

THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1986-91

HOUSE OF ASSEMBLY

Tuesday, 20th December, 1988

Pursuant to the adjournment, the House of Assembly met at 12:15 p.m. on Tuesday the 20th December, 1988.

PRESENT

His Honour L. A. Weekes, J.P., (Speaker)

His Honour J. J. Payne, (Deputy Speaker)

Hon. L. E. Sandiford, B.A., M.A., (Econ.), J.P., (Prime Minister and Minister of Finance and Economic Affairs)

Hon. H. deB. Forde, Q.C., M.A., LL.B., (Leader of the Opposition)

Hon. B. M. Taitt, B.A. (Hons.), M.P.A., LL.B. (Hons.), (Minister of Health)

Hon. P. M. Greaves, Q.C., B.A., (Deputy Prime Minister and Minister of International Transport, Telecommunications and Immigration and Leader of the House)

Hon. E. E. Greaves, B.A., Ed.M., (Minister of Trade, Industry and Commerce)

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

Hon. Dr. D. G. Blackman, B.A., M.A., (Minister of Transport and Works)

Hon. M. A. King, Q.C., LL.B., (Attorney General, Minister of Legal Affairs and Minister of Foreign Affairs)

Hon. W. O. Franklin, A.I.C., M.I.A.S., J.P., (Minister of Agriculture, Food and Fisheries)

Hon. N. K. Simmons, (Minister of Employment, Labour Relations and Community Development)

Hon. H. A. Blackman, B.Sc. (Econ.), (Minister of Housing and Lands)

Mr. D. A. C. Simmons, Q.C., LL.M.

Mr. O. S. Arthur, M.Sc. (Econ.)

Mrs. M. Barker-Welch, (Parliamentary Secretary, Ministry of Employment, Labour Relations and Community Development)

Hon. C. V. Walker, (Minister of Education and Culture)

Mr. L. L. Brathwaite, J.P., (Chairman of Committees)

Mr. E. Bourne

Dr. E. A. Simmons, M.D.

Hon. W. W. Hall, G.C.M., H.B.M. (Minister of Tourism and Sports)

Mr. C. L. Trotman, M.A.

Mr. R. L. Morris, B.A., Cert. Ed.

Mr. P. J. M. Miller

Mr. R. P. Byer, LL.B., L.E.C.

Mr. D. J. H. Thompson, LL.B.

• *Prayers were led by Rev. Father Ivan Harewood.*

SUSPENSION OF SITTING

Hon. P. M. GREAVES: Mr. Speaker, Sir, due to the technical problems that we are experiencing, Sir, I move that the sitting be suspended for 15 minutes.

Hon. B. M. TAITT: I second that, Sir.

The question that the sitting be suspended for 15 minutes was put and resolved in the affirmative without division and Mr. SPEAKER suspended the sitting accordingly. 12.30 p.m.

ON RESUMPTION

Mr. SPEAKER: This sitting is resumed. The Leader of the House has drawn to the attention of this House that the Minutes for this House need some scrutiny and I ask that they be deferred until later in the afternoon.

If there are no objections then, the Minutes will be deferred until the appropriate time.

PAPERS

Hon. L. E. SANDIFORD: Mr. Speaker, I am commanded to lay the Development Plan 1988-1993.

Hon. N. K. SIMMONS: Mr. Speaker, I beg to lay:

The Annual Report of the Welfare Department for the period 1986-1987.

GOVERNMENT NOTICES Hon. P. M.

GREAVES: Mr. Speaker, I give notice of:

A Resolution to approve the loan of \$2.3 million by the Minister responsible for Finance to the Caribbean Broadcasting Corporation to assist the Corporation in meeting its financial obligations.

Also, Sir:

A Resolution to grant the sum of \$535 906 from the Consolidated Fund and to place it at the disposal of the Government to supplement the Estimates, 1988-89, Part I - Current as shown in the Supplementary Estimates, 1988-89, No. 9, which forms the Schedule to the Resolution.

As well, Sir, as:

A Resolution to grant the sum of \$2 302 980 from the Consolidated Fund and to place it at the disposal of the Government to supplement the Estimates 1988-89 Part II -Capital, as shown in the Supplementary Estimates 1988-89, No. 10, which forms the Schedule to the Resolution.

And I also want to state, Sir, that it is proposed that with your approval; and that of the House to seek leave to have these Resolutions done in all their stages at today's sitting, Sir.

STATEMENTS BY MINISTERS Mr.

SPEAKER: The Honourable Prime Minister.

Hon. L. E. SANDIFORD: Mr. Speaker, earlier I laid before the House the 1988-93 Development Plan for Barbados.

On a previous occasion, I had reason to respond to Opposition queries about the length of time it has taken to bring this Barbados Development Plan 1988-1993 before Parliament. Before I deal with the details of the Plan, therefore, let me reiterate the fact that this document has been laid in Parliament earlier than the 1983-88 one, which was not laid until February 1984.

Mr. Speaker, furthermore, some aspects of this Plan have already been put in place and resources have been allocated for its first year in the Current Estimates of Capital Expenditure. This is evidenced by the commencement of construction of the new Examination and Cultural facility at Sherbourne, and the construction of two industrial factory facilities - one at Newton and one at Wildey.

Mr. Speaker, the Development Plan represents a total commitment on the part of this government to the systematic and just process of economic, social and cultural development of our country.

As I stated in the preface to the document, two simple but basic propositions are being advanced here. The first one is that there can be no development without growth. The second is that development is really about the fulfilment of people's hopes and aspirations for improvement in the quality of their lives. People, all people, should share in the fruits of the development process. Therefore, the Plan seeks to promote economic and social progress as well as to encourage the distribution of amenities, facilities and business activities at key locations throughout the country.

Mr. Speaker, it is generally accepted that development planning is of vital importance for any progressive developing country which wishes to maximise its resources. This is of even greater significance when dealing with countries with fragile, open economies such as ours.

In a nutshell, the broad goals which government will seek to achieve through the planning process are: acceleration of economic growth and development; satisfaction of the basic needs of nutrition, clothing, shelter, health care, education and maximum employment for all; a reduction of pockets of poverty that exist; maintenance of a cultural climate conducive to intellectual and artistic creativity; the productive use of leisure time; and Mr. Speaker, a greater share in the ownership of the country's resources and wealth by a greater number of Barbadians.

To achieve these goals the Plan will address a number of economic problems. Emphasis will be placed on: the recovery and maintenance of competitiveness of the productive sectors; reduction of unemployment; the maintenance of adequate foreign reserves; the attainment of more stable real economic growth patterns; and the full utilisation of productive investment.

Real Gross Domestic Product is realistically projected to grow at an annual average rate of not less than 2.5% in the Plan period. The Plan places tourism at the top of the list of the productive sectors with agriculture, manufacturing, and construction playing important supporting roles.

A; this time, Mr. Speaker, the number of persons in employment stand at a historical high level with over one hundred thousand people being employed.

It is expected that over the Plan period there will be continued increase in employment at an average rate of 1.6 per cent per annum. However, it should be noted, Mr. Speaker, that with hundreds of school leavers coming on the job market annually, this increase in employment will not be fully reflected in percentages. The rate of unemployment

which was 17.9 per cent in 1987 is expected to fall to 15.8 per cent by the end of the Plan period. This is a realistic projection based on our resources, and taking into account the hurdles which are inherent in a fragile economy.

It should be noted, however, that the goals of this Plan cannot be achieved by the efforts of the Government alone. The publication of the Plan continues a trend, started during the 1940's, of reliance on an indicative form of development planning. This approach enables Government to plan and implement developmental activity in partnership with the private sector.

Nowhere is this more apparent than in our proposals for housing where Central Government and Statutory Corporations involved in the provision of housing have committed \$373.5 million of the amount which will be required, amongst other things, to meet the target of providing a minimum of 2,100 housing units each year and a minimum of 1,200 serviced residential lots per annum. The private sector will provide the remainder of the housing stock.

The aim of this programme is the expansion and creation of opportunities for all income groups to own property. In this regard the Government proposes to sell some 900 units to the tenants of the National Housing Corporation.

We intend, too, under the Urban Low Income Housing Programme, to construct and upgrade housing in locations such as at: The Hope and Pickering in St. Lucy; Mount Standfast, St. James; Shorey Village and Greenland, St. Andrew; Thomas Gap, Well Road and Valerie, St. Michael; Scarborough, Christ Church; and Rices, St. Philip. 12.55 p.m.

The public sector investment programme representative of Government's capital expenditure over the period of the Plan is projected at the realistic figure of \$989.9 million.

With the extensive highway construction carried out over the past years, Mr. Speaker, increased emphasis will now be shifted to the improvement, rehabilitation and maintenance of the existing road network, including the major highways and secondary roads, as well as the approximately 300 tenantry and subsidiary roads throughout the island amounting to 84 kilometres of roadway. Priority will be given to reconstruction work in the Scotland District.

Several bridges and culverts will be rehabilitated, drainage improved and wells repaired, cleaned, and, where necessary, deepened. Areas for such work will include Wotton, Speightstown, Holetown and Bayville.

As far as the public transport system is concerned, additional buses, some purchased as complete units overseas and others built here in Barbados on imported chassis, will be acquired, and this will help alleviate some of the hardships

which commuters suffer because of inadequate rolling stock. With new buses in place, the Operations Department of the Transport Board will be streamlined, and the rostering and scheduling of buses should greatly improve. During the Plan period, a new headquarters building for the Transport Board, including workshop facilities, will be built.

Phase 3 of the Fairchild Street Bus Terminal Project will commence. This calls for the extension of the existing terminal to take in that area now housing the Fairchild Street Market, and construction of a new terminal to replace the two at the Jubilee Gardens and Princess Alice Highway. Additional bus stop shelters throughout the island will also be erected.

In the area of health, the Plan spells out the provision of improved care at the Queen Elizabeth Hospital, the St. Michael Geriatric Hospital, the Psychiatric Hospital, and the Polyclinics. These will all play key roles in Government's efforts to decentralise health care. New Polyclinics will be built at Black Rock, Belleplaine, Gall Hill, St. John and in St. Joseph.

The St. Joseph Hospital in St. Peter will be reintegrated into the health system and will be part and parcel of the health institutions providing health care services to the northern part of the island. .

Education will continue to play the pivotal role in the development of our country. During the 1988-93 Plan, pre-primary/nursery, primary, secondary, and tertiary educational facilities will be improved and expanded. Specifically, new primary and secondary schools and facilities will come on stream under the World Bank Project. New secondary schools will be built at Wotton, Christ Church and Cane Garden, St. Thomas, and the new Queen's College building at Husbands will be completed. Erdiston College will be upgraded, and pre-vocational training programmes for secondary students aged 15-16 will be conducted by the National Training Board in conjunction with the Samuel Jackman Prescod Polytechnic in the areas of business, administrative, technical, and distributive services. Deteriorating school plants will be rehabilitated with a total of 4,110 places in 18 primary schools being transferred to ten new buildings and the problem of over-crowding in schools considerably reduced.

The goals of the Development Plan can best be achieved in a world that is peaceful and friendly, rather than hostile. We will therefore continue to preserve our good relations with the United States and Canada, with the countries of the Commonwealth, with European countries, and with developing countries, particularly with African countries. We will also seek to build cultural and economic ties with our Latin American neighbours.

In recognition of the need for reform in the public service during the five-year period of the plan, the Ministry of the Civil Service will introduce measures to improve management procedures, human resources development, and additional changes to work and service.

It is a truism, Mr. Speaker, that a society can only advance if it is stable and well-ordered. Developing the human resource base and improving the physical plant for our justice and law enforcement, improving the Prisons and Fire Service buildings through repairs; maintenance and new construction, will form the basis for development in the sphere of Law and Order. A new Judicial Centre in Bridgetown and a Magistrate's Court in Holetown will be constructed, while repairs to other law courts, the prisons, police, and fire stations will be carried out.

Barbados is increasingly becoming a favourite destination for yachtsmen. There is also increasing activity in ship registration. The Plan will seek to promote Barbados' attractiveness as a port of registry. The development of marina, other cruise ship facilities and activities, docking and boat repair facilities will be facilitated.

The provision of additional aircraft parking areas, Mr. Speaker, and the establishment of duty free shopping areas for arriving passengers, will form some of the activities in Air Transportation during the Plan period.

The tourism sector is recognised as the mainstay of the economy in the medium-term. The industry's earning capacity, management, and infrastructure will be enhanced and strengthened and more efficient marketing strategies put in place. Small hoteliers will be assisted with the marketing and management of their operations. To further enhance tourism product the infrastructure required to make Barbados a major convention centre will be established, and plans for two new international championship golf courses, one public and one private will be pursued. 1.05 p.m.

In the manufacturing sector, Mr. Speaker, the goal is to ensure that output is significantly increased. To achieve this, Government will be promoting the development of small enterprises, encouraging the maximum use of indigenous resources, and constructing a Design Centre. The main emphasis in the export thrust will be to strengthen the Caricom market, and to expand access to extra-CARICOM markets. A target of 11 per cent annual average increase in domestic exports by 1992 is projected.

A Consumer Affairs Division is envisaged. This should ensure that effective and up-to-date legislation is enacted to protect the rights of consumers and to promote consumer awareness, among other things.

Mr. Speaker, the agricultural sector plays an important role in our economy. Sugar will continue to be the mainstay of this sector, while Government intensifies its diversification programme. We will seek to attain the highest levels of self-sufficiency in food production. Emphasis during the Plan period will be on increased production of vegetables and root crops, and efficient marketing.

In addition, the livestock industry will get assistance with the construction of a new abattoir, meat packing house and rendering plant during the Plan period. Generally, various schemes will be put in place to help farmers and encourage the youth to enter farming.

Mr. Speaker, I have touched on some of the areas of this comprehensive Plan, which covers several sectors and activities in this country.

The Plan anticipates that at the turn of the century the services sector will be dominant, and the economy will exhibit a great internal linkage between the services sector and primary and secondary activities. The productive sector will have been restructured and their competitiveness enhanced, and there will be a larger mix of export goods and services from which foreign exchange will be earned.

In the pursuit of an equitable and just society that provides adequately for all of our citizens, Mr. Speaker, I recommend this Plan to this Honourable House.

MINISTERIAL STATEMENT ON THE DISCOVERY OF COCAINE IN THE DIPLOMATIC BAG DESPATCHED FROM THE EMBASSY AT CARACAS ON NOVEMBER 24, 1988

Hon. L. E. SANDIFORD: Mr. Speaker, on Friday, November 25, 1988 a senior officer in the Ministry of Foreign Affairs discovered that a large parcel addressed to a Mr. Marcus Trotman had arrived in the diplomatic bag from the Barbados Embassy in Caracas. The parcel bore no official stamp and no sender's address, merely the name of the intended recipient, Mr. Marcus Trotman, a phone number, and the inscription "Advertising Material". It was further discovered that the parcel was not listed on the bag schedule which normally accompanies the bag and lists every item contained therein. Thus suspicion was aroused. The Royal Barbados Police Force was alerted about the discovery and asked to carry out investigations. Subsequent checks by the Police disclosed that the parcel contained some 4 pounds, 3 ounces of cocaine.

The diplomatic bag is a bag or container clearly marked as such and is intended to contain only diplomatic documents or articles for official use. Normally, the bag is accompanied by an official document which indicates the number of packages contained in the bag.

When the suspicions of the Ministry of Foreign Affairs were aroused on November 25, 1988, internal investigations began which involved both the Ministry itself and the Embassy at Caracas. The Embassy at Caracas confirmed that there was no listing of the package in question on the bag schedule, a copy of which is usually retained by the sending mission. An early suspicion was that the parcel might have been placed in the bag by Mr. Rufus Trotman, an employee of the Embassy of Barbados at Caracas. Mr. Marcus Trotman is the son of Mr. Rufus Trotman.

Mr. Rufus Trotman, a locally recruited member of the Barbados Embassy staff at Caracas, without diplomatic status, and who was honoured with a Barbados Service Star by the Government of Barbados in 1984, has admitted that he placed the unauthorised parcel in the diplomatic bag. His services with the Embassy have been terminated with effect from December 14, 1988. No evidence has surfaced which implicates any member of the Ministry of Foreign Affairs' Headquarters staff or any member of the diplomatic staff of the Caracas Embassy.

Mr. Marcus Trotman having been told that there was a parcel for him in the Ministry of Foreign Affairs, sought to collect the parcel on Monday, 28th November, 1988, but delivery was not effected because of the unavailability of Ministry Officials at the critical time. However, soon after leaving the premises of the Ministry of Foreign Affairs, Mr. Marcus Trotman was stopped and searched by the police, but nothing was found. Members of the Police Drug Squad then accompanied him to his residence where cocaine, dynamite and a 4.55mm. pistol were found. Mr. Marcus Trotman was arrested and charged. The matter is before the Courts.

Mr. Marcus Trotman did not himself subsequently seek to return to the Ministry to collect the parcel which is now in the custody of the police. The investigations are continuing.

The question has been raised as to why the government did not disclose the incidents relating to this matter from the start. The answer is that the government seeks to act in the public interest. There is a time to speak out and a time to be silent. The government considered it highly advisable that the law enforcement agencies should be allowed to proceed with their investigations without the glare of publicity which would have attended open disclosure: because of the overriding need for circumspection, discretion and tact, given the international implications of the matter; because of the need to establish how wide the network of drug involvement was; because of the possibility that open disclosure might obstruct the international investigations; and because open disclosure might send signals to the international traffickers regarding their cover. The very nature of the investigation required quiet work rather than open disclosure. Any premature and inopportune public

disclosure of the matter would seriously compromise and hamper the investigations. This is not a case for taking anyone into confidence. Anyone who has served as an Attorney General or as a Minister of Legal Affairs or as a Foreign Minister should be innately aware that the delicate dimensions of such investigations require one to be the soul of discretion rather than indiscretion.

The Government of Barbados reiterates the pledge it gave in 1986 to wipe this loathsome scourge of drugs from the lives of all Barbadians. My government will continue to fight the evil of drugs with every resource which the law allows. As recently as on December 2, 1988, in Miami, I pledged to take steps at national, regional and international levels in co-operation and collaboration with both governmental and non-governmental organisations, not only to abate, control and eradicate abuse of drugs, but also to interdict users and traffickers. This is a pledge which I will continue to uphold and I appeal for the co-operation of all Barbadians in this task.

With respect to the particular case that has given rise to this statement, it must be admitted that the possibility of misuse of the diplomatic bag is a hazard that all countries face. The deliberations of the International Law Commission, of the first inter-regional conference of Heads of National Drug Enforcement Agencies, and of conferences convened by the Economic and Social Council of the UN, suggest that the UN system itself recognises this possibility and is therefore addressing the question of illegal use of diplomatic bags. There has to be constant vigilance to ensure that there is no misuse of this facility. 1:15 p.m.

The issue of consultations with the Leader of the Opposition has been raised. Clearly the timing of such consultations must be left to the judgement of the Prime Minister. On the other hand, it is equally appropriate for the Leader of the Opposition to make contact with the Prime Minister if the former comes upon information which could well be the subject of consultation before public disclosure. I am sure that there can be no deliberate intention to sully the good name of Barbados.

The Ministry of Foreign Affairs has taken the occasion of this incident to reissue the procedures for the handling of diplomatic bags. These procedures will also be re-examined in order to determine in what ways they may be strengthened to prevent the recurrence of the incident I have described, and to further sensitize staff on the need to be vigilant when confronted with the insidious nature of the drug menace.

Finally, I know I can depend on this Honourable House to exercise the appropriate discretion that would allow the law enforcement agencies to pursue their

investigations in this matter untrammelled by unwelcome publicity.

ORAL REPLIES TO QUESTIONS

Hon. Dr. D. G. BLACKMAN: Mr. Speaker, I beg to inform this Honourable House that the reply to Parliamentary Question No. 87 is ready.

Hon. M. A. KING: Mr. Speaker, the reply to Parliamentary Question No. 97 is ready.

ORDERS OF THE DAY

Mr. D. A. C. SIMMONS: Mr. Speaker, before the Leader rises I am rising on a point of privilege.

I have become aware in the last half of an hour of the presence of cameras in the House of Assembly. I would have thought and I am sure they would have got Your Honour's permission...

Aside.

Mr. D. A. C. SIMMONS: I know that we were asked to come today for a photograph.

Aside.

Mr. D. A. C. SIMMONS: Oh, that is how they are doing it?

Aside.

Mr. D. A. C. SIMMONS: I thought we would have stood up elsewhere altogether. I do not know.

GOVERNMENT BUSINESS

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

SUSPENSION OF STANDING ORDERS

Hon. P. M. GREAVES: Mr. Speaker, before we commence Government Business, I want to move the suspension, and I do so now, of the following Standing Orders: Nos. 6, 16, 18, 20, 42(5), 43 and 44 for the remainder of this sitting.

Hon. B. M. TAITT: I beg to second that.

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

Mr. SPEAKER: Order No. 2.

ORDER NO. 2 - TENANTRIES FREEHOLD PURCHASE (AMENDMENT) ACT, 1988

Hon. M. A. KING: Mr. Speaker, I rise on behalf of the Minister of Housing to move the Second Reading of this Bill to amend the Tenancies Freehold Purchase Act Cap. 239B of the Laws of Barbados.

Mr. Speaker, I would like to begin with looking a bit at the background of the legislation we are dealing with.

You will recall, Sir, that in November 1980 the last administration secured the passage through Parliament of the Tenancies Freehold Purchase Act. Its avowed objective at that time was to provide tenants of lots in plantation tenancies as well as tenants of lots in any area of land that was subdivided into lots for letting as sites for chattel buildings to be used as dwelling houses, a right to purchase the freehold in the lot on which they lived.

Now, the spokesman of the Government at that time hailed this piece of legislation and they lauded it and vaunted it before the public and before all who were willing to listen, as a very revolutionary piece of legislation and, perhaps, they did so rightly because they recognised that in passing this legislation they were striking at the very root of the provisions of our Constitution which provide protection from deprivation of property except in certain clearly defined circumstances.

Now, Mr. Speaker, you will recall that the provisions of our Constitution in relation to protection against deprivation of property is one of those fundamental freedoms which is guaranteed by the Constitution and I would just take a brief moment to refer to Section 16 which reads as follows:-

"No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired except by or under the authority of a written law, and where provision applying to that acquisition or taking of possession is made by a written law-

(a) prescribing the principles on which and the manner in which compensation therefor is to be determined and given; and

(b) giving to any person claiming such compensation a right of access, either directly or by way of appeal, for the determination of his interest in or right over the property and the amount of compensation, to the High Court."

1.25 p.m.

Now from the legislation then, a tenant who wished to exercise his option to purchase the lot of which he was a tenant was required to give the appropriate notice to the

landlord. And the landlord on receiving that notice was under obligation by law to convey the land to the tenant.

Now if a landlord in those circumstances where the tenant had given notice refused to convey the land or if he could not be found, the tenant could deposit what was called a Form 2 Notice, a second notice with the Registrar of the Supreme Court who was required to do such things as were necessary, as the Act says, to give the tenant good title to the lot.

Mr. Speaker, I read the provisions of the Constitution on this point just to make this additional point that the legislation of 1980 did not prescribe any principles on which the manner of compensation should be given. That legislation was in fact taking away certain rights in property which landlords had, but did not go on to prescribe any compensation to the landlords who were deprived of their right in property nor did it make any provisions for making an appeal to the court in respect of compensation for any loss in rights.

I believe that Government recognized that this would have created a problem and so in an effort to ensure that their Law could not be challenged in the Courts for unconstitutionality, what they did was to include a section in that Tenancies Freehold Purchase Act, Section 36, Mr. Speaker, which reads as follows of Cap. 239B:

"To prevent uncertainty, section 16 of the Constitution is altered by this Act to any extent necessary to insure the constitutionality of this Act."

So that was more or less, so to speak, a saving provision which the Government of the day enacted in the legislation designed to ensure that landlords who were deprived of their rights had no opportunity to apply to the court for relief under the Constitution. So that by virtue of that legislation then, the stage was set for tenants on plantation tenancies and on non-plantation tenancies of two to five lots to dispossess their landlords of the ownership of the freehold of the land which they occupied by the tenants exercising this option to purchase the land under the Act.

Let us admit that in relation to plantation tenancies, any progressive minded person would readily recognize and acknowledge the inequities which resulted from the pre-existing system of land tenure. So that redistribution of land in the plantation tenancies by providing those tenants with an opportunity to own the freehold land would lead definitely to an improvement in their social and physical environment and would remove some of the social obsolescence which was characteristic of the plantation system, as we had come to know it.

Now properly planned development of plantation tenancies would clearly advance the wider social ideals to

which we all aspire of making progress towards social equality. And we would have accepted that, once effective development had taken place in the plantation tenancies, the opportunities for better housing conditions, better health and better education standards throughout the country had a far more reasonable chance of development.

I have been in the past critical to some extent of the last Government's total approach to the problem of plantation tenancies and I had made the point that what they did in essence was to create an illusion; because what they did was to put the legislation in place, but the effective management of that legislation did not accompany the actual legislation. So that even today, there has been no meaningful and significant development in plantation tenancies. The legislation did not make a mandatory requirement for proper access to the tenancies and for the essential services like roads, light and water to be put in. So that today, we as a Government have inherited the responsibility for providing all those services for tenancies, the majority of which today are still short of roads, light and water. The many plantation tenancies which exist in Barbados today still cry out for development. In fact I think it has been announced that we have conceived plans. The Minister of Transport and Works is presently in the process of ensuring that adequate and appropriate attention is given to addressing the problems of tenants throughout the length and breadth of this country.

The Amendments which we propose to the Tenancies Freehold Purchase Act today, Mr. Speaker, will leave in tact the rights of tenants in plantation tenancies to purchase the lots on which they reside. And in addition to that, they would also give sub-tenants on plantation tenancies (as well as to other sub-tenants of the larger commercial tenancies where there are more than five lots) who have been residing for a specified period in the tenancy in the absence of the tenant, a right to purchase the lot to the exclusion of the tenant. Now this is a specific right which has been given to sub-tenants which had not been included in the original legislation. And it was recognized that in many cases, there were many cases - many situations - in which tenants of properties on plantation tenancies or on some of the larger commercial tenancies had lived abroad for many years or lived elsewhere in Barbados and not on the tenancy itself, and the tenant's only connection with the lot may be the fact that his name had appeared on the rent book. The sub-tenant in situations of that kind invariably paid the rent either to the tenant himself or to the landlord, and nobody ever changed the name on the book.

In these situations neither the tenant nor the sub-tenant of the lot would have a right to purchase under the existing legislation, because the existing legislation had applied to tenants who had resided on their lots. So that since that did not provide the option for sub-tenants to purchase, if the

tenant did not reside on the lot but the sub-tenant resided on the lot, you could see a situation where a sub-tenant may have been effectively residing on plantation land for in excess of 20 years but because of the state of the legislation, he had no right to purchase; neither the tenant nor the sub-tenant could qualify. One of the purposes of the amendment today is to provide that in certain situations where sub-tenants exercise rights over the land akin to tenants they should have the right to purchase the lots on which they live. 1.35 p.m.

In relation to the non-plantation tenancies, the Freehold Purchase Act had resulted in a number of social problems and certain resentment began to build up in the society as a result of the application of the legislation. Now generally speaking it is a fact that landlords have been unwilling to sell their lots to tenants. And this unwillingness resulted largely from the attitude of mind which the landlords had that it was unjust to compel them to sell their land to any particular person or particular group of persons. They owned the freehold and they say that any law which placed a compulsion on them against their willingness to sell their land to another person was unjust. This started to build up certain resentments and social unpleasantness in the community.

The tenancies which presented the greatest difficulty and source of dissatisfaction in this regard were those which had been established, Mr. Speaker, on the non-commercial basis. They were largely those which grew up against the background of humanitarianism by the landlord himself. In such situations we know that land was usually kept by landlords and we are not dealing in this sort of situation with the wealthy landlords or with the large commercial tenancies. You are dealing with the small family lots where in relative terms poor people owned land and generally wished to keep the land for their families, their children (who may have been overseas studying), or they may have wished to distribute that which they owned by will after they have passed on.

So you imagine a person (who was not all that well off) who was the freehold owner of certain property, wishing to pass that land on to children or grandchildren or what have you, but who in the meantime, intending to use it as a source of income, let out that land as a tenancy and 5 or more houses are placed on the land. Now we would find in that kind of situation that the landlord who may have been a very poor person would have been liable to be dispossessed of the freehold ownership of that land by the tenants lawfully opting to purchase the freehold and acquiring the land. In many of those kinds of situations, houses were originally allowed to be sited on the land as a purely temporary measure with both tenant and the landlord accepting. But once the tenancy had been created and existed, both tenant and landlord seem to have forgotten the original position and the tenant was now in a land acquiring mood and could

effectively dispossess a landlord (who may have been poorer than the tenant himself) by exercising the option to purchase.

Mr. Speaker, lots which have been largely commercial • tenancies - and we deal with the large tenancies like the Alkins Land Tenancy and there are some other large tenancies all over Barbados - have not generally been a source of dissatisfaction to landlords. Because in many cases or in all of the cases where the tenancies have been large they would naturally have been caught by the Tenancies Control Act which would have resulted in those lands being not available for use other than as a tenancy, •* because tenants in situations of that kind would have had a certain measure of protection. They did not have originally the option to purchase; but they would have had a measure of protection against eviction and against the eccentric raising of rents. At the same time it must be remembered that even in some of the larger tenancies there were some elderly landlords (who were clearly not affluent persons) ^ who depended to a large extent on the income from the tenancies as a source to supplement whatever income they may have derived from other sources. The fact that tenants could purchase the lots from them, posed problems for landlords who fell within that category, because those landlords always preferred to have a constant source of income rather than receive a lump sum payment. But once the tenant opted to buy the land, all the landlord could get «* thereafter in respect of that lot was the lump sum payment. But many of them preferred to receive a periodic payment in rent rather than that lump sum payment and this created some problem. It is also to be recognized that in many of the cases where there were landlords who were not wealthy persons the capital which was required to develop the tenancies for sale - to put in lights, water, and roads - the ^ capital which was needed to do that kind of exercise was invariably not available to the landlord.

Another source of dissatisfaction in relation to the legislation related to those situations, for instance, where the tenant gave the landlord, as permitted by law, a notice indicating his intention to exercise his option to purchase, and the landlord subsequently refused to complete the «•»• transaction... Sorry, we are dealing with a situation where the tenant gives the landlord a notice of intention, the landlord takes action in relation to making land available by putting in services and so forth, and the tenant subsequently decides, "I cannot bother with that". The tenant changes his mind. Now the result would have been that the landlord had expended money in surveying the land in making it ready ^ for sale and in the original legislation there was clearly no provision which would require the tenant to complete once he had given the notice to the landlord. So that was certainly a source of dissatisfaction and the fact is that a lot of notices of intention to purchase have been given by tenants. A lot of notices have been filed with the Registrar where the landlords have refused to complete and yet tenants have

found that in no situation have they been able to transfer the freehold from the landlord to the tenant.

We found that there was a considerable social dissatisfaction in the legislation. I think anyone who stops to analyze what has happened would have recognised the problems which the existing legislation created. But apart from all of that, the legislation created another kind of problem as well. We found that persons who owned land and who under normal circumstances, without the legislation would have probably let out that land for rental, were no longer prepared to do so once legislation of this kind was in force. Because they were not going to risk putting their land in tenantry and thereafter losing their right to ownership of their lands. 1.45 p.m.

The problem that that understandable attitude would have generated for institutions like the National Housing Corporation and the Ministry of Housing would be that there would be added pressures on the Ministry of Housing and on the National Housing Corporation for house spots, because you were not any longer going to get house spots available in the market, so to speak, because private land owners were not going to open lands and risk losing them. So the burden falls on the National Housing Corporation.

I think all of us who represent constituencies would recognise the importunity of so many people week after week where they want house spots made available and cannot have access to house spots. So that we feel that something had to be done about the problems, the many social problems, which the existing legislation created. And we made a commitment in our Manifesto for the 1986 elections, on page 27, under the heading Tenancies Freehold Purchase Act, 1980-53:

"We propose to correct the disabilities in this legislation which are repugnant to the spirit of the constitution and which affect the fundamental rights of the individual."

Now clearly a lot of landlords have been crying out about the fact that their right to own their land had been in essence taken away from them without any opportunity for them to get what they would consider adequate redress. We figured that this was an area, it was not unconstitutional, as I said, because of the device which had been used to protect any action of that kind. It may be arguable, but that was the position and nobody argued.

Aside.

Hon. M. A. KING: Precisely. We followed it. That is why I say and I accept that it was a device to avoid any attempt to take the matter of constitutionality before the courts.

Mr. Speaker, we have undertaken as a party, and I quote: "to obviate popular dissatisfaction with the existing Tenancies Freehold Purchase Act and to give subtenants the rights of tenants in certain circumstances while we attempt to preserve the primal intention of the present legislation."

What this Bill is going to do essentially then is to modify the rights of tenants to purchase the freehold of the land which they occupy, and it is perhaps useful to start with the redefinition of the word "tenantry" in this legislation.

You will recall, Mr. Speaker, that under the Tenancies Control Act of 1965 where land was subdivided into more than five lots for the purpose of siting chattel buildings, that created what the law defined as a tenantry and provided for certain rights to tenants, not rights of purchase of the freehold, but certainly protection against eviction and protection against eccentric raises in rents.

What the Tenancies Freehold Purchase Act of 1980 seemed to have done and I say seemed to have done again advisedly because I know that in the profession certain questions were raised about whether this was effectively done or not—is to redefine tenantry impliedly by indicating that where land was subdivided into two or more lots it was caught by the Tenancies Freehold Purchase Act. So that we found that if you had land on which you placed two houses and rented the land out, you created that ridiculous situation where the tenant had the right to say to you, "I want this piece of land," and you have to sell it. No question about it, the 2, 3, 4, 5, ... So there are those small land owners, the land owners who do not have access to any great degree of wealth, who were largely prejudiced by this kind of legislation: and I think they were right in complaining about that situation.

What this legislation is going to do is to redefine "tenantry" to mean certainly the plantation tenancies, and land which is subdivided into more than five lots. So we revert to more or less the definition in this regard which had been indicated in the Tenancies Control Act of 1965. Once you understand that situation then, the tenants who reside on plantation tenancies and on tenancies of more than five lots will continue to have the option to purchase in respect of those lots. We are not interfering with the exercise of the option to purchase of tenants who reside on plantation tenancies and on land which is divided into more than five lots for the siting of chattel buildings.

The right to purchase, which we have modified, is in relation to tenants who fall in the two to five area. We are saying that from the passing of this Act tenants who have not exercised an option to purchase will lose the right to purchase. Let me just put another gloss on that. Tenants who have not exercised their option to purchase will lose the right to purchase. Tenants who have exercised their option

to purchase prior to this Act, and the landlord has not refused, will continue to be qualified tenants and will be entitled to have the freehold in the land transferred to them. That deals with the situation where tenants have in fact exercised their option to purchase and the landlord has not refused.

Where the tenant has exercised the option and the landlord has refused, there will be no requirement for the landlord compulsorily to convey that land to the tenant. Where the tenant had occupied a lot and had done substantial improvements on that lot against the background of the knowledge that the legislation was there and gave him a right to acquire, the tenant could pursue his option to purchase. The Bill in detail will determine what substantial improvements are, and if there needs to be any reference to that, I am sure it can be dealt with in Committee stage when we discuss it clause by clause. 1.55 p.m.

We recognise that in taking away the rights of certain tenants to purchase the land we are taking away a right in property which would have been vested in them by virtue of the Tenancies Freehold Purchase Act, 1980. That Act took away rights from landlords and gave rights to the tenants. We recognise that in modifying those tenants' rights in relation to those who live on lots of two to five that we would be affecting an interest in land and taking away from them an interest in land, a right to exercise an option to purchase land. The Constitution of Barbados provides that where you are taking away a person's interest in land, there should be adequate compensation, and a section of the Bill is intended to comply with the requirements of the Constitution. What it does is to establish a method of compensation which we have provided. It establishes a right for a tenant who has been deprived of his right to purchase from his landlord, the right to purchase from the Crown a suitable lot at a purchase price to be agreed between the Crown and the tenant, a price which is no higher than the open market value of the lot on which the tenant was residing prior to the coming into force of this Act.

A tenant who has been given that right of compensation to purchase from the Crown a suitable site must inform the Ministry within a period of two years - the Ministry of Housing - of his intention to purchase a lot from the Crown.

We recognise that there may be some situations where the Crown is unable to provide a suitable lot for the tenant, and in this situation where the Crown is unable to provide a suitable lot, provision is made for the tenant to receive an amount of money which fairly represents the value of the right to purchase, to be determined in accordance with some of the principles set out in the Act. What we set out to do was to find a formula for compensating the tenant who had lost his right to purchase from the landlord and who could not get a satisfactory lot from the Crown. And the measure

of compensation, I believe, which has been arrived at, is derived from the principles which courts use to determine compensation in situations of this kind, which they call compensation for loss of bargain, compensation for loss of right which is the difference between values of the property at certain stages.

One recognises that in any formula for compensation, difficulties are likely to arise, and that there may be arguments as to the adequacy or inadequacy of compensation. And what we have done as well is to provide that where there are any disputes in relation to the adequacy of the compensation, the opportunity to apply to the courts for a determination of that issue may be made. So what we have sought to do at every stage is to comply with those requirements of the Constitution at section 16 which requires that where you deprive a person of possession of property it must be done by virtue of a written law which must prescribe the principles on which and the manner in which compensation therefor is to be determined. We tried to do that - provide the principles and the manner, and giving to any person claiming such compensation a right of access either directly or by way of appeal for the determination of his interest in or right of the property and the amount of compensation in the High Court - so that any person who is aggrieved as to the quantum or level or the adequacy of the compensation should have a right to appeal to the High Court.

Now in relation to those persons who will lose the right to purchase the freehold - the persons on the two to five lots - we recognise that there may be opportunity for the landlord, once the right has been taken away, to evict the tenant immediately if he wishes. So that what we have done in order to guard against that kind of thing is to provide a moratorium of some five years during which the landlord may not evict the tenant. So that we anticipate that against that background (certainly within five years' time) any tenants who have been affected by the bit of legislation have the opportunity to apply to the Crown to purchase an alternative site or to make other arrangements for locating. And we feel that a period of five years in that regard is adequate time for the tenant to make use of every opportunity available to ensure resettlement without undue dislocation.

Another provision which we have extended is in relation to old tenants who may have resided on lands for more than 20 years. I am still dealing with the two to five lots where clearly persons have lost their right and are unable to buy the land. What we are saying is that in relation to persons who have lived as tenants on lands for 20 or more years in the two to five range, they should have the security of tenure similar to that provided in the Tenancies Control and Development Act. So we expressly extend the protection which is set out in the Tenancies Control Act, Cap. 239, to tenants on the two to five lots who cannot, and

they cannot thereafter, be ejected from those lands except in certain controlled and specified situations which the Act permits, and their rents also cannot be increased by the landlord except in the manner prescribed by law.

SUSPENSION OF SITTING

Hon. P. M. GREAVES: Mr. Speaker, I understand that the Honourable Attorney General intends to carry on for much longer, so I believe this is a good time for us to have a break for lunch.

I beg to move that this sitting be suspended until 3 o'clock p.m. today.

Hon. B. M. TAITT: I beg to second that.

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

RESUMPTION OF SITTING Mr.

SPEAKER: This Sitting is resumed. The

Honourable Attorney General.

Hon. M. A. KING: Mr. Speaker, prior to the Adjournment, I had tried to set the legislation with which we are dealing in a historical perspective. I have dealt with the problems, social and economic, which the legislation presented.

I have addressed, to some extent, the difficulties which it created for Government housing policy because the Housing Corporation and the Ministry of Housing were being called upon in so many cases to provide lots for tenants because of the constriction which had taken place in the market economy, so to speak, because of the adverse effects which this legislation created. Then, I tried to show the steps which were taking by this legislation to try to correct some of the difficulties which had arisen as a result of the Act.

I believe I had reached the stage where I dealt with the security which we were providing for tenants who had resided on the area of 2 to 5 lots for more than 20 years and we were providing security of tenure, in essence, protection for them similar to that provided for in the Tenancies Control Act. But, there are other important features of the amending legislation as well, and I would now, Mr. Speaker, like to address a number of those additional features.

We recognize, of course, that there are going to be disputes between tenants and landlords in relation to certain measures provided for by the legislation. And what we have

sought to do is to rationalise the procedures 'for the settlement of disputes in this amending Bill.

In our view the provisions for dealing with arbitration in the existing legislation were not clear and decisive enough. So in the amending Bill (at Section 14 of the amendment) we provide, of course, for any dispute relating to an interest of a tenant or sub-tenant, or relating to the right of a tenant or a sub-tenant over a lot (because there can be disputes in a situation) or in relation to the amount of compensation payable to the tenant; this can be referred to an arbitrator.

We have set up the arbitration proceedings in the context of the Small Holdings Committee established under the Security of Tenure of Small Holdings Act. It means that we have to ensure that the Small Holdings Committees for all the districts are effectively in place and properly equipped, of course, to deal with the problems of arbitration.

The Arbitration Act applies to the proceedings to any extent to which it is not inconsistent with the provisions of this Act; and we have made provision for an appeal to the High Court from any award of an arbitrator, or a decision of a magistrate under any part of this legislation. So that adequate constitutional protection is built into the legislation to provide for any want in constitutionality.

You will find, also, Mr. Speaker, that in the amending legislation we have made provision for the Ministry of Housing and Lands to be able to monitor the developments which are taking place in relation to the tenancies.

I believe, the Ministry over the years has found that enough information has not been coming into the Ministry from those Attorneys-at-Law who were involved in conveyancing and transfers. The Ministry found that sufficient information was not coming into the Ministry in order for the position to be adequately monitored and, accordingly, provision is made in this amending bill requiring that unless notification is given by Attorneys-at-Law to the Ministry of Housing in relation to any transfers of tenancy lands. Such transfers be not registered.

Some of the other consequential amendments which will result from this legislation, Mr. Speaker, would, of course, include the vesting in the Registrar of Titles of such duties and obligations under this Act which would formerly have vested in the Registrar of the Supreme Court. The Registrar of Titles is the person who will after the passing of this Act, have the authority to deal with all the issues requiring the attention of the Registrar which were formerly vested in the Registrar of the Supreme Court.

That would mean, Mr. Speaker, that in relation to those Form 2 notices which are sent to the Registrar in cases

where landlords have been given notice of intention to purchase in tenancies where there are more than 5 lots - we are dealing now with plantation tenancies - where the Form 2 notices are to be sent, to the Registrar, it will be the Registrar of Titles to whom those notices are to be sent and who will be required to take every step possible to ensure that the freehold in the property is vested in the tenant.

There are, Mr. Speaker, as well, a number of other consequential amendments which flow from this legislation. You will note that we provided for relocation expenses in cases where tenants are moved and we have sought in every case where necessary to ensure that as little inconvenience as possible results to tenants in this whole exercise. We have sought to do two things and we hope we have achieved them.

We have sought to restore, to some extent, the rights of landlords to own their property and to preserve the rights of tenants in certain cases. In addition, where we have modified the rights the tenants had, we seek to provide a form of compensation to them in that regard.

Now, it is clear, Mr. Speaker, that the effective working of this legislation is going to depend on the capacity of the Ministry of Housing to answer the needs of the people who need housing lots to site their houses; and this Government is making every effort to ensure that the Ministry of Housing is adequately equipped to deal with that problem. This is an area which the Minister of Housing, I believe, may wish to expand on and which I would not want to trespass on deliberately. But I will wind up my contribution on this Bill by making these essential points.

It has been clear that the Bill has been a source of controversy. The Tenancies Freehold Purchase Act of 1980 has created a number of serious sociological problems. It has been extremely difficult to unscramble them because we recognize that we are dealing with a situation where we are affecting vested rights of tenants. So that we seek to deal with that and to take any difficulty out of it by providing[^] means of compensation for the losses of that right.

It is clear that you will not have total satisfaction with any legislation of this kind because it will be impossible adequately to satisfy both ends of the spectrum; because, certainly, those landlords who lands have already been spoken for (those lands where tenants have exercised the option to purchase and where landlords will still lose their rights) those landlords who have not been willing to convey the freehold, will still feel aggrieved, I am sure of that. But it is clearly a problem which has not been created by this amendment. It is a problem which has been created by the 1980 legislation. And we are faced with a problem where we cannot readjust that situation and satisfy them and at the same time satisfy the other end of the spectrum. So the critical comment in relation to dissatisfaction which results

out of this total environment for the Tenancies Freehold Bill has to rest fairly and squarely with the legislation of 1980 which did not seem to address all these problems in their totality.

3.15 p.m.

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So against that background then, I have the greatest pleasure, Mr. Speaker, in honouring our Manifesto commitment once again, in bringing this measure before the House and moving that the Bill be read a second time.

Applause.

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Hon. B. M. TAITT: I beg to second that, Sir.

Hon. H. deB. FORDE: Mr. Speaker, Sir, I will begin where the Honourable Member for Christ Church West Central left off. And if I may quote him, he said, "It is clear that one cannot have total satisfaction with legislation of this sort." And I wish, that the Democratic Labour Party when it was putting forward its proposals on this issue would have clearly borne in mind that very statement. There had to be a clear choice made as to whether or not one was going to side with the tenants who in most instances were the dispossessed of this community or side with the landlords. And it is obvious that the Democratic Labour Party decided that they wish to side with the landlords as against siding with tenants. That is very obvious to me. And •• this Bill has to be exposed for what it is because it is simply a Bill catering to emotive language and a situation inspired subsequent to 1985, as we were coming to an election. That is what it is. It is no more than that. And it is a clear case that the Democratic Labour Party cannot in its concept of securing tenure to the large mass of people in Barbados move from the views which it held in 1965. That again is what this legislation is about. One has to see that very clearly, Mr. Speaker, without mincing words about it. Because when the Honourable Attorney-General has finished and sat down, he leaves us in a position where persons who are living on lots of land for twenty years, or less than 20 years if he likes, or more than 20 years will in future have no right to do anything other than find a place for their toilets outside rather than inside the house. Let us strip this _m of all of what it means.

Part of the problem that we have had in Barbados is that people could not develop and improve their circumstances on land because of the fact that they had not got long term security of tenure. Let us get that absolutely clear. They had no security of tenure. The 1965 legislation tried partially to answer the problem of a large number of people •• being constantly uprooted by landlords who willy nilly were giving them notices to quit. We had the spectacle in several tenancies (what the Honourable Member refers to as the large tenancies) of seeing a person leave home in the morning and come home in the afternoon to find his house at the side of the road with all of their possessions. But that

situation, contrary to what the Democratic Labour Party would have us believe was not confined to persons who were living on tenancies of five or more house spots. In fact the position will continue in that way in future, after the five year period has passed. And obviously, a Government has to make a choice. It has to decide in its mind whether it is going to protect the weakest in the society; we obviously will say that you will find some people who are weaker than others. But the Government has to decide where it is going to come down. And we made up our minds quite clearly (and we make no apologies for it) that we came down on the side of the weakest in the society - those tenants who were at the mercies of landlords whether they happened to be on a lot containing five or containing less than five. That is the position. This is prior to the election.

And I want to go back, Sir, a little bit to tell you what were the objections of the Democratic Labour Party when this legislation first came before the House. Because the Honourable Minister's speech is extremely interesting, if you analyse it and relate it to the position taken by the Democratic Labour Party in 1980. The first point I want to make is that the Democratic Labour Party divided the House on this Legislation only in relation to Clause 36 of the Bill. The late Right Honourable Errol Barrow was always fond of saying that he was only divided on the Constitutionality problem as to whether the Constitution could have been amended in the manner in which we sought to alter it by Clause 36. That is a fact, Sir. It is contained in the Hansard Debate for September 23, 1980. There was no division at that time voiced by the Democratic Labour Party on the conferring on tenants of the option to purchase where the tenancy consisted of two or more lots. That statement cannot be contradicted. Either on the principle of the Bill or in the details of the Bill, the Democratic Labour Party voted affirmatively without dividing the House on that issue in 1980. The position continued to be the same, Mr. Speaker, Sir, up to the amending of the legislation up until 1984. The legislation was amended in this House, I think it is September 4, 1984. There was no objection in principle by the Democratic Labour Party to giving that right and protection to tenants who were living on less than five lots.

Mr. Speaker, Sir, that situation changed as we came near to an election. And I am saying that without an analysis of the competing claims, the Government committed itself to a position where today it is amending the legislation in order to take away the right from tenants who may have qualified or are in the process of qualifying and where, in the future, if you have not qualified, you will no longer have that right. Let us face the fact that that is what the legislation is doing.

But the Government has also now accepted (and I must get the constitutionality out of the way)... the Government has now accepted, as the Honourable Attorney-General quite rightly has said, that there was nothing unconstitu-

tional in the legislation. It has accepted that. As a matter of fact, I go further and say that the amending Bill adopts the same non-textual modification of the Constitution as the Labour Party adopted on the advice of its legal experts in 1980. If you compare, Mr. Speaker, Sir, Clause 2,1 believe, of this amending legislation which Clause 36 of the legislation of 1980, you will see that the words chosen are almost verbatim and that the Bill's purpose is to alter or modify the Constitution to such extent as is necessary to ensure the attainment of the purpose specified in the Bill. 3.25 p.m.

There was nothing wrong as indeed there is now nothing wrong with that method of dealing with a non-textual amendment of the Constitution. The Honourable Attorney General has now had the benefit of seeing the legal opinions which were available to the Government then and I am sure as a lawyer he will not and cannot disagree with the opinions then expressed. In fact, in the debate in this House on the Bill the then Prime Minister went so far as to read out on the Second Reading of the Bill most of that opinion so that the debate on it would have continued at a certain level. He read from his files reading into the record of the House as recorded in Hansard the legal opinion on which the Government was then acting in so far as it was dealing with the Constitution.

Let me explain it in some detail. The DLP were contending that we were amending the Constitution through the back door and a good deal of the speech of the Right Honourable Member for St. John was devoted to that issue. He was saying that we were trying to bring in an amendment that would take away a right by Section 36 and we were not men enough, as I understood him, to come with a specific amendment to effect Clause 16 of the Constitution of Barbados.

It was explained to them then that Clause 16 will forever remain as Clause 16 of the Constitution. That the fundamental rights provisions were not being altered but that the Constitution of Barbados contained a particular mechanism for doing non-textual alterations or modifications to ensure that legislation which may effect vested rights remains in tact and according to the Constitution of Barbados. I have copies of the Hansard here. I do not intend to read it all. But you will find in the speech of then Prime Minister, the Right Honourable J. M. G. M. Adams, a clear exposition of the position, Mr. Speaker, and it is contained in the Hansard for the Second Session 1976-81 for Tuesday, September 23rd. The debate was continued on September 26th and the speech of the Right Honourable Member began at page 4282.

What I am saying, Mr. Speaker, Sir, is that it was quite clear that there was nothing unconstitutional in that Bill. That is quite clear. It is now accepted that Clause 36 procedure was a proper procedure to be used and it is

quite clear that the Honourable Member for Christ Church West Central by adopting the almost exact phraseology is agreeing with that legal position and that legal opinion. It was not a legal opinion written by me. It was written by consultants and officers in the Ministry. This too was made absolutely clear in the speech of the then Right Honourable Member at page 4285 of the record. And Mr. Speaker with your permission if I may read it, he said: "Mr. Speaker, Sir, the Government has obtained a carefully thought-out legal opinion from experts available to it (not Barbadians, as it happens) and if any Honourable Member wishes to see the opinion, I will be glad to let him have it. I believe it is intended to publish the opinion, if the Newspapers will do the Government the courtesy of publishing the facts and the truth and not merely the impressions created by the Hon. Member for St. Michael South West and by Dr. Leonard Shorey." And then he reads the Opinion. Specifically, he says: "This alteration or modification is a "non-textual" modification. That is to say, the actual text of Section 16 of the Constitution is not to be amended but merely over-written for the purposes of the special circumstances of the Tenancies Freehold Purchase Bill, 1980.

Again, Clause 36 does not constitute an alteration of Section 16 for all purposes but only for the purposes of "this Act".

The Tenancies Freehold Purchase Bill, 1980, when enacted cannot be considered ordinary, law since it was passed by the special requirement of the Constitution, that is to say, in the manner and form prescribed therein."

And he goes on to say, "The Tenancies Freehold Purchase bill, 1980, when enacted, would evidence the fact that the constitutional restrictions on the supremacy of Parliament in Barbados are workable and constitute an effective check on the erosion of fundamental rights by ordinary law; for if such restraints did not exist, there would be no need to enact the legislation by a special procedure. Ordinary law would have sufficed."

Having quoted from the opinion, the then Right Honourable Member said: "In other words, the opinion is praising the fact that the Government is respecting the Constitution and exercising, within the framework of the Constitution itself, the powers which the constitution gives to Parliament to deal with certain things in a particular way. Those Parts of the Act are not an erosion of the fundamental rights to the Constitution. They consist of an expression of respect for those fundamental rights."

I think, therefore, Mr. Speaker, one of the things that this debate will do is to put to rest for all times the argument that the Government by passing this legislation was seeking to breach the Constitution of Barbados. I think we can be satisfied for all times now, particularly having regard to the statement of the Honourable Member, that it certainly was

not seeking to breach any constitutional rights and that the objection which the Democratic Labour Party took at the time would not appear to have been a valid objection as indeed it still does not appear to me today to be.

So Sir, if we may look at the position in 1984 when this legislation had been in place, and started to work, and had been amended... we found ourselves in a situation where the Democratic Labour Party had raised no objection (in public and private as far as I know or by representation in any manner) to the fact that persons who were tenants of lots in excess of 2 had the option to purchase those lots from their landlords; there seemed at that time to be no disagreement between the respective parties. Mr. Speaker, it does not surprise me that there was no disagreement then, because those of us who will cast our minds back will recall that although the Democratic Labour Party by its legislation of 1965 had quietened part of the turmoil that was being caused to tenants, it had not quietened the whole turmoil. And we were constantly being bombarded as legislators by those tenants who were now being turned off their spots because they had not got security of tenure either as tenants or as potential purchasers. 3.35 p.m.

Now, Sir, if we pass this legislation as is, we are reverting to the situation - and the Honourable Member must concede this - where persons who live in tenancies of lots of from two to five have neither security of tenure nor a right to purchase since they fall outside of the limited number of protected persons. That is the position.

In the case of those who have lived on the land, let us say, for 18 years... Let us take a person who has lived on the land for 18 years, who has not built a substantial house as defined in this Act, and who up to now has not exercised the right to purchase and have his landlord consent to it; so he has 18 years: But after the five year period goes such person runs the risk of ejectment.

Aside.

Hon. H. deB. FORDE: Well you said it has to be 20 years.

Aside.

Hon. H. deB. FORDE: Does the Honourable Member want me to take it at 14 or at 12? If the Honourable Member wants me to say it, I will say it in a general way. I am saying that what the legislation is going to set in train is a position where tenants on five or less will no longer have any security of tenure of any nature whatsoever. The Honourable Member agrees with that.

Aside.

Hon. H. deB. FORDE: Unless he was there for 20 years*, we are back to the position where he can be given the relevant statutory notice under the Security of Tenure Act, which is six months, and there he has gone. That is the situation. Now that person cannot always be a tenant either, because he is liable to be dispossessed and to be out; and I am going to say to the Government that you will find that the problem that was being answered by that legislation is now being unleashed on the Government again.

I am sorry, Sir, that the Minister for Housing did not, in seconding the Resolution, make his substantive speech then rather than wait to anticipate the speech from the side of the Opposition.

Aside.

Hon. H. deB. FORDE: The Honourable Member wants to know why not, because no doubt there is information to which the House would have been entitled if the debate is to be continued in a manner in which the Government would get the best standard of debating that it wants in this Chamber.

Asides.

Mr. SPEAKER: Order, please.

Asides.

Mr. SPEAKER: I am asking for order in the Chamber, please. Please continue.

Hon. H. deB. FORDE: Whenever the Government is getting bitten, Sir, it resorts to *sotto voce*. If you are men, stand up and talk; do not get and make remarks, and listen to the debate. Whenever you are getting the blows that is how you deal with the matter.

Aside.

Hon. H. deB. FORDE: I am not surprised you want us to sit down. Soon you will want us out of the House all three of us because that is what you want no opposition, no constructive criticism. You cannot take it. That is the position.

The position is, Sir, that the speech of the Honourable Member for Christ Church West Central, the Honourable Attorney General, contained no statistics. The Government has now had the benefit of some eight years almost of this legislation. The Ministry of Housing should have had the opportunity during that eight years to have at least obtained some factual information which should have been disclosed to this House as to the number of tenants who are going to be affected by the amendment to the legislation; the number of landlords in the category of two to five who are going to

be affected by the legislation; the number of landlords in those categories who are complaining, or have complained, to the Ministry on these matters; and the number of tenants whom the Government will have to satisfy if within two years these „ tenants exercise their rights to ask the Government to provide alternative spots.

None of that information has been made available up to now in this House. And that is why I said that I regretted that the Minister of Housing had not spoken or made the information available to the Attorney General. Because then we would have had a picture...

Aside.

Hon. H. deB. FORDE: That is the problem, the problem being addressed. What is the point, if you have it, of not making the information available here? I heard the Honourable Attorney General speak of the difficulty of obtaining information. But no information is given to us so that we can see what is this real problem that the legislation is seeking to address. We can see how real the problem is and what is the proper manner of addressing it. And whether the manner of addressing it is the manner which the Government now sets out in this legislation (which on the statement made by the Attorney General must cause displeasure to some persons however you come down)...

You see, Sir, the figure 5 seems to have a special mystery or mystical significance for the Government. Why not 3? Why not 6? Why not 2? Ask yourself. However you pass the legislation, in whatever form you pass the legislation, you would have ended up in some way inconveniencing someone. Why the special 5? 3.45 p.m.

There is no special mystery in the selection of five or two. The point is that one was seeking to answer a large number of persons who had these needs. It was not being done with any lack of bona fides on the part of the then Government. Within the constituency of the Honourable Member for St. Michael South, as in my constituency, there are several cases of people on tenancies of less than five. In fact a lot of the urban tenancies (contrary to what Honourable Members think) and the suburban tenancies are made up of persons who are on five lots or less. And if you take certain areas within both our respective constituencies I can certainly speak with strength of mine you will find that the nature of land-holding in that area is such. You have some large tenancies of five or more outside of ours. I look at the Honourable Member for St. Michael West constituency at Hanshell Land at Eagle Hall, some in Bridge Road and other areas, Carrington Village. But as you move into the suburban and within the very Bridgetown area you will find that a lot of the persons living as tenants are living on

lots where the tenantry is five or less rather than the bigger tenancies.

Now, Sir, I say that they are people too; that these persons are entitled to have an opportunity to improve their living conditions. We are talking here about that. That is what we are talking about. We are talking about giving them a genuine opportunity to be able to change to wall, to put in their basic utilities that they need. These are necessities these days; they are no longer luxuries. Unfortunately the history of land tenure in Barbados is one that will not commend itself to most of us. Barbados was not a situation where the land was given out to a series of small holders in the sense that we understand small holdings today. It is true that at the settlement there were holdings of five - ten acres, and eventually these were expanded. People took over and estates owned large tracts and areas of land. But it was not that sort of country. The broad mass of people never owned any stake in the land in Barbados. Never at all.

When the villages started, some of the villages were established because of the position of the Church; some of the church people were land owners. If you take St. George, in the Glebe in particular... and they then created their tenancies. Other persons were able to buy land and they themselves then became landlords. But by and large a large number of Barbadians were and still are non-land owning people. What is wrong with giving these poor people an opportunity to own a bit of land? What was wrong with that? The Honourable Member for St. James South asks "and give away people's land?"

Let me put a simple proposition. You see, there is nothing unconstitutional (they will tell you) with the Government coming down here and passing legislation to acquire the same bit of land from someone who is leaving it in his or her will for the children in order to improve a sidewalk. But there is something wrong if you confer a right on the tenant who had been living there from time immemorial to purchase that land, pay a fair market price and improve their condition. Is one going to say that there is a difference in the public interest of the matter? It is not that Government is passing legislation for a few people. It was looking for a large mass of people, and I have never understood that argument on the part of Government.

I make the statement again; why is it proper to say that if you are more than five, it is all right, but if you are less than five it is all wrong? What is the difference if it is more than four? There has to be some cut off; so what is the constitutional point? The Honourable Member says there must be some cut off. But we are saying that if you answered the needs of the large bulk of people, there would have been no difficulty in changing the legislation.

I, Mr. Speaker, am very concerned that we will now once again find ourselves in a situation where a substantial

number of tenants (and they are not numbered with the wealthy) will find themselves at the mercy of the ejectors in the Law Courts of Barbados every week. The Honourable Members says foolishness. The Honourable Member should be aware that even now in anticipation of this legislation there has been an increase in the number of landlords seeking to eject such persons. The Honourable Member's Ministry would have from me (not only from my own constituency but from every constituency) letters in which I have written about these matters because they come to me in a real way. The Honourable Member must be aware of that. He would see that already in anticipation of this legislation, having regard to the statement in the manifesto of the Government, that landlords have taken the attitude that some of them refuse to consent and have drawn out the procedures. And others just started litigation in the Law Courts about these people. I will deal with that more fully later on. There is no sense saying that. Because it seems to me that the reality is that if there are house spots, either the Government has not been giving them out or it is not geared to deal with the problem; and I can bring numerous letters.

I am not speaking now from emotion. And I can bring numerous letters written asking for house spots for persons who cannot at times afford to buy or who are willing to say to landlords in hard cases that they will get off if they could find an alternative spot of land. So, Mr. Speaker, already even ahead of the legislation having been passed, some of us are being confronted with the problem which this change will bring about in the position of tenants.

Mr. Speaker, it is a mistake for the Government to assume, if it has so assumed, that the tenants who are being affected by these changes are people with money. More often than not they are much poorer than the very landlords whom the Government is seeking to protect. Certainly they are not in the land owning class. That is the first point, and Government must recognise that. So it is not a question of coming in here and pleading for persons who are well off and who are not at the lower end of the economic ladder in this country. There are persons who in many cases will probably find themselves all their lives in debt when they have to raise the money to purchase the lot as well as to improve their living conditions. But they want to improve their living conditions. And all the 1980 legislation was doing was seeking to give those persons every opportunity to have the best living conditions that could be made available to them. 3.55 p.m.

Now, Sir, I am going to revert to the non-plantation situation. But I want to deal with the plantation tenancies and get the argument of the Honourable Member out of the way.

The Government accepts that the legislation of 1980 was beneficial for the plantation tenancies. Of course, I do

not expect the Government to go further and pay us any compliment for the legislation. They must seek to tear down some of it. So the Honourable Member says that it was more an illusion; that there were no proper arrangements for utilities; etc. And I want; therefore, to go back through the history of dealing with the plantation tenancies.

Way back in the 1940s not in 1961 as the Rt. Hon. Member for St. John said the Labour Party included in its Manifesto (I think it was in the 1944 Manifesto; we have a copy in the Archives in our exhibition) an undertaking to make sure that there was security of tenure and of ownership for plantation tenants.

/ We have found among the records of the Labour Party in the handwriting of Sir Grantley Adams the details and his thoughts on the fact that the landowning class was keeping the masses of Barbadians dispossessed, that land reform had to be a major part of any forward looking Government, and that therefore (as long ago as the 1940s - very soon after the formation of the Barbados Labour Party) it was part and parcel of a philosophy and of the goal...

Mr. SPEAKER: I would not allow other Members to interrupt a Member when he is on his feet speaking. All other Members will have equal opportunity to make their contributions.

Hon. H. deB. FORDE: It was part of the philosophy and of the goal of the Barbados Labour Party to make sure that people who lived on the plantations and who had by, virtue of the suffering which they had endured (they or their ancestors) earned the right to own the lots on these plantations.

Now, Sir,

(Mr. SPEAKER ordered that an aside be struck from the record).

Mr. SPEAKER: On what point do you rise?

Mr. J. J. PAYNE: Mr. Speaker, on a point of order.

I think, Mr. Speaker, that the Honourable Leader of the Opposition has made the point and has missed the point made by the Attorney General that this proposed legislation does not affect plantation tenancies and from what he is saying, one would get the impression that we are interfering

•Mr. SPEAKER: Do not make a speech.

Hon. H. deB. FORDE: Mr. Speaker, Sir, let me continue. That is all I will say, Sir.

The position, Mr. Speaker, is that it was part of the philosophy and goal of the Labour Party always to confer on those persons who live on plantation tenancies the right to own the lots which they lived on and the lots which they worked. And that is why when we were returned to power, as the Rt. Hon. Member then said (I think he said it was from September 2, 1976 those were the words he used in his speech) we started to work on making sure that in this our second term in office we would accomplish those objectives.

Now, Sir, the argument which was advanced by the Democratic Labour Party at the time was that they too had it in mind in 1961 but the reason why they had not accomplished it was that they could not get the surveyors to survey the lots. That was basically the speech of the Rt. Honourable Member for St. John. And it did not seem to focus on whether it would have been better to wait until you could survey the lots. But in his speech he stressed the fact that there would always have been some difficulties in giving effect to those goals and objectives and so the Government had to decide whether it was going to act and get on with it.

We decided that we were going to get on with it and we passed the legislation giving the persons the right; simplifying the method of conveyancing and the cost of conveyancing; and, also, simplifying the Town and Country Planning restrictions which would normally apply to development. In fact, I think the words were that we were legislating out those restrictions.

There are several persons who have exercised that right to own their house spots and the agricultural lots attached thereto on the plantation tenancies, and the cost which they have paid for the land has been a minimal cost.

Persons can be more than satisfied, (whether the Honourable Member for Christ Church West Central was willing to concede it or not) that that legislation has been a very revolutionary piece of legislation in the social history of Barbados.

The Honourable Member for Christ Church West Central in introducing this amendment made it quite clear that no-one but no-one can argue against the necessity for such legislation. He made it absolutely clear.

We are saying that it was far-sighted legislation; we are saying that it is legislation that is part of an overall land reform programme for Barbados; and we are saying that it is legislation in the best tradition of democratic socialism, brought in by a party that has never been afraid to take democratic socialist measures when we considered that the interest of the public at large demanded it, whether it is by nationalisation of the oil resources of Barbados (as we

naturalized them when we had to) or whether it is by legislation of this nature which we have passed. 4.05 p.m.

Whenever you objectively analyse the measures that my Government (when we were in power) have taken, they have always been measures inspired by these types of principles and that type of philosophy in this way. Do not mind how our opponents may characterize this, Sir. The words and the actions there speak for themselves.

Now, Sir, we always said that there will have to be a programme for the improvement of all tenancies - not only the plantation tenancies, all tenancies - and indeed before we were succeeded by this Government, positive steps had been taken in some of the plantation tenancies to improve the conditions which exist in those tenancies. I can cite part of Drax Hall although the whole of Drax Hall, whether it is Drax Hall Hope or Mount or whatever it is called- there are about three different areas in Drax Hall - where we started the tenantry road there at a cost in excess of \$1 million in one part of Drax Hall. I can cite that as one area. But there are other plantation tenancies, since the passing of this legislation, in which we have gone in and put in roads; we have put in water; and we have put in other utilities. And by degrees, you have seen that the first people have taken their own initiative and have been converting their homes from wooden in many cases to wall houses, and improving their living conditions in keeping with the social amenities which the Government has been providing for them. So that when they have security of tenure, Mr. Speaker, they have followed this up with positive action on their part.

I was present at meetings of the Democratic Labour Party...

Asides.

Hon. H. deB. FORDE: Yes. I listen. Why not?

Aside.

Hon. H. deB. FORDE:... and I have heard speakers say what is so beneficial about this legislation. You are going to end up paying taxes to the Government in any event and that therefore -I have heard an argument like this from a speaker - the taxes that you are going to pay, the land taxes that you are going to pay, is going to be more than the rent.

But, Mr. Speaker, we would prefer people do not remain in the class of renters, but in the class of land owners and house owners. That is a basic philosophy of the Barbados Labour Party, that, if it were possible we would like to convert every person in Barbados who has a desire to own his own house and home to be a freeholder rather than be a leaseholder; because it gives him a greater stake in the country. And what is wrong in that as the intent of

legislation? The aim was always to make these people, whether they were in the plantations or elsewhere, into freeholders owning their land; owning their homes; being able to use it by way of collateral, if they want to, for improving their conditions; helping their children; raising a loan to educate their children with the security of their houses (as the then Member for Christ Church West Central, Mr. Maurice Ward said rather than come to Members of Parliament or somewhere else and asking you to back a note or to do things like that).

We believe in assuring that every Barbadian has an opportunity to be an owner of part of Barbados in a real sense and to get away as much as we can from being a renting class dependant on the whims and fancies of a landlord or person to tell you to take up your house and walk - what the then Right Honourable Member for St. John (and I recall him very often sitting right over there near to the Speaker talking about portmanteau architecture), described as, "Take up your house and walk."

And I think that we have to get into the concept of our people... (and I am sor/y that this matter has become a political divide) because we ought to get into the concept of people the fact that we have to get more people in Barbados having a stake of the pie. And the pie is not only cash; the pie is land as well. We have to get that into their psyche; we have to get that into their feeling; and we have to give it reality. And that is why every time, Mr. Speaker, I see legislation that would give some reality to that (and I recognize that there has to be a choice sometimes in how you do these matters) I am happy to support the legislation that has that intent and purpose. That was the intent and purpose of the 1980 Act in relation to the plantation tenancies, and it was its intent and purpose in relation to the non-plantation tenancies.

Thus when the Honourable Member speaks of that being an illusion, it is not an illusion. It is a reality, Mr. Speaker. The Government must now continue what we began in that respect by going forward with the provision of tenantry roads; going forward with the provision of street lights; going forward with the provision of water.

Mr. Speaker, Sir, we did it not only through the Tenancies -Freehold Purchase Act; there was also the corresponding Act dealing with the agricultural tenancies which conferred similar rights on those persons who had lived on plantation tenancies to exercise the option to purchase. And therefore they owned the quarter acre, the eighth of an acre, the two roods, three roods, five acres, whatever it is, and worked on their land.

Mr. Speaker, the Honourable Members forget so quickly. But you constantly have to remind the House and remind people of things. We went to the Inter-American Development Bank (and I recall it graphically, Mr. Speaker,

because I was instructed and briefed by the Ministry of Finance to start off the discussions in an informal way with the Inter-American Development Bank) to find sources of financing to enable us to do these developments. And I remember being accompanied by an outstanding Barbadian Economist and Civil Servant, a former Permanent Secretary and Ambassador, Mr. Charlie Skeete to the presence of the President, Ortiz Mena, in order to raise this question of looking for funds to develop tenantry roads. And we got some of it, Sir. We got it in the form (as the Honourable Members for St. Philip North and South will recall) of money to help us to put in the feeder roads and the facilities in some of the very tenantry areas.

Aside.

Hon. H. deB. FORDE: The Honourable Member wants... go and look. Where there were these plantation tenancies and agricultural tenancies... Some are in St. Philip; some are in Christ Church.

Asides.

Hon. deB. FORDE: So you will find, Sir, that we were planning and implementing our plans for making fundamental and sociological changes for the benefit of people at the lower end of the ladder, people who had been dispossessed for years in this community, but who were now becoming land owners in their own right and getting a stake in their country. Those were the persons that we were planning for. It is not an illusion. The Honourable Member is absolutely wrong. It is a reality. And we expect this succeeding Government to honour that commitment.

Aside.

Hon. H. deB. FORDE: They must because we are going to keep the pressure on to ensure that they honour those commitments. And, Mr. Speaker, they have more with which to honour it.

We passed in this House legislation for a Levy. Part of the Levy was to be used for the development of the tenancies. What are the Honourable Members telling me now?

Aside.

4.15 p.m.

The Honourable Member knows and the Honourable Member for St. Peter has before in this House...

Mr. SPEAKER: I would like to ask the Honourable Member for St. Peter not to be so loud.

Hon. H. deB. FORDE: The Honourable Member for St. Peter has formerly in this House read out the list of tenantry roads [And you have it there with you; did you bring it over today?] Otherwise, I will make it a record of the House which has been dealt with as part of the overall development of the tenantry lands by the Barbados Labour Party Government, as part of the overall provision for improving the lot of these persons.

Asides.

Hon. H. deB. FORDE: I cannot accept for one moment, Mr. Speaker, that there is any illusion on the matter whatsoever.

Now Sir, I say that proper arrangements for the social amenities were being put in place. And not only for plantation tenancies but also for the non-plantation tenancies as well. Now Mr. Speaker, I have dealt with the constitutional aspect of this amending Bill. I want to deal with the particular changes; and I want also to deal with the so-called (what the Honourable Member described as) "sources of complaint".

Now the Honourable Member says that one of the sources of complaints are the sub-tenants. We had that as a source of complaint as well and the Honourable Member will find on the file that that problem was being addressed prior to the change of Government. Well, when the Member for St. Thomas speaks (who sat in at Committee Meetings) he will tell you a little bit more detail of it as well. The problem was being looked at in a broader way in the Ministry. I think that it was accepted that sub-tenants were to some extent at a disadvantage - and sub-tenants not only as categorised in this amending Bill but other sub-tenants as well. This deals with what is basically in section 4 of the principal Act. The Government seeks to give to a sub-tenant who:

- (i) has been residing on the lot for 5 consecutive years in the absence of the tenant or in the absence of the spouse, child, brother, sister, or parent of the tenant; or
- (ii) has been residing on the lot of a tenant for 5 out of the immediate 7 years in the absence of those persons; and
- (iii) in respect of that lot is not a qualified tenant.

all the rights which are being given to qualified tenants.

But the sub-tenant has paid rent to the landlord in the name of the tenant or to the tenant. Now we say that is a very limited way of dealing with the problem. The problem is wider than that; I trust this is understood by the Honourable Member.

Let me start off with one of the difficulties the Honourable Member is going to find in the legal field. There is in this legislation no definition of a spouse. If the word "spouse" is construed (the Honourable Member should listen very carefully because this is an argument that he will understand as a lawyer) in the normal usual manner, it will mean two parties who have been married. The Honourable Member will find that in the Succession Act and other legislation when the word "spouse" is being given an expanded meaning to cover the situation of a common-law union, there is a specific definition in the word "spouse". It seems to me you are not going to cover other cases in which there was that relationship that is not clothed with a legal marriage. That is the first point I want to make, Sir.

But also there are large numbers of persons who have gone onto lots also by way of a family arrangement, as it happened for instance at Constant Plantation. I do not want to go further into that matter, Sir, because it is *sub judice*. There are many other situations (the Honourable Member for St. George North laughs) which are not covered here; and I do not believe that the legislation is dealing with the problem in its entirety: the Members will have to cover the case of sub-tenants who have not been paying rent to the tenant themselves, and in cases as well where the tenant has been present, not only where the tenant has been absent. This deals with an absentee tenant - giving the landlord a right where there is an absentee tenant and not where there is a present tenant, and not where there may be some sub-tenants arising out of other arrangements which are being dealt with.

So that the problem of sub-tenants is a problem that was recognised by the Barbados Labour Party Government and it was being addressed.

Asides.

Hon. H. deB. FORDE: The Honourable Member for St. Thomas made the point and I have made the point in this House, Sir. In fact, at the time when we brought down the legislation in 1980 I said on many occasions that we had asked Professor Roy Marshall, a very distinguished Barbadian jurist, to look at the whole area of Landlord and Tenant in order to consolidate our legislation dealing with Landlord and Tenant; to look at the problems that will result from the legislation, and advise us as fully as possible. I had there within the Ministry of the Attorney General the correspondence between myself and Sir Roy in which he had asked to defer that assignment until he had been rid of

his post. He had completed his years, I believe, at Hull or where it was. That request was followed up by the Honourable Member for St. Thomas when he became Attorney General. So Members knew that the Government had not just passed the legislation in 1980 and was leaving the legislation there. It was always intended that the area of Landlord and Tenant would be reformed in its entirety in order to make sure that any contradictions in the legislation will be sorted out.

Asides.

Hon. H. deB. FORDE: The Honourable Member asked whether six (6) years. I will remind the Honourable Member for St. George North...

Hon. B. M. TAITT: On a point of order, Sir. I believe the Honourable Member, the Leader of the Opposition may be misleading the House. He just led me to understand, Sir, from what I heard that he was in contact with Sir Roy Marshall and then that was continued after the Member for St. Thomas became the Attorney General. But Sir, to my understanding, when he stopped being Attorney General somebody else became the Attorney General before the Member for St. Thomas. There was a hiatus then, Sir, in the correspondence. He is misleading the House, Sir.

Hon. H. deB. FORDE: I would like to credit the Honourable Member who has just spoken with an understanding of the rules of the House. But the knowledge he is displaying casts doubt on that, Sir, serious doubt about it, Sir. 4.25 p.m.

The situation was that it was always intended to reform the whole area of the Landlord and Tenant legislation. The area of Landlord and Tenant is a very difficult area in law. I do not believe that we have the overall expertise in this field in Barbados, although we have some outstanding conveyancers among the legal profession, particularly among the former solicitors' branch of the legal profession. I do not think there are many persons, if any at all, in legal practice in Barbados whom we can say are well versed or easily versed in the Law of Landlord and Tenant. And we always recognised that it would have been necessary in this area to have assistance from someone who is well qualified.

Mr. Speaker, we must bear in mind that the common law of Barbados conferred on tenants very few rights. A tenant could be told to move at very short notice. Usually in the case of periodic tenancies - it was a week, sometimes it was a month... Under the Security of Tenure Act of 1955 passed by the Barbados Labour Party Government it then became six months, and then in the 1965 legislation passed by the Democratic Labour Party persons on tenancies of five or more lots were given some security of tenure but

they could be moved by certain provisions. There were 13 cases, I believe, in which they could still be moved, and those on five or less had no security of tenure at all.

All of us had to look very seriously at this legislation, Sir, which began with an Act of 1897. The first bit of legislation remaining on our Statute Book dealing with the rights of the landlord and tenant, is contained in an Act of 1897. That Act had not been seriously revised until 1955 when we passed the Security of Tenure Act. The 1897 Act was more an Act for the benefit of landlords than indeed it was for the tenant, although it was referred to as the Landlord and Tenant legislation.

In 1955 we struck out to improve the lot of tenants, including agricultural tenants. That was the first serious amendment. Another amendment never came until 1965 in the Tenancies Development and Control Act, and an improvement of that legislation and in the position of tenants (and a substantial improvement) came in the 1980 legislation. At that time, Mr. Speaker, we recognised that there would have been a need for continuing improvements in the legislation to be on the side of tenants. The Honourable Member will see that it had been intended to get the expert advice of Professor Marshall on the matter; so that concern of the tenants was one we had in mind as well.

The Honourable Member says that the other concern that the legislation seeks to address was the concern of those landlords who could be dispossessed by the tenants exercising the option to purchase. For the purpose of his argument he classified them into two categories. What he referred to as the commercial tenancy in which the land was rented out for a commercial purpose... It is significant that he has done an intellectual leap, because the Honourable Member for Christ Church West Central is saying that once you are five or more, then that is a commercial purpose. Once you have rented out to five or more, that is a commercial purpose. You are getting the rent; it must be five or more; that is commercial. But if you are renting out five or less and getting rent, that is not a commercial purpose.

Aside.

Hon. H. deB. FORDE: Well, what is the Honourable Member saying? He says they were being dispossessed. There can be no distinction made in my mind in the commercial purpose, whether the rent is received from two tenants or is received from five tenants.

Aside.

Hon. H. deB. FORDE: From one, if you like. I have no difficulty with that as a definition. There can be no distinction. My learned friend, the Honourable Member for Christ Church West Central, would let us believe that the

reason why small landlords rented out their land (what he calls small landlords are five or less - was that they did it for - at one stage he said humanitarian purposes, and the next day he said they wanted a source of income by the periodic payments of rents, but it is a commercial transaction nonetheless)... The transaction has no other signs or taints than the other commercial transactions; and I again ask the Honourable Member what are the criteria. The difficulty I have is to find out what are the criteria that are being used by the Honourable Member in drawing the distinction at five or more, other than the fact that this happened to have taken place in 1965. I cannot find the criteria.

He says that he is going to continue to give those persons on more than five, on six, the right to purchase. Fine. No problem. He is not going to continue to give a similar right to those on five, and I ask the Honourable Member a simple question. What is the distinction? What is the real distinction here? Because the Honourable Member, if he is being candid, must admit that it is an arbitrary "method of looking at this issue. It is not a constitutional point; it is not based on any scientific analysis of the problems in Barbados; and it is not based on any of the sociological implications or aspects of the problem of tenancies.

We have to continue to say this to the Government. The Government knows it as well, because the Government in 1980 and in 1984 was prepared to go along with the Barbados Labour Party Government in the way we approached the problem then. They were prepared to do it. If there was some fundamental, strong and moral and other problem, I could understand what the Honourable Member is saying; but I cannot see the distinction.

Aside.

Hon. H. deB. FORDE: I really am willing to be shown where is the real distinction to be found here.

The Honourable Member said one of the concerns was that landlords lacked capital to develop the lots for sale; that capital was invariably not available to the landlords. It was exactly because of that concern that the Government said (and you will find it in the debate; you will find it in the Ministry of Housing's publications put out prior to this debate in June)... The Government said that if it was going in to develop these areas it wanted to ensure that the tenants had not only the benefit of the roads, the water and the light flowing from public funds, but the Government wanted to ensure that the tenants would own the land. In fact, I believe within the Ministry itself you will find that there is a directive that if you are purchasing the lot, the fair open market price must discount any developments that have been put in by public funds which is fair. But we recognised that in many of those tenancies, whether it is Ashby Tenancy or Thomas Tenancy or any of the

tenancies of Bynoe Land, in my own constituency, that where public funds were going to be put into the roads it was only fair that the tenants should feel that they had a longer security of tenure, and that they could go on if they wanted and start converting their homes into wall, or improving their very lots. 4.35 p.m.

If it is of concern, I believe that the Government is not viewing that concern in the right perspective that one would expect this Government to bring to this problem. The Minister in explaining the position said that another source of dissatisfaction was that a notice to purchase was given to the landlord, the landlord would take action to put in the services and, then the tenant would change his mind and would not complete the transaction. Once again I am going to take the Minister at his word. I am not misleading the House. I would like the Minister to tell me how many such cases they have on their files of tenants giving a section 2 notice to a landlord and then changing his (the tenant's) mind as regards purchasing, particularly after the landlord put in the roads, water and light. I am using the Minister's words, Sir. The Minister said that this is a source of dissatisfaction.

Mr. SPEAKER: How many speakers do we have in this debate at this time?

Hon. H. deB. FORDE: I am using the words used by the Honourable Member for Christ Church West Central who introduced this Bill. And I am looking at his concerns to find out how genuine these concerns are. He went on to say that this is because there was no provision requiring the tenant to complete, and that the legislation was defective. I am going to say, Sir, that if a tenant gave a landlord a notice under the relevant section of the legislation that he wished to purchase, once the landlord had accepted that notice, in law there was a valid contract and it did not matter one wit whether or not the legislation contained a specific provision requiring completion. Because any landlord who wanted to enforce that contract could get specific performance of the contract through the courts of law. It is not a defect.

If the Government introduces this Bill on these types of concerns which turn out to be illusions rather than real concerns, then I say the Government has not given proper consideration to the legislation at all. I am quoting the exact words. I was careful to write down those words; and he said there were a lot of notices given where landlords had refused to complete. Now in my view again, Sir, if this has happened, the tenants in law still have the right to enforce completion. It is not because the legislation is defective. It may well be because people have not followed up on enforcing their legal rights; but that is not a defect in the legislation.

Hon. M. A. KING: Oh a point of elucidation, Mr. Speaker, the Honourable Member has said that I have made the point that where landlords have refused to complete on receipt of notice by the tenant the tenant obviously can take measures to enforce completion of the transfer. I did not deny that that was so. In fact what the legislation does do is to provide to the tenant the right to send what is called a form 2 notice to the Registrar of the Supreme Court, and the Registrar by law under the provisions of the 1980 Act is called upon to take all necessary steps to ensure that the transfer to the tenant is done. So I cannot understand what the Honourable Member is saying; the suggestion that I have said that there is some difficulty created for the tenant to get a freehold...It could never be so.

Hon. deB. FORDE: I am glad that the Honourable Member, in explaining himself, has now clearly explained the law as I understand it. The Honourable Member said it was a source of dissatisfaction; that is what I understood him to say in his speech; and he is now *ad idem* with me on the law. In fact he has gone even one aspect of the matter further than I had adumbrated a while ago. He has now said that there is a duty on the Registrar as well to ensure that the legislation was enforced and that the tenant would not be inconvenienced. The law itself contained that provision - good legislation.

Now, Sir, the other concern which the Honourable Member addressed was the refusal of prospective landlords to rent land out any further, and this caused added pressures on the Ministry of Housing and Lands and the National Housing Corporation. Once again it is a general statement. I have heard that statement trotted out on many occasions in this House. My experience as a Member of Parliament has been that there is more pressure coming from circumstances in which landlords want to eject tenants. And they will continue building more pressure (now that the legislation is coming) on the Ministry than I have found from people refusing to rent land for the future. I do not know. The Minister has not given us the figures. I would like to hear what those figures are. The Honourable Member should let us have the figures; tell the House the figures; let us see them documented and give us on this side the number of cases in which the Ministry's help has been solicited for those persons whom landlords were still seeking to eject, despite the fact that we were giving them the protection of the 1980 legislation.

I am not going to use the Rules of this House to document the names of any persons without having given you the appropriate notice. But my constituency files are replete with the cries of tenants who have been suffering from the deficiencies in the legislation prior to 1980, and are continuing to suffer now, because people want to eject them where they have not got the financial resources to exercise an option to purchase. That has been my experience and I

have only come across in my own constituency two cases in all of the time of any landlord who has complained about the right to purchase having been given to the tenants. I only know of two cases in the whole of Christ Church West in which I have had these complaints. And when it had been explained to them that, after all these people wanted to improve their lots, some of them have asked whether in those circumstances they could be located in a particular position. That has been my experience. But if the Government has the information, let them make it available to us.

Now, Sir, the Honourable Member went on from there, in commending this bit of legislation to the House, to speak about the undertaking given in the DLP manifesto to correct disabilities; and it is very significant what he said. He said that the landlords were crying out. 4.45 p.m.

Aside.

Hon. H. deB. FORDE: The Honourable Member said that they were crying out for these disabilities. I have to ask the Honourable Member...and that they undertook to obviate the popular dissatisfaction of landlords. What about the popular dissatisfaction of the tenants?

Hon. M. A. KING: Mr. Speaker, on a point of elucidation again. I must elucidate again on this point.

The Honourable Member has spent his whole speech trying to tie this Government to the side of the landlords. That is the only point you can make about this legislation, so you are getting highly emotive about it and trying to make a big political issue out of it. But the fact is, Mr. Speaker, the point I made in my speech and about which there should be no misunderstanding whatsoever, is that this Act affected landlords, yes. It also affected tenants because it created great problems for the tenants in being able to secure lands to put their houses on. And anybody who has assessed my speech carefully and has understood it and cared to reflect honestly on it, cannot but recognize that I articulated clearly and unambiguously the problems which affected tenants as well as landlords, and the poor landlords at that, not the rich ones.

Hon. H. deB. FORDE: The Honourable Member did not say the poor landlords or the poor tenants. What is he saying, that it is affecting tenants, Sir? I asked him. I was just going through the reasons. He said that there was a refusal of prospective landlords. The Honourable Member sat down without saying there were 10, 20, 10 000, 1 000 500.

Aside.

Hon. H. deB. FORDE: The Honourable Member for St. Michael West will change the number according to

the hour at which he speaks; so I do not accept it from him, Sir.

Hon. B. M. TAITT: On a point of order, Sir. Since I have not spoken...

Mr. SPEAKER: That is the point. I wonder...

Hon. B. M. TAITT: On a point of order, Sir. I have not spoken and the Honourable Member is putting in the record, casting aspersions on my character, by saying that I would change depending on the hour.

Mr. SPEAKER: No. I do not think you could make that statement.

Hon. B. M. TAITT: He said that I would change the numbers according to when I speak, Sir. If he said that, he could only mean that I am like somebody that would change colours according to the time of the day, and I therefore wish it withdrawn, Sir.

Mr. SPEAKER: That may be your interpretation. I would not take it in the light...

Hon. B. M. TAITT: Oh, Sir. As long as the chair recognizes and accepts that I am an honest man that is all right with me.

Mr. SPEAKER: Precisely.

Hon. B. M. TAITT: Away with the Leader of the Opposition.

Hon. H. deB. FORDE: Anyhow, Sir, I will wait for these figures before we finish.

The Honourable Member went on to say then (and I have that written down as the Honourable Member for St. Thomas has it) that it was not the device used with what is referred to as the Section 36 procedure (now Section 2) and that it was unconstitutional. Those are his words. It is not unconstitutional.

Now, Sir, in dealing with the specific Resolution...

Hon. M. A. KING: I think the Honourable Member will recall again, if he recounts my statement accurately, that I said that, in relation to that section, there was some doubt as to its constitutionality, and that the Government of the day put in the clause to seek to ensure that the issue of constitutionality did not arise in the Courts.

I even added that the issue could probably be argued but was never, in fact, tested in the Courts. So the Honourable Member is trying to put words in my mouth that I made a categorical statement that there was nothing

unconstitutional about it. There was no such categorical statement. It was a very guarded statement in which I adverted to the possibilities and even made the point that it was not tested in Court, so the issue was settled by litigation.

Hon. H. deB. FORDE: Mr. Speaker, Sir, I understand the Honourable Member to now admit that the device of clause 36 in the 1980 Act is a device which has commended itself to him as principal legal adviser to the Government and which he is himself now using in this Bill and also to be now admitting, as far as I see, that the procedure adopted was in keeping with the Constitution of Barbados.

Now, Sir, I want to get to the specific provisions of the legislation that the Honourable Member dealt with, Sir. I suppose this is a major change that the Government is implementing here; and he summarizes it in admitting that the Government is taking away rights from tenants; and it is doing so, as he explained, by virtue of a redefinition of the word "tenantry" by Section 2.1 am not misquoting now. It is taking away tenants' rights. That is the position that it is doing here by this Bill.

Hon. M. A. KING: Mr. Speaker, on a point of elucidation again. I hate to have to rise every moment like this; but if the Honourable Member continues to misrepresent what I said, I will have to rise on every occasion.

The Honourable Member stands and repeats moment after moment, "The Honourable Member for Christ Church West Central has said that this Bill is taking away tenants rights." Now, if you leave that as a false statement, it can be very misleading.

I have said that it is modifying tenants rights in certain respects and I have said, modifying rights not of all tenants. The way the Honourable Member, in making his statement, is indicating to all that I am saying that the rights of all tenants from here on are affected. That is not so; and that is the point which the Guttaperk people and all of them will pick up and run with to the end of time: "Attorney General says that all tenants rights from hereon will be removed." That is not so; and we should not play to the gallery and to the public on emotive political issues-. Quote me accurately. The rights of tenants in certain restricted areas are being modified. 4.55 p.m.

Hon. H. deB. FORDE: Mr. Speaker, Sir, what is the extent of the modification of the rights of tenants on lots of 2 or 5 of which the Honourable Member speaks? He is taking away the rights of those tenants to purchase the lots on which they live. And he is taking away from them...

Asides.

Hon. B. M. TAITT: On a point of order, Sir. The Honourable Member is misleading the House. What he is

doing now is taking a particular point and reversing it in such a way as to make an original point.

What the Attorney-General said is that they took away the rights and the people having been given rights that were taken away, he is now restoring them. But out of an abundance of caution, he is ensuring that if they believe rights were taken away, they are providing something else. And that is as clear as a bell. He is misleading the House.

Hon. H. deB. FORDE: Mr. Speaker, Sir, if the Honourable Member has not spoken, he cannot elucidate any speech that he has not made. It would be for the Attorney-General to get up and elucidate.

I am saying that the effect of this legislation is that he is taking away the rights of tenants - existing rights of the tenants - on 2 to 5. That is what I am saying. And that is the effect of his speech as well in interpreting the legislation. What is the Honourable Member going to say? That is the effect of his speech, Sir.

Asides.

Hon. H. deB. FORDE: Now, Sir, he goes on to say that they are dividing up these two...I do not recognize, as the Honourable Member is going to say... The Government could shout. Get up 50 times. They are going to have to listen because I intend to exercise the right that you claim for me in here to make a speech.

Asides.

Hon. H. deB. FORDE: They could interrupt 50 times, I intend to make the speech.

Aside.

Mr. SPEAKER: I will certainly have that withdrawn from the Record.

Hon. H. deB. FORDE: The Honourable Member has the habit of believing that everybody follows him, Sir.

Laughter.

Hon. H. deB. FORDE: Now, Sir, the Honourable Member says that the legislation makes this distinction between those who have not exercised the option (they will lose the right) and those who have exercised the option but the landlord had refused; they too will lose the right. Then he characterizes them into those where the option has been exercised and the landlord has refused...there will be now requirement the to convey. But those who have exercised the right and the landlord has agreed - no problem. Conveyance will take place even if they are in the class of 2 to 5....And those who have made substantial improve-

ments regardless of whether, I take it, the right has been exercised or not...

Now I want to deal first, Sir, with those who have made substantial improvements, once again, to show you the arbitrary and unscientific manner in which this problem has been approached.

The section defines "substantial improvements" as meaning:

"construction in stone, brick or concrete, of a dwellinghouse or part of a dwellinghouse and includes the construction of water borne toilet facilities."

Let us assume, Mr. Speaker, that you have five tenants on an area of land (as happens in some of these tenancies); one has what we refer to in Barbados as a "chattel real" worth, let us say, something like \$50 000 - a substantial house made of wood, of brunizem (whatever you want) designed as a bungalow; next door you have a person who they has not built a toilet of wall; next door you have a person who has built a toilet of wall; let us say it costs \$15 000, if the Honourable Member wants to be happy with fifteen...well costs \$5 000, \$20 000, if he wants to be happy, whatever figure he wants; next door you have a person who has gone ahead with or without the consent of the landlord and built a toilet of wall. The effect of this legislation is to say that the person who has built the toilet of wall, even if their house may be less valuable and he may have built it last month...that their right remains intact, but the one who has gone ahead and used the money for other substantial improvement, their right is taken away. The point is, Sir, that that is the effect of the legislation.

I am saying that the definition of "substantial" in here...

Asides.

Hon. H. deB. FORDE: The Honourable Member apparently does not go around all the tenancies that I go around.

Laughter.

Hon. H. deB. FORDE: The Honourable Member ... there is another Honourable Member and I who go around similar tenancies.

Laughter.

Hon. H. deB. FORDE: I would not bring him into the debate, Sir.

Aside.

Hon. H. deB. FORDE: All the tenancies. But on a serious note now, Sir. I am concerned about the way in which this exception is being introduced because in my view, it fails to advert to a substantial number of persons who have made what, in my view, I consider substantial improvement to their living conditions and will now lose the benefit of all that. That is one criticism I have on that, Sir.

The other criticism I must make, Sir, is that where the tenant, in my view, has taken the trouble to exercise the option to purchase, the fact that the landlord has refused, should be irrelevant at this stage. The Honourable Minister, when he spoke, admitted that the legislation placed an obligation on an official of the Government to take various steps as well to ensure that the tenant got the conveyance, et cetera. That much is clear.

And it seems to me that it would be much more humanitarian and much more scientific in these circumstances that, whereas the tenants have already, prior to the commencement of this amending legislation, on the assumption that it is passed by both Houses, where the tenants have already exercised their option, that those tenants should not be penalized, and that there should be no distinction made in their cases merely on the ground that a landlord has refused. It does not seem to me that that is fair or humanitarian...if the distinction is going to be made between them and other persons.

Now, Sir, the Honourable Member goes ahead to deal with the statutory duty being placed on the Crown. Before I deal with that, Sir, I want to deal with the moratorium. There is to be a moratorium of five years during which the tenants on lots between 2 and 5 cannot be moved. The legislation automatically determines that tenancy at the end of that five years.

I do not believe it is necessary to have within the Bill any specific provision determining the contract of tenancy. If they wanted to secure the tenant for five years, all that was necessary is a provision in the Bill putting in that limitation on the right of the landlord to eject prior to the five years. There was no provision for an automatic determination at the end of the five years. That is so. Let me get the exact provision.

Asides.

Hon. H. deB. FORDE: The provision, Sir, is the new Section 4C :

"Subject to Subsection 2 no tenant referred to in 4(a) shall have his contract of tenancy determined by his landlord within a period of 5 years from the date of the commencement of this Act." 5.05 p.m.

So for 5 years the landlord cannot, subject to any agreement made between the landlord and the tenant, end

the contract: but where after a period of 5 years from the date of commencement of this Act a tenant referred to in Section 4(a)(1) is still residing on the lot in respect of which he was a qualified tenant prior to the commencement of this Act, the contract of tenancy between the tenant and his landlord determines.

So the contract of tenancy will determine after the 5 years. I consider that that second Sub-section is totally unnecessary. If the landlord wants to determine it after the 5 years, then the landlord would be able to take the normal steps available to the landlord at law to determine the contract of tenancy.

Asides.

Hon. H. deB. FORDE: Well, I must obviously misunderstand the language. So that in my view, Sir, I would seriously urge the Government to think again about that section. Because it is once again putting limitations on those persons who reside on lots of 2 to 5 and undermining still further their rights. You can call it modifying, repealing, taking away, whatever you like. The point is that it is hurting them even still further under that section.

The moratorium for 5 years is to be welcomed to the extent that it gives them some breathing space. From my party's perspective this is not enough, Sir, because I go further and say this, Sir. Let us make the assumption that the Government does not intend to give such tenants the right or option to purchase. Why is it not possible to confer on them likewise the same rights as are now conferred on tenants in relation to security of tenure not the right to purchase as is given to tenants under the Tenantry Control Development Act?

Now Sir, the Crown undertakes in this legislation on the determination of the tenancy to offer the tenant a contract of tenancy on such terms as are no less favourable than those that existed in relation to the tenancy referred to in the first Sub-section of 4(c). But Sir, the person must now exercise that right within 2 years. If they do not exercise it within 2 years, that is the end of their right to get land. They only get an entitlement to make a claim against the Crown for compensation. Now let me ask the Crown this. Why must there be a limitation of 2 years? It may well be (and I think it is conceded in the Minister's statement) that the Crown has not got enough spots or is not anticipating that it will have by that time enough house spots available.

Asides.

Hon. H. deB. FORDE: Two years is not enough time. I want to hear a positive statement, Sir. I want to hear a very positive statement that they will have it, Sir. Because from my own constituency (I can let them know now) they will be flooded out. They will be flooded out from my own

constituency because I have the position, Sir, where even when now you ask the Government to provide the house spots for instance in Simmons Road you don't get an answer. Do you want to know what happened? The most that you will get is a formal letter acknowledging receipt of your letter. You never get a substantive answer. That is what happens.

' Asides.

Hon. H. deB. FORDE: The appropriate department of Government... But the Honourable Member *sotto voce* says that I get an answer.

Asides.

Hon. H. deB. FORDE: I am not saying that I have not got an answer. If I speak to the Minister on any matter and he gives his word, he will follow up on it. But I do not think, Sir... No matter how much they heckle me in this debate I am not unfair in the way I debate, Sir.

Asides.

Hon. H. deB. FORDE: But the point remains that if we are going to continue with the circumstances, all that you are going to get when you make representation in these cases, when the tenants themselves cannot get past... all you are going to get is a standard form letter acknowledging receipt and no more; then this legislation will not be worth anything at all. What I would like built into this legislation if the Government is undertaking an obligation, is a right of the tenant not to get an alternative of compensation, but at least for a security of tenure to continue until such time as the Government could provide a house spot for them, Sir. That is what I want. Now if this is done then at least I can say that we are going some way to answer the respective concerns of various persons. But in many of the instances to give these persons the money is not going to make much difference. They still have to find somewhere to take up their portmanteau houses to put them. I am not satisfied that in many instances that they are going to be able to buy a house spot from somebody, Sir. I am not satisfied.

Asides.

Hon. H. deB. FORDE: So that what I am suggesting to the Government, if it wants to improve the legislation, is not to put in the legislation a limitation of 2 years but rather to let the Government and the Crown accept an obligation to provide a house spot for those persons. You see if the Government had the concern, there was a way of the Government placating the small number of landlords who may have protested to them by giving them alternative lands. I think it might have been easier to have given them alternative lands. If the Government had come in here and asked for the Opposition to vote with them to give the

landlords, - the few landlords who complained - alternative lands in the heights, terraces, wherever they want, the Government probably would not have had this sort of complaint from us. But where they are going to say that we are going to determine your contract after 5 years automatically and then you have 2 years to say to the Government, "I want an alternative spot"... If the Government cannot give you the spot in those 2 years, you only have a right to get some money which you can exercise. I am going to appeal to the Government again to extend that right for the tenant, Sir. 5.15 p.m.

Sir, I want to deal as well with subsection 4C(4). Nothing in the section affects the right of the landlord in the meantime to exercise the right of determination under section 12. As I understand it, therefore, the security of tenure for five years is likewise conditional on the landlord not exercising his right under section 12 of the Security of Tenure Act. What I want to suggest to the Government on this part of the Bill is that at least the minimum we would expect is for them to equate the rights of these tenants on five or less in respect of security of tenure with the rights of those on five or more, and that the tenants should be given the protection of the Chapter 239, which is the Tenancies Control Development Act.

Now, Sir, the Honourable Member goes on to talk about the other provisions in the Act. In so far as these provisions may be an improvement in helping the Ministry to obtain the relevant information, I have no quarrel with those - so far as they provide the information. Because it seems to me, Mr. Speaker, that a good deal of the problems come from the lack of adequate information within the Ministry itself.

I am aware that for several years now this problem of the tenancies was being addressed. But despite the fact that there have been several studies on it (a committee under J. C. King looked at tenancies back in 1961 -62 - 63; we have had committees under Sir Carlisle Burton, under Mr. Branstone Collymore, under various Town Planners or Assistant Town Planners, and everybody has attacked some aspect of the matter) there still seems to be a lack of overall comprehensive basic information to help inform this House as to what comprehensive legislation is necessary to give adequate safeguards to the rights of tenants.

I can have no quarrel with any requirement which is not over-burdensome, which may contribute to improving information - gathering in the Ministry. But as to the substance of the Bill, I find it very difficult to agree that the priorities set here are correct so far as the Government is concerned.

For these reasons, Sir, I will find it difficult to support the provisions of this Bill which deal with emasculating the

rights of the tenants on lots of two to five. I trust the Government, when it gets into the Committee of this House, will give consideration to some of the points raised, particularly in relation to the determination procedures, particularly in relation to extending the rights of the tenant until such time as an alternative lot can be provided. I trust they will give consideration to those specific provisions as adumbrated in my speech, Mr. Speaker.

Hon. H. A. BLACKMAN: Mr. Speaker, there is a certain element of difficulty in responding to such a long discourse in a short period of half an hour. But I will try my best to respond to most of the statements made by the Honourable Member for Christ Church West.

I am a bit amazed, Mr. Speaker, when one of the great defenders of "landlordism" in Barbados suddenly becomes a defender of the tenant. One should not change one's attitude in consonance with where they are. The point that has to be made here is that the Honourable Member for Christ Church West asked a lot of questions. Among the questions that he asked was did we have the number of tenants we were catering for? Did we have the number of landlords who we were now giving back this benefit to? I will ask the Honourable Member, through you, Mr. Speaker, if at the time when this Bill was brought to this Honourable House in 1980 they had the number of tenants who they were helping and the number of landlords who they were dispossessing. That is the question I would like to ask.

Mr. D. A. C. SIMMONS: On a point of order, Sir. The First Schedule to the 1980-53 Act sets out all the plantations in this island and the tenants on those plantations. Obviously, all those.

Hon. H. A. BLACKMAN: Mr. Speaker, it does not. The Honourable Member is misrepresenting the facts. I will continue, Sir.

Mr. D. A. C. SIMMONS: On a point of order, Sir. They wanted the actual figure? Three thousand.

Mr. SPEAKER: May I intervene here? You made a point of order and you sat down. The Honourable Member said three words and then another point of order. It cannot be a point of order.

Hon. H. A. BLACKMAN: I am glad the Honourable Member said 3 000 plantation tenants, because this is where I am coming from now. The reason why we had to come here today with this amendment, Mr. Speaker, is because a Government came to this Honourable House hot and sweaty in 1980-81 just before the General Elections without any thought of what was going on, and in fact, my reading of the situation was that this Bill originally was for plantation tenancies only. And in fact I am going to prove that I am

right. I am going to put it into perspective. The mover of this legislation in 1980, Honourable L. S. Craig, from his speech clearly was speaking about plantation tenancies. He said... 5.25 p.m.

Mr. SPEAKER: Just give the year of the debate.

Hon. H. A. BLACKMAN: This is a page 4281 of September 23, 1980. This is what Mr. Craig said:

"Mr. Speaker, the legislation which seeks to have Parliamentary approval this morning has a long and interesting history. In 1976 when the present administration assumed the duties of governing the country, one of its Manifesto pledges, Sir, was to make sure that the rights of the plantation tenants to live on the plantations be secured and to be given that opportunity to purchase, etc.". Plantation tenancies. We did not object to that because as far as the Bill was concerned, we were in total agreement.

Hon. H. deB. FORDE: On a point of order, the Honourable Member has read only a part of the speech of the then Honourable Mr. Craig. Mr. Craig at page 4282 spoke of non-plantation tenancies and gave the Government's policy in relation to it.

Hon. H. A. BLACKMAN: The Bill applied to non-plantation tenancies? Further in the speech, Mr. Speaker, the same Honourable Member who introduced the Bill said: "Until this very day persons living on plantation tenancies still do not have the right to purchase the land." And to all of that we agreed too because we said that this Bill was okay as far as plantation tenancies were concerned.

I am still going further. Further down in the speech he said: "In 1980 the Government therefore set about to guarantee that after so many years of work on the plantation that the very last nail be removed once and for all..."

Further down, Mr. Speaker, he said: "A team led by a sociologist from the Housing Planning Unit of the Ministry of Housing set about on its task to seek out and to search out the problems which the tenants living on the plantation had."

Mr. Speaker, I am not going to read all, but throughout this, the mover of this Bill was of the view that this Bill was for plantation tenancies. We agreed with that, we still agree with that.

I go further. The administration at that time, in September 1980 just before 1981, realised that there were more tenants than there were landlords, and they have always been obsessed with numbers. And that is why you are hearing him today asking for numbers, how many this, how many that, how many the next. That is a numbers administration. They, obsessed with numbers, realised that

there were more tenants than there were landlords; so they said, "Okay if I can make this Bill rope in the tenants, there are probably about 8 000 tenants, there are only about 40 to 50 landlords, and we would get 8 000 more votes." And this is why I say this Bill was hot and sweaty, and the only reason for it was because it was just before elections and they felt that they could fool the tenants.

Now by the time the election came around, they won, because the tenants did not realise what damage this Bill was doing to them - neither the tenants nor the landlords. The landlords did not understand that they would now have to give up most of their rights to the land they had owned, and aspiring tenants did not understand that from henceforth until we come now to change it they would have had extreme difficulty in finding house spots.

Mr. Speaker, let me tell you, in all the talk that went on here today, by 1984 when the effect of this Bill had gone through the community, landlords and tenants, the number of applications for house spots at the National Housing Corporation had gone up by 307 per cent in three years. That is the extent to which this Bill disadvantaged aspiring tenants, and the National Housing Corporation has not recovered since. You know, Mr. Speaker, that before this Bill was passed you could go and get a house from the Lumber Yard and pass by John Brown and say "Skipper, I want to drop my house here; give me a little scotch here." All this scotching is finished. By the time this Bill was passed, the scotching had finished and the National Housing Corporation was under pressure from then until now. You cannot even graze a sheep on a man's land; not now; so you have to understand.

Mr. Speaker, I am going to continue. Up until 1980 every tenant on land in Barbados was deemed to have entered into an agreement with his landlord even if they passed and told you "Skipper, let me drop my house here for a while.". We deemed that an agreement. It has always been the contention of this Democratic Labour Party, of this Government, that any form of legislation which involuntarily breaks a lawful agreement or contract by the unilateral imposition of any act or deed to the detriment of either of the principal parties without negotiation, without determination or without any sort of compensation is contrary to the law of equity, and that is where this administration stands. All we are doing today...

Hon. H. deB. FORDE: On a point of elucidation, the Honourable Member must therefore, if he is logical, understand that there is no distinction in equity (and that is the point I was making) between saying that you are imposing the right or the option to purchase where there are six people and you are imposing the same option to purchase where there are five people. What is the distinction in equity?

Hon. H. A. BLACKMAN: I am not a lawyer and I do not pretend to be a lawyer. All I know is that you all took away the right from people and all we are doing is restoring the right. I am not getting into the law because I do not know any law.

Anyhow, Mr. Speaker, I will continue. The Honourable Member for Christ Church West said that his understanding of the problems of the National Housing Corporation today is that the majority of people who are applying for house spots have been people whom landlords are trying to eject. Now, Mr. Speaker, if the Honourable Member said that they passed a law that the landlords cannot eject you or cannot eject you anymore, it is stretching the imagination to believe that the majority of people who go to the National Housing Corporation are people whom landlords want to eject when they passed a law saying that they cannot eject you. If the law says you cannot move the people, the majority of people going to the National Housing Corporation are not people whom the landlords are trying to eject; the majority of people going to the National Housing Corporation are people who have houses, in some instances the houses are lying on the ground and they cannot find anywhere to put them. That is the problem. So don't let him fool anybody. In fact, he said that there are only two in his constituency and still turned and said that we would get real pressure from his constituency. In this thing you have to remember what you are saying. This is what I meant when I talked about the Government taking decisions hot and sweaty, without thinking out what they were doing.

Mr. Speaker, contrast this Bill with the Constitutional amendments. You will recall that they railed against the Constitutional amendments in 1974, and then they took this administration for ten years and did not have to come back in here and change one jot or tittle. That is what you call thinking out what you are doing before you do it. You do not disadvantage any person. They railed against the Constitutional amendments and came in here and could not touch them for ten years and they are still how they were when they were passed in 1974. But this Bill disadvantaged people and therefore we had to come back and right the wrong that was done.

We have no quarrel against this Bill as far as the plantation tenancies are concerned. There is nothing wrong with that. People who live on plantation tenancies for years, like my mother and my father, I believe should qualify for the land. In fact they should be given the land. People who have lived on land for 25, 30 and 40 years should be given the land. But you cannot tell a man or any person who through the goodness of his heart decides to allow you to rent his land, when he wants it, that he cannot get rid of you. That is what we are correcting. We are therefore correcting what was wrong.

Mr. Speaker, even the Rt. Hon. J. M. G. M. Adams in his speech in 1980 seems to have been convinced that it was to do with plantation tenancies as well, because throughout his speech he was speaking about plantation tenancies. He even gave a history that he was born on a plantation, Adam's Castle, Thomas Adams, all sorts of things here. So he, too, was of the view that this was basically for plantation tenancies. That is why I am saying that it was only an afterthought with elections around the corner that they decided, "We better do this." 5.35 p.m.

Now, I go further to show why I believe, and why I am convinced that this was a hasty Bill brought to Parliament. This is a file here, starting April 24, 1981, "Plantation Tenancy Scheme - Legal Aspect". And let me tell you, this is the Bill that they are making so much fuss about and this is why I am telling you it was a hasty piece of legislation that they brought here.

In Minute No. 10 they asked for a change, Minute 55, Minute 48, Minute 142 - all of these are changes they had to go back to Cabinet to get changed in order to get this function. Minute 146, Minute 148, Minute 158, Minute 168... And I am going to read Minute 168 for you:

"The Cabinet noted the opinion of the Crown Law Officers that to enact this Bill which had been prepared with its previous decision..."

You go ahead a little further down.

"...would touch on the landlord's freedom of property as guaranteed by Section 16 of the Constitution."

Then the final paragraph:-

"The Cabinet concluded that the Bill should not be proceeded with at this stage but that other means should be sought to enable sub-tenants by voluntary arrangement to purchase the freehold of their lots."

I am saying that this was about the tenth time you had to go back to Cabinet to change. Therefore, it was not thought out. This was the tenth change you had to do and in this tenth Cabinet probably said, "Look you are coming back here too often. Let us try to see if we can find a way out of this without us making a decision." That is what it was. So do not come in here and tell us about this big set of terrific social legislation and things like that because you were disadvantaging people.

They are giving the impression that there are big landlords that they were talking about. The big landlords are on the plantations'. They were talking about small people who only had three or four lots, little spots for their houses,

small spots for their children. These are the people that we are talking about, small landlords so the point is that they cannot come in here and say that we are for the landlords.

Asides.

Hon. H. A. BLACKMAN: We are for the small landlords, if you want to put it that way. We are for the tenants and the small landlords. You are for the big landlords, the plantation owners. That is all it is.

We cannot follow the point that because we are restoring a right to landlords, to people from whom you took away rights we must be seen as people who are catering to landlords. We have always been a party that has catered to the poor people of this country - always, and will always be, and you know that too.

The point is, (and I heard one of them today say - one from that side) that they are going to go on the platforms and tell the tenants what we did to them. The tenants know that. I heard him. He said that they are going to go to the tenants and tell them what we did to them in this Bill.

The tenants have already heard that because, as I told you, after this Bill had worked through the system between 1981 and 1984, they got three seats in 1986. Not a landlord nor a tenant voted for them. It was a campaign issue. So if you want to go back on the platforms again with it, go back. Go back on this issue and lose the three that you have now.

The Democratic Labour Party in its Manifesto on Housing in 1986 said:

"We will amend the Tenancies Freehold Purchase Act in a manner which will obviate popular dissatisfaction with that Act, and which will give sub-tenants similar rights to tenants, whilst preserving the primal intent of the present legislation."

That is all we are doing. You went to the people on-it; we went to the people on it, and the verdict was 24:3. Go to the people again and see if this time they will go back the other way. That is all they have to do.

I believe, Mr. Speaker, that we should be serious when we are looking at these things. We are not taking away any right from any person. We are restoring the situation how it was before and we are going to get difficulty now.

You see, Mr. Speaker, we cannot even say that now we have restored the thing the way it was, the landlords will start renting out lands again. Because the landlords are scared. So that is why the Government is under so much pressure. The landlords will never make that mistake again. And that is the pressure that that Government has put us under.

Another point, and now I turn to the Bill itself. There are certain points that the Honourable Member for Christ Church West made. The first thing he said was that a chattel house was \$50 000. I do not know which chattel house would cost \$50 000 because that is misunderstanding -the meaning of chattel.

He said that substantial improvements can mean (well, in my view he did not spell it out) probably a fellow putting on a shedroof or something like that. But would you believe that in this Bill we went on to explain what we meant by substantial improvements. You would never believe it.

We said, "substantial improvements" mean the construction in stone, brick or concrete, of a dwelling-house or part of a dwelling-house and includes the construction of water borne toilet facilities." We said what we meant; but he was speculating. With this \$50 000 chattel house people would carry out substantial improvements, not including any of those that we said were substantial improvements, - none of those.

Further down, Mr. Speaker, he said that the Government has two years to provide house spots for the tenants. Now, if you read this in relation to those persons who are being dispossessed, the landlord cannot determine their contract within five years; and then they had two years to apply to Government. So the Government actually has a five year period to look for land. It is not a two year period.

We can start from now looking for land so that at the end of five years when the contract has been determined by the landlord, you will have the lots available. It is not two years that you have to find all of those lots. And, furthermore, all the lots will not come on stream all at once. 5.45 p.m.

A few questions were asked, Mr. Speaker, about the number of tenants in the registered tenancies that will be affected. The number I have been given is around 180. Obviously, there will be more applications, a few more coming in between now and when the Act comes into force. But at the moment, Sir, 180. So I do not see what the big noise is all about.

The number of tenants lodging complaints about evictions and Form 2 Notices in the tenancies of less than six lots are 90 approximately, the number of tenancies 4, and the number of lots 2. And the tenancies have been set out here, Church Village and Vauxhall, Spooner's Hill and things like that.

Asides.

Hon. H. A. BLACKMAN: Anyhow, Mr. Speaker, I think that I have covered most of the points made by the

Honourable Member for Christ Church West. I think that this Government has to be congratulated on the step that it has taken today; it has honoured a Manifesto pledge. And I should like to say here, Mr. Speaker, that I was at home some time I think last week and I got a telephone call and the gentleman told me...

Asides.

Laughter.

Hon. H. A. BLACKMAN: ...(my home)... that he heard that we were coming to Parliament with that Bill and how pleased he was; he felt as though he would have jumped out of the car when he heard it.

So I believe the Democratic Labour Party is doing the right thing. It is not removing any rights from anyone, it is restoring the rights to people who had their rights taken away.

Thank you, Mr. Speaker.

Applause.

Mr. D. A. C. SIMMONS: I do not have to think, I know I was home every night last week.

Laughter.

Asides.

Mr. D. A. C. SIMMONS: Mr. Speaker, I went on record earlier this year in the press as recognizing, acknowledging and admitting that the operation (not the conceptualization) the operation of the Tenancies Freehold Purchase Act, 1980 did create some hardship both for landlords and tenants. I do not now six or seven months later intend to reside from that position.

Indeed I spoke with the Honourable Attorney-General himself one day and told him that I fully recognized that there were problems in the way the Act was working. And I freely admit that there is and was need for an amendment.

I am not satisfied however that what we are debating today meets the problems that have been thrown up by the legislation or indeed that we needed to go as far as we have gone.

Let me start first with the Minister of Housing and his citation from the speech of Mr. Lionel Craig in 1980 when the substantive legislation was introduced. I think we have to be fair and frank and honest about this. Ninety per cent of the people in Barbados and of those of us then in the House of Assembly were convinced that the Act of 1980 was

dealing with plantation tenancies. I am calling his name but not in a pejorative sense.

When I was Attorney-General, I spoke to Mr. Errol Chase who was the Acting Chief Parliamentary Counsel about this and I pointed out to him that it seemed to me to have been of great significance that the First Schedule recited all the plantations in the various parishes in Barbados. And it must have meant something when they put it in there. It was not an after thought for election purposes that the other tenancies, non-plantation tenancies appeared to have been dealt with. At page 4282 of the Debate for September 23, 1980, Mr. Craig having dealt with the plantation situation, said this, Sir, which was omitted from the speech of the Honourable Minister...

Aside.

Mr. D. A. C. SIMMONS: You see, he did not read the whole speech. Some nights he is home, some nights he is not.

Laughter.

Mr. D. A. C. SIMMONS: He must do it in a completed way. He said this at the last paragraph, Sir, of page 4282:

"There is another area, however in the development of other tenancies outside of the plantations. For such tenancies development, the Government will be working out a formula whereby the improved tenancies apart from the plantation tenancies can be owned also by the tenants. If you examine, for example, let us say, Hanschell Land (just to take a tenancy) one would recognize, Mr. Speaker, that nearly all people living in that area, find it difficult to have waterborne systems just because they do not own the land, and the whole structure of the Tenancies Freehold Purchase Bill is primarily to guarantee that there is stake in the land for those people who served so well over the years."

I think the truth of the matter is that the problems of non-plantation tenants was present in the mind of the Ministry of Housing at the time and of the then Cabinet. But the emphasis was on the development of plantation tenancies and giving the right to purchase to those plantation tenants who had been at the bottom rung of development in Barbados socially and economically for all the years.

There were, in the intervening years 1980-86, a few cases which came before the courts highlighting the difficulties of landlords in the non-plantation tenancies. There have not been any difficulties in the plantation tenancies. And far from there being any unconstitutionality, as was thought by Mr. Gladstone Holder in his several

writings on this matter in the Press, the plantation owners as a group, mainly through the Sugar Producers* Association agreed with Government, about the methodology and the formula for the disposal of plantation tenancies to the tenants. That was not a problem. There was nothing unconstitutional about it.

The problem came with the non-plantation landlords who, as the Honourable Attorney-General outlined, were caught in circumstances where they had let lots out to individuals - lots which they ultimately wanted, let us say for example, to go to their relatives - and found that the Courts (and I am not satisfied that it was the High Court, but some of the Magistrate's Courts) were interpreting the legislation in such a way as to compel the transfer of the land tenanted by sale to the tenant. 5.55 p.m.

It became worse when the interpretation was put on the old Act in the 1980 Act that a tenancy no longer comprised 5 or more but could be anything from 2 lots and over. Now at that point where that practice was causing hardship, social disquiet and social discomfort, Government had a responsibility to have the whole business examined. But the whole of the Landlord and Tenant Legislation was in need of revision.

I wrote Professor Sir Roy Marshall and asked him to undertake a review of the whole of the Landlord and Tenant Legislation paying particular reference to the tenancies legislation. I wrote him on April 23, 1986. I have it here, Sir, if you want it to be made a document of the House. So long as I get a copy back, it may be done. He replied to me on May 5, 1986 as follows:

"Dear Attorney General:

Thank you for your letter of April 23rd. I am interested in undertaking the assignment which you have outlined and look forward to discussing it with you when I am in Barbados in June.

With kind regards and best wishes,

Yours sincerely,

Sir Roy Marshall'

Asides.

Mr. D. A. C. SIMMONS: Man, well, I wrote him and he wrote me.

Asides.

Mr. D. A. C. SIMMONS: There was a change of Government, Sir, and the amendment, consolidation and

review of the whole of the Landlord and Tenant Legislation was not undertaken by the past Government. I do not know if the present Government is having it done. But at the philosophical level, fundamental to the passage of the Act of 1980 was a desire by the Barbados Labour Party- to promote the concept of home ownership throughout Barbados and to give those tenants, particularly in the plantations, the right to own their own property just as those in the heights and the terraces could own theirs.

My quarrel with the Bill presently before the House, is that the philosophy of the present Government has changed from one of the promotion of home ownership to the prolongation of tenancies. I will deal with that, Sir. But before I deal with that...

Asides.

Mr. D. A. C. SIMMONS: For this Government everybody must be renting. Before I deal with that, I want to get a red herring out of the way. In the DLP Manifesto of 1986 - I tore up one, but I still have another one, Sir, and another one at home...

Mr. D. A. C. SIMMONS: I love it. I love it, Sir. Wait until we come back in here in January. You will get a hundred questions out of this alone. They are bragging about how they are sticking to their promises. The other night I was just doing an exercise when the rain was falling. It got to page... not the fiscal part. The Honourable Member for St. Michael South Central has implemented his fiscal policy and has been reversed. So that is in and out. But by the time I got to Page 12 (I think it was) I had written out 47 questions for the Government.

Asides.

Mr. D. A. C. SIMMONS: No problem. That is another matter, Sir. At Page 27, the very last... This is a 5 year document.

Asides.

Mr. D. A. C. SIMMONS: I am reminded that it is a 5 year document for a 5 year Government. The very last paragraph on Page 27 says: "We propose to correct the disabilities in this legislation, meaning the Tenancies Freehold Purchase Act, which are repugnant to the spirit of the Constitution and which effect the fundamental rights of the individual."

Objects and Reasons recite the same language as the Manifesto which seek to amend the Tenancies Freehold Purchase Act, namely, to correct certain disabilities considered repugnant to the spirit of the Constitution and

which effect the fundamental rights of the individual and particularly from A to F.

After the speech of the Attorney General... Let us get it out of the way, Sir. There is nothing in the Act of 1980 that is repugnant to the spirit of the Constitution. There is nothing in this amending Bill that is repugnant to the spirit of the Constitution and the Honourable Attorney-General has said that the non-textual procedure that was used in reference to the Constitution (not altering the Constitution) in 1980 was being used in this same Act, the amending Bill before the House, Sir. He agrees that the procedure that was used in 1980, in the event that there would have been constitutional problems in the use of the language that was used in section 36 (I think it was an Act of 1980) if it did not cure it, was designed to cure and take account of any difficulties that may have arisen of a constitutional nature, and they are using the same. So Let us forget that. We are *ad idem*, as it were, that there really is no fundamental constitutional change involved here and there is no attempt to deprive owners of property without proper procedures or without proper compensation.

I think the constitutional point is a red herring, Sir, that would have appealed to perhaps non-lawyers who had not studied the Bill and the Constitution more closely. So I do not resent the criticisms which were frequent from writers in the Press between 1980 and 1986 on this, because I think the criticisms were from a lack of understanding of the implications and how one could have legislated it to protect the constitutional rights.

What the Opposition is concerned about, Sir, is that the Government, because it had a pledge in their Manifesto to correct disabilities in the legislation of an unconstitutional nature (as they conceived them then) and has made such a big issue of the matter, it felt itself compelled to bring legislation to Parliament. Now you are only going to amend a piece of social legislation like that of the parent Act if there is a satisfactory basis of complaint that determines a need to amend the legislation. In other words, the Opposition has been asking the Minister for statistical information to see if there is in truth, rather than by way of impression or perception or indeed illusion, a statistical case which informs the decision of Cabinet to change this legislation. It is not as simple as the Minister of Housing would have us believe, that the Opposition is concerned about the numbers. If 10 landlords of non-plantation tenancies were being affected, I do not really believe that the legislation should be altered in this way just to take account of the complaints of 10 landlords. If they were 1 000 or 10 000 a different matter, because legislation should not be intended for the benefit of one particular person but rather a class or a total community. That is all we were asking the Minister. Have you got a sufficient substratum of evidence, if you like, which would impel us to change this

legislation? I am not convinced, because he has not given the figures for the landlords. 6.05 p.m.

At the emotional level, the complaints are not really with the tenants but with the landlords those people who have, as I say, a spot of land a couple of people, family, on the land they want to leave it for them. I am sorry, the family is not on the land, the family is overseas. They want the overseas relatives to get the land ultimately, but they have two tenants now piddling along paying \$5 a week or whatever.

Under the old legislation (section 22)... Not sufficient regard was paid, I think, by the legal profession to the provisions of section 22 of the old Act, the parent Act, which we are amending. Listen to this, Sir. "The right of a qualified tenant (five years) to purchase the freehold of a lot may not be exercised by him when the Chief Town Planner certifies, on the application of the landlord of the tenantry or the Minister that the lot is unsuitable for purchase because of its location in relation to other lots or for any other reason."

Aside.

Mr. D. A. C. SIMMONS: How did *ejusdem generis* get into this now?

Asides.

Mr. D. A. C. SIMMONS: I am making a very serious point. I will confess that I have discussed it also subsequently, casually, with Professor Marshall.

Let us examine it carefully, Sir. The right of a qualified tenant to purchase the freehold of a lot may not be exercised. I am a qualified tenant on this lot for five years; I want to exercise my option to purchase, so I send in my Form I and Form II and whatever to Marine House to buy. But it says I may not have that right to buy if the Chief Town Planner certifies, on the application of the landlord of the tenantry or the Minister, that the lot is unsuitable for purchase, first thing, or for any other reason. Do you know what is the other good reason? Deed and family arrangements. You do not even have to have a deed. A family arrangement.

Asides.

Mr. D. A. C. SIMMONS: Read on. "The right of a qualified tenant to purchase the freehold of a lot may not be exercised by him if the Minister, by notice published once in the *Official Gazette* and once, on a weekday, in each of the newspapers published in Barbados, declares that the lot or the tenantry in which the lot is situated is required for

public purposes by the Crown or a Statutory Board." That is a little different.

Aside.

Mr. D. A. C. SIMMONS: Or for any other reason. I am not satisfied on that, Sir. Do you know why I am not satisfied that you must construe it *ejusdem generis*, Sir? Because the Act in its early sections says, section 3(2): "This Act shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of its purposes."

Now we are getting into a very heavy legal argument and I do not want to get into the legal nuances. All I am saying in a very general way, Sir (because we not all lawyers in the House and I do not think the debate should generate into lawyers' law) but what I am submitting is that even though I recognise... (but do not accept the argument being shouted at me from the other side, that when you construe the words "or for any other reason", you should construe them in the same sense or within the same genus of suitability or unsuitability of location) though I recognise that argument I say it is overridden by the mandate given to whoever is interpreting this Act to apply a liberal and large construction.

Aside.

Mr. D. A. C. SIMMONS: We will have arguments in favour of the tenant or in favour of the landlord. But do not forget the Act has to be read as a whole. It does not say in favour of the tenant. Suppose the Government accepts that I have an arguable point, but they do not accept it to its hilt. Then I say, all you need to do, is to amend section 22 to spell it out more clearly and to provide for the rights of the landlord there in respect of non-plantation tenancies. That is all. But you see the weakness, and the Barbados Labour Party Government has to take responsibility for it. Do not let us cover up anything.

There was a power in this legislation to make regulations. I do not believe, I may be wrong...

Aside.

Mr. D. A. C. SIMMONS: No, no. Me, if you like. We, as the BLP, the new BLP, will deal with that.

Aside.

Mr. D. A. C. SIMMONS: I want to make a point, Sir.

Aside.

Mr. D. A. C. SIMMONS: Mr. Speaker, can I be heard in silence?

Mr. SPEAKER: I thought you had previously, in one debate, said you enjoy the kind of atmosphere...

Mr. D. A. C. SIMMONS: What, Sir?

Mr. SPEAKER: I thought you had indicated to me you enjoyed the kind of atmosphere when you are debating. I gave you that latitude today.

Mr. D. A. C. SIMMONS: I do not mind a little bit of prompting, Sir.

Mr. SPEAKER: Oh, you do not mind that.

Mr. D. A. C. SIMMONS: It stimulates up here. But when you are having four and five, and like today, four and twenty mocking birds.

Mr. SPEAKER: Now, am...

Mr. D. A. C. SIMMONS: I withdraw that, Sir.

Mr. SPEAKER: You better had.

Mr. D. A. C. SIMMONS: In the spirit of Christmas you should have allowed it. It appears in a Christmas song.

Mr. SPEAKER: True, but when the Speaker is in that 24 you cannot say that.

Mr. D. A. C. SIMMONS: Mr. Speaker, as a rule, Sir, you know I will defer to you, Sir. I would never include you in that, Sir. You are your own pigeon flying somewhere else by yourself.

Mr. SPEAKER: That is the Christmas spirit now. 6.15 p.m.

Sir, to return to a level of seriousness, where I think there has been neglect on the part of the Barbados Labour Party administration and on the DLP for the last two and a half years is that so far as I am aware (and if I am wrong, I trust the Minister of Housing will correct me) there was a power to make regulations under the parent Act. I do not believe any were ever made. I say I do not believe; I am not going to pontificate.

Now this is an area where the Minister in regulations could have set out the circumstances in which the tenant's right to purchase could have been circumscribed and he could have stated in pursuance of a court order, in pursuance of a family arrangement or whatever.

Hon. M. A. KING: On a point of order, the Honourable Member may be inadvertently misleading the House on this matter in relation to the power to make regulations. Surely

any regulations made under the Act cannot go beyond the powers conferred by the Act. The regulations must be consistent within the powers provided by the legislation.

Mr. D. A. C. SIMMONS: He is not following me. Let us do it now sequentially. Section 34: "The Minister may make regulations for the purpose of giving effect to this Act." Turn back to section 22 which says that the right of a qualified tenant to purchase the freehold of a lot, may not be exercised on the application of the landlord or the Minister when the Town Planner certifies on the application of the landlord of the tenantry or the Minister that the lot is unsuitable for purchase or for any other reason. What I am saying, Sir, is that section 22 itself drags in the Minister, and vests certain powers or discretions in him. Therefore, if you give him the power to make regulations, you in my submission give him the power also to say what is meant by "for any other reason".

Asides.

Mr. D. A. C. SIMMONS: He agrees now after a closer look. All my submission is designed to do is to point the Government to section 22, section 34 and the ministerial powers which could have been dealt with; and we would not have needed to come here with all this today. They are going to justify their presence here today with the presence of this Bill because of the Manifesto. You could have amended it and you would still have been within the Manifesto if you had expanded section 22 and made regulations. I understand when my point has got home; but Government cannot now be seen to be climbing down. This is two and a half years' work here, but mine is only a half an hour's. And I have shown them in half an hour what should be done. Now, Sir, I will look at this speech and say to myself, "Well done, thou good and faithful servant of the people".

I have a couple of questions to raise in the allotted time. I am under the impression (and the Attorney General can correct me) that the High Court consists of the judges at first instance. We have a High Court and a Court of Appeal. I am right. If that is so, Sir, section 26(b) reproduces what in my submission is an anomaly that was in our Act and got passed then. An appeal lies to the High Court, I presume a judge in Chambers (though we tend to spell out these things) rather than in open court; we say, "to a judge in Chambers". If you are appealing from the National Insurance tribunal, or the Severance Pay tribunal or any one of that area, it is to a Judge in Chambers. An appeal lies to the High Court from (b) a decision of a magistrate or Judge. How is an appeal going to go to the High Court from a Judge? We need to tidy up that; it cannot be right. It should be the Supreme Court or the Court of Appeal or Divisional Court or whatever.

Asides.

Mr. D. A. C. SIMMONS: Sir, I cannot carry on anymore.

His Honour J. J. PAYNE: Mr. Speaker, I should just like to make a few remarks on this Bill and indicate that I give full support to the amendments which are contained in the Bill which seeks to amend the Tenancies Freehold Purchase Act, Cap. 239B of the Laws.

Sir, a quick observation of the Bill, will show that the Bill does not really seek to take away the right of purchase of tenants who are affected by this legislation. The Honourable Leader of the Opposition was trying to make the point most forcefully. But if we look at it carefully, Mr. Speaker, you will see that the right to purchase remains intact, but it is modified to the extent that the tenant now has the right still to purchase. But rather than purchasing from the landlord, he can purchase from the Crown. So we have a substituted right of purchase given to the tenant of these non-plantation tenancies.

Another very early observation that one would make, Mr. Speaker, is that tenants affected by this legislation are not tenants who are on plantation tenancies. This legislation, Mr. Speaker, affects people who are on non-plantation tenancies, and this is so because the Democratic Labour Party recognises the right of tenants to live on plantation tenancies, to continue to have those privileges which were created by the 1980 Act.

The third quick observation, Mr. Speaker, which I would like to make is that the Bill creates a bundle of rights which are placed in the hands of the tenants who are affected by this legislation. So on the whole one can say that the Bill seeks to address some dissatisfaction which was created by the 1980 Act, and the Honourable Attorney General highlighted most of those problems. But I do not believe there is anyone who takes a look at the 1980 Act who would say that there are not some areas of dissatisfaction which were created. 6.25 p.m.

In fact, the Honourable Member for St. Thomas agreed with us that there are some areas with which he himself is dissatisfied and that is very important that this Bill is designed to correct a situation of dissatisfaction that has arisen from the implementation of the Act of 1980. So the vital question before the House today is what are those areas of dissatisfaction and in what areas are we seeking to correct those areas of dissatisfaction.

I would like to say that if we look at the amendments which we are proposing, one would easily come to the conclusion that it is the most equitable and just situation which can be created as a result of the problems which resulted from the 1980 Act.

The Minister of Housing who spoke earlier told us, for example, that since the Act of 1980 was passed, the number of applications to the National Housing Corporation increased by some 307% in 3 years, by 1984. There was a substantial increase in the number of applications to the National Housing Corporation.

We all know that the National Housing Corporation is an instrument of Government which has been fighting hard over the many years to create house spots and improve the housing conditions of many people in the country. And this legislation is aimed at assisting in that particular regard because the 1980 Act had created a lot of friction between the landlords and tenants of those tenancies which were affected.

I have no doubt, Mr. Speaker, that many of the house fires which resulted in this island could be attributed... We do not have any particular research on it; but I believe that some of those fires could be attributed to the friction which was created between the landlords and tenants. The landlords were so dissatisfied by the provisions of that 1980 Act that I have no doubt that, in some instances, they may have used some forceful means to get their tenants off. And there are many other areas of friction, Mr. Speaker, and these are the areas that we are seeking to tackle in this particular piece of legislation.

We had a situation where it was also highlighted that those landlords who owned small lots of land were refusing to rent those lands to tenants. And this is justifiably so because you could easily imagine the situation where a man died and left a piece of land 15 000 or 20 000 square feet of land, to his son and he rented it to 2 or 3 tenants; and then in 5 years those tenants were calling on him to sell that piece of land which he inherited.

This is something that created a very serious impact on many landlords. It affected many of them in a way that some of us would not understand. Those of us who were not landlords who were affected by this piece of legislation would not fully appreciate the impact which they had on many of these persons. And this is one of the things that has to be very carefully highlighted.

We all have to also recognize the fact that this 1980 Act was an Act which had a lot of vote-winning potential. There is no one who could dispute that fact. This was a piece of legislation which was taking away the rights of landlords and placing them in the hands of tenants this right to purchase. So when carefully analysed, we have to agree that we are today seeking to remove that dissatisfaction which was created. That is the vital point.

This legislation seeks to remove that dissatisfaction which existed in the country and which affected our landlords and tenants and if we look at the Bill, in

particular, we would see how it seeks to clear up and remove that problem.

The Honourable Leader of the Opposition in his remarks said that the Bill comes down on the side of the landlord. But if we analyse the Bill very carefully, we will see that the Bill has in it provisions which benefit both the landlord and the tenant.

On the side of the landlord, the Bill removes from the tenant who was qualified before the Act comes into operation, the right to purchase. But, as I indicated earlier, only tenants who were on non-plantation tenancies would have been affected. So that is the only right which the landlord would have achieved from this particular piece of legislation; and it means that the landlord would be able to seek to recover possession in cases where he wanted to terminate a tenancy.

What is very significant here is this: any landlord who will benefit under this piece of legislation would have at least 5 years before he can take advantage of any rights created by this legislation at least 5 years, before he can do anything to remove tenants. So I do not anticipate any rush to the Law Courts by the landlords to remove tenants because in 5 years time many things can happen.

In the period of 5 years, for example, many landlords and tenants may come to some arrangement in respect of purchase. And what is also significant is that in 5 years time the landlords will come to recognise that the tenant is no longer a threat to their ownership of the land and there may not be that need to push them off in a hurry as was the situation previous to the proposed amendment. So that landlords would feel a lot more comfortable and they may not need to rush to Court because they know that whenever they want to take possession of their lands they can freely and easily take the appropriate steps to have that done.

On the other hand, if we look at the rights which are given to the tenants, we will see that there is an abundance of rights. The rights outnumber those which were created in the 1980 Act and I want to highlight those rights in the little time that is afforded me here.

Firstly, the Act gives the tenant who remains qualified at the date this Act comes into force the right to purchase from his landlord. He retains that right which he would have had if this Act had not come into force. So all those tenants who have given notice to the landlord and the landlord had accepted that notice, will continue to be in a position where they can purchase their lot from their landlord. So that is one right which the tenant will have.

Secondly, the sub-tenants. The Bill for the very first time creates a right for sub-tenants to purchase the lots which they occupy and there are provisions which deal with

the conflict between the tenants and the landlord. But what is very significant here is that for the very first time sub-tenants of plantation tenancies will be able to purchase their lots; so the Bill goes even further by making sub-tenants of plantation tenancies covered by the particular provisions which are now set out in the Bill. 6.35 p.m.

Thirdly the Bill provides that where the Crown is unable to provide a lot to the tenant, the Crown has to compensate that tenant. And it has made certain provisions as to how that compensation will be worked out.

So the tenant who is called upon by the landlord to vacate can apply to the Crown for compensation, in addition to making application for the right to purchase an alternative lot which the Crown will be under an obligation to provide.

The Bill goes further. It grants a period of security to tenants who were living on the lot for 20 years and more. So that if a tenant has been occupying a parcel of land for as many as 20 years, he can feel secure in that he will know that resulting from these amendments, the landlord will not be able to remove him from that particular lot.

It also provides that those tenants who are affected here by this legislation will be given security of tenure for 5 years. So that we have a situation created by the Bill where the tenants of this country do not have to feel any fear from the amendments which we are creating. Because on the one hand, the Crown is under an obligation to provide a lot for them to purchase. And on the other hand, if the Crown is not able to provide that lot, then they have to provide compensation - monetary compensation. So the tenants do not have to feel that fear which many persons who spoke earlier from the Opposition Benches may be trying to create.

The Bill also provides, Mr. Speaker, that for tenants who have to be relocated, expenses will have to be paid by the Crown. So the tenants are not put at any disadvantage. They are not put at any additional expense. Their relocation expenses will have to be paid.

And we see for example also that the tenants have two years within which to notify the Minister of their right or their intention to purchase a particular lot from the Crown. So all these are areas where the Bill seeks to provide an equitable situation to protect the tenants who would be affected by this particular piece of legislation.

I believe that many of us who look at the Act of 1980 will recognize that there are some other areas of dissatisfaction which have not been tackled by this particular amendment. And in particular, one of those areas has to do with improving the conditions of some of these tenancies.

It is of great concern to most of us that in many of these tenancies the roads have been allowed to remain in bad shape for many years. We have some tenants who live in these tenancies who have been residing there for over forty years and still have not been able to get their tenancies repaired. Mr. Speaker, I can highlight many tenancies across the island that are in this sort of situation.

I get letters regularly from the residents in Olive Lodge...

Aside.

His Honour J. J. PAYNE: Layne's Gap. Lower Carlton, Mount Standfast, Upper Carlton, Westmoreland. I can name a number of tenancies within my constituency. Unfortunately, I cannot name any in your constituency, Mr. Speaker. But I am sure that you have some in your area also which are in need of some improvement.

And I should like to see a time when the legislation seeks to address that particular problem. And I believe that those persons who occupy tenancies have a right to decent roads, have a right to a decent supply of water and electricity, just like people who live in other areas of the country. And it will be the task of this Government to ensure that that particular objective is achieved.

Aside.

His Honour J. J. PAYNE: And we will not rest, Mr. Speaker, until we achieve that particular goal.

Aside.

His Honour J. J. PAYNE: I am sure, Mr. Speaker, that you share my view on that. So I do not have to labour on it very much.

Laughter.

His Honour J. J. PAYNE: I would not want to spend too much time on the areas which have already been covered by previous speakers. But there is one particular area of dissatisfaction in the Act of 1980 which I would like to particularly mention. And this comes from the definition of, if you look at it, the definition of "tenancy", Section 2 (b) of the 1980 Act. The Act reads as follows a:

" "tenancy" means

an area of land that is subdivided before or after the commencement of this Act into lots for letting as sites for chattel buildings to be used as dwelling houses whether the land is vested in the Crown, in a statutory board or in any other person, but does not include land adjoining the foreshore;"

Now I have always wondered why in 1980 it was considered necessary to exclude land which adjoined the foreshore. And this particular provision has had the effect of creating problems for many persons who lived on lands adjoining the beach. The way how this particular section has been interpreted, Mr. Speaker, by persons in the legal profession is that it is not only the lot which adjoins the beach or the foreshore; but the complete area of land adjoining the foreshore is excluded from the provisions of the 1980 Act. It means, for example, that if we had a situation where 5 tenants were living on a piece of land which adjoined the foreshore and only one of those 5 lots were adjoining the beach, all 5 of those tenants could be removed by giving them 6 months' notice. And this has created a problem in some areas around the island where we found that persons come from overseas in some instances and buy a piece of land and just give a six months' notice to persons who were residing on these lands for 20,30,40,50 years. And this has created a situation which I think we may have to take a look at. Perhaps we may have to take a look at this particular area. There have been instances where the legislation has been tested in the Court, but I do not think that a final judgement has been made. But that is one area which we have not touched in this particular legislation; and I believe that there are many other areas which we will have to look at as we go on.

But for the present time, I am able to give my support to this Bill because I think that it addresses some of the substantial problems which are faced by landlords and tenants in this country. Some of our previous speakers were seeking information as to how many tenants are affected and how many landlords are affected and so on. But I believe that if we listen to the views of the people in the community, we will be able to hear the message coming through loud and clear that there is some dissatisfaction. And I believe that as Members of Parliament and as Representatives of the people, we should always seek to deal with problems that affect the people and in the best way possible. This particular legislation in my view touches that particular problem the best way that could be done in the circumstances. I want to compliment Cabinet for putting together this piece of legislation. I think the Honourable Attorney General was very eloquent in his introduction of the Bill and one has to compliment him for the way he presented it to this Chamber. 6.45 p.m.

With those brief remarks, Mr. Speaker, I want to add my support to this Bill and hope that it will find favour with other Members.

Applause.

Mr. C. LeR. TROTMAN: Mr. Speaker, I believe that I may be the first of those non-legal persons to speak to this issue. But that does not mean that I do not possess ... Oh, I

am sorry, Sir. I am directed that I do not mean that I am not legal. I mean that my superior knowledge of the law might not have to do with having studied at any of the Inns. But I am corrected about that, Sir. I am, however, speaking in relation to a constituency which is made up to a very great extent of persons who would fall directly under some aspect of the application of this particular bit of legislation. With the exception of areas like Waterford, Eagle-Hall, Holders Land, Goddards Road, and Deanes Village, I think it would be fairly correct to say that many parts of the constituency would be made up of areas where persons who owned land owned only small portions of land. It is also true to say that the area is made up of poor persons who to a very great extent are under-privileged persons. And, therefore, my concerns will have to do with a whole series of problems which would relate to those individuals. Clearly, one can understand in a situation where a person is a small land owner (who himself may possess less than an acre of land on which he has his own bit of property and who may himself have children) the concerns which he may have had at sometime to help his brother or his brethren. And one can understand the situation where he might have offered to help others and then found he had a particular difficulty because having allowed 2 or 3 persons in some cases to have a lodging, I prefer to say, on that other part of less than an acre of land, he subsequently found that he had problems in dealing with the issue of getting the land free for his further development of his own property in the house that he has, or to provide for another piece of property perhaps for his son or some other relative.

From that point of view, I can immediately understand and recognise the tremendous need that we have to relook that position. Because in situations such as those (and there are many such situations in St. Michael Central) one would have to see and to note that there would be great hardship on the part of the landlord, and that this bit of legislation proposed would speak to the heart of that issue and would remove the hardship which now exists and which was recognised to be existing by the other side, at any rate, in their presentations here today.

The concerns that I have and my side has is a concern for home ownership. And we are concerned that in providing for that home ownership (because the least amount of damage or injury to the least number of people will bring the greatest amount of good to the greatest number of people, looked at otherwise)...

I want though in looking at the particular constituency to look at one or two concerns which would relate to these people and perhaps to others. Among these questions would be the position of those persons with two and three and four lots, not because the area is particularly big enough to accommodate them, but rather because accommodation was made perhaps out of the goodness of the heart of the individual land owner. Then I would want to look at the

questions of location - answering the question of location: to what point or to what place; location at whose expense? I am concerned with the question of the social cost in this relocation, the safeguards within that relocation, and the benefits from that relocation.

First of all, Sir, in the question of the relocation, there can be no doubt that based on what the Honourable Attorney General has said (and the Minister responsible for Lands) Government will concern itself with providing a sufficiency of land to be able to deal with those number of applicants it anticipates. It would seem to me in such a situation that it would be a suitable occasion for me again to say, Sir, that it seems to be expedient for the Government to work towards the creation of a land bank from lands which are in fact available from a great amount of rab lands which plantations have available and which can become the property of Government by negotiations of the Government in as much as there would be the need to recognise that the sugar industry, and in fact the agricultural sector, would be under some obligation to negotiate for some sort of arrangement of this kind. I would think that if there was such an arrangement as a land bank it will serve 2 purposes. It will accommodate the anticipation of this number of increased applications for relocation and it will also satisfy the ongoing requests which are being made to the Ministry of Lands by those persons who themselves may now have families and who want to relocate for one reason or another and for those other families who for the first time want to have their own housing and want to have somewhere on which to place their housing. A number of my constituents in St. Michael Central fall into that position of people wanting to start a family and wanting somewhere on which to place a house. Although I shall be much the loser for losing such good support, one can understand my concern to have them have the benefit of such a land bank from which to be able to draw for their own advantage.

Then the other question would be, Sir, at whose expense? Obviously, one would recognise that a number of the persons who will be addressed in this bit of legislation, coming as they do from poor and underprivileged areas, are going to be owners of houses which to a very great extent cannot withstand the rigors of being uprooted and transported to another area. I would imagine that most people on understanding this provision would concern themselves with what this will mean in terms of their being able to remove a house and relocate it in such a condition as to be able to continue to live in that house in some degree of comfort and ease. And I take comfort from the provisions within the legislation that allow those persons who will have to have their houses removed or who may have to have their houses removed to have this done at the expense of Government. I will understand that this will mean that in a number of cases things like sleepers and the hard frame of houses may have to be provided and that therefore people's own homes may in fact be in a better position as a direct

consequence. This would obviously be something of tremendous importance to be known and to- be recognised by residents in these areas, because I am very aware from discussions with many of my constituents that whenever the question of relocation reaches them, one of the first questions that they have to address is the question of, "What is it going to mean since my house is very old," and that any moving of a chattel house will result in some degree of damage.

I am concerned too, Mr. Speaker, regarding the matter of the social cost, because in a number of these instances the residents will not have the degree of mobility and facility of movement that those who are better off will have. Therefore, questions like their ease of reaching church, ease of reaching school (in some cases) the position of the older members of our community, the position of those of them who have people prepare meals for them or assist them in preparing meals, who have people run errands for them, and generally who enjoy a certain kind of friendship which as you know, Mr. Speaker, regrettably is sometimes lost when we move from those close knit areas to the newer development areas. Those will be aspects of the social cost which we shall have to consider. And I would think that one would need to spend as much time as possible to endeavour to relocate, to the extent that is possible, in areas which will satisfy the social requirements of people to be grouped with other people with whom they may be at greater ease in living. Of course I think one should weigh that question of the social cost with certain recognised individuals, which I shall address later on. 6.55 p.m.

Recognising, Mr. Speaker, too the question of the safeguards which I would wish to have for my constituents (and indeed which many other representatives would need to have for their constituencies) I do not deny the matter of the right of the landlords to have safeguards, and I have already addressed that issue.

I recognise and respect that it was very important that if a person only has a half acre of land or an acre of land, he be able to pass on that to his relatives in a way that was not possible by the previous arrangement. But I think that we need to look as well to safeguards for the tenants and the sub-tenants; and I am satisfied that that is being addressed in this bit of legislation, and with that my concerns earlier are being addressed.

Then I would want to think that there would be benefits which we can immediately see as coming out of this exercise. There can be no denying that in the arrangements which I have addressed, where people have been kind enough to let others come and put a house or a couple of houses on a small piece of land, that what we have had resulting have been *ad hoc* tenancies, and that these *ad hoc* tenancies sometimes have tended to be unhygienic;

they have tended to be fire hazards purely because of the location and the close proximity of one house to another. For that reason I would hasten to say that on account of the fire hazards and the congestion that comes with that, social difficulties have sometimes arisen because there has not been ease and facility of movement from one area to another.

It would seem to me that if we are careful and considerate in the way that we provide those relocations, what we should have resulting would be certain environmental improvements, including hygienic improvements. For one thing there should be improved roads; and you would know, Mr. Speaker, that whereas we can speak about some tenantry roads in some areas, there are many other parts of St. Michael constituencies where it is almost impossible to be able to get into one's home. And although we will from time to time keep requesting that roads be improved in those areas, and, where improvements have started, that they continue apace, yet there will be some areas where it will be almost impossible to reach tenancies which are off the beaten track.

Aside.

Mr. C. LeR. TROTMAN: I would think that I am being forced to express satisfaction that there is some road development being done and road paving being done in parts of Bank Hall and Bush Hall. And I hope that before the financial year is over the whole of St. Michael Central will be completely barber-greened - other constituencies too, but you will appreciate that I have to concentrate on St. Michael Central at this time. I was about to make the point that it will still be very important that in those areas which cannot be addressed by roads, we will recognise certain benefits from the relocation. Because I am sure that roads will be done, lights will be put down (hopefully some at Bank Hall too) and there will be water. I would hope that in those areas where people, because of their age, are unable to put down their own water in relocated areas, Government would move to the extra step, not only in paying the bill, but in this exercise also actually installing water for them at no extra cost.

I would think that if we are moving in that direction we will be able to see within the provisions of this legislation certain social development for the country, and indeed for various parts of the constituencies of our country, including I have no doubt, Sir, St. Michael North West; and we will see a social development which would more than offset any alarms or concerns which might be raised initially.

I do not want to under-play the fact that there will be some alarms and some concerns. I have raised some and I have been pointed to the relevant parts of the legislation which assures that certain corrective measures are being taken to protect the landlord, and that certain protective

measures are being taken to protect the tenant and the sub-tenant from any hardships which might result. And to that extent I am saying that, even though alarms will be aired, not all of them out of common sense, that we should be able to recognise that as a country develops and advances one has to be prepared to see progress and one has to be prepared in such circumstances where social development takes place, to be able to move to the development of all our peoples.

To this extent and for those reasons I am pleased to be able to support this bit of legislation.

STATEMENT ON 350TH ANNIVERSARY CELEBRATIONS

Hon. P. M. GREAVES: Mr. Speaker, you have been sitting there for a very long time. I think it is time that you be given some respite.

Before I move the suspension for dinner, I want to make a short statement in relation to the 350th anniversary celebration of the Parliament. I just want to state that the Committee under my chairmanship recently invited submissions from Barbadian citizens for a suitable logo to be used in the celebrations.

There is a prize of \$3,500 offered for the winning entry. Fifty five entries to the competition were received and they were referred to a panel of judges comprising:

Mrs. Joyce Daniel
Mr. Winston Jordan
Mr. Arthur Atkinson
Clerk of Parliament
Chief Visual Aids Officer of the Ministry of
Education and Culture.

The judges have recommended the entry by Mrs. Jill Walker as being the most suitable entry. It is circular in design and depicts the Speaker's Chair imposed on a map of Barbados, the Mace and two broken tridents, all set against the background of the Public Buildings.

The Committee, and indeed the Judges, and the Cabinet also approve and concur therein. 7.05 p.m.

There was also another entry which the judges thought was a very similar entry - an entry by a Miss Kim Smith. And as a result of the judges' impressions of the entry, they decided that an award of \$500 be given to that entrant, Miss Smith. So the selected Logo will be used on all correspondence and other printed matter related to the celebrations, and it will become the property of the Government of Barbados and will only be used with the approval of the Government.

I want to state here too, Sir, that I would like to thank all those 53 other persons plus the two mentioned who responded to the advertisement to enter the logo competition. I thought some of them were outstanding and I think they should also be thanked as well.

SUSPENSION OF SITTING

Hon. P. M. GREAVES: Mr. Speaker, at this point I beg to move that this sitting be suspended until 7.50 p.m.

Hon. B. M. TAITT: I beg to second that.

The question was put and resolved in the affirmative without division, and Mr. SPEAKER suspended the sitting accordingly.

ON RESUMPTION Mr.

SPEAKER: This sitting is resumed.

Mr. D. J. H. THOMPSON: Mr. Speaker, I just wish to make a few comments in relation to this Bill and to say from the outset that I will be giving my support to the Bill. But there are certain reservations that I have which have arisen both during this debate and previously when the initial Tenancies Freehold Purchase Act was passed.

I should like to start, Sir, by saying that I support fully the effect of the legislation in its initial response to plantation tenancies and the right given to tenants of plantation tenancies and the additional rights that have been provided by this legislation to sub-tenants who will stand in the place of tenants in respect of these plantation tenancies. I take the point made by the Honourable Leader of the Opposition with respect to the effects of this legislation generally on the suburbia; but that does not relate directly to my constituency, and I cannot really speak with any authority on it.

The second thing that I would like to do is to kind of blow open or blow apart this myth that has been occupying the House about the concept of non-textual alteration which in my view, Sir, is simply sophistry and panders to what I would consider the illegitimate fears of politicians. In addition, Sir, I wish to say for the benefit of other Honourable Members of this Honourable House who may not be or have been students of the Law or are not lawyers, that there is nothing about this legislation that cannot be easily understood by the lay man. Do not let people fool you that as soon as the word "constitutional" is used or as soon as the word "Law" is used all of a sudden you should close your eyes and let them pull all kinds of veils across your eyes and red herrings in your path.

There is nothing special, there is nothing so intellectual about this legislation that should confuse you in any

way. In fact, Sir, I want to look back at the debate that took place on 23 September, 1980, when this particular piece of legislation was first passed." In seconding the Resolution the late Prime Minister Adams said at page 4282 (and it is a very significant quotation):

"It is always difficult when revolutionary concepts have to be carried through within a non-revolutionary framework."

He started by saying that, recognising obviously that the Tenancies Freehold Purchase Act is a revolutionary concept but not having, in my view, the guts and not having the support, perhaps, of his colleagues who themselves may not at that time have had the guts to amend the constitution without bringing into the House of Assembly all kinds of linguistic nonsense about non-textual alterations. It was a fear that arose out of the fact that the Barbados Labour Party had opposed the Constitutional amendments in 1974 and had driven unjustified fears into the minds of the people of this country suggesting that simply changing the Constitution (not what you are changing, but the effect of changing the Constitution) is so odious that the public should frown on it.

Sir, that is a perception that unfortunately resides within the minds of persons who have not had the fortune of being trained in Constitutional Law at Cave Hill; and I take in all the broad sweep of those who have not had that fortune. Some of them are late converts to Constitutional Law in the Caribbean, but they have this concept of the Constitution, Sir, that is hybrid. They understand the British Constitution system without the written constitution, and they have a smattering of ideas about how the constitution came into force. But I do not think they have actually for themselves taken the opportunity to understand that the Constitution is not a dead document that you just write and put there seamed it in gold and it is never to be touched. That is the concept they have of it that the Constitution exists full stop, and that there is no way that you should interfere with constitutional provisions; there is no way you should amend the Constitution without receiving justified approbation from writers in the newspapers, some of whom were mentioned in this debate and some of whom presently sit in the Other Place. And it was the fear of those writers in 1980 that caused the Barbados Labour Party to import an opinion or to resurrect somebody from the Legal Department in the Attorney General's Chambers to write an opinion to give effect to the words "non-textual alteration".

Sir, the debate is so false, it is so pregnant, in my mind, with hypocrisy that I can only say that any wise student of Constitutional Law would see through the loopholes. Sir, I have found difficulties. There are four different positions from four Members of the Government. The Prime Minister gave one position which is hilarious. The Prime Minister then, the Rt. Hon. J. M. G. M. Adams said a lot of things.

The most important one that I think I should mention, Sir, is this, and it is at page 4284, and I quote:

"The headline in the Advocate Newspaper this morning "Bill to Amend Constitution before House" is wrong. It is wrong. We are .not amending the Constitution today. We are not even, although the work is there, altering the Constitution today. What we are doing is altering the Constitution to any extent necessary to protect this Act."

Now that has to be sophistry. I do not even know how to describe it because I am saying to you that if this was brought before any student of Dr. Alexis or even the Honourable Member for St. Michael West, they would see through it immediately as I saw through it when I was presented with it, and as any other Honourable Member in this Chamber who has had the fortune of studying the Constitution would. A constitutional expert gave them advice which advice I wish to point out. But before I do that I should go into some of the other things that he said. And I quote:

"The alteration of the Constitution applies not to the text of the Constitution and that is why you say alter. The alteration of the Constitution applies to the application of the Constitution to this Bill."

Now he says we are not using the word "amend", we are using the word "alter" and the two of them have two different meanings. But the same Honourable Member for Christ Church West when he rose to speak said in a clear way, and I quote from page 4296:

"In short, Sir, it is a non-textual amendment of the Constitution and therefore outside of the confines of this Bill and limited only to the purpose of this Bill."

That is the Honourable Member for Christ Church West. So some were saying alteration, others were saying amendment, and on that non-textual alteration some were saying non-textual amendment. The whole thing should be blown apart for what it is, absolute nonsense for the simple reason that if it is true that this legislation is to amend the Constitution, there is no reason why the Barbados Labour Party or this Government, if it were amending the Constitution, should not go ahead and amend it and tell the public straight that it is a revolutionary phenomenon and therefore revolutionary phenomena cannot be carried out in a non-revolutionary framework and therefore the only way to achieve these ends is to amend the Constitution, and that is the end of the debate. 8.05 p.m.

Sir, it would have avoided the entire debate we are having today about non-textual amendment, or alteration and all of the other linguistic permutations that the members

who spoke on that particular occasion found themselves going through, and the various contortions.

Sir, he went on (this is the Rt. Honourable Prime Minister as he was then) at page 4285 to quote from, an opinion which the Government at that time sought. I do not know where they sought the opinion from. The Honourable Member for Christ Church West probably would be able to enlighten the House if he thinks it is a topic really worthy of enlightenment.-And that particular expert said as follows:-

"This alteration or modification is a "non-textual" modification. That is to say, the actual text of Section 16 of the Constitution is not to be amended but merely over-written for the purposes of the special circumstances of the Tenancies Freehold Purchase Bill."

And he went on:

"Again Clause 36 does not constitute an alteration of Section 16 for all purposes but only for the purposes of this Act."

The fallacy of that particular point was made very clear when the Right Honourable Member for St. John, E. W. Barrow, said very clearly (and this, Sir, answers the question and the difficulty that the persons who are forming this so-called non-textual confusion in a way in which they would understand it) and I quote at page 4294:-

"The Right Hon. Prime Minister, the Hon. Member for St. Thomas said that he is not amending the Constitution, he is only altering it."

This is Mr. Barrow speaking.

"The next time that any of the Honourable Members have a male dog and they want to do something to him to prevent him from spreading his Maker's image, they must tell him, he is not altering him, he is only amending him."

And he went on, Sir.

"Why do we have to play with words? The dog knows that he has been altered whether you tell him you are not altered, you are amended."

That really is the basis of the foolishness that we have had to go through.

Sir, I have to make my objection for this reason. The Government presently finds itself in a position where it has had this intellectual nonsense foisted upon it via the route of the Tenancies Freehold Purchase Act., where the Constitution was never amended. So that in bringing ibis

Bill there was no amendment to repeal or no change in the structure of the words of the section to amend. And, therefore, we had to come back again via the route of the so-called non-textual amendment to carry out the amendments that we thought were necessary in respect of this legislation.

I do not support it now. There is no legal opinion that is going to make me support it tomorrow because, I believe, that those persons who, as I have said, have a sound grounding in Constitutional Law will not be afraid to alter the Constitution if it is necessary to carry out social programmes, alterations in the form of Government, or any other kind of improvement in the social well-being of the people.

They will simply say we have to alter the Constitution and will alter it, and they will not be guided by forces external to this Parliament, persons like Gladstone Holder and others writing in the newspaper whose knowledge of these things is limited to his own perceptions as a result of partisan statements made by people who know no better.

All of this was unnecessary and I am ashamed that the Honourable Member for Christ Church West at this time could come in the House as though he feels that he has been vindicated simply because we had to bring the amendment via the same way he did. He feels he has been vindicated because we had to use the so-called non-textual alteration process; and that has become an issue for him for which he spent at least half an hour this morning lecturing to us.

It was foolishness from the beginning. Unfortunately, we have to continue the foolishness by making an amendment like this and that is my particular reservation with respect to the actual text of the Bill which stands before us today. But if we were never put in that confusion in the first place, we would not have to go through this particular difficulty.

What, Sir, I want to point out really in my brief presentation is this: As soon as you say to a politician, an Attorney-General or a Prime Minister that he is altering the Constitution and that in altering it he is depriving people of their fundamental rights, there is an immediate assumption that that is an attack on him personally.

In other words, we have not been able so wisely to remove ourselves from the cut and thrust of, perhaps, partisan politics and whatever it is, to simply accept that it is necessary from time to time to alter or to amend the Constitution. So that instead of facing it squarely what happens is that people come up with formulas like non-textual amendment and the other kinds of sophistry.

It is our duty, as I say, if we are going to carry out reforms in this country, and if we have been given a mandate by the people to carry out those reforms, to take

whatever legal measures are necessary, whether it means altering the Constitution, whether it means passing legislation which, in itself, requires two-thirds majority, so long as all of those requirements are met, we can carry out our duties and functions accurately. And there is no need for us to be engaged in all of this sophistry with people feeling that they have been vindicated and thumping their chests because somebody else has to accept a position that was foisted upon them.

That is the major philosophical reservation I have - that there is no occasion, here again I can state it now on this floor, that I am going to support any particular measure that comes before this House which is couched in that kind of sophistry, non-textual amendment or alteration. If you have to amend the Constitution there are manual form requirements that you have to meet. Meet the manual form requirements, face the public head-on with it, and do what has to be done; if not, as far as I am concerned, you are only ending up deceiving the people that you can carry out reforms without making the necessary adjustments or changes, if necessary.

The legal gobbledygook, (as the Honourable Member for St. Michael East has assisted me with that term) is what, therefore, has put us in this position, and I am only stating my reservation for the records. Because I believe it would be remiss of me if I allow this particular debate to pass without pointing out that I have a fundamental disagreement; and no amount of opinion from outside, or opinion from the Honourable Member for Christ Church West, or even the opinion of the Honourable Member for Christ Church West Central (for whom I have the greatest respect and I understand why he finds himself in this position)... but on no other occasion can you look for my support. If you have to carry out the social reform, do it the right way and let the people know that it is necessary to make the changes that have to be made with respect to the Constitutional amendments.

The second part, Sir, that I want to raise does not relate to this. It relates substantially to the concept of land reform, I do not wish to use this debate as an occasion to launch into that. But I would only say, Sir, that I am, perhaps, a little disappointed in the manner in which the Tenancies Freehold Purchase Act was seen as a means of effecting land reform in Barbados. It is piece-meal. There are so many other aspects of land reform that we have not addressed.

Aside.

Mr. D. J. H. THOMPSON: That is what I am saying. That is all it is. It is giving people at the end of the day a bad land. But the people in my constituency who wish, for example, to carry out farming and wish a little 2 acre lot or 4 acre lot, cannot get it because we have not committed ourselves as Governments, neither this one to date, nor the

former administration, to comprehensive land reform. That is not to say that it is being abandoned by any of us; because I believe that the time is going to come when people will recognize the importance of rural land reform and overall land reform.

That is just my particular contribution - that in the absence of that kind of widespread land reform, pieces of legislation like the Freehold Purchase Act mean little to people. Because while they regularise an existing situation and they might give people rights, they do not address the whole concept of the ownership of land in Barbados. And that perhaps is a more important and a wider concept that has to be addressed, rather than either correcting piecemeal legislation passed by a Government that was only interested in piecemeal legislation or for that matter, as a means of merely entrenching the status quo. It is a matter of land reform because that, as far as I am concerned, is one of the integral responsibilities of a Government that is concerned, about socialist planning in the twenty-first century. And for people like myself who represent a rural constituency, it is a number one priority on our agenda and I am certain other Honourable Members would agree with me in respect of that. 8.15 p.m.

I hope, Sir, finally, that in the coming few years that the Government will find it possible to put in the infrastructure that is necessary in these tenancies. I have several of them in St. John which are in need of roads and light and all kinds of other amenities, areas like Society, Clifton Hall, Colleton.

Aside.

Mr. D. J. H. THOMPSON: Yes, I am getting licks for it. That is the way it is, you know. They should really be giving the Labour Party some licks for it, not me. Well you would know about that.

Aside.

Mr. D. J. H. THOMPSON: I am presently the Representative; but they should give you all licks for not doing one tenancy road up there.

Asides.

Mr. D. J. H. THOMPSON: But let us not go into that.

Asides.

Mr. D. J. H. THOMPSON: They will come. If there is one thing I have promised (and I have no fear in putting it in the record) those persons who have lived on those plantation tenancies, if they so desire to remain there, they are taxpayers and they should enjoy a standard of living

commensurate with people living in any other part of Barbados.

And I therefore look forward to the tenancies roads programme; I look forward to the Waterworks putting in their water main; and I look forward to the Honourable Member for St. Michael East coming up to my constituency (as he did when we opened the Pool Road) to cut the ribbon and to say once again the St. John Development Plan and the development plan of this Government are being met daily.

Because, as I say, Sir, when I look through the Tenancies Freehold Purchase Act and I look at the number of tenancies that have to be serviced, the number of tenancies that need infrastructural facilities, whether it is roads, water mains, that kind of thing, it shocks me. Sir, there must be more than 25 in my constituency alone. Other than part of Kendall, part of Foster Hall (I cannot even list all of them) Cliff Cottage - other than those, the majority of tenancies in my constituency remain unattended to. Some of them do not even have water mains. And it hurts me, Sir, to go into those areas and see people building new wall structures, investing money. They have new cars they have to drive over these cart tracks and at the same time, they are not receiving the commensurate level of development that persons in other parts of Barbados are receiving. And that is a very genuine and a serious concern that I have. And I am certain that all Honourable Members share equally that concern.

I believe, Sir, too that the particular amendment in hand is something that we have to look at fairly closely from the point of view of cost. I do not believe that ... In the absence of figures (even the figures requested by the Honourable Leader of the Opposition as to the number of persons who are presently experiencing hardship. The number of persons who are looking for house spots and that kind of thing)... Unless some comprehensive analysis is done, we shall not perhaps be able to stand the cost of what this particular amending bill requires. Sir, not only the compensation that has to be paid, but the cost of providing other lots for people, all of those in my view will mount up over time.

What in effect we are saying, Sir, is that the taxpayers of Barbados are going to end up having to bear the burden of legis'ation that perhaps in itself was not seriously thought out and was not in the first place as perfectly drafted and conceived as it should have been. So that at the end of the day, it may end up being costly. But that is one of the burdens that we have to bear as a result of trying to regularize a situation that has been foisted upon us.

It is with these few words, Sir, that I should like to give my support to this bill, noting of course the very fundamental reservations that I have about certain aspects

of the Bill. And I believe, Sir, that it is a matter of the existing imperative that we find ourselves in this position today.

Thank you.

Applause.

Hon. B. M. TAITT: Mr. Speaker, the amendments that have been made have been so lucid and so clear in pursuit of the position that was started by the Attorney-General, the Honourable Member for Christ Church West Central that it is not necessary to spend too much time maintaining the point.

I wish however to speak to two specific points. The first one is to deal with a philosophical difference and a philosophical difficulty which the Barbados Labour Party seems to have. The real fact, after listening to the Leader of the Opposition (and to a lesser extent the Honourable Member for St. Thomas) the real fact is this: the Democratic Labour Party in a master stroke, brought a piece of social legislation that embraced and personified a socialist concept, (Fabian socialist, but nonetheless a socialist concept) which gave tenure to tenants - tenants who had earned their way over a period of time in the history of this country.

Now the Barbados Labour Party when it came time in 1980, after they had been in office from 1976 and we were coming towards a general election, did come up with a continuation of the social compact that had been entered into by the people of Barbados in the 1950s. And they were on a good ground when they sought to bring those persons who were within the plantation tenancies within the ambit of the legislation. But in the context of what existed at that time, the Prime Minister of the day (and his Ministers tended to follow him almost blindly, any deviation being away from his face) took the opportunity to try to out DLP, the Democratic Labour Party because he wanted to have on the Record something they had done. And the Democratic Labour Party could always look to and speak to the School Meals Programme, the Free Education Programme and the tenantry programme. So the Barbados Labour Party in their effort (instead of settling for dealing with the plantation tenancies) then went the one step further and tried somehow to make two lots a tenantry. There was always something ludicrous about making two lots a tenantry.

But the other problem they had was this: they were talking about plantation tenancies but the fact is, (and it is instructive that when the Honourable Member for St. Thomas was speaking, he referred to the Hanscell Tenantry) that 40 years ago, there were a number of areas within the St. Michael area, within the environs of Bridgetown which were in fact plantations; but they have

been siphoned off. And you get as an example Hanscell's Land which had all of the attributes of a plantation tenantry (but which at that time was not then recognized as a plantation tenantry) and they became confused. And that is why you had the concept of the designated tenantry to allow the Minister to treat certain areas of the country as though it were a plantation tenantry. They got the two concepts thoroughly mixed up. Instead of dealing with the plantation tenancies *per se* and including areas like Hanscell Land if they wanted to, as they did, as the designated tenancies, they went on to try to outdo the previous administration by making two lots a tenantry. 8.25 p.m.

I want to touch on one point which the Leader of the Opposition made and clarify it once and for all. The Leader of the Opposition, Sir, does not make mistakes when it comes to understanding certain legal principles. So when he speaks to a matter and appears not to understand it, Sir, I treat that with the greatest reserve because I have seen him in the trenches battling on matters of constitutionality. I am not going to allow myself to fall prey to any traps which he might set, suggesting that he has some particular aspect of this thing that he wishes to address. When it comes to the constitutionality of matters that come before this House, the Honourable Leader of the Opposition is a past master. This is not the first item that will come before this House that he now views differently from how he viewed it when he was Attorney General.

Laughs.

Hon. H. deB. FORDE: On a point of order, Sir. I can assure the Honourable Member that I do not view this bit of legislation any differently from how I viewed the past legislation. I would recommend to him that he reads my very clear and explicit speech contained in Hansard on the constitutionality on any changes that were being made.

Asides.

Hon. B. M. TAITT: Sir, the Honourable Member is driving me towards making a statement which he knows that I shall not make. He knows, Sir, that as Attorney General he was able with all the force at his command to persuade this House that a particular measure was constitutional and then within a relatively short time he was able to see the error of his ways and recognised that the same measure was unconstitutional.

Hon. H. deB. FORDE: On a point of order, Sir. The Honourable Member is absolutely mistaken, Sir. The Honourable Member, having studied law to some extent, Sir, he should by now have read Professor J. Llewellyn Edwards' book on "Attorneys-General and The Public Interest", and he will find quite clearly set out in that book

that Attorneys-General of even longer standing than myself (and I would think of equal ability if not a little bit more sometimes) have found no difficulty professionally or otherwise in adopting the course of which the Honourable Member has spoken where they have either argued for the constitutionality or the non-constitutionality of legislation passed during their time.

As a matter of fact, Sir, I want to put on the record that the present Chief Justice, when he was consulted (with the Honourable Attorney-General sitting next to him) on whether or not it was proper to appear in that matter, confirmed without hesitation that there was nothing at all improper in it.

Hon. B. M. TAITT: Mr. Speaker, Sir, I am glad he has put it on the record and I wish him to know that in the very first... They have this way of being very snide when they are discussing who learned and did not learn the Law. But not everyone who is called understands the Law - not everyone who is called -and I wish him to know that what he just said is what I tell the students the very first time they come in to acquaintance with the Law. What he has just said is elementary. But they have this way of speaking elementary things *ex cathedra*. And they have fooled so many people for so many years that that in itself is wisdom, that he cannot help even now among his colleagues and peers acting as though he is dealing with those persons with whom he deals *ex cathedra*. The fact is that it can only be described as "unusual" for him to have argued the case as successfully as he did. I well recall when the matter was raised that he said that he and Professor Wade (he is very good at quoting professors) had agreed that this measure was one that, though revolutionary, was constitutional. I accept that the Honourable Member, as Attorney-General, was bound to carry out the wishes of his Government or resign, and resignation was not in his forte at that time. I am talking about the measure which you have so gratuitously advised us on.

We have no problem with your having taken two opposite sides because you are sworn to do so. If the Honourable Attorney-General had taken a position in here on an issue, I will expect that at the time when he became a private practitioner of the Law again, the efficacy of the situation would have driven him to consider not appearing. The question of whether he had the right to appear would not be in question. He has a right to appear. The only difference between Law and prostitution is that one is Honourable and one is not. You can take either side as necessary. That is your duty. You are required to take the side. I am not questioning that and I do not know what the Honourable Member is bringing that into play for. I am saying that he is accustomed to knowing what is constitutional and what is not. But when it comes to what is constitutional great minds have agreed to disagree. So I do not have any problem. I do not know why they always have

to be drawing these matters or red-herrings across. I was saying that the Honourable Member (and I think it might be an attribute of his intellect), is able to take one side on a given morning and the opposite side on the next morning - maybe the same evening. Great minds are required to do that sometimes. The efficacy of the situation is what might lead us to raise questions. But that is not the point.

The point on this issue is this: the Barbados Labour Party found themselves in a dilemma where they wanted to leave on the record some piece of social legislation that they would be remembered for, and in their attempt to do that they went too far.

Now Sir, Karl Marx wrote about the proletariat. At the time when Karl Marx wrote about the proletariat he could not have envisioned that there would be a country like the United States. So that when you talk about the proletariat in the United States, you are talking about people who play the stock market. So it is with the Barbados Labour Party. When he talks about landlords and tenants, when the Honourable Member comes here and talks about the landlords, to the uninitiated, a landlord is a conceptual thing of a person who is coming and knocking on the door and getting rents and making profits. The problem with a certain kind of professional language is that it confuses the professions. All of them practise the principle of maximum confusion and they have to; otherwise ordinary people would be able to practise the profession too and there would not be any point to it. The principle of maximum confusion explained is this: a doctor who has to write up a prescription writes it so that only he and one other person can understand; and a lawyer who has to give advice gives the advice in a manner that he has been taught to give it. The Honourable Member for St. Michael South, the Prime Minister, understands a number of principles. But he does not understand always or would not know how to put them in the same language as the Honourable Member, the Leader of the Opposition. It does not mean that he does not understand the principle. It means that he was not exposed to that particular training. That training is part of the professionalisation. If we accept that principle, therefore, when you talk of landlord and tenant, you always hear of the Law of Landlord and Tenant. You go down James Street and talk about landlord and tenant; you think it is some mystification. It is really that one person who rents something to another one is called a landlord and the one who is renting is called a tenant. But the tenants that we are discussing and the landlords we are discussing in the chain of this law are ordinary Barbadians with a piece of land - a plot. Sometimes it is not even 5000 square feet divided in two. You made them landlords. The Barbados Labour Party took ordinary people in this country and made them landlords and you had the temerity to discuss this in esoteric terms of landlord and tenant. There is no magic about it, Mr. Speaker. It is that there were a number of people who were being deprived of a right and, furthermore, you did not, as the Attorney-General himself said, give

compensation to those people from whom you took the rent. We are giving compensation. Furthermore, we are doing something.... 8.35 p.m.

You seek now to make the 20 year requirement in our Bill some kind of negative, when in fact it is a magnificent piece of social innovation in this country. We are saying that anyone who has been a tenant for 20 years anywhere deserves to be treated with the same kind of security as the persons who happen to be in a group of five or more. That is something which needs to be amplified, because it is a magnificent piece of legislation on the part of this Government.

Mr. Speaker, I want to deal with the constitutional point.

Aside.

Hon. B. M. TAITT: You are tired. You should go home. If you are tired, go home. Don't come and tell me when it comes to discussing these matters, when you put foolishness in the record, that we are to leave the record so.

The Honourable Member for St. John (and it was mentioned before) talking about the Constitution... Let me tell you what the problem came from. The problem came from a certain ignorance on the part of Tom Adams, who had not been exposed to Constitutional Law in any formal sense, and who had managed over many years to confuse a number of people that he was bright in all things. And when it was pointed out to him that he was ignorant of Constitutional Law, he put on the record in this House a lot of foolishness about altering and amending.

This is what you call a dictionary. And I took it up and looked at "amendment" and here is what it says:

- "(1) removal of faults or errors; reformation, especially law, in a writ or process. 1607.
- (2) the alteration of a Bill before Parliament. Hence, a proposed alteration, (which if adopted may even defeat the measure) 1696"; and it goes on.

If you check the record at page 4282 *et seq.*, you will see that Tom Adams spent a long time saying that they were amending, not altering, when alteration and amendment are the same. They are equal to one another.

That is what has happened in this country. A lot of ignorance has passed as deep knowledge, constantly written down and repeated, and fools follow it without examining it; and then it is called knowledge. He has put it on the

record and now we have this thing coming back as part... I was the Honourable Member for St. Michael South West that he cursed. And he cursed me and said that I was six weeks out of Law School and was determining more about the Law, when the same honourable gentleman had come behind the Speaker's Chair and said to me, "But do you realise that you have the highest level of pass for anybody in this Honourable House?", when he discovered that I had finished Law.

Aside.

Hon. B. M. TAITT: You said so too. Do you want to challenge that?

Aside.

Hon. B. M. TAITT: Everybody get in here talking about "You had some smattering in law." Check the record.

Aside.

Hon. B. M. TAITT: And you too. Anybody. Check the record. I do not usually get involved in it; but if you must know, the record is there for anybody to go and see. That is not the issue; the issue is that Tom Adams did not understand what he was talking about.

What we had said outside was a very simple matter. Barbados has a written Constitution. It is like the United States, it is like India, it is like Nigeria, it is like a number of countries which had gone before. There is a number of lawyers working in the Attorney-General's Chambers and elsewhere who had had no confrontation with written Constitutions when they were studying Law. They are unfamiliar with the methodology, unlike the Canadians and the Americans. This does not apply to the Honourable Leader of the Opposition, who, although he had not had that experience, had taken the trouble to gain it. And that is why I jump on him from time to time -because I know when he is pretending that he does not know better that he does.

The fact is that if you have a written Constitution, it has to be changed. When you are changing it there is a procedure for changing it. And what the Honourable Member for St. John has said, is what I agree with; and the Attorney-General and I will agree to disagree on this. It is not a very important point. But the issue is that when the Constitution comes to be changed, we should let the country know that we are changing the Constitution. In 1980, the Barbados Labour Party did not wish to tell the population that they were changing the Constitution, because they had campaigned in 1976, that changing the Constitution was somehow immoral and heinous and dangerous. And so they came in with something called a non textual. What that means is that you are not changing any of the words of the

Constitution as written. But if it says, "to the extent that this alters section 16 of the Constitution," what are you doing? Are you not changing it? Therefore the Constitution is a living document.

Two hundred years after the United States framed their first Constitution they now have a ream of amendments, changes, judgments, discussions and opinions which together constitute the Constitution of the United States. It is no longer the document that was written 200 years ago. And I think this is what we mean when we talk about not being afraid to add amendments to the Constitution. Basically this does not require any legal training. Because anyone who does Political Science in the United States goes through a course called Constitution. And they learn what in essence is basically what the lawyers learn. And therefore anyone who has graduated from a reasonable school in the United States, who has done Political Science, will understand the constitutional changes and the constitutional amendments without any reference to having done Law. So it is not any special dispensation.

Aside.

Hon. B. M. TAITT: I am now being advised that the Community College is at the same level and any of the students who have passed under the good hand of the Honourable Member for St. Michael South will be able to do the same thing. Those of us who can boast that when we did "A" Levels, we got a distinction in British Constitution....

Aside.

Hon. B. M. TAITT: I beg your pardon. There is only one of us who can boast of having got a distinction at "A" Level in British Constitution. One of us, only one, and the Honourable Member here got a distinction in Constitution with the Law Society in England.

Mr. Speaker, in the words of the Honourable Member for St. John, we have opened the thing and we have blown it out of the water. So now we have come to the actual amendments, Sir. There is really not much to these. We made a commitment.

I come to my second point. The Honourable Member for St. Thomas (who is not now in his seat) fought valiantly. As a matter of fact, from my seat I was saying that he was using a laser. He was really trying to find blood out of stone - legal blood, that is, out of legal stone. And I think that his colleagues on this side admired the effort. But the truth is that his argument would fall to the ground.

It is not a mere amendment of 4(2). They were talking about the Chief Town Planner; and the Chief Town Planner does not advise on Family Law; he is not engaged in family

plots; he is engaged in planning. That suggests a certain kind of activity. And to be most generous to what he was saying, even if you ignore the *ejusdem generis* rule, you would still need to frame it in the context of what the Chief Town Planner does in what he was saying.

What the Attorney-General has done (and I think he should be congratulated) is to have found a way to satisfy all of the contentions that could be raised in implementing the very just policy of bringing to the question of the Act that had been, let us say interfered with, or had been improved by the Barbados Labour Party, bringing to bear all of the facets that would make it an acceptable Bill. And I think we should congratulate the Attorney-General. I think that he and his team did a magnificent job and we on this side are very grateful that we are able to say to the public at large, tenants and landlords alike, that we have brought justice and equity back to the field of Landlord and Tenant in Barbados as it applies to tenancies. Those who live in the genuine tenancies will continue to have tenure and protection; those who were sitting on a plot which they were a little uneasy about will now have protection for five years, while they look for somewhere to put their chattel house or whatever; and those landlords that were made landlords by you, but who are really ordinary citizens with a piece of land, these will now be able to feel comfortable that their children and their grandchildren and their brothers and sisters, their siblings will no longer have to be fighting one another over something that they did not have any jurisdiction over. I think we have done a magnificent job, and I really believe that the Opposition can show the right spirit by joining with us in support of this Bill. 8.45 p.m.

Mr. Speaker, it is in that context that I give my support to this Bill.

Mr. O. S. ARTHUR: Mr. Speaker, I have never had the opportunity before to participate in a debate in this House which has to do with matters as fundamental to the development of this country, as the relationship that should exist between people with land and people and the development process. It is true that this debate has generated a lot of discussion. For example, I have heard from the Honourable Member for St. James North, that the existence of the Tenancies Freehold Purchase Act has been a legal instrument which might have indirectly prompted landlords to burn down people's homes to evade the strictures of the Act. We have heard things of this character.

His Honour J. J. PAYNE: On a point of order, I want to point out that I never made that statement in my address; and what the Honourable Member is trying to say is not what I said in my address. I pointed out, Mr. Speaker, during my address that the legislation heightened the tension between landlords and tenants and that it could have prompted landlords to take that sort of action. But I never

said, it created that situation, and I think the Honourable Member should withdraw that statement.

Mr. O. S. ARTHUR: Mr. Speaker, if I did not understand the Honourable Member to have been speaking in probabilistic terms, then Sir, I apologise to him. But I distinctly heard him say, now that I recollect fully, that the existence of this legislation could probably explain the high incidence of fires. But, Mr. Speaker, the point (and my particular contribution to this debate is to make a number of points)... The first is that we are discussing a piece of legislation brought by the Democratic Labour Party to effect a relationship between landlords and tenants. But it is a matter of significance as far as I am concerned, Mr. Speaker, that we are not reverting to the 1965 Tenancies Control Act. And the significance of that, Mr. Speaker, is simply this: that under that legislation both the landlords as well as the tenants suffered from serious developmental disabilities.

Sir, you had a situation obtaining in this country where persons found themselves cast in the role of tenants, had a so-called security of tenure, but they had no security of development. Because it did not fall to their lot, despite the security of tenure, despite the fact that they could not have been evicted, despite the fact that their rents could not have been increased arbitrarily. Despite the security of tenure they did not have the security of development because they could not proceed to do what you do or I do or what any other Honourable Member of this House does, which is to give themselves the kind of commodious accommodation that we all believe should be a fundamental right of the people of this country. And in that old legislation, Mr. Speaker, the landlord himself was faced with certain disabilities. Because even though he possessed the land, in a real sense, Mr. Speaker, he had no control of the manner in which that land was used. And I am saying, therefore, that the most significant thing that strikes me about this debate is that we are not reverting to the 1965 legislation. Because fundamentally if you look at that legislation, Sir, we can see that it was a piece of legislation which served no developmental purpose to the extent that it put the landlord in a position of great disadvantage in relation to his rights of ownership; and it put the tenant to my mind, in a position of great disadvantage in relation to his right to develop himself.

What we are therefore seeing, Mr. Speaker, is a situation by the Democratic Labour Party to advance beyond the position where they were when last they left office, but, if I am to follow the objects and reasons of this piece of legislation, to advance in a manner that removes from legislation introduced by the Barbados Labour Party certain disabilities in that legislation which, in their judgment, is repugnant to the spirit of the Constitution.

Now, Mr. Speaker, I ask myself the question, what aspect of the legislation introduced by the Barbados Labour

Party was repugnant to the spirit of the Constitution? The answer is that aspect of the legislation that was introduced was the part of the Tenancies and Freehold Purchase Act which made it compulsory that persons living in tenancies designated as non-plantation tenancies to have to sell their lands in circumstances where the tenancies were two or more units. Now I would want to submit to the House that if it is unconstitutional by reason of the creation of a compulsion to sell for a person to have to dispose of his land if he owns a tenancy comprising two units or more, then by the same logic, Sir, by the same process of deduction, it must be unconstitutional as far as I am concerned, for a person to be compelled to sell land. Because what we are dealing with, Sir, is the disability that the existing legislation is supposed to have created the offence in the existing legislation that it infringed the right of persons in this country, acting as private individuals, to hold land. And I am saying, Sir, that if one judges this legislation by those standards, the disabilities of which the Government speaks, the offence against the spirit of the Constitution of which the Government speaks and which are supposed to have been contained in the original legislation, the Tenancies Freehold Purchase Act, is still contained in here.

I would therefore have to ask the Government the specific question: in what sense is it constitutional for a man owning five plots that are leased to tenants to be forced to sell that land and what makes it unconstitutional for a man owning land on which there are two lots to sell? Because the point is that what is operative in the situation is the element of compulsion. Unless therefore, Mr. Speaker, we are going to reduce the question of the spirit of the Constitution to mathematical niceties as to the difference between two and five, then I want to submit to the Government, Mr. Speaker, that there is no major constitutional issue there involved. It is either we are going to amend the Constitution, Sir, to give people not just security of tenure, but security of development, or we are not going to amend the Constitution for that purpose. And to my mind, Mr. Speaker, I am not going to get myself tangled up with the Law; I am not a lawyer. To my mind, this legislation however, has not adequately addressed that question concerning the repugnance to the spirit of the Constitution that is entailed in having persons constituting a tenancy of two (or rather the landlord of those persons), being forced to sell. It has not addressed that particular issue. 8.55 p.m.

What it has done, in my view, is that it has created two separate classes of dispossessed - a class of persons who so happen fortuitously to find themselves in a tenancy of 5 or more who will enjoy 2 things, security of tenure as well as security of development, as well as a sub-class of dispossessed persons who find themselves fortuitously again in tenancies that are less than 5, who may have security of tenure (and I do not dispute that) but do not have security of

development. And I, therefore, Mr. Speaker, have to ask the Democratic Labour Party what are their purposes?

Our purposes on this side are clear. We are interested in security of development of the people of this country who find themselves dispossessed, Sir. We are interested in that. We are interested in a situation in Barbados whether you are living in a tenantry of 2, or 3, or 4, or 5, or 6. The right open to me, to my colleagues, to you and all the other Members on that side, will be wide open to those persons as well. And the difference that we are drawing in this. House, Mr. Speaker, as between living in a tenantry of 2 or a tenantry of 5 is artificial in my judgment.

You may want to argue that a tenantry of 2 is too small. You may want to argue that point. But I must tell you, Sir, that I cannot see the point in it; and I really strongly endorse the position that my colleague from St. Thomas has made, namely, that there is a real difficulty in Barbados on the part of certain people who have small portions of land who

Aside.

Mr. O. S. ARTHUR: I did not interrupt you when you were speaking.

There is a real difficulty which, perhaps, we need legislation to address. It is a difficulty with persons who have a small portion of land, who truly want to leave the land for their children, who do not want to be compelled by legislation to sell. And this operates whether the land is 1 acre accommodating 2 persons or 1 acre sometimes accommodating 5. And I want to make that point, because this seems not to be understood by the Democratic Labour Party. Because you can have situations in this country, Sir, where you have 2 tenants on 5 acres and sometimes you can have 6 tenants on 1. And the Government may want to explain to me in what special way a person owning 5 acres of land with 2 tenants....

Aside.

Mr. O. S. ARTHUR: The Honourable Member for St. Lucy in advance of my having concluded my speech, is answering my question for me. His time can come.

But, all I am really trying to get across here, is that I recognize a difficulty that has to be addressed. It is the difficulty of a person who has a small portion of land who would truly want to leave the land for his heirs but yet would find under existing legislation, whether it is the existing Tenancies Freehold Purchase Act, or even this.... Because you can find the same circumstances where persons who have 5 tenants or more on land, will also want to say that they want to leave the land for their children. We have that problem to address and my colleague from St. Thomas, to

my mind, and my mind is a non-legal mind, was creating a way out of the difficulties.

Now, if that Government does not want to accept that advice which was offered, that is the Government's business. But it seems to me that all this legislation has done is that it has enshrined the principle of compulsory sale by private persons to private persons; but only in circumstances where the second set of private persons happen to find themselves, whether by chance or whatever the circumstance, to be living in a tenantry of more than 5 the principle of compulsory sale applies in accordance with this legislation.

Those persons who now find themselves in that position, can now develop the property as well. For the other set of persons, Mr. Speaker, who now find themselves in tenancies of less than 5, they are being put back into the position of being a tenant as existed under the 1965 Tenancies Control Act And I have to ask the Democratic Labour Party, Sir, why is it, therefore, that the Democratic Labour Party did not carry everybody back to the governance of the 1965 provision?

They did not take them back to that provision because they themselves understood the limitations of the 1965 provision that they pre-empted social development on the part of a broad mass of Barbadian people who happened to find themselves caught awkwardly in a position of being tenants in this country. And it seems to me that we either have to be serious about this matter or that we will play with legislation in the manner in which legislation is being played with. Because, to my mind, all this legislation is doing is securing the rights of the landlord only in so far as he is dealing with less than 5 people. But it is also securing the rights of the landlord only in so far as it is dealing with less than 5 people but when it is dealing with 5 or more than 5 then he is as much compelled to sell under your legislation as if he were a landlord dealing with 2 under us. So what is the issue?

Mr. Speaker, let me make my broad point. I am interested in the security of development.

Hon. B. M. TAITT: On a point of elucidation. You asked what is the issue. Obviously, Sir, the Honourable Member does not understand that part of my speech where I did, in fact, sharpen the issue for him.

It is precisely as he perceives it. It is that over 5, we took the chance that there are people who are landlords in the real sense of the term. Five and under, we assume, that these are persons who might be caught. The divide is not that great as between your perception and ours. It is simply that we had the concept of 5, you had the concept of 2. We do not agree with yours and we are going back to 5. It is not difficult.

Aside.

Mr. O. S. ARTHUR: Mr. Speaker, because it is in the Democratic Labour Party Manifesto that does not mean that it is a matter that the Democratic Labour Party themselves cannot reverse. We have known instances where they have reversed things that were set down in their Manifesto as articles of faith.

Aside.

Mr. O. S. ARTHUR: Should we speak, therefore, about their fiscal policy which was in their Manifesto and was reversed? Let us, therefore, Mr. Speaker, not argue this matter only on the ground of whether it is in their Manifesto or not.

A Manifesto, Mr. Speaker, is like a Constitution. The Honourable Member for St. John, if he were to extend his analogy, would have to admit that if a Constitution can be amended, or altered, or however you want to call it, so can a Manifesto. So I will not be terrorized by the argument that because it was in the Democratic Labour Party Manifesto it becomes an article of religious faith to which I must say, I humbly bow myself in supplication. Logic must apply.

I am saying that there are aspects of this legislation which truly trouble me. The throwing of an obligation on Government to have to find the house spots for persons who cannot be accommodated on existing tenancies and in circumstances where they have to pay... one wonders how much scientific analysis was put into this particular matter.

We start, Mr. Speaker, from a position in Barbados right now, where there is a massive backlog of demand for house spots which cannot be satisfied. In 1975, speaking on a matter of this same character, the Honourable Member for St. Lucy was heard to draw reference to the existing backlog even then. 9.05 p.m.

And what we are doing, Mr. Speaker, is simply this, that we start in this country with a situation where there is a backlog of demand for house spots that cannot be met by Government; and Government is drafting legislation with the specific and explicit purpose of adding to that demand. But it is written down here, Sir, all in the Constitution. The only difference between the two Honourable Members, Sir, is that one is saying that it is not true and the other is saying what I am saying is true.

This matter of the satisfaction of demand for house spots with a view to people developing themselves, to my mind, is a matter that just cannot simply be addressed by changing the laws. It has to be addressed in a broader way with our making a conscious decision in this country, Sir, to

develop a land bank. And in advance of our having that land bank, Mr. Speaker, all that the Government is here purporting to do is to create a lot of frustration at great cost to the Government. And if Government feels, Sir, that by drafting this legislation in this way, by merely saying that, if you cannot get land from the landlord, look to the Government, if it feels that that is an advance, I say that it is an advance, Sir, only on paper. Because where are the spots? That is the question, Sir.

In my own constituency of St. Peter, Sir, there is a vast demand for house spots which cannot now be satisfied within the existing limits of land owned by Government in St. Peter nor within the limits, Sir, of the land owned and rentable by landlords.

I am saying therefore, Mr. speaker, Sir, that this is going to create tremendous difficulties. Now we also have to see legislation in a dynamic context. That is why the notion of numbers and the difference between 2 and 5 is a distinction in that to my mind, is not sufficiently great as the basis upon which legislation should be drawn. Because there are some persons, Mr. Speaker, who now own lots of land that may not have on as of now 5 tenants, but what this legislation will do of course, is that it will stop them from ever going past the number 4.

Asides.

Mr. O. S. ARTHUR: Because once they go past the number 4, Mr. Speaker, then of course, there will be a compulsion through this legislation to purchase, Sir, and even greater pressure would be put on Government, Sir, in order to have to find spots for the people. So that, Mr. Speaker, there is no difficulty....

Aside.

Mr. O. S. ARTHUR: ... five lots or more.

Asides.

Mr. O. S. ARTHUR: ... five lots or less. You are excluding from the application of the Act, five lots or less. So that it means it started at 5.

Asides.

Mr. O. S. ARTHUR: Anyhow, Mr. Speaker, I have a fundamental difficulty with this piece of legislation in that it sets out in its OBJECTS AND REASONS to change existing legislation to remove certain things that were supposed to be repugnant to the spirit of the Constitution. By any reasonable measurement, Sir, it has not succeeded in doing that. This legislation has been inspired as far as I am concerned by a continuous battle fought by certain reactionary people in this country, a lot of reactionary

people in this country who are opposed to the security of development by genuine small people in Barbados and who have fought that battle, Sir, by reference to false issues about constitutionality and so on. It is either we are going to be serious or we are not going to be serious.

A Government can acquire any small portion of land compulsorily for its own development or for public development, Sir. And I can see, if I may close on this point, no real impediment, no real deficiency with the legislation that we are purporting now to amend. My colleagues, Sir, have recommended sensible, serious and progressive alternatives that could be used to deal with the real point of difficulty that the Government has identified, Sir.

And the Member for St. Peter can really find no good reason for supporting this particular difficulty.

I am obliged to you, Mr. Speaker.

Mr. R. P. BYER: Mr. Speaker, it was not my intention to get involved in the debate at this stage, because I believe that all the stuffing, Sir, has been licked out of this matter that is before the House. This thing has been debated several times and I frankly did not anticipate that at eight or nine minutes past nine, we would be here still talking about the Tenancies Freehold Purchase Act.

But there are just three matters that I want to revert to and it would not take me ten minutes. And I would want to start with the point made by the last speaker, when he sought to make the point about the artificiality of numbers. The point of a tenantry being 2 lots or more or more than 5 lots. And he said that the whole point about the legislation (this amending Act being enacted to correct the disabilities in the Act which are repugnant to the spirit of the Constitution and which affect the fundamental rights of the individual) must be the same; the repugnance would (if I got his argument correctly) still persist whatever view we take of a tenantry. I think that is a fair interpretation of what he was saying.

But, Sir, the point I believe that the Honourable Member missed is this: that under the old legislation in 1965, what happened was that people were aware of the definition of a tenantry. And what happened was that they rented 4 house spots on a piece of land, no more than that. So they avoided the strictures of the legislation that way, and they did not create tenancies.

What the Tenancies Freehold Purchase Act did, Sir, was to retroactively create tenancies. Because here it is that before I had 4 house spots on a piece of land, no tenantry. The Tenancies Freehold Purchase Act is passed and retroactively, it creates a tenantry, because it did not say from this time on, the 1st November, 1980 a tenantry was

created in a situation where some person rented 2 or more lots. It did not say that, Sir. So it went back up to 1965. So that is the point that he missed. So even though technically, his argument was correct that, suppose a tenantry was 100 lots, his argument would apply. But in the application of the Act, we can see that there is a distinct difference.

Now we are going to revert to the original situation, Sir, and people would now begin to rent land again.

Asides.

Mr. R. P. BYER: So even though ... I am certain about that. I am talking about St. George that I know about, Sir. The renting of land is something that is central to Barbadian culture and life. And if I may borrow from what the Honourable Member for St. Thomas said *sotto voce* that we have landlords who operate in the economic sense of the word those people who rent upwards of 4 house spots. They do it for profit. You had situations, Sir, where people owned a quarter of an acre of land. They had 2 house spots on it. I have come across a situation where a man left in his Will, land for his children who lived in England, and now you have in 1980 the Tenancies Freehold Purchase Act is passed. And because of the operation of the Act, the Will is in all practical senses void; it cannot operate. And the people follow the prescription of the Act and ask that the lots be transferred to them.

Aside.

9.15 p.m.

... Exactly! So what I am saying, Sir, is that we have a situation where we are going back to the pre-1980 position and I think that it will operate in everybody's interest. It has to be a little give and a little take. Those rented spots that were then created into tenancies will no longer be like that.

Now the other point that I want to make, Sir, has to do with Section 22(1) of the Tenancies Freehold Purchase Act and it is a point that the Honourable Member for St. Thomas adverted to earlier on. Sir, this Section if I may briefly advert to it reads:

"The right of a qualified tenant to purchase the freehold of a lot may not be exercised by him when the Chief Town Planner certifies on the application of the landlord of the tenantry or the Minister that the lot is unsuitable for purchase because of its location in relation to other lots or for any other reason."

Now Sir, this is a section I do not believe that the authorities paid great attention to. And I have made this point before in relation to the constituency of St. George South; and I will also make it again. There is a tenantry in St. George - Dash Valley. Several people in that district, Sir,

had parcels of land transferred to them that they should not have had transferred to them. This is where I believe that the words "unsuitable for purchase because of its location in relation to other lots or for any other reason" must be interpreted. An example of this, Sir, would have to be the zone I water areas. I do not believe that those people should have had those lots transferred to them because at this stage they cannot get planning permission to build on those lots. They are not particularly interested in the lots as agricultural land. They are more concerned in getting somewhere to live. But the owners of Constant Estates Limited have transferred the land to them and I know of several cases where those persons cannot now obtain planning permission. This is a question that I have raised in here by way of Parliamentary Question. I have also raised it in terms of debate and I have not got a proper answer to it as yet. I am hopeful that the pleas of these people can be accommodated within this new legislation in so far as the compensatory aspects of it are concerned. I know that this legislation will create greater pressure on Government in terms of providing house spots and I would hope that the Democratic Labour Party Government move with great speed in trying to secure lots for persons who will now want to get lots to build houses on. I will not at this stage say anything more about that; but I will just watch and see how things will develop.

Now the last point, Sir, I would want to make has to do with the way legislation is passed or amendments are sought to be made to the Constitution and so on. I do not want to cover the ground that the Honourable Member for St. John covered before or for that matter the Honourable Member for St. Thomas, or any other person who adverted to the Constitutionality of the Tenancies Freehold Purchase Act. I also believe that the Attorney-General in his sum up will advert to that. But I am not particularly happy with the way some legislation is passed in this Honourable House, Sir. And in this connection I want to go back to the last Act that was passed in here the National Health Service Board Repeal Act.

Asides.

Mr. R. P. BYER: Anyhow Sir, the point that I want to make, Sir, (with your permission, Mr. Speaker) is that I do not think that an Act that seeks to repeal another Act should in itself be used as a vehicle for amendment of another Act. If you look at that Act, Sir, what you will see is that the Druggist Act was repealed by the National Health Service Board Repeal Act. That seem to me to be very ineloquent a way of doing things if not a clumsy way of doing things. I think that if the repealing of legislation touches another Act then the one Act should be repealed and an amending Act should be brought in. But the one should not piggy-back, Sir, on the other. I would hope that that matter be adverted to and that we try to avoid amending legislation in that manner. But all in all, Sir, I think that the effort being made

here to address the problems created by the Tenancies Freehold Purchase Act is a commendable one. I would like the Opposition to join and support this amending legislation and let us see how it will work in practice. And if we have to come back here to further amend it, until we achieve the correct formula, we will do that. But for the moment I think that we have reached the point where we can give our support to this legislation.

One last thing, and it has to do, Sir ... I have my own concerns as well, but this has not stopped me from supporting the legislation. I have my own concerns about the way in which the section that deals with the substantial improvement section, Sir, and then the definition of substantial improvement. I have my own reservations about that section of the Act; but I am prepared to go along with it to see how it works. My own instincts tell me that the Act should have sought to approach this problem in the same way that equity approaches the problem when one acquires rights in property where it can be shown that in proving a particular property that one was encouraged to do so and that the owner of the property acted to the encouragement to develop that property. In other words, it would seem to me that the equitable approach to this problem is much wider than the way in which the Tenancies Freehold Purchase Act seeks to deal with the problem. I would have preferred a broader definition for substantial improvements some way in the way that I have said equity has treated the problem in ordinary law. But as I said, that will not stop me from supporting this legislation; because I think it is commendable and, apart from it being a Manifesto promise, it is a genuine attempt by this Administration to address the problems endemic in the Tenancies Freehold Purchase Act of 1980, Sir.

Applause.

Hon. M. A. KING: Mr. Speaker, I am proposing to wind up at this stage. I do not propose to be long because I believe that the most that could be said on this matter has been said by Honourable Members. There are perhaps just a few points which I would like to make on the winding up.

Honourable Members have put forward a number of points. Essential to this issue I think, Mr. Speaker, must be the concept that what ultimately we must be interested in is to ensure that development lands are open for persons to own and that the whole social environment should develop in such a way that substantial improvement is made to the living standards of all our citizens. Now obviously there may be a variety of approaches to the issue. The Honourable Member for St. Peter has made the point that he was glad to see that we did not go back to the pre-1965 position or the pre-1980 position. The whole point about development is that development goes through certain phases from time to time. 1965 was perhaps one period in the development

process. 1980 was perhaps another period. There have to be continual processes of development. 9.25 p.m.

I suppose what one may say about the 1980 legislation is that to some extent it cast some obligations on tenants and landlords, as well as on Governments, to participate in the development process. But I think if we are socialist Governments who are concerned with the advancement of the people whom we represent, we have to recognise that Government too has to play its part in the whole process of development. And despite all we say about who should do this, how landlords should develop land, whether legislation may inhibit landlords in developing lands or not, a Government has to assume the responsibility and recognise that where land needs to be acquired to assist in the development processes, then that has to be done.

The Honourable Member for St. Peter has expressed doubts as to whether Government can effectively manage the results of this legislation and has questioned the obligations which he says are placed upon Government as a result of this legislation. But I think it is a responsibility. Housing and social development is a critical responsibility which Government has to assume. And unless a Government is committed to that sort of thing, I think it may as well say we are not interested in assisting the people and therefore we have no right being in Government. But it is a responsibility which I suggest we should not renege from.

I will take a minute, Mr. Speaker, to deal with the problem about the constitutionality of the way things are done. I do not want to spend too much time on it, because I think we can overburden ourselves in constitutional arguments which in the final analysis are not germane to the essential problem we are concerned about - the problem of social development.

The position is that the Tenancies Freehold Purchase Act of 1980 was couched in a certain way and a formula was used intending to achieve a certain objective. The Honourable Member for Christ Church West has gone out of his way to spend a lot of time to seek to convince everyone that the way in which the 1980 amendment was done was proper. He even sought to include me in agreeing with him in making the point that I did not disagree with it and that I was using the same technique in this legislation.

I like to consider myself a very practical lawyer and I believe in a practical approach to problems and to seek a practical solution to measures. Clearly the 1980 legislation did not amend the text of the Constitution of Barbados. In the 1980 legislation, you can say what you like, there is no amendment to the text of the Constitution of Barbados. This legislation cannot amend anything in the Constitution of Barbados to achieve any objective which is sought.

One may argue at length as to whether the 1980 legislation effectively amended the Constitution, and it was an argument which I clearly had to address my mind to when we were dealing with this issue. For several months we wrestled with the argument. We met on it; we exchanged ideas on it and there was a strong view that amendment in this form was not desirable. I remember even articulating the argument that what we need to do really is to test the validity of the 1980 formula by bringing an action in court, so that you test whether the Constitution was effectively amended. I say the way to do that is to bring some proceedings under the 1980 legislation to test the point.

That is, I believe and I suppose, an academic way to deal with the issue. I thought that a more practical way to deal with the issue was to include in this Bill the same kind of formula you used, so that if the 1980 position is ridiculous, so is this one. If the 1980 amendment effectively amended the Constitution, then this effectively did it too.

Aside.

Hon. M. A. KING,: As they say, do for do is no overdo. I think that was a practical way of dealing with the problem. Because I made the point, and I have continued to make the point, that the constitutionality of the 1980 position has not been tested in the courts. If you remember, in my opening remarks I made that point, that despite the fact that the Leader of the Opposition was trying to ensure that I agreed with his position and to rope me in, so to speak, in that decision, I adopted the position that it was not really tested and therefore I am not arguing about it.

Aside.

Hon. M. A. KING: Precisely. You see, in a practical situation I do not know what the courts will decide and I think it my responsibility to advise the Government, which I am charged to advise, not to expose the administration to any law suits. Because if we had gone about, I suppose, amending this legislation in the way we did without putting in that clause which was designed as a stop gap to save any possible breaches of constitutionality, if I had gone about doing it that way, then I am sure as night follows day that there would be litigation on this legislation, and if anybody doubts that they doubt they are living.

I guarantee you, Mr. Speaker, that by inserting that very clause which was in the 1980 legislation you will never find any proceedings challenging the constitutionality of this Bill in court. So that is a practical solution to a problem. It is not a procedure which I like myself and which I go with, but it is there and I live with it.

The other just brief point which I should like to address, Mr. Speaker, is a comment made by the Leader of

the Opposition that we had not talked about the problems, so to speak, created by the Tenancies Freehold Purchase Act of 1980 until just before the elections. I would draw the Honourable Member's attention, Mr. Speaker, to the debate in the House of Assembly on the Tenancies Freehold Purchase (Amendment) Act of 1984, on page 1328 of the Official Report, and it is the speech which I made on that occasion where I said some of the things which I have said today. And I said here in relation to the problems created by the legislation, at the second paragraph:

"One of the problems which arises as a result of the uncertainty in the Law is that landlords who own land adopt an attitude that they are not going to too easily let their land out to tenants, because they do not know if they are going to get it back, and in what circumstances they are going to get it back. You find that where landlords have lands available (and we know that there is a great scarcity of land for house spots these days) landlords tend to be very cautious in making their land available to tenants. So I am urging that where problems arise (and I believe there certainly are problems in relation to this aspect of the Law) efforts should be made, at the earliest possible opportunity, to come to grips with them and clear up the particular areas as soon as possible."

So the Honourable Member for Christ Church West is clearly in error when he says that this is some last minute thing which we had adopted just before election time to deal with the issue. 9.35 p.m.

This was a position which we recognised for quite some time, that the legislation was causing problems and that is why we were able to make a commitment in our Manifesto and in the election campaign that we would seek to redress some of the problems which it created. So that in the final analysis, Mr. Speaker, I make the point that no bit of legislation is necessarily perfect. This is an attempt to deal with problems which have been created as a result of the 1980 legislation. It is an experiment which we expect would work. As a Government we will assume our social responsibility to the people of this country and to the underprivileged where necessary in acquiring land to accommodate the demands which will be placed upon Government as a result of this legislation; and it is not a responsibility from which we will shirk.

I therefore have the greatest possible pleasure in moving that this Bill be read a second time.

The question that this Bill be read a second time, was put and resolved in the affirmative, the House dividing as follows:

Ayes: Hon. L. E. SANDIFORD; Hon. P. M. GREAVES; Hon. B. M. TAITT; Hon. E. E. GREAVES; Hon. W. O. FRANKLIN; Hon. W. W. HALL; Hon. H. A. BLACKMAN; Hon. Dr. D. G. BLACKMAN; Hon. N. K. SIMMONS; -Hon. C. V. WALKER; Mr. R. P. BYER; Mr. P. J. M. MILLER; Mr. L. L. BRATHWAITE; Mr. C. L. TROTMAN; Mr. J. J. PAYNE; Mr. R. L. MORRIS; Dr. E. A. SIMMONS; Mr. E. BOURNE; Mr. D. J. H. THOMPSON; Hon. M. A. KING; and Mrs. M. BARKER-WELCH - 21.

Noes: Hon. H. deB. FORDE; Mr. D. A. C. SIMMONS and Mr. O. S. ARTHUR 3.

On motion of Hon. M. A. KING seconded by Hon. B. M. TAITT, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. R. P. BYER in the Chair.

Clause 1 was called and passed.

Clause 2 was called.

Hon. M. A. KING: Mr. Chairman, I beg to move that Clause 2 stand part.

Hon. B. M. TAITT: I beg to second that.

The question was put and resolved in the affirmative, the House dividing as follows:

Ayes: Hon. L. E. SANDIFORD; Hon. P. M. GREAVES; Hon. B. M. TAITT; Hon. E. E. GREAVES; Hon. W. O. FRANKLIN; Hon. H. A. BLACKMAN; Hon. N. K. SIMMONS; Hon. W. W. HALL; Hon. Dr. D. G. BLACKMAN; Hon. C. V. WALKER; Mr. P. J. M. MILLER; Mr. L. L. BRATHWAITE; Mr. C. L. TROTMAN; Mr. J. J. PAYNE; Mr. R. L. MORRIS; Dr. E. A. SIMMONS; Mr. E. BOURNE; Mrs. M. BARKER-WELCH; Mr. D. J. H. THOMPSON and Hon. M. A. KING -20.

Noes: Hon. H. deB. FORDE, Mr. D. A. C. SIMMONS and Mr. O. S. ARTHUR - 3.

Clause 3 was called.

Hon. M. A. KING: I beg to move that Clause 3 stand part.

Hon. E. E. GREAVES: I beg to second that.

Mr. D. A. C. SIMMONS: Part of the problem with this legislation and the parent Act is in the use of the word "sub-divide" which appears in the substantive section determining what was a tenantry, and I have difficulty with it because the original legislation spoke of land sub-divided

into lots. Similarly this one, 3(b) speaks of an area of land that is subdivided. Just let me tell you what the original one was. Tenantry under Cap. 239B the original Act of 1980 said: "tenantry" means a plantation tenantry; and an area of land that is subdivided, before or after 1st November 1980 into lots for letting as sites for chattel buildings to be used as dwelling houses whether the land is vested in the Crown, in a statutory board or in any other person, but does not include land adjoining the foreshore.

The proposed amendment in Clause 3(b) of this Bill says to delete paragraph (b) which I just read of the original Act and substitute "an area of land that is subdivided before or after 1st November, 1980, into more than five lots." Whereas the previous legislation said into lots, we now specify five. What I am concerned about is what do we mean by subdivision in the amending legislation and in the parent legislation? Is it a formal subdivision or is it an informal subdivision or either one will do? In other words, if I have an acre of land, can I just go and put down five tenants or three tenants and say that is your 3 000 square feet. Is that a subdivision? Who is determining whether it is a subdivision or not? Another way around this would be to formalise it, and say that the tenantry would only apply to those which had been subdivided according to Town Planning permission or something.

The 1965 definition was similar to the 1980 definition. Listen for it: "Tenantry" means an area of land that is subdivided before or after November 1, 1980, into lots. The 1965 Act, No. 34, and I will pass it on for you to have a look, says "Tenantry" means any area of land which is now or shall be hereafter subdivided into lots; not five, two or whatever. There was an amendment because all are familiar with the five or more.

Asides.

Mr. D. A. C. SIMMONS: You are right, "...shall be hereafter subdivided into lots for the purpose of being let to tenants for housing purposes and which contains more than five."

The other point, Sir, on 3(b) is that it is my understanding that the Town Planner wanted land adjoining the foreshore excluded from the definition of tenantry and, in fact, there is one decision at the Holatown Court which has gone on appeal; but the decision before the Divisional Court has not been handed down. But the Magistrate upheld the strict terms of this section to hold that lands somewhere in Holatown (near property owned by Palm Beach or one of them, near the Odles, something to do with Peter Odle) ... that that land was not included in this definition and the person could be ejected. 9.45 p.m.

Sir, my only concern was whether there should have been another definition of sub-division. But historically the word has been used without any attempt being made to formalize it. And if that is the wish of the House I have nothing more to say on that. I will leave it as it is.

Hon. M. A. KING: In relation to the use of the term "sub-division" I would suppose that the matter would need to "be addressed if difficulties manifested themselves as a result of the way in which the legislation was drafted. But I am not aware (I do not know if there is) of any problems which have arisen in the Courts arising out of the way in which this legislation has been drafted; and this, as the Honourable Member for St. Thomas has admitted, is the formula which has been used since 1965. So that in the absence of any problems arising out of the way in which the legislation has been drafted, I suggest that it continue as it is.

Hon. P. M. GREAVES: Sir, I have a little knowledge of when the 1965 Act (although I was not then in the Government) was enacted and the history that happened since. And I am specifically dealing with it in reference to the term "sub-division" because when this Act came into force it had general application throughout Barbados, that is, all the 11 parishes.

At that time, Sir, the Town Planning Act did not have general application in Barbados. It only dealt with Bridgetown, as far as South Point, East Christ Church and probably Speightstown; but it did not have global application. It had very little application; so the term "sub-division" could not then have been the kind of sub-division that we are thinking of in terms of Town Planning application because at that time the Town Planning Act was too limited.

Sir, this Act could have referred to land in St. Lucy but the Town Planning Laws at that time did not have jurisdiction to deal with lands in St. Lucy. So, therefore, it could not mean "sub-division" in the sense that we are thinking of it today. Therefore, when we are thinking of sub-division and when we relate it back to the 1965 Act, we have to think of it like as an area of land determined by the contracting parties, that is, the landlord and the tenant, as their area of land which is their own little sub-division. I think that explains the situation.

Mr. D. A. C. SIMMONS: I am no wiser. I know that the Deputy Prime Minister is trying to be helpful but Section 3 of the Act of 1965 says this:

"No owner or lessee of a tenantry or of any part thereof which now or shall hereafter be sub-divided into lots for the purpose of being let to tenants for housing shall, without the prior permission of the Chief Town

Planner signified in writing, divide or sell any lot or part of such tenantry."

Hon. P. M. GREAVES: The point I was trying to say originally was that when one was sub-dividing land previously under the Town Planning Laws, one did not have to submit an application. If one wanted to sub-divide land, say, in St. Thomas, or in Bathsheba, or in St. Lucy, one did not have to make an application to the Town Planning in the same way as one has to do today.

The Town Planning Laws only became general much later than that. But at the same time, the Town Planner did have some kind of overriding oversight, if you like, over lands relating to tenancies.

Aside.

Hon. P. M. GREAVES: You had the old Board. You had regulations in those days.

I am only mentioning this to point out the meaning of the term "sub-division" as you understand it today and sub-division as it should be understood at that time in 1965.

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

Clause 4 was called and passed.

Hon. M. A. KING: Mr. Chairman, I beg to move that Clause 5 stand part.

Hon. E. E. GREAVES: I beg to second that.

Hon. D. A. C. SIMMONS: Sir, I am just standing on my feet to preserve my....

Aside.

Hon. D. A. C. SIMMONS: Now, Sir, on 4D on page...

Aside.

Mr. CHAIRMAN: It means ... correct - Clause 5.

Mr. D. A. C. SIMMONS: The new 4D on page 14. Clause 5 is a provision that runs from page 5 to page 14 of the Bill.

Sir, I would like the Attorney-General to explain if under the new 4D it is envisaged that in truth and in fact, even though a tenant has been residing on a lot of section 4A(1) (the tenant would have been residing on a lot for 20 years or more) he still cannot build wall and put on his wall back and toilet and have water-borne facilities if he is compelled by this provision to remain even though he has

been there for 20 years, to remain a tenant with no prospect for development.

Aside.

""

Mr. D. A. C. SIMMONS: Yes, I am saying assuming that he is a section 4A so that what we are doing, in effect, is continuing a class of person in Barbados who will forever be a renter.

Aside.

Mr. D. A. C. SIMMONS: You have been given an option - notwithstanding section 4C.

Aside.

Mr. D. A. C. SIMMONS: Where is the option?
9.55 p.m.

Aside.

Mr. D. A. C. SIMMONS: Well you give him the option.

Aside.

Mr. D. A. C. SIMMONS: "Notwithstanding section 4C," where is the option?

"where a tenant referred to in that section has been residing on a lot for a period of 20 years or more the Tenancies Control Act applies"

Security of tenure:

"to that tenant, as if the tenant were a tenant within the meaning of that Act."

Aside.

Mr. D. A. C. SIMMONS: You cannot put him off, but he is forever a tenant. How can he develop his land properly? That is all I want to know. If you are a tenant, you can be a tenant on my land for 20 years, but I am not giving you the right to put down wall? All of us in here are familiar with that situation.

My submission is that Section 4D creates a separate class of forever tenant.

Aside.

Mr. D. A. C. SIMMONS: All right. Show me how.

Mr. CHAIRMAN: The Honourable Attorney-General....

Mr. D. A. C. SIMMONS: Between the 2 and 5.

Mr. CHAIRMAN: ... is on his feet

Hon. M. A. KING: Mr. Chairman, we should perhaps get the section in perspective. The first point to make is that the section applies in the situation where there are between 2 and 5 lots. That is, first of all, the situation to which that applies. Now in that kind of situation, any tenant who has been on one of those lots (if he had exercised the right to purchase -the option to purchase) would be able to purchase that land, irrespective of how long he lived there, whether 5, 15, 20, 25, 30 years. If he had exercised the option to purchase he would be in a position to purchase that land.

The second situation is: that tenant may not have exercised the option to purchase within the appropriate period of time, so therefore that tenant would no longer have the right to purchase from the landlord. But that tenant - let us deal with the 20 year one - would have had the option to submit a request to purchase a lot from the Crown. So that tenant may, if that tenant wishes, be in a position to be a landowner.

The third situation is: that the tenant may not have exercised the option to purchase from the landlord, may not have exercised an option to purchase from the Crown, but prefers to remain a tenant. So we are dealing with a situation where that kind of tenant is not able to pursue freehold ownership arrangements and wishes, the tenant wishes and elects to remain a tenant. So we are saying in that situation where the tenant wishes and elects to remain a tenant, if he does so for a period of 20 years or more, we will give him the protection which the Tenancies Control Act would give past tenants on the 2 to 5 lots, and allow that tenant to have the security of his own wish to remain a tenant.

Aside.

Hon. H. deB. FORDE: The Honourable Member, with respect, has only answered part of the complaint of the Honourable Member for St. Thomas.

What the Honourable Member for St. Thomas is saying is: let us assume that the tenant has not exercised the right to ask the Crown to relocate him in 2 years or he has exercised that right and the Crown has not relocated him in 2 years, and he remains there but he wants to improve his conditions. He wants to build wall. He wants now to really have some ownership of that land. The point is that he cannot do it. I think the Honourable Member must concede that he may be there for 25 years, 30 years and he cannot do it. There are only limited circumstances in which that tenant can still be ejected under Section 4 of the Tenancies Control Act which is the 1965 Act. He can still be ejected. And one of the circumstances in which he can be ejected

under that Act is, let us say, under section 4A of Cap. 239. If he can be ejected under section 4(f), let us assume that the landlord offers him a tenancy of a new lot at a rent not higher than a rent which is permissible under section 6, but on the same terms as the existing tenancy, and he has failed to accept the offer within a reasonable time; he can be ejected. That is a provision under section 4(f).

' Now it has been my experience that landlords have offered new tenancies at the same rent, but in spots sometimes that are totally unsuitable. And it has been my experience too that they have offered them spots not only unsuitable but the cost of relocation has been too much for those tenants. And that therefore, if you are going to really ensure protection you need as well to amend section 4 of the Act of 239 in order to build in what is a real (and is not really a fictitious) protection.

That is why when we say there were a lot of problems in the landlord and tenant legislation, we were not speaking flippantly. And the Honourable Member read the reply which he received from Sir Roy Marshall. We recognised there were problems that had to be addressed. But you had to be careful in addressing those problems that you did not worsen the position of the tenants in some ways. And they are a real serious category of persons. The Minister when he replied said there were 190 according to him. I believe that his department has not really got the true statistics on this matter. He said there were 190.

I am really concerned about it and that is why in the debate so far we have adverted to these problems that have occurred. You read the sections together and you will see that what we are talking about is genuine. I do not want to repeat the argument advanced in my speech already.

But I am also concerned about the new sub-clause 4C. (2) in which:

"Subject to any agreement between the parties ...;" there is an automatic determination. I think 4C (2) is unnecessary. And it may signal to some landlord to make sure that these people go immediately after the five years. I know the Minister assumed that he had 7 years in which to make provision. I think he is wrong on that. The legislation is saying that if a tenant tells the Minister in 2 years' time that they want a spot, he must have a spot. He cannot tell them to wait for another 5 years.

I am sure that given the Administrative Justice Act and the right of mandamus which has been extended to tenants that you are going to get a spate of litigation arising out of this particular Clause.

And I will tell the Minister one of the other dangers that the Clause could leave itself open to. I am not saying it

is going to happen. But when you are looking at legislation you have to look at....

Aside.

Hon. H. deB. FORDE:... like the eventuality. It could well be that somebody exercises the right to the Minister. He says that I have not got a spot for you to go to. I am going to pay you compensation, pay the compensation and the person could then with the collusion of the landlord remain on the land. He still gets the compensation.

Aside.

Hon. H. deB. FORDE: You said so.

Aside.

Hon. H. deB. FORDE: You said so. It is not fraud. It is within....

Aside.

Hon. H. deB. FORDE: Well it is not fraud. It is within the terms of the Act.

Aside.

Hon. H. deB. FORDE: I am only saying that I know the Government obviously from their perspective of their Manifesto promise, believe that when the Opposition gets up and speak that they must use their voting numbers and close their ears and eyes to suggestions that could possibly be sensible.

But I am suggesting here that this particular section certainly needs some consideration. And I would not be surprised if you have to amend it sooner than you think.

Hon. M. A. KING: Mr. Chairman, there are two points raised by the Honourable Leader of the Opposition. He referred to section 4(f) of the Tenancies Control Act, Cap. 239. What one has to understand is that 4(d) provides an additional protection. So that after the passing of this Act, tenants who occupy land on lots between 2 and 5, after the passing of this Act really have no protection, other than what is provided for in the Tenancies Control Act.

Aside.

Hon. M. A. KING: No, no.

Aside.

Hon. M. A. KING: Yes. If they are on more than 5 lots, they have the protection under this. 10.05 p.m.

Now between 2 and 5 lots there is non-security under the Security of Tenure Act. So that what we are saying is that for people who have been long residents on tenancies we are providing this additional protection. You cannot provide complete and absolute protection. If you are saying that 4(f) is ineffective for this purpose, it is ineffective for any purpose.

Asides.

Hon. M. A. KING: No, no, no! It would have been ineffective at that time as well. So what I am saying is one has to look at the legislation as it is. I mean... I have made the point that no legislation is perfect and, if we see as a result of what happens, that the legislation needs to be further amended, then so be it.

Now the second point which has been made (which I think has to be addressed) is in relation to 4(c), where the Honourable Minister of Housing made the point that the tenant has in effect 5 plus 2 years in order to make preparation for moving. Section 4(c) talks about giving the tenant a moratorium, so to speak of 5 years. Honourable Members on the other side are saying, "But that moratorium has a limited effect because at the end of that period of time Section 4(2) provides for an automatic termination of tenancy." It does do so. But if one looks at the next Sub-section (3): "On the determination of the contract of tenancy per Sub-section 2, the Crown shall offer to the tenant a contract of tenancy on no less favourable terms."

So that you are in the situation where the tenant has a moratorium of 5 years. During that time he can look for alternative arrangements, and seek to make alternative arrangements. When the 5 years have passed, then he has an extra 2 years in which he can apply to the Crown for an alternative site. So I do not see that any particular hardship is created by this section.

Hon. H. deB. FORDE: I think in this case I must say not only the Honourable Member but my learned friend, really must read that Section 4(c)(3) and Section 4(b)(4). Because for him to have the right to get the 4(c)(3) protection, he must have exercised his right within 2 years after the commencement of the Act and that is one of the things. One of the queries I asked on the Second Reading is why are you not tying in the period of time during which he must exercise his right, to notify the Minister into the longer period of time of security you are giving. Why 2 years? I asked that question. It does not seem right. If 2 years have gone, and he has not exercised that right, he cannot get 4(c)(3) protection.

Asides.

Hon. H. deB. FORDE: I am making the point. The point is raised... ignorant!

Hon. M. A. KING: It says that 4(c)(3): "On the determination of a contract of tenancy, the Crown shall offer..." Just a minute. You say that 4(a)...No, no, no! You say that in 4(a) the tenant must notify. What 4(a) says - 4(b)(4) - is that the tenant must notify the Minister within 2 years. What 4(c)(3) says is that on the expiration of the 5 years, the Crown shall "offer". There is no initiative needed from the tenant then:

"On the determination of the contract of tenancy per Sub-section 2, the Crown shall offer to the tenant referred to in Sub-section 2..."

So the initiative moves from the Crown in this latter situation.

I beg to move, Sir...

Hon. B. M. TAITT: I beg to second it.

The question that Clause 5 stand part was put and resolved in the affirmative with the House dividing as follows:

Ayes: Hon. L. E. SANDIFORD, Hon. P. M. GREAVES, Hon. B. M. TAITT, Hon. M. A. KING, Hon. E. E. GREAVES, Hon. W. O. FRANKLIN, Hon. H. A. BLACKMAN, Hon. N. K. SIMMONS, Hon. W. W. HALL, Hon. Dr. D. G. BLACKMAN, Hon. C. V. WALKER, Mr. P. J. M. MILLER, Mr. L. L. BRATHWAITE, Mr. C. L. TROTMAN, Mr. J. J. PAYNE, Mr. R. L. MORRIS, Dr. E. A. SIMMONS, Mr. E. BOURNE, Mrs. M. BARKER-WELCH and Mr. D. J. H. THOMPSON - 20.

Noes: Hon. H. deB. FORDE, Mr. D. A. C. SIMMONS and Mr. O. S. ARTHUR - 3.

Mr. CHAIRMAN: Twenty Honourable Members have said Aye and 3 have said No. Accordingly, Clause 5 stands part.

Clauses 6 to 10 were called and passed.

Clause 11 was called.

Mr. D. A. C. SIMMONS: Mr. Chairman, I just want to take this opportunity to let Honourable Members know that when I left earlier tonight in a hurry it was because the Registrar had to be admitted to the ICU. The prognosis is not bad, Sir. I am hopeful. I am grateful to those Honourable Members particularly the Member for St. Michael Central who sent his personal regards by the Leader of the Opposition.

Mr. CHAIRMAN: I will take this opportunity on behalf of the Members of the House to ask you to convey our best wishes to the Registrar.

The question that Clause 11 stand part was put and resolved in the affirmative without division.

Clauses 12 and 13 were called and passed.

Clause 14 was called.

Hon. M. A. KING: Mr. Chairman, in moving that Clause 14 stand part, I wish to move that 26(b) on page 19, the first line be amended. It reads: "An appeal lies to the High Court." I move that there be substituted the words, "Supreme Court of Judicature".

Hon. B. M. TAITT: I beg to second that.

The question that Clause 14 stand part was put and resolved in the affirmative without division.

Clauses 15 and 16 were called and passed.
10.15 p.m.

Clause 17 was called and passed.

On the motion of Hon. M. A. KING, seconded by Hon. E. E. GREAVES, Mr. CHAIRMAN reported the passing of one Bill in Committee, and Mr. SPEAKER resumed the Chair and reported accordingly.

On the motion of Hon. M. A. KING, seconded by Hon. E. E. GREAVES, the Bill was read a third time.

On the motion of Hon. M. A. KING, seconded by Hon. E. E. GREAVES, the Bill was passed and cited as the Tenancies Freehold Purchase (Amendment) Act, 1988, the House dividing as follows:

Ayes: Hon. L. E. SANDIFORD, Hon. P. M. GREAVES, Hon. M. A. KING, Hon. E. E. GREAVES, Hon. W. O. FRANKLIN, Hon. H. A. BLACKMAN, Hon. N. K. SIMMONS, Hon. W. W. HALL, Hon. Dr. D. G. BLACKMAN, Hon. C. V. WALKER, Hon. B. M. TAITT, Mr. R. P. BYER, Mr. P. J. M. MILLER, Mr. L. L. BRATHWAITE, Mr. C. LeR. TROTMAN, Mr. J. J. PAYNE, Mr. R. L. MORRIS, Dr. E. A. SIMMONS, Mr. E. BOURNE, Mrs. M. BARKER-WELCH and Mr. D. J. H. THOMPSON-21.

Noes: Hon. H. deB. FORDE, Mr. D. A. C. SIMMONS

COMMITTEE OF SUPPLY

On the motion of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, Mr. SPEAKER left the Chair and the House went into Committee of Supply, Mr. R. P. BYER in the Chair.

Mr. CHAIRMAN: The House is in Committee.

SUPPLEMENTARY ESTIMATES 1988-89, No. 6 A

Resolution for the sum of \$1 477 735 _ was called.

HEAD 28 - MINISTRY OF LEGAL AFFAIRS

Hon. M. A. KING: Mr. Chairman, under Subhead 1, the additional sum of \$112 500 is required to supplement the Estimates and this is to pay damages and legal fees arising out of a suit, Carlton Bennett against the Attorney General. This action has been brought by the plaintiff in respect of an injury suffered by him while an employee of the Ministry of Transport and Works in the performance of his duties.

Under Subhead 2, the Resolution seeks to increase Barbados' contribution to the United Nations Fund for Drug Abuse Control from \$500 to \$2 000. We feel that this increase is justified because of the work which UNFD AC is doing in the area of drug abuse control and because of the assistance which Barbados has obtained and stands to gain from this organisation.

I move, Mr. Chairman, that Head 28 stand part.

Hon. B. M. TAITT: I beg to second that.

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

HEAD 31 - PRISONS

Hon. M. A. KING: Mr. Chairman, a supplementary provision of \$525 740 is required to meet the projected expenditure to the end of the financial year. The sum of \$590 000 has been provided in the Estimates on the basis of a projection of a prison population of 385 persons. But as is generally known, the prison population has increased beyond that to some 475, and this provision is required to meet the expenditure which will be necessary for the end of the financial year.

I move that Head 31 stand part.

Hon. B. M. TAITT: I beg to second that.

Mr. D. A. C. SIMMONS: Mr. Chairman, I compliment the Attorney-General for his frank admission that the prison population has increased by now 100 more than had been bargained for in April this year. We have a fast rising prison population. What the Minister needs to tell us is why. I am not seeking to make any criminological conclusions, I am asking a number of questions without necessarily saying that there is any direct casual link; that there is any etiology in criminality for the various social circumstances that I want to mention. What I want to find out is:

- (a) Is it because of the level of unemployment which will not come down but is anticipated to come down to 15.7% down the road another few years;
- (b) Is it because of the drug trade;
- (c) Is it because of better policing and enhanced detection;
- (d) Is it because of magisterial practice which may see prison as a place of resort for a person on remand?

10.25 p.m.

If that is so, then surely the time has come for us to give consideration to a total development of our correctional services. In that regard this document which was laid today... I have only had a quick glance which was sufficient to inform me that it is woefully deficient, and I am satisfied " now that for the next five years, the Government has no plan for a thorough revamping of the correctional services in Barbados. But I think it is important.

Asides.

Mr. D. A. C. SIMMONS: You cannot use the one I left because in the one I left, you will find on page 31 in summary form what had been announced to Tony Best in January 1986 when I was interviewed by him in New York and was published in the *Sunday Sun* at length. And it was that I had envisaged a complete change in the system of correctional services, recognising the fact that magistrates were tending to remand young people to prison or alternatively to sentence them to a term of imprisonment. But if we had the correctional infrastructure, those persons could have been shunted off to a different type of institution. I had to look at a plan that would encompass persons on remand, persons who commit first offences and persons who were recidivists and habitues.

The first thing I think we need, Sir, is a Director of Correctional Services, a person suitably trained and experienced in this area who has a vision for the co-ordination of these services. You see, what we have today is a large number of middle class secondary school children down at the psychiatric hospital, as a result of tampering with drugs. That is one problem. We have another set who have also been enmeshed in the drug business between the ages of 18 and 23 up at Glendairy. We have a set at Dodds and Summervale.

I know, Sir, that it will be popular to say that all Chief Justices from time to time have called for a borstal to be set up in Barbados. But I think the need is real. We need a facility, I don't mind what you call it - for those youngsters

between 18 and 23 who are led astray particularly in the area of drugs and so on and commit little peccadillos and who can be sent to an institution where they can be taught a variety of useful work, and where the regime would be sufficiently rigorous to ensure that a large measure of discipline is instilled in that person. That would take care of it.

I used to dream of the Cable and Wireless Station at Carrington, St. Philip, set away on one side of Brereton, hidden away. If we could have got hold of these buildings and some of the lands around them

. Asides.

Mr. D. A. C. SIMMONS: Is it on the market now? If it is on the market, I really counsel the Government to look at it seriously. You may not have anything in the Development Plan, but it does not matter. The Development Plan is not the be all and end all. If a property like the Carrington Station of Cable and Wireless comes on the market, I counsel Government to look at the feasibility and viability of buying it. If you have 20 to 25 acres up there around the place, enclose it and so on and you could use that ideally for those youngsters who have problems with drugs and commit criminal offences, but are not sufficiently of a criminal sub-culture as to mix at Glendairy with the hardened boys and imbibe all the learning processes of criminality. And we could use that as a kind of half-way house, as a kind of borstal if you like.

I am only just slumming the surface tonight because I know we want to wind up the debate. But I think we need some intermediate institution. You have Dodds and the prison, and we need a third. And if you can get hold of that, (Rastas like "itals" and vegetables) send them up there and let them do some forking, and making up some nice beds, and planting some of the vegetables for the country. Put them to useful work; put them to trades, whatever. I think we have got to make an attack to save these fellows between 18 and 23 who get into trouble. And if we do not pull them back quickly they may find themselves down a road of crime. So I hope the Government will look at that.

At the level of remand, I know there will be some little outcry from time to time. But we have to have the political will at some time to do these things. There are a number of disused Sergeants' quarters at many police stations in the country. They have gone out of the Boys' clubs and Girls' clubs system. They can be remand homes. Properly refurbished and rehabilitated with a house mother and a couple of assistants, they could be remand homes. Properly refurbished and rehabilitated with a house mother and a couple of assistants, they could be remand homes. I do not mind saying it. In St. Thomas you have Rock Hall District "C"... Boarded Hall is dilapidated, but we can look around. The buildings are there and rather than let them collapse,

rehabilitate them. For example, at St. Thomas, there is enough space there that if you put in a couple of beds you could probably house fifteen people on remand. Look at District "E" out on the hill. The police sergeants are no longer using them; and rather than let them fall into disuse, I think they could serve an alternative purpose. And if they were set up as remand homes, close by the police stations, where the policemen themselves could exercise some surveillance over the people on remand, I think we would again be relieving the pressure on the prison population and sending these youngsters into a different environment

Sir, I have got a signal from the other side. I will go on on this at length at a later stage. Suffice it to say that I would be grateful if the Minister could just answer some of the basic questions, namely, the cause of the increase in the prison population.

Hon. N. K. SIMMONS: Mr. Chairman, I just want to add a few comments to what the last speaker has said. As a former Magistrate, I think that one of the problems which magistrates face, is that there are few options open to them as to what to do with some people, when they come before the courts fairly often - especially juveniles. Usually you end up -sending them to the Government Industrial School, although very often that is not your wish. But there are no other options. I think one of the things we should look at is the question of community service, because if a youngster has done something wrong at a particular place, this could be effective. For example, I have had a case in which a youngster damaged the national stadium and we had an arrangement whereby he went back to the stadium, did some work for a couple of weeks or so, and he was okay thereafter. And there was no conviction placed against him.

I am however rather surprised to hear the Honourable Member for St. Thomas talk about Carrington. Because in 1975, I was attached to the Prime Minister's office to develop a youth programme. And when the Barbados Labour Party won the Government, I can remember Mr. Craig coming to this Honourable House and laughing and saying how he got rid of me. As a matter of fact, he said he asked Tom to send me to him and let him deal with me. We are talking about Carrington- the same thing you are saying now thirteen years after the event.

Asides.

Hon. N. K. SIMMONS: We agree on a lot of things - not necessarily politically; but that would have been up now. We went to acquire Carrington. We approached Cable and Wireless. I can remember the then Prime Minister, Mr. Barrow, going to London to discuss with the owners of Cable and Wireless the purchase of Cable and Wireless to put in place a programme, I would say, for at least 200 youngsters who for various reasons committed offences. We spent many hours early in the morning developing a

programme to find that when it was to come on stream, the Barbados Labour Party just threw it through the window and dismissed it and came in here and laughed at the people who were on that Committee. Now today, 13 years after, we are seeing the wisdom of the idea of developing Carrington. 10.35 p.m.

Aside.

Hon. N. K. SIMMONS: It is still not too late and I can assure the Honourable Member for St. Thomas that we are looking at the problem, dealing with young people and something will soon come to this Honourable House.

Thank you.

Hon. M. A. KING: Just a few brief words, Mr. Chairman, on the questions asked by the Honourable Member for St. Thomas.

He raised the question whether the increase in the Prison population was a result of unemployment, drug trade, better policing; and he raised a number of other issues. He was posing questions and answering them.

I think we all know how the Honourable Member debates. But I think (as he has drawn to the attention of the Honourable House) that there has been a large number of developmental problems which have been left by the last administration (as the Honourable Member would know) among which is the problem of unemployment... Yes!

There is the question of better policing. But one may argue that there is, perhaps, much better policing now than there had been, certainly, before this administration came. Because if you will remember, we had given a commitment....

Aside.

Hon. M. A. KING: Mr. Chairman, I am sure we can deal with this matter on a subsequent occasion. I am sure the Honourable Member would....

The question that Head 31 stand part was put and resolved in the affirmative without division.

HEAD 32 - FIRE SERVICE

Hon. M. A. KING: Mr. Chairman, I beg to move that Head 32 stand part.

Hon. B. M. TAITT: I beg to second that.

Mr. D. A. C. SIMMONS: I do not want to hold up the House, Sir. But I must really make this little comment about the Fire Service.

Having heard little snippets of the Prime Minister's address to the association on Friday, I think it was, and having gone through the Development Plan 1988 -1993, I really am amazed that in the next 5 years, the Government appears not to have any plan for the physical development of fire stations in Barbados. There is absolutely nothing in here.

Now, again, I want it clearly understood, Sir. In November 1985 when I addressed the Fire Service Association, they had all their complaints about conditions and hours of work and so on. I was able to meet with them and get the hours reduced from 72 hours a week to 56. But I think, more importantly, I was able to get the association to put up, through the then Chief Fire Officer, Mr. Gittens (who I believe, unfortunately, died when I was away) a plan. And we sat down and knocked around that plan in the Ministry and the Ministry finally accepted the planning. It was this that showed that the time had come for additional fire stations.

The Democratic Labour Party Government makes no reference at all in the Development Plan, to providing what I consider, proper cover for the island. We have seen within the last two and a half years, problems with fire tenders getting to scenes of fire, particularly in the northern parishes.

The plan that we had agreed (and I regret that Government has not considered it - you cannot do everything but, at least, make a start) was that we would have a station in the north, in the Speightstown area. Do not mind the little one at Weston. You wanted to get Speightstown covered, because of its development. You would be able to cover St. Lucy and St. Andrew from that point, having regard to the development of the road from Greenland to St. Lucy's Church, that new highway, the O'Neal Highway, or whatever it is called, and then we would have one in St. Thomas.

The Boarded Hall Police Station would have been converted into a fire station, with the police station moving to the Glebe in St. George for which plans had been drawn. But, I understand the Attorney General's point on that. It is a question of priorities. They are going to give the priority to doing a police development at Hometown first, rather than at Boarded Hall. I have no quarrel with that. That is a shift in emphasis.

Because of the oil fields and the need also to have additional cover for the airport, we were considering a station for St. Philip, either up on the hill where District "C"

is now above your fire station, or build it down somewhere in the Six Roads area.

Aside.

Mr. D. A. C. SIMMONS: It is not a question about how many police stations you built in 10 years. Because that can be answered in another way: that the DLP Government in 15 years did not even build one. And I do not have to speak about Oistins.

Aside.

Mr. D. A. C. SIMMONS: You must not say that you built the airport station. Again, last week in here, when we spoke of the airport station, Members on that side, in the absence of the present Minister of Labour, conceded that the airport station and the Police Band headquarters (where construction is now going on at Station Hill) were left by the Barbados Labour Party. 10.45 p.m.

Aside.

Mr. D. A. C. SIMMONS: Non-contentious! You all finished them.

Aside.

Mr. D. A. C. SIMMONS: Mr. Keith Barrow.....

Aside.

Mr. D. A. C. SIMMONS: Yes! ...is the gentleman who virtually drew the plans for the airport station.

Aside.

Mr. D. A. C. SIMMONS: You want to get home in a hurry?

Aside.

Mr. D. A. C. SIMMONS: Alright, Sir. In the spirit of the season, Sir. Do not let us overdo it. I will have a chance at this again, Sir. But luckily, it is all written down, all written down in a document, Sir, which we have not had a chance to implement or not implement.

The question that Head 32 stand part was put and was resolved in the affirmative without division.

HEAD 35 -MINISTRY OF FOREIGN AFFAIRS

Head 35 was called and passed.

RESOLUTION AMENDING EXPLANATORY NOTE
TO HEAD 76 - MINISTRY OF EDUCATION
AND CULTURE, SUBHEAD 17, OBJECT
NO. 24 - PURCHASE OF VEHICLES

Item l(b) was called - To move the passing of a Resolution to amend the Explanatory Note to Head 76 - Ministry of Education and Culture, Subhead 17- Industrial Schools, Object No. 24 -Purchase of Vehicles.

Hon. C. V. WALKER: Mr. Chairman, this item is rather short. Just an erratum following the last Estimates and which was not simply corrected.

"provision is required to carry out urgently needed electrical" and change the number from 184 to 18 Horse Power.

And I therefore move that it stand part. Hon. B.

M. TAITT: I beg to second that, Sir.

The question that Head 76 stand part was put and was resolved in the affirmative without division.

RESOLUTION AMENDING THE EXPLANATORY
NOTE TO HEAD 28 - MINISTRY OF LEGAL
AFFAIRS, SUBHEAD 2, OBJECT NO. 17 -
SUBSCRIPTIONS AND CONTRIBUTIONS

Item l(c) was called - To move the passing of a Resolution to amend the Explanatory Note to Head 28 - Ministry of Legal Affairs - Subhead 2 - Subscriptions and Contributions.

Hon. M. A. KING: Mr. Chairman, I beg to move that the Resolution to amend the Explanatory Note to Head 28 stand part.

Hon. B. M. TAITT: I beg to second that, Sir.

The question that Head 28 stand part was put and was resolved in the affirmative without division.

RESOLUTION TO GRANT THE SUM OF \$1 898 700
FROM THE CONSOLIDATED FUND AND TO PLACE
IT AT THE DISPOSAL OF THE GOVERNMENT
TO SUPPLEMENT THE ESTIMATES, 1988-89,
PART I - CURRENT AS SHOWN IN THE
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Item (d) was called - To move the passing of a Resolution to grant the sum of \$1 898 700 from the Consolidated Fund and to place it at the disposal of the

Government to supplement the Estimates, 1988-1989, Part I - Current as shown in the Supplementary Estimates, 1988-1989 No. 7.

HEAD 13 -PRIME MINISTER'S OFFICE

Head 13 - Prime Minister's Office was called.

Hon. L. E. SANDIFORD: Mr. Chairman, I beg to move that Head 13 stand part.

Hon. B. M. TAITT: I beg to second that, Sir.

The question that Head 13 stand part was put and was resolved in the affirmative without division.

HEAD 19 - MINISTRY OF FINANCE

Head 19 - Ministry of Finance - was called.

Hon. L. E. SANDIFORD: Mr. Chairman, I beg to move that Head 19 stand part.

Hon. B. M. TAITT: I beg to second that, Sir.

The question that Head 19 stand part was put and was resolved in the affirmative without division.

HEAD 25 -MINISTRY OF AGRICULTURE, FOOD AND FISHERIES

Head 25 -Ministry of Agriculture, Food and Fisheries - was called.

Hon. W. O. FRANKLIN: Mr. Chairman, I beg to move that Head 25 stand part.

Hon. B. M. TAITT: I beg to second that, Sir.

The question that Head 25 stand part was put and was resolved in the affirmative without division.

HEAD 27 -METEOROLOGICAL SERVICES

Head 27 - Meteorological Services - was called.

Hon. W. O. FRANKLIN: Mr. Chairman, I beg to move that Head 27 stand part.

Hon. N. K. SIMMONS: I beg to second that, Sir.

The question that Head 27 stand part was put and was resolved in the affirmative without division.

RESOLUTION TO GRANT THE SUM OF \$38 613 909 FROM THE CONSOLIDATED FUND AND TO PLACE IT AT THE DISPOSAL OF THE GOVERNMENT TO SUPPLEMENT THE ESTIMATES, 1988-1989, PART II CAPITAL AS SHOWN IN THE SUPPLEMENTARY ESTIMATES, 1988 1989 NO. 8

Item (e) was called — To move the passing of a Resolution to grant the sum of \$38 613 909 from the Consolidated Fund and to place it at the disposal of the Government to supplement the Estimates, 1988-1989, Part II - Capital as shown in the Supplementary Estimates, 1988-1989 No. 8.

HEAD 69 - PRIME MINISTER'S OFFICE - SUBHEAD 2

Hon. L. E. SANDIFORD: Mr. Chairman, I beg to move that Head 69 stand part. This is to provide a vehicle for CERO to assist CERO in its activities.

Hon. B. M. TAITT: I beg to second that, Sir.

The question that Head 69 stand part was put and was resolved in the affirmative without division.

HEAD 73 -MINISTRY OF FINANCE - SUBHEADS 3 AND 10.

Hon. L. E. SANDIFORD: Mr. Chairman, I beg to move that Head 73, Subheads 3 and 10 stand part.

Hon. N. K. SIMMONS: I beg to second that, Sir.

The question that Head 73 stand part was put and was resolved in the affirmative without division.

HEAD 74 - MINISTRY OF AGRICULTURE, FOOD AND FISHERIES - SUBHEADS 2, 13 AND 14

Hon. W. O. FRANKLIN: Mr. Chairman, I beg to move that Head 74, Subheads 2, 13 and 14 stand part.

Hon. N. K. SIMMONS: I beg to second that, Sir.

The question that Head 74 stand part was put and was resolved in the affirmative without division.

RESOLUTION TO GRANT THE SUM OF \$535 906
FROM THE CONSOLIDATED FUND AND TO PLACE
IT AT THE DISPOSAL OF THE GOVERNMENT TO
SUPPLEMENT THE ESTIMATES 1988-1989 -
PART I - CURRENT AS SHOWN IN THE -
SUPPLEMENTARY ESTIMATES,
1988-1989 NO. 9

Item (f) was called - To move the passing of a Resolution to grant the sum of \$535 906 from the Consolidated Fund and to place it at the disposal of the Government to supplement the Estimates 1988-1989 - Part I - Current as shown in the Supplementary Estimates, 1988-1989 No. 9 which form the Schedule to the Resolution.

Mr. CHAIRMAN: Which Head is this? I do not have any notes here in my file.

The DEPUTY CLERK informed Mr. CHAIRMAN that it was a Resolution for \$535 906 for Ministry of International Transport, Telecommunications and Immigration, Subhead 6 - Regional Shipping Services Development.

Hon. P. M. GREAVES: Mr, Chairman, I beg to move that Head 14, Subhead 6 stand part, Sir.

Mr. CHAIRMAN: The question is that Head 14... Would someone second the Resolution for me please!

Hon. M. A. KING: I beg to second that, Sir.

The question that Head 14 stand part was put and was resolved in the affirmative without division.

HEAD 25 -MINISTRY OF AGRICULTURE, FOOD
AND FISHERIES - SUBHEAD 3

Hon. W. O. FRANKLIN: Mr. Chairman, I beg to move that Head 25, Subhead 3 stand part.

Hon. N. K. SIMMONS: I beg to second that, Sir. >

The question that Head 25 stand part was put and was resolved in the affirmative without division

RESOLUTION TO GRANT THE SUM OF \$2 302 980
FROM THE CONSOLIDATED FUND AND TO PLACE
IT AT THE DISPOSAL OF THE GOVERNMENT TO
SUPPLEMENT THE ESTIMATES 1988-1989 -PART II -
CAPITAL AS SHOWN IN THE SUPPLEMENTARY
ESTIMATES 1988-1989 NO. 10 WHICH FORM THE
SCHEDULE TO THE RESOLUTION

Head 74 - Ministry of Agriculture, Food and Fisheries - Subheads 20, 21 and 26.

Hon. W. O. FRANKLIN: Mr. Chairman, I beg to move that Capital Head 74 stand part.

Hon. N. K. SIMMONS: I beg to second that, Sir.

The question that Head 74 stand part was put and was resolved in the affirmative without division. 10.55 p.m.

On the motion of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, Mr. CHAIRMAN reported the passing of 7 Resolutions in Committee of Supply, and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motion of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, the Resolutions were read a first and second time and agreed to.

RESOLUTION TO APPROVE THE LOAN OF \$2.3
MILLION TO ASSIST THE CARIBBEAN
BROADCASTING CORPORATION IN
MEETING ITS FINANCIAL
OBLIGATIONS

Order No. 3- To move the passing of a Resolution to approve the loan of \$2.3 million by the Minister responsible for Finance to the Caribbean Broadcasting Corporation to assist the Corporation in meeting its financial obligations.

Hon. L. E. S ANDIFORD: Mr. Speaker, it is the policy of the Government to maintain the Caribbean Broadcasting Corporation as a statutory corporation and it is the policy of the Government to ensure that that corporation is provided on an ongoing basis with the resources which are necessary to enable it to carry out its mandate both in terms of programming and in terms of the resources which are necessary for it to provide quality programming. In this regard there are some 4 ways by which the corporation may be financed:

- (1) through Government outlays and subsidies
- (2) by way of revenue from advertising
- (3) by way of annual license fees
- (4) from subscription services.

The annual license fees are not available and the other 3 methods are in place but not performing to the level that would enable the corporation to meet its commitments. We are therefore proposing that an adequate financing plan for the corporation be put in place, and part of that programme is by way of a loan to the corporation. That is part of the package and this particular Resolution is in support of that loan package.

I, therefore, beg to move that this Resolution do now pass.'

Hon. B. M. TAITT: I beg to second that and reserve my right to speak, Sir.

Hon. H. deB. FORDE: Mr. Speaker, Sir, I do not intend to delay the House at this hour. You have my word that we will not engage the Government in debate on these matters at this stage having regard for the time. But I can assure Honourable Members that early in the new year, either with any Supplementaries or at the time of the Estimates, I think, we would wish to debate CBC in a much fuller manner, time permitting, Sir.

Hon. B. M. TAITT: Mr. Chairman, I would just like to say that I myself do not wish to delay the House. But I look forward to an early Supplementary, early in the new year, so we can discuss CBC fully. I assure the Honourable Member I will be ready and waiting to have that discussion.

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

QUESTION TIME

Mr. SPEAKER: Question No. 87, the Honourable Member for St. James North.

His Honour J. J. PAYNE: Mr. Speaker, Question No. 87 reads as follows:

To ask the Minister of Transport and Works:

Will the Minister state whether and, if so, when Government proposes to install street lights in the following areas:- (1) Bagatelle Development, St. Thomas/St. James, (2) Storehouse Road, Mount Standfast, (3) Prescod Road, Mount Standfast, (4) Rock Dundo (leading to Highway 1), (5) Greenwich Road (leading to Highway 1), (6) Lower Carlton (leading to Highway 2), (all in St. James) and (7) Bakers, St. Peter (leading to Highway 2)?

Hon. Dr. D. G. BLACKMAN: Mr. Speaker, the reply to Question 87 is as follows:

To ask the Minister of Transport and Works:

The Ministry has embarked upon a programme of installing street-lights throughout the island. Because of limited resources, it has been necessary to do so on a phased basis. The Ministry is currently undertaking surveys of the areas mentioned in the Parliamentary Question and is awaiting reports from the Barbados Light and Power Company.

His Honour J. J. PAYNE: Mr. Speaker, is the Minister aware that in the St. James North area, the number of lights has been reduced since 1986?

Asides.

His Honour J. J. PAYNE: The number of lights has been reduced because some have been removed.

Hon. Dr. D. G. BLACKMAN: Mr. Speaker, I am not aware of this. I am not aware of that specific situation; but I can say that the Ministry is experiencing problems with the supply of lights. There are many people who believe that the Ministry of Transport and Works does the actual installation of lights. Nothing could be farther from the truth. The Ministry of Transport and Works in response to request for lights asks the Barbados Light and Power Company to conduct a Survey and this survey then reveals the number of lights recommended by the Barbados Light and Power Company which then provides the lights on order.

During the current financial year, no lights whatsoever have been installed by the Barbados Light and Power Company, in spite of the fact that we have asked them to instal, I believe over 500 lights. I believe that monopolistic situations are inherently bad; and I believe that the Government will soon have to address itself to dealing with that situation in so far as street lighting is concerned. I do not believe that the Barbados Light and Power Company has behaved in a manner that is in the public's interest on this question, and the Ministry is currently examining ways in which the Ministry itself will have greater control over the time, place and manner of the installation of street lights. 11.05p.m.

Mr. SPEAKER: Question No. 97, the Honourable Member for St. Thomas.

Mr. D. A. C. SIMMONS: Mr. Speaker, Question No. 97 reads as follows:

To ask the Attorney-General and Minister of Legal Affairs:

1. Will the Minister please state:
 - (a) whether the Commission of Inquiry into the death of Michael Agard at Glendairy Prison has reported to the appropriate and competent authority and if so, on what date,
 - (b) whether the Government has been made aware of the contents of the Report, if the Commission has in fact reported, and
 - (c) whether the Government intends to lay the report in Parliament or otherwise make it public.
2. If the answer to the paragraph (c) hereof is in the affirmative, will the Minister state when it is proposed to make the said report public?

Hon. M. A. KING: Mr. Speaker, the Reply to Parliamentary Question No. 97 is as follows:

- (a) Yes, on 23rd December, 1986.
- (b) Yes.
- (c) Yes. As soon as disciplinary enquiries and proceedings arising out of the report have been completed.

Mr. D. A. C. SIMMONS: No supplementaries.

Mr. SPEAKER: End of Replies to Parliamentary Questions.

CONFIRMATION OF MINUTES

Mr. SPEAKER: Confirmation of Minutes of Tuesday, 13th December, 1988.

Hon. P. M. GREAVES: Mr. Speaker, now that the Minutes have been circulated much earlier today, I move that the Minutes of the meeting of 13th December, 1988 be taken as read and confirmed.

Hon. B. M. TAITT: I beg to second that.

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

ADJOURNMENT

Hon. P. M. GREAVES: Mr. Speaker, before I move the adjournment of the House for next year, which indicates that this is the final meeting for 1988, I should like to take this opportunity first of all to thank all Honourable Members for the co-operation they gave in bringing this meeting here today to a conclusion on this day. At one time it looked as though this would not have been possible; but that has only come about as a result of co-operation on all sides. And I want to thank all Honourable Members for that co-operation, as well as the staff of Parliament. Because without their services, we still could not have concluded today's business.

I also want to thank Honourable Members for the work that we have been able to do throughout the year 1988. I think we have worked in some cases some very long hours, and I want to thank Honourable Members for their co-operation.

All that is left for me to do now, Sir, is to wish all Honourable Members, you as Speaker first of all, particularly a very merry Christmas and a most prosperous New Year. In these good wishes, I am including the staff of Parliament, the Clerks, the Reporters, the Marshals all the

staff of Parliament. And I take this opportunity too, Sir, to wish those members of the Press who are with us...or the Press - not only those who are with us, those who are not with us as well - I want to include them in those wishes.

I must not forget the invaluable service rendered this Chamber by the Cabinet Office through the services here of Mrs. Grant. She has given long hours here and I should like too, Sir, to wish her all the best for the season and for the New Year.

I see the Leader of the Opposition is ready to rise, and again, I would have to include the Police. I want to say this, Sir. I have had to say things about the Police, of which I do not withdraw one sentence. I will in fact have to add, not subtract. At this time, I think the Police have worked generally well; and particularly in this Chamber. I think they have given good service and I too wish them well both over Christmas and for the New Year.

At this point, Sir, I should like to move the adjournment of this House to Tuesday, 17th January, 1989 at 12 o'clock noon.

Hon. H. deB. FORDE: Speaking on the motion for the adjournment, I should like to endorse the remarks of the Honourable Member, the Deputy Prime Minister, and to extend on behalf of the Opposition, Season's Greetings to you, Mr. Speaker, to all Honourable Members and, of course, to the staff of Parliament and all those persons who have assisted us during the year in carrying out our obligations as representatives of the people.

I certainly look forward to the resumption of Parliamentary Business in the New Year. I can promise the Government that the three weeks respite will allow us to, as the French say, retreat in order to come forward much better on the next occasion.

I trust that Honourable Members will have an enjoyable holiday with their families and with their loved ones. I think that we deserve sometimes a little respite from public duties and public work, and I trust that the staff of Parliament, who have manfully sat through today...it has been a long session, Sir, I think a useful session in many ways, a session in which obviously there have been differences on both sides of the House in some measure, but there has been a lot of co-operation in trying to complete the day's Order Paper. I wish, like the Honourable Member, to thank the staff for staying here. I recognise that they have a long day ahead of them tomorrow, and I think that all members of the staff of Parliament and those who serve Parliament (like the Police) have rendered yeoman service.

I wish as well, like the Honourable Member, to extend Season's Greetings to the Press, both those who are with us and those who are not with us, Sir.

Aside.

Hon. H. deB. FORDE: The Honourable Member for St. Michael West has some difficulty with his name, Sir. I can assure him that I have no difficulty with the name in any respect. I extend greetings to all members of the Press and look forward to them next year reporting Parliament as they have always done.

Thank you, Sir.

Mr. SPEAKER: Before I accept the wishes of both sides of the House, I should like to say that prior to the dinner suspension, I was informed that the Registrar, the wife of the Honourable Member for St. Thomas, had been taken ill and since then I understood that the Chairman of Committees has expressed the hope that she recovers quickly in the near future. On my own behalf, I should like to extend to her, through the Honourable Member, my wishes for a speedy recovery. 11.15p.m.

I want to thank all Honourable Members for the sentiments expressed at this time of the year. As usual we

are going to wish and hope that you all have a very pleasant holiday - sober, prosperous, I believe - and I seek your co-operation in the coming year, as has been the case in the past year. I think Honourable Members need compliments as well. I think the debates have generally lived up to what I expect Members can do. I did not have to suspend anybody and I hope in the coming year, I will not have to use the rules or the heavy hand of the rules at any time. But certainly, I will encourage lively and very intelligent and at least very high standards of debate in the coming year.

I wish you all a very happy Christmas and once more a prosperous 1989.

I also make that comment on behalf of all those who cannot say so for themselves.

The question that this House do now adjourn until Tuesday, 17th January, 1989 at 12 o'clock noon, was put and resolved in the affirmative without division, and Mr. SPEAKER adjourned the House accordingly. 11.17p.m.

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