments of the Registration Office.

3.15 p.m.

I want to say a bit about this, Mr. Speaker, because from time to time points are made by hon. members that the courts are not regularly cleaned, the buildings are leaking, the books are in disarray, and in my view this is a matter that should be dealt with by the Court Administrator and his staff, and because we are providing for a unified court service with its own ladders of promotion, we consider it important that there should be an Administrative Officer with responsibility to look after these day to day problems, so that the work will be done. We can provide the courts, we can provide the money, in the last resort it is for the people who administer to ensure that these problems do not occur.

In Part IX, Mr. Speaker, we deal with various funds in court. Let me say that I have been always amazed that there are a plethora of funds in the court, and each little fund at times invested in separate accounts in the names of separate suits, and we have to some extent lag behind other countries in having rules regulating the investment of those funds and providing for the payment of interest on those funds to some of the persons whose funds they are. I am not talking about personal accident cases where the Judges in particular make an order for dealing with the funds, there is a whole host of circumstances in which at present, as I said before, the accounts are not kept in a particular structured manner. I am not alleging that there is anything wrong, either fraudulent or otherwise, with the accounts, I am saying that administratively we ought to have more regulations dealing with these matters so that the rules are clear.

Part IX, Mr. Speaker, deals with the practice and procedure, and we are varying the present provisions away from a Judicial Advisory Council to a Rules Committee, and the Rules Committee would have responsibility solely for the rules. The constitution of the Rules Committee is set out in the Second Schedule to the Bill – the Chief Justice, the Judges of the High Court, the Justices of Appeal, the Solicitor General, the Chief Parliamentary Council, the President of the Bar, and three attorneys at law nominated by the Council of the Bar Association and appointed by the Governor General. We believe that these persons are best able to guide the making of rules and to look at the day to day procedure of the court, and that there will be consultation with the Attorney General on such matters, at least two of his officers will be on the panel, and from our own office we will be able to give assistance in the drafting of these rules.

Mr. Speaker, I should emphasise that Barbados has lagged behind several countries in updating the various rules of court. We have Bills, Acts passed in the early 19th century, and some of them in the 18th century, under which no rules at all have been made, and indeed successive generations of lawyers have complained that some of the rules made have never been made available for them to know what is the law at any time. I can tell you, Mr. Speaker, there are very few lawyers who would have a copy of the Bankruptcy Rules. We are operating under the Matrimonial Causes Rules of 1937 which are hardly applicable to today. In some cases there are rules made by the Federal Parliament – the Criminal Appeal Rules, I believe – which are not available to practitioners at the Bar, unless you are lucky to get a copy from some old practitioners, or to borrow a copy from the University of the West Indies, so there is no easy accessibility to the law, and it galls me when I hear the right hon. member for St. John gets up and try to poke fun at the knowledge of people when he sat down in charge of the Judiciary, because he had the Judiciary under him, with Attorneys General who obviously had no guts to fight him back on these matters, and did nothing for improving the rules and procedures of the court for years. The problem with him like I believe with some other people, is jealousy, pure jealousy, and every opportunity he gets he shows how absolutely jealous he is of people who have superior brains and ability to himself to try to poke fun, but he sat down for years and let this condition exist, and talked about somebody bring the repute of Barbados and the law into disrepute by not being competent. If he was in charge of the Judiciary, he was in charge of this aspect of it, why did he do nothing about it? When you try to do something, he cannot appreciate it, Sir. I am sorry he is not in his place, because I would like to hear him on this aspect of the Government's affairs for 15 years when he was there. I would like to hear him on it.

His former Attorney General, the first Attorney General of Barbados, used to say that he could not get either men or money from him. I suppose his only boast is that he was the first Attorney General of Barbados.

MR. SPEAKER: The first Attorney General of independent Barbados.

Hon. H. deB. FORDE: The first Attorney General of independent Barbados would come in the House and when we asked him why were these things not being done, he would say he was not the Minister of Finance, he was only a boy in the yard and he does not get things done. That was the sort of thing that we had, and when a genuine effort is being made to update the laws of Barbados and to make sure that these things that ought to have been done are being done on a systematic and proper basis – I do not look to him for congratulations –

but some appreciation of the pressure on the staff at my office and the pressure that obviously falls on myself, you get him trying to come in here and decry and poke fun.

We have changed that. I said earlier we have made the Criminal Appeal Rules, Mr. Speaker, we have tried wherever possible nowadays when we bring down legislation not to proclaim the legislation until we have the rules made under that legislation. You will notice that there are a few Bills which have been passed this year and last year which have not yet been promulgated because we are in the process of doing the rules. There are about three or four Bills, and we hope to have the rules ready, made by the Judicial Advisory Council and laid before Parliament in due course before those Bills are promulgated.

I am sure that hon. members, particularly those who have studied law, will be pleased to hear that we have done a new set of rules of the Supreme Court. Now, those rules were handed to the Bar Association last year. Miss Betty Bourne sat with three or four members of the Bar and we have gone through two drafts so far, and we have come up with a final draft, and we have been waiting since about August last year for the comments of the Bar Association so that the rules can be finally made by the Judicial Advisory Council, and if I cannot get those comments — I hope to have Miss Bourne back here shortly — and I will have to proceed without the comments of the Bar Association, if necessary and ask the Judicial Advisory Council to make the rules, but they are made, Sir, and they bring us into the 20th century, and they I believe are an improvement of what we have, and they will be published so that every lawyer will have a copy.

Likewise, Mr. Speaker, if this Parliament passed the Family Law Bill we will be bringing in the new law dealing with divorce, etc. with a modern set of rules as well ready at the time. An hon. member asked *sotto voce* if in the next Parliament. The hon. member can be assured that subject to Cabinet's final approval this Thursday the Family Law Bill will be in the House next Tuesday.
3.25 p.m.

If Cabinet does send it back and we have to redraft something, there may be some delay, but it will be here. For the amount of law reform which has been done by this Session of Parliament, this Parliament is outstanding and it is part of the legal history. The hon. member can talk what he likes. He has never had an Attorney General or any Government under him who has done this type of legislation and reform. This is a period of reform in this country in the law. He should know that. Let him talk what he likes. He cannot take the fire. He can start a fire, but he cannot take the heat when it starts to burn. I must say this is a period of reform. Even the former

Senator Connell, an objective person, comments on it. All aspects have been reformed, comments properly honest. We can compare the periods and see the wide area of law reform.

Mr. Speaker, there are lots more because whether this Parliament will get time to pass it in this session or the next, I can assure this House that the final draft of a new Companies Act of which we heard so much is being typed. We are about ready to reform the whole law. We have got the final draft of Bills dealing with industrial designs, trade marks, the whole lot. Subject again to the Cabinet's final approval, the Factories Act should be in the House within another week or two. That is ready. Unfair dismissals is also ready. The hon. member can talk. We have in a state of reasonable readiness about another thirty or forty Bills reforming various aspects of the law including the criminal law. So we just have not sat down and fiddled for fifteen years while people suffered from archaic laws. We have been doing something about them regardless of whether the Rt. Hon. member for St. John appreciates it or not. It has been done. It is part of this country's legal history, and nothing he can say can unwrite it now.

Finally, Sir, in looking at this Bill, in Part XI we have dealt with the Judicial Council. I believe that this is one part of the Bill which strongly commended itself to the Chief Justice. It is an innovation that one would have noticed brought in in countries such as New Zealand who have gone about restructuring and re-organising the laws governing their court procedure, and the purpose of the Judicial Council is that it is responsible for the administration of the courts, and it seeks to isolate as much as possible the court of political influence and at the same time to get guidance for the administration of the court, to keep the Minister informed of course and to keep Parliament through the Minister informed of how the administration of the court is going from day to day. Those are the main provisions of this Bill. Some of them are novel. For instance, the provision of a Judicial Council is novel along with the Judges dealing with day to day administration of the court. The provision for a Court Administrator is novel; the provision for a Family Division is also novel, as well as the provision in this case for a Court of Appeal constituted in its own right.

I believe that this is a very useful measure, a very timely measure and I hope that the House will concur in passing this Bill unanimously.

I want before I sit down to talk something about the physical structures of the Court and the Government's development plan for the courts. Mr. Speaker, the Government intends to build a new Supreme Court at the present Waterworks site. (ASIDES) My friend the hon. member for St. Michael

South is saying not this time. I do not know what plans the hon. member has to prevent the court from being built. Let me say that the architectural drawings and plans have been completed, and I hope shortly to have awarded the contract for the demolition of buildings on the site. It is intended, Mr. Speaker, to commence work during this current financial year on the old Waterworks building. In the first place it is intended that that building will house the Court of Appeal so that we can bring into effect this Bill without waiting for the completion of the new Supreme Court building. It is intended that some of the road works in connection with the new Supreme Court building will be completed during this current financial year and that actual construction of the Supreme Court building itself will commence in April 1982; so that we would have the road works done, the place for the Court of Appeal which is very urgent to begin functioning, and finally we will start the overall building of the Supreme Court.

The quantity surveyors have assessed the quantities and the projected cost on this year's prices is \$23 million BDS. It will be a six-storey building, and housed in the building will be the High Court, the Court of Appeal, the Director of Public Prosecutions and the Attorney General's Office, as well as various libraries. We hope to unify and centralise the libraries together so that we will be able to share in the facilities available. We hope, Mr. Speaker, to use the technology available in other countries, particularly the assistance from the IDRC in Canada to place on microfilm and microfiche most of the court documents and records, and we are planning as well to computerise as far as we can, court records, because Mr. Speaker, I have found during my tenure as Attorney General that judicial and criminal statistics are sometimes not consistent and not as well kept as they ought to be.

We have put up a plan to the IDRC and the Canadian Government informed me only a week ago that at the end of May Mr. Tom Skelley, Q.C. and another expert from the Canadian Ministry of Justice will be coming to Barbados to put up a project and the terms of reference for a project and help us to begin planning what is called gerimetrics, the computerisation of our legal documents and records. Part of the programme, Sir, would be to place all of the statutes in Barbados on computer in order to increase and improve the efficiency of the drafting section, and to assist persons to identify the law and to be able to have easy access to the law.

We also hope that this would facilitate the implementation of the registration of land, a subject dear to the heart of the Deputy Prime Minister and another programme that has been outstanding for a long time. That is the Supreme Court Building. The existing Supreme Court Building will be used for the magistrates court for District

"A". They will be repaired and to some extent redesigned and their existing facilities used for upgrading facilities for the magistrates court for District "A". The existing magistrates court for District "A" as well as the existing registry space will be handed over for the police in the Bridgetown division to expand and improve police facilities although you very well know that we are proposing to move the Police Headquarters Division to Wildey. 3.35 p.m.

Now, Mr. Speaker, we also have plans for the Magistrates' Court. The physical conditions of the Magistrates' Court have lagged behind hand for several years. The last significant building of a Magistrates' Court was in 1956 at Belleplaine under the former Barbados Labour Party. Since then, nothing of any significance has been done for improving the Law Courts in Barbados and I say without fear of contradiction that when I took over the Ministry I found no existing plans either in writing or in drawing or otherwise so we had to begin from scratch.

Mr. Speaker, part of our plan is being implemented now, Sir. We have begun at Oistins construction of a new Magistrates' Court which will have full facilities for litigants to keep them out of the sun, for the Judges, the Magistrates, for the Court Officer and for the ancillary services which serve the Magistrates' Court, Probation, Police, etc. That Court should be completed by January, 1982. It is there for anyone to see.

Mr. Speaker, at present, Mr. Murphy of the Ministry of Communications and Works is also drawing the new Court at Welchman Hall, and is in completion of the new drawings at Welchman Hall and we are in the process in the Ministry of Lands, of acquiring the land for the construction of a new Court at Welchman Hall.

We are also in the process of completing drawings for a Family Court at the Magistrates' Court level in Country Road, next to the existing Probation Services since it is intended to upgrade the facilities as well and construct a new Magistrates' Court there.

Also, the hon. member for St. Michael South will be glad to hear since he is from that parish and the hon. member for St. James will be delighted to hear that we have started the drawings for an expansion and regrading for the Magistrates' Court at Hometown which operates at present in some of the most cramped conditions and we are expanding that Court from where it is at present going towards the north of the existing Court facilities and we intend to have there, improved Police accommodation, new Law Courts, improved accommodation for Rates and Taxes, improved accommodation for the Ministry of Health as they do have some Public Health Services there, and improved facilities for the Library, I believe, as well. That project, it is expected, will be commenced sometime in 1982-1983.

Finally, Mr. Speaker, we intend two other improvements to the Court system. We are not going to do away with District "C". Strong recommendation was made to us to keep District "C" but we will try and improve it from time to time, but in Speightstown, Mr. Speaker, it is intended, you will be glad to hear, Mr. Speaker, to regrade the complete facilities on the hill in the District of Speightstown. It will be virtually a new Magistrates' Court. We will remove the existing Mortuary. When there is a dead down there, the Court cannot function, as you know, Mr. Speaker, and we are constructing a new modern public Mortuary at Wildey, as part of the Regional Police Training College facilities there and in relation to one other Court, Mr. Speaker, Sir, District "B", I have already said that District "B" Court will become a new Fire Station. We will be constructing a new District "B" Court at the present existing School as soon as the St. George's Girls' School, I think it is called, has been built. We will be taking over those. I believe that completion is expected next year and we will be able to build there Sir.

Sir, those are some of the plans for the physical conditions. As circumstances justify, the unified Court Service will be improved by manpower also and resources and we hope that we will also improve the general physical conditions under which people work and also the materials and aids available to them.

I have taken a long time to introduce this Bill but I believe it is of historical significance and it deserves such treatment as well as yourself, Mr. Speaker, deserves being told of the Government's Development Plan for the maintenance of the Judiciary.

Mr. Speaker, let me say this that some people believe that the Law is not development and that it is not developmental and that the Law should be treated differently from Tourism or Industry. I say without fear of contradiction that the Law is as important a part of development, as is Tourism, as is Industry and that the maintenance of law and order is as vital to a community as any other part of public affairs and, indeed, no matter how much you may develop a country in terms of more jobs, and more material things and your basic structure of law and order breaks down and people have no confidence in your Judges or Judiciary, the society is much worse and it is because of our recognition of these fundamental principles that we have taken so much trouble in the last five years to set the course and foundation for proper planning and development of the administration of the Law in this country.

I am still happy, Mr. Speaker, to say that the Laws delay in Barbados are miniscule as compared with the Laws delay in other countries of the Commonwealth. Last year I attended a Conference in Jamaica and sat with some of the Judges from England, particularly Lord

Justice Niblock and others where we looked at this problem of delays in the Law and when we looked at the Reports that had come in, Barbados, in both its Criminal and Civil Jurisdiction came as well as any other country in the manner in which its Courts are administered. That is not to say that there is not room for improvement and we seek improvement, Mr. Speaker.

Mr. Speaker, there is one final announcement that members would like to hear. A lot of our Legal History has been lost, records destroyed, some of them overseas in the United Kingdom and the United States, probably never to be recovered, important Judgments of our Courts hardly recorded anywhere at all. There are only two sets of Reports published ever for Barbados. The Sir William Grey Report, around the turn of the Century and the Field's Collection of Cases spanning about 10 years back in about 1870.

Mr. Speaker, on a Vote of a mere \$10,000, this Government and this Ministry under my direction has been able to begin a series of Law Reports for Barbados starting from the year 1947. The first Volume which is being published is Volume II, which is out. It is available and will go on sale shortly and it relates to the year 1976.

3.45 p.m.

Volume I which covers the years 1947 to 1958 and I will tell you why in a minute, is now being composed and I hope will be on sale during the month of May or June and we hope after '58 to have annual volumes. It is envisaged that between this year and next year 16 volumes of the Barbados Law Report will be available for the use of the public and the legal fraternity of Barbados, the Caribbean and elsewhere and will go on sale with the Government copyright produced under the direction of Mr. Justice Denys Williams with the valuable assistance of Mrs. Thelma Newton and a panel of young people from the University Mr. Andrew Burgess, Mr. Marston Gibson and Mr. Eversley and under the direction of myself as Attorney General.

I believe that it is an achievement of which the Government can be proud. I am certainly proud of it and I say so myself because I cannot understand a country that will not care and look after its history whether it is social, political or legal history. It is a great tragedy that a lot of our history has been lost. We have done it on \$10 000 Mr. Speaker. I use this opportunity to make an appeal for additional funds for this type of project. We need to collect the records from 1840 to 1947. I am telling you why, Sir. Those records are not as easily come by as the records from 1958 and it is difficult when we are competing for funds to get funds for projects such as these.

I have asked bilateral and multilateral sources for funds. They too have been diffident, they are not interested. They could not care too much about what we do about our legal history. The project can be economically feasible. I believe that we would be able to sell the volumes at between \$30 to \$40 certainly not more than \$50. A similar Law Report from Britain today is costing the legal profession £30. I am told now £60. They will pay for that. We have printed them here in Barbados at the Government Printery composed it at Cedar Press and are managing to produce within a charge of between \$30 to \$50. I think that that is quite a good achievement and I wish publicly to thank those people who have assisted particularly Mrs. Thelma Newton of the University of the West Indies. I hope shortly to have copies available for Honourable Members and the press, but it is at least, one of the significant changes that have been done in the law and the administration of justice in this country. (APPLAUSE).

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

Hon. L. S. CRAIG: I beg to second that.

Mr. SPEAKER: The question is.....

Mr. TAITT: Mr. Speaker, Sir, I do not believe that in order to welcome this Bill, one has necessarily to speak at the same length with which the Honourable Attorney General found it necessary to do. I know, Sir, that he labours under the illusion that when he says things in this Honourable House we do not listen to him and therefore, from time to time he feels constrained to say things which he has said only a few weeks before. But, I assure him, from this Side of the Honourable House, Sir that we hear him every time he speaks and it is not necessary for him to repeat some of those things.

He says that he does not speak for the press, but we heard of the various buildings which are going to be put up in regard to the Magistrates Court, *et cetera, et cetera* I would like to deal with the question of the Bill very briefly and the first point I would like to make, Sir is that it is most unfortunate that 20 years before the end of this Century, we in the Caribbean are not able to boast of a Caribbean Court of Appeal. It is remarkable, that only in the field of cricket and even there sometimes with some difficulty West Indians have been able to fix a course, or an objective, to set their sights on it, proceed along the course and arrive at the destination. The question.....(ASIDE: The University.) I hear the Honourable Member for Christ Church South Central saying the University and I take his point, although when one looks at the University of Guyana in relation to the University of the West Indies, I believe he would take my point that we have not been able to achieve unity in some areas which seem to the average onlooker as almost elementary. Indeed, so far as the University is concerned,

I do not think it is any secret that at least up to the death of the late Rt. Hon. Prime Minister there was serious possibility, if not certainty that the University would soon diffuse into separate institutions in separate islands. There may be a lot to be said for the separation of these institutions.

But, so far as the courts are concerned it seems reasonable that people who live in small communities such as ours in Barbados and who have lived under the colonial system could have fears that those who come from amongst them might not be able to be the final judges and the final arbiters in bringing justice to them and hence the sometimes unreasonable fear of having a final Court of Appeal in an island the size of Barbados, or Dominica, or wherever and so Mr. Speaker, when one understands that one therefore accepts that where a final judgment is to be made in litigation or concerning the rights of the individual that the individual might feel he will get a fairer hearing if that final decision were to be made by persons not privy to all the facts and circumstances in the environment in which the particular thing happened.

I find it difficult to understand in that context why the learned gentlemen who have gone before and those who are in the forefront of West Indian jurisprudence have found it so difficult to put together a West Indian Court of Appeal. It cannot be Sir that they do not have the quality of person available in the region for if one were, not being invidious, were to look at the quality of person that has adorned the benches of the various countries, one is bound to be able to reach a sufficiency of numbers and quality as to have a good West Indian Court of Appeal with persons at least as knowledgeable as those who now sit in or on Her Majesty's Privy Council.

I make bold to say Sir that with the limited exposure that I have so far had to the Law Reports that there are judgements which have been written in the Caribbean, I regret that I am unable to say in Barbados, judgements which have been written in the Caribbean which show some superiority when compared with other similar judgements written by Law Lords either from England or in the Privy Council. In Canada and in Australia, we have had a movement from a colonial past into a present and we have the same kind of attitude being demonstrated at the beginning when persons were tentative when persons were concerned and so it was some time after those countries obtained what may be described as Independence that a Supreme Court of final jurisdiction emerged in Australia and even later in Canada. So, it is not that we in the Caribbean are peculiar in this regard, we are playing true to form, except this, Sir.

It is now some thirty or forty years since this matter has been discussed in one form or another it must

be a moment of regret for those of us who are while not yet old cannot be described as absolutely young although there are some who will delude themselves this way, those of us who have passed our fortieth birthday as we notice the horizon going farther and farther away, Sir and we observe passing times in our community, we begin to regret that those who are to make these decisions are not making them, or have not made them.
3.55 p.m.

I believe that a West Indian Court of Appeal would redound to the credit of all West Indians, and I believe it would redound to the emergent maturity of us as a people. It is not wrong to say, I believe, that we cannot for ever turn toward the other side of the Atlantic to discover what is or even to discover what ought to be. I do not think that we can go on forever waiting to hear what some law lord in the Privy Council, whose experience might not have been more than some of the hon. members in this Hon. House, Sir, waiting for them to determine for us how our Constitutions are to be interpreted.

I had the experience of having words with one of them recently — Lord Diplock — when he came down on some Mission, Sir, and while discussing a case which he had had occasion to give advice on, a murder case in Jamaica, in which he expounded at length on the Constitution of Jamaica, Sir, it occurred to me in the course of that discussion that the learned gentleman who had appeared in that Jamaican case, and who is a constitutional expert, a Jamaican scholar and author, perhaps the foremost constitutional writer, not necessarily the foremost constitutional scholar, but the foremost constitutional writer in terms of the production, it seemed to me that the advocate who had appeared in the courts in Jamaica had more experience in the matters of written constitutions than the law lord who had the decision to make, to determine if the points which he had asked to be taken were points to be taken, and hence you will find that common law doctrine has been imported into decisions concerning Statute law, since it is the practice of common lawyers not to look toward the practice in the United States and other similar jurisdictions for their guidance, and what has tended to happen is that the very mischief which the Attorney General, through this Bill seeks to correct imports itself through the decisions as they are made outside of the jurisdiction, for as he seeks now to remove some aspects of common law from our decision-making in the future, decisions made out of this Supreme Court Act will necessarily find themselves up toward a common law jurisdiction for decision.

The point I am making, Sir, is that try as we will, try as we might, and perhaps try as we must, we are still going to be stymied in our efforts to reform the law

to bring West Indian jurisprudence to bear on the decisions that are made about the rights of the citizens of the West Indies, we are going to be stymied by our very system. I think that the lawyers to come, the youngsters who are now going through the Law Faculties in the West Indies, are the ones who will have to guide our people and allow them to take the bull by the horns and recognise that Barbadians, Trinidadians, Anguillans are going to have to join together and make decisions concerning Barbadians, Trinidadians and Anguillans, and so while I recognise the obvious difficulty which the Government might have in attempting to suggest to the people of Barbados a final court of appeal, I must say that the absence of a Caribbean Court of Appeal brings itself very sharply into focus at this point as we move from our present administrative arrangements into having our own court of appeal.

I must say, Sir, that I note with some interest the failure of the Government even as it moves to this position to make any change or propose any change in the Constitution concerning the question of the appointment of Judges. Well I remember in 1974, Sir, when it was suggested that the method recommended in that constitutional amendment for the appointment of Judges was in keeping with our sovereignty and our dignity as Barbadians, it was suggested that when the removal of the appointment of Judges from the hands of the Governor General would have come about, that chaos would reign. I am pleased to see that the Government after nearly five years of experience has considered it acceptable that the Judges should be appointed in the manner the Constitution provides under the 1974 amendments. Mr. Speaker, it is interesting how the positions of Oppositions and the positions of Governments seem to go full circle in some cases. There is no constitutional amendment which I know of, I see the Hon. Attorney General gesticulating toward me, Sir, but there has been no constitutional amendment as far as I know amending the constitutional amendment of 1974, and so when these Judges of the appeal court are going to be appointed, they are going to be appointed in a manner consistent with those amendments in 1974, amendments which the hon. gentleman had at that time found anathema, to say no more.

Mr. Speaker, I think the feature reference of the absorption of teaching as part of the experience is a good and welcome sign, not necessarily because I am temporarily in that situation, as the Attorney General said, it would have special interest to me, but because it gives the opportunity to some of the younger, and if I might say so, brighter lawyers, people with knowledge of the law, the opportunity to aspire beyond the classroom at a later stage of their development. As the Attorney General said, one of the more outstanding

Chief Justices of Canada had the distinction of going from the classroom to the top of the Chair, as it were, Sir. In these jurisdictions such as Canada, Australia and the West Indies, they do not in the appointment of Judges, or they have not up until now, taken the attitude which is more prevalent in the United States, where it is recognised that public service and academic service and other similar activities on the part of public people make them more fit in understanding some of the problems which will arise in the higher courts concerning the rights of citizens and the litigation between citizens.

So although the Supreme Court appointments in the United States are visited with, shall we say, aspects of politics, it is recognised that politics is after all the life blood of any community and it is recognised that no Judge who is worth his salt can truly make a judgment concerning two citizens if he should seek to remove from their dispute that within which the dispute must have occurred, their political situation. That notwithstanding, we have the very interesting situation where in common law jurisprudence, in the Commonwealth at least, it is stated categorically that Judges must be clearly and completely removed from the political situation, and Judges take care when making their judgments to point out that they have no truck with the Legislature or with the political arm, then they proceed to have truck with the Legislature and the political arm as they deliver their judgments. 4.05 p.m.

I think it is good that persons of the quality of Professor Carnegie or Professor Telford Georges, the latter of whom has been a distinguished judge in the Caribbean and in Africa can now be available for appointment to positions such as these which are now being created. I think that we can look forward some day to the progression to the bench from the classroom, and I think that that in itself will bring to the bench some depth. That is not to suggest that the bench is without depth. It is to suggest that if ever a case should arise where the bench was in danger of being without depth that there is a well spring from which they could replenish the source.

It is also well to see that a person who aspires to sit on the bench will no longer have to take the long route through the chambers of the Attorney General attached to a Director of Public Prosecutions. It has always been said by a number of practitioners and I have come to appreciate the point that many judges who sit in judgement have not themselves the experience of one of the sides and they are worse off for that. It is suggested therefore that while careers ought not to be brought to a premature end or while there ought not to be any blunting of the aspirations of those who opt

from early for a career on the Bench, the aperture of allowing others with better or different experiences to climb on the Bench as well is a good one, and therefore one which will be welcome.

I need not spend any time expounding or attempting to expound on the family division of the court. I believe that this is a matter which has been canvassed for some considerable time in the community. I believe that more than one commission or more than one Committee has suggested that this is desirable. I believe that on all sides it is accepted as keeping in step with what is desirable for family dispute legislation, and for those reasons one will welcome the family divisions in the court. What I think is important though, Sir, is that with the coming of this division there must also be the reforms which have been promised for a long time and which are yet to come. Very early in the session we were given to understand that a number of social reforms would be proceeding apace. I believe that some of them have gone too slowly and while we are going to have a division of the court dealing with family matters, we are still in a position in Barbados where a number of young people are suffering at the hands of either their guardians or their parents or indeed some of the institutions that have been established.

I believe that it is necessary for us not only to pass legislation. I do not think we can glory in the fact that we have passed the legislation. What we must glory in is that having passed the legislation the objective of the legislation has been achieved, because we have done things, we have taken a practical responsibility, and we have taken a practical step in terms of bringing along with the legislation those reforms that are vital and necessary for the improvement of the quality of life of the people of this country.

I have said before in another context that I do not believe there are some areas that ought to be within the political arena. I do not believe that the quality of life of our children ought to be matters to be discussed in terms of "I have done this" and "you have done that". I think that when the Government has fallen through as indeed it has in many areas regarding children, we on this side have a duty to point out to them that they have and they ought to welcome the fact that it has been pointed out, that they are being reminded that they have a responsibility to the young children and young people in the country, and conversely that they take steps to do that which they say they will do or which we believe they should do. We ought to be in a position to say that is a good thing, let us have some more of it.

I look forward to the day, not this year, Sir, when a number of these matters will be removed from the political arena. Unfortunately, this being an election

year a number of short-comings of the Government will have to be placed on the agenda for the people, the ultimate judges. They are the real court of appeal and unfortunately for them, the hon. members on that side, we will have to put them in court and we will have to appeal to the senior appeal court judges, the people, and unfortunately quite a number of them will be found wanting and they will get the ultimate sentence. We need not go into that in any detail.

So far as the construction of buildings goes, I really am not too moved by the Attorney General's recitation of what the plans are. The plans include Hometown. I know them by heart now, Sir. They include, I think he said somewhere in the hon. member's constituency, St. Michael South. I think he said St. Peter. Every time he thinks that His Honour the Speaker might look at him with wide eyes, he manages to say St. Peter as if the mere saying of St. Peter is enough. He manages to talk about Oistins, but I think today is the first day I heard him say he is going to put a court in Country Road; did I understand him to say next door to the sugar bond, the Probation Office?

Mr. Speaker, the Probation Office, as I understand it, is next door to the sugar bond. It happens to be the constituency which I am overlooking now, Sir, or looking over, and then I will be overseeing in due course. My friend the hon. member for St. Michael North Central has left it in good shape, but I would like to suggest to the Government that they take another look at the site. That area of Country Road I would like to suggest needs new and complete approaches. It is one of the darkest and dankest areas of Barbados. It does not lend itself to what one might call the aesthetics of high quality living. When one turns the corner from Roebuck Street and one comes face to face with those buildings on the left and the sugar bond on the right, the place where the privilege pump was, the fact is that I believe that having put the Roebuck Street Secondary School which was to be a primary school where it is, there ought to be a complete development taking in that area of the city. I am sorry the hon. member for the City is not here. She probably has not addressed her mind to these kinds of matters, but if we take in that whole area and make a complete development, it would be sufficiently proximate to the current courts; it would take that White Park area where the hon. member says he is going to transform the area to the left of it, the Greenfields, so that we can have a sweep going from the Country Road area straight across to where the new Supreme Court building will be, so that we will have a complex stretching from Country Road and sweeping towards the Harbour that would form an urban area of the city, shall we call it, so that the people in my constituency just across on the other side would have some light, would be able to look out and see the skyline that is reminiscent of the things they see in the movies.

I believe that to put a court next to a sugar bond would not be ideal. I would like to see the sugar bond removed, but I know that is going to take some time, and so rather than put the courts next to the sugar bond, since you cannot move the sugar bond, let us re-examine that, put it over in the other part of that complex and let it be near enough to the new Supreme Court Building so that the lawyers will not have great difficulties and the judges moving back and forth; but do not let us put it where the Probation Office is now, next to the sugar bond. Let us remove that. As a matter of fact, I have a good suggestion. In fact we will do that.
4.15 p.m.

We would remove all of those old buildings and that area right next to the Sugar Bond is suited for nothing else than a nice little pocket park. The hon. member would understand. Remove all of those old buildings, Sir, and let us have a little pocket park on Country Road and on the other side, the School Meals Building is sufficiently far up that it will not affect the Skyline, Sir. All of those National Housing Corporations, old and decrepit, let us sweep them away and put up modern buildings so that when you go up Country Road you will get the feeling that you are still in Barbados and that it is still a place of high quality.

Mr. Speaker, I believe I have touched on the points that I wanted to touch on and I will not detain this Honourable House anymore, Sir, except to say that we on this side will not vote against this Bill. We recognise that the volume of work has increased. One assumes that this is the case and the reason for the move at this point in time.

We note with some regret the Attorney General's resignation to the fact that we will not have a West Indian Court of Appeal but I would make this point in passing that I find it difficult to understand why he did not extend two aspects of this Bill. He has appointed a Court Administrator and I would recommend that he study the system used in the United States Supreme Court to get some idea of how it functions, remove it from the Civil Service attitude in Barbados.

I think that a Registrar General would be more in keeping with the picture painted. As I understand it, I cannot speak of my own knowledge, Sir, but as I understand it, Sir, trying to get something in the Registry now is somewhat chaotic. As I understand it, the Registrar's Office is cramped. It is short of space and short of staff and what I believe ought to have happened, Sir, or what I would like to see is the office moved, the full way, so that we can have a Registrar General and a Deputy and all that is necessary to provide the quality of service which the level of efficiency which we have heard about in the courts would be brought to bear.

I think that that was necessary. I do not know why the Court Administrator if it is going to form part of the Judiciary, has not been accompanied with a structure of what is going to be the format of it. We have the Court Administrator reporting to the Registrar who is reporting to the Chief Justice, as I understand it, and one may have some reservations on that but that is a matter which can be raised in Committee.

It seems to me that a point which I had made in the past has not been taken. I believe that the Supreme Court Judges and now the Justices of Appeal, ought to have Law Clerks. I believe if, as the Attorney General has said, we are to get this high level efficiency, that it is necessary as is done in almost all jurisdictions that there be persons who are capable of understanding the proceedings, persons who are sufficiently familiar with the research to be done, who could prepare the first draft after getting instructions from a Justice of a Judgment. That kind of person if made available to the Judges as set out here, would guarantee that judgments which are taken in the various Courts would appear some time in the lifetime of the persons who had the litigation.

I have had questions raised with me, Sir, of persons, two or three constituents, who have wondered why it has taken two or three years to get a particular judgment in a particular civil matter. I do not intend to criticise the Courts but I say without fear of contradiction — (ASIDES) It seems as though they have larger numbers calling on them, Sir, in this matter of litigation, but the point I am making, Sir, is that it is not fair, and it cannot be said that a person is getting his or her rights if a matter has been carried before the Courts and 2, 3 or 4 years pass before that person can get that matter settled. That is an usurpation of the rights of the individual. By whatever form it is called, anytime a man cannot get justice in a matter through no fault of his own for failure in excess of two years, that man's right are being invaded. It, therefore, behoves this Parliament to ensure that whatever resources are necessary to preclude such an invasion of the individual's rights, are made available to those whose responsibility it is to pass judgment.

I therefore would again draw to the Attorney General's attention my own view that one way in which judgments could possibly, in those cases where they take long, could be speeded up, is if the Judges themselves were given the kind of assistance on which they could rely and which in turn would make the course of justice swifter, surer and therefore better. Thank you, Mr. Speaker.

Dr. CHELTENHAM: Mr. Speaker, Sir, I greatly welcome this bit of legislation before this Honourable

Chamber today. I think it clearly represents the clear-headed determination, Sir, of the Honourable Attorney General to modernise and update our Legal System as much as his resources of men and money will permit during his tenure of office.

In fact, Sir, it is also a reflection of his large energy because, Sir, it must be said for the record, that he has been since the popular Government, the most reforming of the Attorney-Generals that we have had and it might very well be, Sir, that he may give a period of 50 years or more hold this very single distinction. I think that all of us are indeed indebted to him.

I think also, Sir, that he has got to be careful that we do not suffer from legislative indigestion in the body politics in this country because he has done so well that I think that is the price we may have to pay for the rapid pace of law reforms which we have been experiencing in this country over the last five years. I have no doubt, Sir, that he himself is aware of this danger and that hereafter we may have a reduction in the pace at which he has been bringing new bits of legislation to this Honourable Chamber.

This particular piece of legislation before us here, Sir, is important for several reasons, many of which have been touched on by the mover of the Bill himself, Sir, the Honourable Attorney General. I would just like to say, Sir, that as a practitioner myself, we in the profession greatly welcome it because for one it makes the law relating to appeals in this country available and acceptable to all practitioners. You would be surprised to know, Mr. Speaker, that the law relating to appeals is scattered in two or three places and not many practitioners have access to these laws.

4.25 p.m.

For example, the Laws relating to appeals to the High Court; those laws are to be found mostly in the Federal Appeal Laws and Regulations and those volumes are no longer available, they are out of print, they are about six copies available in Barbados and many junior practitioners people who have been practising for under 15 years do not have copies at all in their libraries. The Rules relating to Appeals to the Privy Council they are mostly to be found in Statutory Instruments that were made on Independence in 1966 and I would say, Sir that nine-tenths of the practitioners do not even know that these Statutory Instruments exist and they certainly would not know where to find them and that is no over statement of the situation.

So, for one, Sir it is extremely convenient and it will be extremely convenient hereafter that we will be able to have all the Rules and Regulations relating to appeals found in one place and easily available to all

practitioners. In the second place, Sir this Bill is important, this piece of legislation, because it ensures that hereafter judges at first instance will not have to be sitting on appeals from one another. The system as at present exists has been referred to as a scratch back club. One practitioner who was formerly a member of this Honourable House has referred to the present Court of Appeal as a scratch back club.

In fairness to the system, Sir, I would say that perhaps that criticism was misplaced because the judges in the Court of Appeal have been holding against one another with such frequency and consistency that I think it is a very good commentary on the integrity of the judges and of the system that it has been able to function and function as effectively as it has done over the last years, Sir. I do not really know of any instances, Sir where it can seriously be argued that justice has not been done because of the fact that the system did not permit it. Nevertheless, Sir, I think it will be reassuring to all those who have got to deal with the administration of justice that the judges at first instance will not be sitting in judgement on one another.

What concerns me, Mr. Speaker is not so much the creation of these institutions. I had occasion to comment when we were dealing with the Ombudsman, Sir that we have enough systems in Barbados dealing with the administration of justice now in place. What is important, Sir is that we have the right men and that the systems are made to function effectively and I want to comment on the appointment of judges, Sir. It seems to me in the past that the net has been cast too narrowly, the net of appointment as it were, Sir. We have tended to be recruiting judges in recent years almost exclusively from the Civil Service. In the recent past, any man who has been a magistrate could look forward in time to be a judge.

We have tended to appoint them from the Solicitor General's office, from the Attorney General's office from the DPP's office. Not since the present Governor-General Sir have we had anyone from the private Bar and except for the unusual route which Justice Denys Williams took in getting to the High Court, Sir and even then, he was by way of the Civil Service, we have tended to recruit the judges almost exclusively from the Civil Service.

Now, the new Barbados, Sir is a fairly complicated society and we are no longer an agrarian society moving slowly into the twentieth century Sir. This is a complex, complicated society in many respects with a large network of Rules and Regulations and more and more judges are called upon to determine very difficult points of law some of which have not been settled elsewhere in jurisdictions from which we take guidance. It seems to me therefore that it is going to be very

important that we have a rich Bench, rich in experience, rich in learning and that you cannot get that richness if you draw it all from the Civil Service because after all that is a narrow sort of exposure and even though a man may rise to the distinguished position of Director of Public Prosecutions, or any other position, it is a fact, Sir that he would have had a narrow sort of experience and I hope that in terms of populating and constituting the court in future, Sir that we would look at Barbadians who are overseas look at Barbadians in private practice and we will not think, Sir that because a man is fairly prominent in the Civil Service, in the AG's Department, or otherwise, Sir he is the next automatic choice to be a judge in our courts, Sir. I do not want to say any more about that, I think that those who are concerned with these things will appreciate the substance of the point which I am making, Sir.

When you come to judges, I would just want to add that if you make a mistake, Sir, it is the most difficult mistake to correct because of the mechanism, Sir for removing judges in our jurisdiction. I want to comment further, Sir that I would like the learned Attorney General to say what thoughts he has given to facilitating access to our courts. Litigation is expensive, Sir. We have now most of these institutions in place, but is it any easier for the poor domestic, or mason at \$140 a week with a family of six, is it any easier for her or him to open the High Courts as it were? What State aid are we thinking of giving to her or to him to all of those who have genuine causes which they would need our courts to adjudicate on, but for reasons of financial poverty they cannot get to court.

It is not widely known, Sir the legal profession is wrongly abused in some parts of this country, but it is not widely known that many of us, as a matter of policy, do about 12 major cases a year. I cannot count the amount of murder cases that I have done for less than \$200, I cannot count them and in many instances when the Jury said, "Not guilty", the accused person went down the road and I did not even see them when I looked back, not even "thanks". I mean these are not things that we walk around talking about, but I happen to practice in a very reputable Chamber and I think that the Honourable learned Attorney General will himself know that that Chamber has financed several appeal cases for poor litigants in this country, ideally, launch cases for people. Fatal accidents, the wife comes in, six children no money, I take out Letters of Administration, I carry the case to a conclusion not a cent advanced and that is not with me alone, or with my Chambers, this is pretty widespread but there is a limit, Mr. Speaker to how much we can do and it would seem to me, Sir that there must be some institutionalised system of legal aid so that you would not have to depend on the generosity of me or of the learned Honourable

Attorney General or of any other person, but they can know that there is a system that is available there to which they can make application and I would very much like the learned Honourable Attorney General, Sir, to tell us his thoughts on this particular aspect of the structure and organisation Sir of justice in this country as he has very carefully described and delineated his thoughts for us in a very comprehensive address, Sir. I would like him to allude to that particular aspect because I think that it is a serious omission which we have got to be careful to correct.

Just one, or two other points before I conclude, Sir very important legislation has been passed in this Honourable House in the last five years and I am glad that a columnist has recently addressed his mind to that matter and has put it down for the record. In retrospect, it would appear, Sir that the last five years, ten years, fifteen years in this country before we came into office were wasted years when you think of the opportunity that was there for serious law reform.

4.35 p.m.

What is most important immediately, Sir, is that the Factories Act that we have been talking about for five years be put on the Statute Book and also that the Act regulating the relations between employer and employee, a new master and servant Act, Sir, if I may use an out of date expression, be put on the Statute Book.

I have been told that part of the problem why this legislation has not reached the House before is that we have been very anxious that all the relevant interest groups should have looked at this legislation in draft and comment on it, but it is my experience that unless you give people deadlines they will go at their own pace, and notwithstanding the fact that the Barbados Workers' Union is a powerful organisation in this country, they do not run this country, though one or two people in their leadership would seem to think so from time to time, but as far as I am concerned, were I the Minister of Labour they would have been told they had X months to submit their comments to the Minister, and if that hour came and no comments came, they would be shut out, but we cannot continue a system where whenever I enquire what has happened to the Factories Act I am told that the Union and other interest groups have not commented as yet, and we have been talking about this from 1976.

I would think, Sir, that this may very well be the fate of the new Employment Act and I very much would like to warn the Government that they should set a time limit so that no interest group could hold up legislation in this country, whether it be the Chamber of Commerce, the Workers' Union or who else. (ASIDE), I am glad to hear *sotto voce* that the comments have now come

in at long last in relation to the Factories Act, and I am looking forward to the Bill being presented to this House in a week or so.

The Divisional Court in Barbados has not been functioning as effectively as it should be, and I think that this ought to be said. I have had two judgments outstanding now, one for two years and one for three, I have concluded matters two years ago and I have not got them on for hearing as yet, and I am a little concerned — I am not saying that this is widespread — it just happens that I myself have been involved in some knotty matters, and I am not saying that this is the most widespread situation. If the public is to accept that there is a real case for two additional or three highly paid Judges, I think they will need to be satisfied that already the Judges are doing their work and that there is really work to justify the additional increase. Somebody needs to go up to the Judges involved and whisper to them to cut down the backlog in the Divisional Court. Sometimes we are not too sure how to deal with Judges, they are like sacred cows in this society, so perhaps somebody needs to whisper to them, run up behind them and whisper "do your work in the Divisional Court" or else the public may not accept the case for two additional Judges as well as they ought to. Thank you, Mr. Speaker.

Hon. H. deB. FORDE: Mr. Speaker, I should wish of course to reply very briefly to some of the matters raised by the two hon. members who have made very outstanding contributions in my view to the debate in this House today on this important bit of legislation, and indeed I welcome their support and I welcome the comments which they have made, some of which are constructive.

If I may reply to a few of the points made by the hon. member for St. Michael South West, I think like him I very much regret that it has not been possible for us in the Caribbean to have agreed on a final Caribbean Court of Appeal. I should say that the Cabinet in approving this Bill also directed that the Attorney General and Minister of External Affairs should continue to discuss with the other Caribbean countries the possibility of establishing a final Caribbean Court of Appeal, and that it is part of the Government's present policy to work towards the final Caribbean Court of Appeal, although we recognise that the path is not one without its own difficulties and its humps and bumps, but I believe that the longer we have the University of the West Indies being held together, and the more people we produce through the Faculty of Law and the Council of Legal Education, the greater eventually will be the probability of getting an ultimate Caribbean Court of Appeal, and I cannot agree more with the views expressed by the hon. member for St. Michael South West when he said that within the Caribbean we have produced Judges comparable to, and in many instances superior to, those in the jurisdictions

of some other commonwealth countries, and in fact the judgments of some of them reflect this expertise and knowledge.

I hope that the Caribbean people, those who are hesitant to move to a Caribbean Court of Appeal, would themselves have a little bit more confidence in the undoubted ability of our legal people in the area and our Judges to add up to the challenges ahead of them. Indeed, those of us who have read the case of Reid Thornhill which went to the Privy Council would be very pleased to see the high commendation given to Professor Telford Georges' judgment at first instance in that case, an outstanding judgment if ever there was one, and one which chartered a new approach to the interpretation of the written Constitutions under which we are governed.

Now, Sir, on the appointment of Judges, there were two points made, one by the hon. member for St. Michael South West and one by the hon. member for Christ Church East. First let me say that although at present there has been no change in the method of appointment, that the Government is preparing legislation to implement the recommendations contained in the Constitutional Review Commission, and some of those recommendations relate to a change in the method of the appointment of Judges, and we have accepted their recommendation that we should revert to the position which existed prior to the 1974 constitutional changes. The Government feels strongly that the political input into the appointment of Judges should wherever possible be minimised. We recognise that there has to be in the last resort some consultation with the Prime Minister in particular, and obviously consultation too with the Minister responsible for the Judiciary, but we feel that any sensitive society such as this in which we live, we should have them as far removed from politicians, and therefore when we deal perhaps in this Session or maybe in the next Session with the patriation of our Constitution, the hon. member can rest assured that the Constitution will on the question of the appointment of Judges revert to the same arrangement as existed prior to the 1974 constitutional changes.

The hon. member for Christ Church East made the point that the need for the recruitment of Judges had been canvassed too narrowly, and it is a fact that in most of the Caribbean jurisdictions those people who go to the High Court Benches have been drawn from the career civil service. I agree with him on that. I also agree with him that the Bench can be enriched by the presence of Judges drawn from the practising Bar as well as perhaps from the conveyancing Bar, and it can even be enriched by Judges drawn from the academic profession.

4.45 p.m.

That is one of the reasons why we have defined the term "practice as an Attorney-at-Law" in the wide

term set out under this Bill. I think that prior to becoming Attorney General I would agree in toto with every word which the hon. member had said, but my experience in working in the Chambers leads me to believe that sometimes people are mistaken about the nature and scope of the legal problems which confront the Ministry of an Attorney General. In fact a junior in our Chambers with probably no more than a year's experience because of the lack of a wide number of officers can find himself or herself being confronted with the sort of difficult legal problems that practitioners of 20 and 25 years' experience would never sometimes have met. The Government today is engaging in so many areas of activity, particularly international, economic and training activities on which the law officers of the Crown are being asked to advise and comment that the avenues for experience are there.

In addition I think the hon. member will agree with me that today in the Government Service the Government is being sued more and more and I think that this will continue to be so because people are becoming firstly more conscious of their rights, and secondly, Mr. Speaker, what is happening is that the Government is intervening more and more in the economic sphere whether by way of statutory tribunals or by way of the Government itself being the owner of enterprises, and I think that this means therefore that the government lawyers are more and more being exposed to the day to day practice of the court, something that perhaps never happened before. The hon. member knows that nowadays there are more challenges brought by litigants before the court dealing with the abuse or the infringement of fundamental rights of the citizen, and each one of these involves a government legal officer as well as the private Bar dealing with these questions, and therefore I should like to correct the misimpression sometimes held by people that persons in the Attorney General's Office are not exposed to a wide plethora of legal issues. Indeed in the five years that I have been there now as the Minister in charge of the Department, Mr. Speaker, I have seen some problems that I have never experienced in the 17 years or more — I am now 22 years in practice — in which I have been practising at the Bar. Really a tremendously large and comprehensive number of issues. (ASIDES) The hon. member says that I look much older than that. It is a sign of my maturity and wisdom which shows more on my face.

It is something that I would like to see continue. I believe that we should have a proper mix. The other limitation which I would be frank with you that I see and unfortunately have not been able to correct this defect is that the salaries paid to the legal people both on the bench and in the Attorney General's Office do not compare with the service which they render, and

particularly if these same persons with their skills were on the free market and rendering their services as some hon. members do as practitioners, they would be better remunerated. I agree that there are certain advantages of being in the Civil Service like security of tenure, pensions and what not, but I make bold to say that on the volume of work and the standard of work which the officers in my Ministry and the judges perform in this country that their remuneration on current demand and supply conditions is below the work that they are performing, and I have not been able to change this significantly. I have managed to improve the conditions to some extent of the officers, but not to the extent that I believe they deserve, and I hope that in the next session of Parliament, more can be done in this sphere.

Now, Sir, the hon. member for St. Michael South West, if I may move to another point, raised the question of improving the physical conditions existing where we intend to site the family court. We do not intend to site it right next to the bond. I think the hon. member knows the land owned by the Payne family and going right back towards the Modern High School. That is the area we are taking, but in addition there are plans for improving the whole road access opposite the National Housing Corporation. They have to straighten that road and also upgrade some of the subsidiary roads in the area, although quite a bit was done, I think, during the time of the hon. member for St. Michael North Central in improving some of the roads there. But there will be much more that we have to do in that area. I know that the Ministry of Housing has been working together with ourselves and the Ministry of Community Services on an overall plan for that area, because we would like to put alongside the Family Court ancillary services from community services as well.

Now, Sir, the hon. member for St. Michael South West also said there are two other aspects he would like to see extended in this Bill. One was the concept of a Registrar General. We intend to take away from the Registry certain functions. One of these would be responsibility for companies and the other one the responsibility for trade marks, industrial designs etc., and we hope therefore to relieve him of some of that pressure and to have a separate office dealing with this area, and I hope eventually that the land transaction..... as a matter of fact land transactions have been taken away from us already under the new Bill although we are still arguing as to whether it is right to create a separate department dealing with the conveyancing of land and that sort of thing. The Deputy Prime Minister and myself have very serious reservations about it, and although the Cabinet came to a conclusion on the matter, we have asked that it be looked at again in the light of developments which we have seen in places like Hong Kong and California,

etc. But I think the point of the hon. member is well taken, and I will certainly also draw it to the attention of the Civil Servants so that in the carry on or the carry over, whatever it will be, they would be able to look at this particular point.

On the point of law clerks, I personally agree with him. It is one of the matters in which my personal view is that there is a case for at least a couple, I would not say at this present moment more than two law clerks available to the judges, and I will say that I have put up that suggestion through the Establishments Division but we have not been able to persuade them at present on the matter, and I hope that when the new Supreme Court is fully operational we will get something on that matter. Sir Hugh Wooding for instance has a law clerk available to him and he got certain assistance in the quality of his judgments. You train people over a period of years, two or three years and they move on. I have seen it operating in Ontario, Canada, I have seen it in other jurisdictions and I hope that we can eventually persuade the people who provide us with the manpower and money that this is a viable cost.

Now, Sir, the hon. member for Christ Church East made another point about access to the courts, the need for legal aid. He is absolutely right on this. One of my regrets is that I have not been able earlier to implement a wider scheme of legal aid. Now, Sir, I tried by getting overseas facilities from the Inter-American Foundation. Unfortunately I did not get the cooperation of the Bar. The then distinguished President of the Bar Association said he could not possibly drive his air-conditioned Jaguar down to St. Peter for \$150 to do any case, that that was not good enough, so he could not agree on a tariff scale of fees and the matter fell to the ground. The former President of the Bar Association and a former Attorney General said that he was expressing the views of the Bar and the meeting came to an end.
4.55 p.m.

The Bar said they would get back to me and they never got back to me and I lost U.S. \$250,000 as a grant from the Inter-American Foundation which would have got the Legal Aid Scheme off some two or three years ago. I have to state these things. But, Sir, we have just completed a Community Legal Services Bill which will be considered by the Cabinet on Thursday. It expands the scope of Legal Aid, not completely, but we are making progress under it. We have tried to bring together the existing scheme and a projected scheme and if I get approval for that, I hope to have it in the House next Tuesday or the Tuesday after that, expanding Legal Aid, particularly in the area of cases of which the hon. member rightly spoke and that is Family Law matters, domestic matters. Master and servant matters is another area in which assistance is needed, affiliation matters, and constitutional matters, those are the areas that we are

going for and issues involving the liberty of the subject, particularly where difficult points of public law occurred so if once the Cabinet approves the Bill this Thursday, I assure the hon. member that it will go through in this Session.

Now, Sir, the hon. member made the point about additional areas of Law Reform, the area of the Factories Act. In all fairness to the Barbados Workers' Union, let me say and I will tell the hon. member that we have had the comments of the Union. The Union, indeed has been insistent that Factories Legislation is necessary because of the development of a number of industrial establishments.

I have been in this House now going close to 10 years and I remember that both the General Secretary of the Workers' Union and the hon. member for St. Lucy articulated in here on more than one occasion the necessity to have the Factories Act updated. That Bill is finished, Sir, completed. It is now, I understand in the Ministry of Labour and the comments of the Union came in with employer's and I believe that the Minister of Labour intends once the typing has been completed to get it to Parliament early next month. Some time next month he intends to bring that, Sir.

Now, a Master and Servant Act is not an easy matter. Within one year of my assuming my tenure as Attorney General, an expert came here and advised us on the whole reform of the Labour Law, Sir, but the Labour Law is an area that is extremely sensitive. It is a very, very sensitive area. We still have a system of collective bargaining in Barbados which has worked very well and we have an area of the settlement of disputes without resort to the Law and it is not in every industrial situation that one wants to use the full force of the Law.

Now, that Bill has been with the various Unions, Employers' and Employees' Unions and they have taken issue with some of the matters. What I have said to the Minister of Labour is that we are willing to sit down with them, to listen to their objections, to modify the Bill in light of their comments or to get rid of some of the provisions if they were any lacuna in them and it did not, of course, conflict with any fundamental policy of the Government.

Now, what we have done is that we have broken up that Bill. We have taken out those areas that are acceptable to the majority of the Unions, in this case it is the Workers' Union because in this case I do not think the Employers' want any Unfair Dismissal Act, but those on which there is agreement, the Minister is hoping to bring them down in a separate Bill. Those on which there is no agreement, he is in my view quite rightly intending to continue discussion with the Unions on them.

We do not want to have a complete system of industrial relations that depend mostly on the Law Court.

I think that eventually it can do a lot of damage by bringing dispute and I have been advising Unions both the Barbados Workers' Union and the National Union of Public Workers and I have advised some Employers on wide areas of Labour Law and Labour Relations and it is an area in which we need a basic understanding between these parties otherwise we would be plagued by industrial disputes and rather than answering the problem we could kill the problem.

Having said that, I can say that there must be some reform of some of the Labour Legislation which is archaic.

The last point to which I need reply is the point made by the hon. member about some outstanding judgments. It is a fact that there are some judgments which are outstanding. The hon. member spoke of two to three years in a Divisional Court and I will, of course, draw this to the attention of the Chief Justice. I cannot direct the Chief Justice on anything. I am sure this is probably due to some oversight. From time to time there are some cases that take long to hear.

I have known some Judges once before who have left and gone to Sierra Leone without giving judgment in some cases, Sir, and they had just forgotten and I know of one other case that took seven years before a judgment was delivered but having said that, basically, I doubt whether one would find six cases or more on which delays on this scale will occur and although from the statistics available to me the number of matters coming before both the Civil Court and the Criminal Court have increased at a reasonably substantial pace, I believe that the Judges have kept up quite well with the work and, as I said at the exercise which we carried out in Jamaica in January, 1980, I believe it was, Sir, Barbados in Civil matters came out on top and in Criminal matters, it was as good as the United Kingdom in the way in which it was dispensing justice.

The Magistrate's Court, we have some problems there. Sometimes the delay is caused not so much by the Magistrates as it is caused by the litigants or Counsel themselves but I hope that that too will be improved when we do the new Summary Jurisdiction Act and the new Magistrates Court Act and when we are given some additional staff for the Courts.

I welcome these comments and debate and now again request, Mr. Speaker, Sir, that the Bill be read a second time.

Hon. L. S. CRAIG: I beg to second that.

Hon. H. deB. FORDE: I beg to move that your Honour do now leave the Chair and the House go into Committee on this Bill.

Hon. L. S. CRAIG: I beg to second that.

The question was put and resolved in the affirmative without division and Mr. SPEAKER left the Chair and the House went into Committee, Mr. ODLE in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

Hon. H. deB. FORDE: Mr. Chairman, may I ask leave of the Committee to deal with the Bill in Parts, after Clause 2.

Clauses 1 and 2 were called and passed.

Part I was called.

Hon. H. deB. FORDE: Sir, in moving that Part I stand part we have circulated a few amendments but there are a few amendments that have not been circulated and I will draw the Committee's attention to these.

In Clause 6, on page 6, the word "notwithstanding" the "t" and the "w" should be joined, Sir.

On Page 8, Sir, Clause 9, the 4th line, after the word "or", delete the semi-colon.
5.05 p.m.

On page 9 to make the amendments which have been circulated in writing. These have already been circulated, Sir. I ask that subject to these amendments Part I stands part.

Hon. L. S. CRAIG: I beg to second that.

Mr. CHAIRMAN: The question is.....

Mr. E. E. ALLEYNE: Mr. Chairman, I would like to discover why it is thought necessary to have only five High Court judges apart from the Chief Justice? It is my view and I suspect that I may have some support elsewhere in the legal profession that what we really would have wished for would have been six High Court judges in addition to His Lordship the Chief Justice. In other words, that we would have had a Court of Appeal of three judges together with the existing number of High Court judges. Effectively, what is happening as I see it is that we are losing a body and it is my view that there is a sufficient quantum of work to justify three High Court judges, three Justices of Appeal and the Chief Justice.

Hon. H. deB. FORDE: Sir, at the moment, we are providing for seven, the hon. member is still talking about the same seven which is four and three and we

have five and two which are seven. Five judges of the High Court maximum plus two other judges and the Chief Justice which is eight, so that we really have eight.

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

Part II was called.

Hon. H. deB. FORDE: Mr. Chairman, in asking that Part 2 stands part, Sir, there are some additional changes mostly we have to ask for Sir.

The first is on page 14, Sir, in Clause 19:

"Where a person has been sentenced for an offence by the magistrates' court"

The article "the" the definite article "the" be deleted and the indefinite article "a" be substituted and throughout that clause where "magistrates' court" is written with an "s" it be an "s", clause 19(1).

In Clause 19(2) Sir, in the third line, "in the proceedings in the magistrates' court" delete the definite article "the" substitute the indefinite article "a" and magistrates' there should be "s" instead of "s"

Likewise in Subclause (3) in the third line, "magistrates'" should be "s".

In Subclause (4) in the second line at the end delete the definite article "the" and substitute the indefinite article "a" and "magistrates'" in sentences three and five should be "s".

Likewise, Sir, in Subclause (5) in the fifth line "magistrates'" should be "s" rather than "s".

Now, Sir, on page 18 Subclause (b) after the word "or" in the sixth line "causes or matters are assigned, or" insert the words "of enabling an order to be made" and Sir, in the third line from that Subclause insert a comma "," after the words "a ward of court,".

On page 24, in Subclause (2) of Clause 30 after 2 (b) "on giving judgment, or making an order," to delete the "," appearing after the word "order".

Subject to those Sir I ask that Part II stands part. Mr. Chairman you will see the details that it calls for and let me state that this Bill was reread twice by my department and in reading it again last night these detailed changes I picked up again. So that is the detail that is called for as you will realise and the Committee will realise.

Hon. L. S. CRAIG: I beg to second that.

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

Part III was called and passed.

Part IV was called.

Hon. H. deB. FORDE: Part IV Sir we have circulated an amendment to Section 49 Subclause (3) and there is one other amendment, Sir that was not circulated. In Subclause (3) of Clause 51 the fourth line, "provide in the rules of court that an incidental" delete the word "an" and substitute the word "and" in the fourth line of Subclause (3) of Clause 51 on page 37.

Subject to those two amendments, I beg to move that Part IV stands part.

Hon. L. S. CRAIG: I beg to second that.

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

Part V was called.

Hon. H. deB. FORDE: Part V Sir on page 40, Subclause 53(2) (b) "at any time during period" insert the word "the" between the words "during" and "period" and in Clause 57, Sir the changes which have been circulated be inserted. On page 46 in Clause 57 (7) (b) "to an order or decision of a magistrates' court, it should be "s" instead of "s'". Likewise, Sir to Subclause (c) "to an order or decision of a magistrates' court." Then Sir, also to insert the other amendments which have been circulated already and on page 49, Sir, Subclause 61,..... I believe that amendment has been circulated as well already Sir, a "s" in other words.

Subject to that, Sir I move that Part V stands part.

Hon. L. S. CRAIG: I beg to second that.

Mr. CHAIRMAN: The question is.....

5.15 p.m.

Mr. TAITT: Mr. Chairman, I do not wish to reopen old wounds, as it were, but sections 64 and 65 deal with appeals to the Privy Council. I wish to reiterate for the benefit of the Attorney General, section 64(2) says:

"This section does not apply to section 46 of the Constitution, section 46(1) of the Election Offences and Controversies Act,"

Up to there, though I might have personal views, I have no quarrel. Then it goes on to say:

"or to any other enactment providing that any determination of a court in any cause or matter is final."

Sir, back down the road early in this Session of Parliament I recall a couple of Bills coming into this House which purported to make the judgment of a Judge in Chambers final, and I remember the hon. member for Christ Church South Central and the Attorney General joining in discussion and indicating that notwithstanding what had been said there that the case law would tend to allow for appeals to go beyond the Judge in Chambers. Although I do not quote the specific Acts, I am sure the Attorney General will remember the discussion.

I am a little concerned that this interpretation here might be so strict as to create problems on the question of appeal. Now, I understand that the whole gravamen of this Act is to procure a right of appeal for our citizens in a number of issues. I am suggesting that since there are rules, and he has established a Rules Committee, and since the court is going to be able to a large extent to direct its procedure, that perhaps we ought not to limit the court, or any court in the future, in its understanding of the right to appeal. Where those Acts have in them that the decision of a Judge in Chambers, or the decision of a Judge in the High Court, shall be final, if the Act setting up the court — because this is what this Act will do — now proceeds to add: "or to any other enactment providing that any determination of a court in any cause or matter is final," I wish to draw to his attention for very serious consideration if he wishes really to put this limiting phrase into the clause. If it is left out it will not create any danger.

I take his point that he has a problem which arises out of the original problem we discussed, but I suspect that sticking it in here is going to create or may lead when you least expect it to a difficulty, because it all depends on the psychological approach of the particular Judge or Judges of appeal. If they are not liberal interpreters, if they do not subscribe to the views expressed by Wooding and Phillips and other Judges of that nature, and they tend instead toward the view that was expressed by Hyatali, that where there is a clear statement he would be inclined not to interfere, Mr. Chairman, I am submitting that we ought not to create that problem bearing in mind our intention is to give the benefit of the doubt, as it were, to the citizen, and I suspect that this particular phrase will have a limiting effect on interpretation, because what it says on first reading is that where any enactment has as a clause that the decision shall be final, it is not subject to appeal to the Privy Council.

Now, I am sure that that is not intended, because we have at least five Acts of some importance in which

can be found that particular phrase. I would suggest to the Attorney General that this matter might not have been canvassed in its entirety and that it be looked at. I am not proposing to divide the House or vote against it, I am just registering for the record that I feel very uneasy. If our final court is the Court of Appeal, and then we have a court higher than that, which is Her Majesty's Privy Council, we ought to make every effort, including bending over backward, to allow persons to feel that they can go to the highest court in the land.

I take the point that the question of whether you have been properly elected or if you are a Senator probably appointed. I take that point that we cannot have litigation for five years while a man sits in the House or waits to come in, and in five years that matter is over anyhow, as long as we have a democratic system, but in this very Act, Sir, we say that if a matter concerns \$5,000 or more, a property of \$5,000 or more you can go to the Privy Council, and yet in the said very Act we put in a limiting clause which can be misinterpreted. Perhaps the Attorney General and the gentlemen in the Attorney General's Chambers see this clearly and can see no problem, but I am sure he will agree that there have been judgments by learned Judges which amaze, to put it no higher than that, Sir, and I would suggest that we as a Legislature ought not to create that problem if we can avoid it.

Hon. H. deB. FORDE: Sir, I take the point made by the hon. member. There are two areas that I have still some continuing difficulty, and it is really a question of doing the work on it. This is one, in that we really have never been able to compile a list of all of the laws which at present state that the judgment of a Judge or of a Court of Appeal is final and re-examine those to see whether we want to cut off rights of the subject or of the State at that point. I had asked Miss Bourne, the consultant, to look at them, but unfortunately her first contract came to an end before she was able to do this particular work, and we are now negotiating with UNDP to have her back. That was one of the areas, and that is why when she drafted that section and we discussed it we decided to keep it in at the moment for want of having all of the knowledge at our disposal. Otherwise, rather than to have drawn this clause this way, we would have scheduled in the Bill only those particular Acts that we would wish to keep the judgment of the court final, so I am going to have to ask my friend's indulgence and to assure him that certainly I will direct, and I hope that it will be carried on. This is the time of the year that one talks that way, but I will direct that this exercise should be done.

I believe that the principle of which he spoke is quite right. Wherever possible, if you have a three tier system of appeal, you should not seek to limit the right of appeal unless you have given it very long and mature

consideration. The two cases of which the hon. member spoke I think are areas on which we can agree. There are one or two others as well in which there is interposed, perhaps, an administrative tribunal before, or it is merely an administrative matter, but even then we would want to allow a point of law to go beyond that level, so I will try to see if we can do that exercise.

The other one is one which is even a little bit more worrying to me. It does not arise here, but when we began to draft the new Constitution which we have been working on, to repatriate the Constitution, we were trying to keep as much as possible of the original Bill. Professor Carnegie, I know, feels very strongly on striking down that clause of the Constitution which keeps in being existing laws even when they are contrary to the fundamental rights of the Constitution, and we have started to identify a number of Bills that we will just either have to repeal or modify substantially, and it seems to me that these two exercises will take a full time person about two to three years to complete, particularly the latter one.

5.25 p.m.

The first one I think is about six months to nine months' work, probably six months, but the other one is certainly about thirty month. Professor Carnegie makes the point that we are fifteen years now on from independence and if we do not strike at it at one go, we might still keep on for another fifteen years. I hope this would not be so. It is a proper point he has made and I believe that when the new Bill comes we will have to make up our minds. If the work is not done, we will just have to say that within three years or two years that Clause falls to the ground.

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

Part VI was called and passed.

Part VII was called and passed.

Part VIII was called.

Hon. H. deB. FORDE: Mr. Chairman, in moving that Part VIII stand part, I forgot to answer a point which the hon. member made about the structure of the court service eventually.

We have a Civil Establishment Order that is to be amended and we will set out the structure in the Civil Establishment Order which as the hon. member knows must come before the Committee in due course. We have improved the structure somewhat, but by the time the Court of Appeal comes into being, it is intended probably to improve it even still more.

I beg to move that Part VIII stand part.

Mr. BRADSHAW: I beg to second that.

Mr. TAITT: Mr. Chairman, I just wish to take this opportunity to make a very brief point. The Attorney General during the second reading indicated that he agrees with the concept of the law clerks. Now, Sir, we are going to have to determine in this country what the real position is. I was saying to my colleague as he was saying that all of us who have served as Ministers in the Government have suffered from this frustration. It is impossible for any Chief Establishments Officer unless he is seized with the problem to understand what we are talking about, and the Cabinet will have to be strong. It is not the Chief Establishments Officer who is to blame in this regard; it will have to be the Minister responsible for Establishments. The Minister responsible for Establishments whom I believe is the Rt. Hon. Prime Minister must know unless he disagrees fundamentally with the point taken by both the Attorney General and us that he is in a better position to understand this than any Chief Establishments Officer, and for us to have the possibility that some poor woman in Pie Corner will not get her litigation settled in a reasonable time or somebody up in Sion Hill or somebody in the Garden Land will suffer because the Chief Establishments Officer tells the Minister that he cannot get two law clerks, is not acceptable. The Chief Establishments Officer is not to blame; it is the Minister responsible for Establishments, and I believe that the Attorney General, if he feels strongly enough about it ought to tell the Minister and the rest of the Cabinet will see his point. It may very well be that the Attorney General has not put the case properly. It may very well be that at the Cabinet he is not regarded in the same light as he sees himself regarded on the floor of this Honourable House.

I have heard the Rt. Hon. member for St. John saying that he and the position are incompatible. I do not know of what he speaks. They have a line of communication that is beyond this Honourable House. The hon. member for St. James knows a lot about this. But I really do not understand how the Attorney General could put the case for law clerks to the Cabinet and then come to this House and tell us that it is the Chief Establishments Officer. We do not accept that and we feel he is hiding, well not hiding, he is not emerging fully from behind the Chief Establishments Officer.

I think the hon. member for Christ Church South Central if he felt that there should be two law clerks would tell the Chief Establishments Officer where to get off and we would have the two law clerks. Why is it that the Attorney General is saying that the Chief Establishments Officer would not give him two law clerks? I think the hon. member for Christ Church South Central, since he is Deputy Prime Minister, and

in the absence of the Prime Minister, should come and explain to us why we cannot have two law clerks when the Attorney General wants them, the hon. member for Christ Church East wants them, the hon. member for St. Michael South wants them to help get out the judgments, and he is telling me that the Chief Establishments Officer would not give him. I want to hear from the Government on this.

Hon. H. deB. FORDE: I will take note of the hon. member's point. I welcome debates such as these because they really strengthen our hands for the distribution of scarce resources. That is the whole point, the distribution of scarce resources.

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

Part IX was called.

Hon. H. deB. FORDE: In moving that Part IX stand part, I would like to ask for an amendment on page 62 of Clause 80 subclause (2)(a), the second line after the word "deposit" to delete the comma and to insert a comma after the word "invest".

I beg to move that Part IX as amended stand part.

Hon. L. S. CRAIG: I beg to second that.

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

Parts X, XI and XII were called and passed.

The Schedule was called.

Hon. H. deB. FORDE: In moving that the First Schedule stand part, I am asking for the deletion of the words "connected with" in Clause 1 of the First Schedule and the substitution of the words "relating to", and in Clause 8 of the First Schedule the deletion of the capital in the words "Maintenance" and "Order" and the substitution of a common "m" and "o".

Subject to that, I beg to move that the First Schedule stand part as amended.

Hon. L. S. CRAIG: I beg to second that.

Mr. TAITT: I just wish to raise with the Attorney General this point. There is a question in Barbados relating to the family division which is creating a tremendous amount of difficulty. It has to do with this question of adoption. The adoption of children in 1981 is really too archaic and outmoded and unfair. I think in all the legislation which we have been dealing with, all we need is a simple Bill.

I know of a situation, Mr. Chairman, where the persons are not resident in Barbados. They are able to rescue the child from brutalisation; they love the child as far as I can find out.
5.35 p.m.

The Chief Welfare Officer wishes to have the adoption but the Law says that if they are not resident in Barbados that this cannot be done but if those persons are living outside of Barbados, if those persons are resident in Canada, they can adopt the child. Now, there has to be something illogical about that. It is total absolute nonsense.

We, in this 1980, Sir, I do not think that we ought to continue with that, a simple Bill. Mr. Chairman, the Attorney General could probably go in the back and draft the Bill together with any two assistants and bring it back. I do not think we need any lot of consultation on this. Take any of the modern Adoption Bills in any of the developed countries, pull out the clauses which suit us, repeal the ones which we have and let us have it by next Tuesday, if possible, but we have a lot of nonsense going on under the guise of Law and a lot of people are suffering at the hands of the Law. That is not what the Law should do.

I do not need to stress the point because it is a point that is well known but what is amazing is that it has taken so many years. Nobody seems to have taken it seriously because, apparently, it only concerns a few people. I know of people who would have been able to go to the United States with their grandparents who brought them up but they could not go because they could not be adopted. We have people who adoption proceedings were started for them when they were 16. They could have gone with their families to whatever country it was. Two years later, when the papers finally come through, the child is now 18 and it is incapable of adoption.

All of these matters ought to be dealt with in this Parliament as a matter of urgency.

Hon. H. deB. FORDE: Mr. Chairman, Sir, I agree with the views expressed by the hon. member and I can assure him that my Ministry has completed the amendments to the Adoption Act and the Bill is now back with the Ministry of Community Services. Only yesterday Mr. Rogers, the Permanent Secretary, informed me that he was processing the Bill and hope to have it in Cabinet shortly.

The point taken by the hon. member on this requirement for residence is one of the amendments which we have recommended be made to the Bill.

The question that the First Schedule be the First Schedule to the Bill was put and resolved in the affirmative without division.

The Second Schedule was called and passed.

The Third Schedule was called.

Hon. H. deB. FORDE: Mr. Chairman, I beg to move, Sir, that subject to the amendment which was circulated being inserted that this be the Third Schedule to the Bill.

Hon. L. S. CRAIG: I beg to second that.

The question that the Third Schedule as amended be the Third Schedule to the Bill was put and resolved in the affirmative without division.

The Fourth Schedule was called and passed.

On the motion of Hon. H. deB. FORDE, seconded by Hon. L. S. CRAIG, Mr. CHAIRMAN reported the passing of one Bill with amendments in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On separate motions of Hon. H. deB. FORDE, seconded by Hon. L. S. CRAIG, the Bill was read a third time and passed.

ADJOURNMENT

Hon. L. S. CRAIG: Mr. Speaker, Sir, I beg to move that this House do now adjourn until Tuesday, May 5, 1981 at 12:00 noon.

Hon. H. deB. FORDE: Mr. Speaker, Sir, with your permission I would like to say to the hon. member for St. Michael South West that I promised him a statement on a matter which he raised. I have not yet got the information but I intend to write him on the matter.

I beg to second the motion.

The question that the House do now adjourn until Tuesday, May 5, 1981 at 12 o'clock noon, was put and resolved in the affirmative without division and Mr. SPEAKER adjourned the House accordingly.
5.40 p.m.