

THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1986 - 91

HOUSE OF ASSEMBLY

Tuesday, November 20, 1990

Pursuant to the adjournment, the House of Assembly met at 12.15p.m.

PRESENT

His Honour L. A. WEEKES, G.C.M., J.P., (Speaker)
His Honour J. J. PAYNE, (Deputy Speaker)
Rt. Hon. L. E. SANDIFORD, B.A., (Econ.), J.P.,
(Prime Minister and Minister of Finance and Economic Affairs)
Hon. H. deB. FORDE, Q.C., M.A., LL.B.
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, 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.), (Leader of the Opposition)
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 Education and Culture)

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. A. NEBLETT, B.A., (Parliamentary Secretary, Prime Minister's Office)
Mr. C. LeR. TROTMAN, M.A.
Mr. R. L. MORRIS, B.A., Cert. Ed.
Mr. P. J. M. MILLER
Mr. R. P. BYER, LL.B.
Mr. D. J. H. THOMPSON, LL.B.

Prayers were led by Rev. Father Ivan Harewood.

Mr. SPEAKER: The House is in session.

MINUTES

Hon. P. M. GREAVES: Mr. Speaker, I move that the Minutes and proceedings of this Honourable Chamber of a meeting held November 13th, 1990 be taken as read and confirmed.

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

Mr. SPEAKER: If there are no other observations or corrections then let these minutes stand confirmed.

ANNOUNCEMENTS

Mr. SPEAKER: I am to announce that I am in receipt of the Accounts and Statements for the month of August, 1990, as prepared by the Accountant General.

GOVERNMENT NOTICES

Hon. P. M. GREAVES: Mr. Speaker, I give notice of a Bill specifically, Sir, the Road Traffic (Amendment) Bill 1990.

FIRST READING OF BILLS

Hon. P. M. GREAVES: Mr. Speaker, I move that the Road Traffic (Amendment) Bill, 1990, be read a first time.

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

The question that the Bill be read the first time was put and agreed to.

REPLIES TO QUESTIONS

Hon. N. K. SIMMONS: A reply to question No. 146 is now ready.

SUSPENSION OF STANDING ORDERS

Hon. P. M. GREAVES: Mr. Speaker before we proceed further I am going to move the suspension of the following standing orders: Standing Orders Nos. 6, 16, 18, 20,42(5), 43,44 for the remainder of this day's sitting.

The question that those standing orders be suspended for the day's sitting was put and agreed to.

GOVERNMENT BUSINESS

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

MAGISTRATES' JURISDICTION AND PROCEDURE (AMENDMENT) BILL, 1990

Order No. 1 was called - To move the Second Reading of a Bill to amend the Magistrates' Jurisdiction and Procedure Act, Chapter 116.

Hon. M. A. KING: Mr. Speaker, the purpose of this Bill before us, the Magistrates' Jurisdiction and Procedure (Amendment) Act is to amend the substantive legislation to provide for a number of things. First of all, it provides for a statutory base for the functions of the Chief Magistrate. The Chief Magistrate is a creature of statute and part of the judicial administration, as you are aware, but the position has been that the functions of the Chief Magistrate have hitherto not been set out in any legislation, so that One of the things which this Bill will accomplish is to give some statutory dimension to the functions of the Chief Magistrate. It does not do so in any particular way, Mr. Speaker, because when we tried to delineate the functions one became painfully aware that if you sought to create an

administrative function for the Chief Magistrate that by making the Chief Magistrate responsible for the administration of the Magistrates' Court, there was a potential conflict with the duties and functions of the Registrar of the Supreme Court, who after all is administrative head of the judicial service. So that the way the legislation has been put forward is to provide that the Chief Justice who is the head of the judiciary may, by instrument in writing, delegate any of the administrative functions which he has in relation to the administration of justice so far as the Magistrates' Courts are concerned. The Chief Justice is by this Bill empowered to delegate any of the functions which he has to the Chief Magistrate. That delegation, of course, Mr. Speaker, does not preclude the Chief Justice himself from exercising any function that relates to any aspect of the administration of justice which he desires to exercise.

The other point about the Bill is that it does provide that the Chief Magistrate shall have jurisdiction in every magisterial district throughout the country without any further assignment. The original position was that the Chief Magistrate like any other Magistrate was assigned to a particular jurisdiction and functioned only within that jurisdiction. By virtue of the provisions of this amending Bill the Chief Magistrate will now have the authority and the jurisdiction to function in any magisterial district without any need for a further assignment by the Chief Justice.

The second feature about this Bill, Mr. Speaker, is that it prohibits Magistrates from sentencing persons to imprisonment or imposing disqualifications on persons in their absence. What it does require is that before a person is sentenced to a term of imprisonment or is disqualified for any offence that that person may be brought before the Court.

A third feature of the Bill, Mr. Speaker, is that it provides for the taking of guilty pleas in relation to certain offences in the absence of the accused on notification by the accused or his attorney-at-law in the manner which is prescribed by the Bill. Now the position previous hereto is that the Magistrates' Court as a practice never took guilty pleas in the absence of the accused so that it was necessary that if an accused wanted to plead guilty - let's say that there was a simple traffic violation to which an accused desired to plead guilty the practice was that he could not do so by his lawyer in his absence and he was required to come to court to make a plea of guilty. The provisions of this Bill, Mr. Speaker, would avoid the necessity and the inconvenience of requiring persons who wish to plead guilty to certain minor offences for them to come to the actual courts and they may do so through their attorney-at-law. 12.30p.m.

There are certain safeguards which exist in the Bill to ensure that there is not abuse of the procedure. Those safeguards would, of course, provide that where a plea of guilty has been wrongly entered that there is provision for withdrawal of the notification of that plea of guilty.

The other major aspect of this Bill, Mr. Speaker, has to do with the problem which has arisen in the administration of justice where, as a result of the failure or neglect of Magistrates to write reasons for decisions, the Divisional Court which is the Court of Appeal which hears appeals from the Magistrates' Courts, was unable, in effect, to proceed with the hearing of appeals. I think there are a considerable number of appeals which are lying dormant because Magistrates for one reason or another have not written reasons for the decisions in those cases.

Under the present law as it stands the Divisional Court is prevented from proceeding with the hearing of an appeal in the absence of reason for decisions because the record of appeal is not complete. That does provide for considerable delays in the administration of justice because a considerable number of appeals as a result have been lying dormant. By virtue of the provisions of this Bill before us if a Magistrate fails to, for whatever reason, write reasons for decision, the Divisional Court may proceed with the hearing of the appeal and may do a number of other things. It may be in a position to complete the hearing of the appeal in the absence of reasons.

We find the amending section of this provides that where a magistrate has not complied with the section which requires him to write reason for decision, or where he resigned or retires as the case may be without having complied with that obligation, this Bill provides that he may be asked to appear before the Divisional Court. The Divisional Court may give such directions as it considers fit. The Magistrates will comply with those directions.

It is felt, Mr. Speaker, that the authority which the Divisional Court will have to deal with appeals and to get the process of appeals completed will go a long way towards remedying a very serious problem which presently exists in the delivery of justice, because Magistrates have, for whatever reason, been somewhat delinquent in writing their reasons for the decisions. Clearly the citizens of the country should not be prejudiced because of the acts of neglect or default on the part of the Magistrates.

It is true that in the existing legislation there is an obligation on the Magistrates to write reasons within a particular period time. I think it is a period of 21 days. Strictly speaking, if the Magistrates are in default of writing their reason for decisions, a person who is thereby prejudiced could, perhaps, go to the Supreme Court by virtue of one of the prerogative orders, mandamus proceedings. Proceeding of that kind can be costly. There are lots of people who, because of the costs of litigation, are

not want to take the appropriate proceedings to bring the Magistrate before the Supreme Court by virtue of the prerogative orders.

This Bill is an attempt, in a way, to address that problem, without placing upon litigants the expense and cost of having to go to the Supreme Court by way of one of the prerogative orders. My view is that the provisions of this Bill should not be contentious provisions and that they should receive the unanimous and full support of this Honourable House.

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

Hon. B. M. TAITT: I beg to second that and reserve my right to speak at length.

Mr. D. A. C. SIMMONS: Mr. Speaker, Sir, I wish to assure the Honourable Attorney General that the Barbados Labour Party Opposition will be supporting the amendments to this Bill. We think they are worthwhile and, indeed, overdue. So far as I am aware, there has only been one substantive holder of the office of Chief Magistrate who has just retired from judicial life and someone else is acting in that post now.

The post was created with the hope that in having a hierarchical structure within the magistracy greater efficiency would have been brought to the magistracy and opportunity given for closer consultation between the several Magistrates. I think one has to be frank that the magistracy continues, despite the creation of the post, to be bedeviled largely by problems of an inter-personal nature, problems which cause the personal interest of Magistrates to be given a position of greater eminence than the magistracy and its functions as a whole.

It is well known in the legal profession that there were, for some years, Magistrates who did not get on with each other who refused to accept the authority of the Chief Magistrate. 12.40 p.m.

The magisterial environment was for a long time polluted by reason of the personal idiosyncrasies and predilection of individual Magistrates. Now if this new Bill will cause, as a matter of law, subordinate magistrates to recognize the authority of the Chief Magistrate, then I think we will have gone a long way to providing for better functional arrangements in the magistracy. But as we all know in here, Sir, we can legislate but the operation and the working of the legislation depends to a large extent on the willingness of the persons within a particular system to make it work properly and efficiently in the interest of the administration of justice, which after all must be of paramount interest.

So I would hope that the Magistrates would find themselves in a more cooperative mood among themselves in the future to ensure that some greater efficiency is brought to bear in that regard. I am glad that the Chief Justice has the overall responsibility and can delegate functions lower down to the Chief Magistrate and other persons as provided for in the Bill, Sir.

The second aspect of the Bill, leaving out the question of guilty pleas at this stage, relates to the problem of appeals. I am glad that the law has been amended to ignore those Magistrates who refuse to give reasons for appeal or who refuse within the prescribed time set to comply with the requirement of supplying reasons within 28 days. That omission or neglect on the part of the Magistrates in the past has caused a lot of unhappiness with litigants in Barbados. There are instances well known to practitioners where appeals have not been heard. Certainly, I know of one where the person was convicted of a traffic offence in 1980 and up until now that appeal has not been heard. That may be an extreme case of 10 years but there are others certainly in excess of 4, 5, and 6 years.

Now surely one of the overriding principles that ought to underpin the administration of justice is the matter of speed. The legal system must be made to function efficiently, speedily, and as cheaply as possible. It is providing a social service. It is adjusting relationships and so on. Persons who are in control of the operations of the lower end of the legal system must be sufficiently responsible to comply with the provisions of the Act. If the Act says that you must give your reasons within 28 days, surely you should make an effort to give the reasons within 28 days. Throughout the legal profession all of us are aware that there will be delays and if somebody took 42 days to give a decision no one in the profession would quarrel with him. But if you take 5 years and you do not give the reasons, that is a matter for concern.

Now what the law is purporting to do here in this Bill is to say that if the magistrate does not give his decision within the prescribed time then the Divisional Court can ignore the fact that he has not given a decision and proceed to hear the appeal. So that the appellant has a chance now of having his appeal perfected and heard notwithstanding any delinquency on the part of the Magistrate in not providing the statement of his reasons.

I just wondered if there was going to be any conflict between this legislation and Chapter 109(b). I have not had a lot of time to compare the two bits of legislation. But under the Administrative Justice Act, Section 13, it is the duty of a person who is making a decision to supply to the person who is affected by that decision a statement of the reasons for that decision. Theoretically and in practice you can resort to the procedure under the Administrative Justice

Act to compel a Magistrate by mandamus to give his reasons for a decision in accordance with Sections 13 and 14.

Now we have to be careful how this is used. I would counsel members in the profession to be sensible about using these two bits of legislation. I will tell you why, Sir. You have the Administrative Justice Act which says that ^m the magistrate must give as his duty his reasons for his decision if you write for it. If he does not give his reasons under Section 13, you can then bring a case against the Attorney General for mandamus and the Court can then order him to provide those reasons within a particular time. Although you may not be entitled to damages, the consequence for a Government is that if people resort to 109(b) there would be a number of Court Orders for mandamus and consequential claims against Government for costs. I think that the profession has to be reasonable and must not see this as an opportunity to treat Government .» as a milch cow because of the neglect of a Magistrate.

So there is the problem between the Administrative Justice Act and this Bill. This Bill, as I said, would make it easier and will certainly ensure that the Divisional Court and the new Court of Appeal that we are going to have will be in a position to deal with appeals more speedily. But you can still have the problem and people can still resort out of self interest to using the procedure under the Administrative * Justice Act. I make a special appeal to the profession to be reasonable about these things.

We have become so accustomed to delays in the system that I think an area to which the Attorney General should give attention - I know his time is getting short but what I am going to propose does not require any great time - to the question of Coroner's Inquests. Now we have several outstanding inquiries that have not been done. Let me just explain. Sir. I know that you are a layman in this area. You have a fatal accident and the coroner has the * responsibility to return a verdict as to how the accident occurred of whether it was misadventure or if he is not sure he has a choice of a verdict. Theoretically, the coroner is the person in total charge of the inquiry. Theoretically, it is the coroner for the particular magisterial district who can direct the police to collect the evidence and what sort of evidence that should be brought before him to assist him in coming to a decision as to how the accident occurred. 12.50p.m.

In practice, as distinct from theory, the police of their own motion go through the procedure of collecting the evidence and then presenting it in a file to the Coroner. These are very important procedural steps, because very often arising out of a coroner's enquiry, practitioners who are working for the estate or the dependents of the deceased can get a lot of information, a lot of evidence from ^{*k} appearing in the coroner's enquiry which could assist with the institution of litigation or conduce to the settlement of

proceedings. So that when you have the coroner's enquiry you appear holding a watching brief on behalf of the estate, you are allowed to ask questions by the coroner with his leave, and you may be able from your questions to see who was at fault in the particular accident. As a result of that you can then do your civil pleadings and you would be able to plead your particulars of negligence which are crucial to assist in proper proof of the case.

When an inquest is not held, the estate of the deceased is put at great disadvantage, because the police are not going to make their evidence available to you, and if no one is prosecuted for the fatal accident - for manslaughter or causing death by dangerous driving or one of those - and there are no criminal proceedings, indeed there may be very few witnesses, the private practitioner working on behalf of the estate is placed at a great disadvantage and justice can suffer in the meantime. In fact, it used to be worse. There was a time when you had to file your proceedings within a year of the death or be barred for ever. We changed that in 1980 and you now have three years within which to file.

All over this country there are cases where no inquests have been held, evidence has been tenuous, practitioners cannot get at that evidence, people do not like to come forward to give evidence that easily, and so on, and I fear that a lot of injustice has occurred because of the failure to hold coroner's enquiries with expedition in this country. It has to stop.

The Honourable Attorney General will recall that when we were in practice in the 70s we used to do a lot of this work in the afternoons. The Magistrates would come back at 2.30 and you worked until 4.00 and you do it over a period of days and you get it done. We have to go back to that, except that I would say that the Magistracy ought, as a courtesy to the profession, to let them know well in advance when it is intended to start a particular enquiry and do it on an afternoon. Nobody is against working in the afternoon, the practice has now shifted where most of us go to court in the morning and then we have appointments with clients in the afternoon. Some of us - like the Honourable Member for St. John, who is one of the leading juniors, very fashionable, he is probably booked up till April next year, a long list of clients - would need lead time within which to reschedule their diaries. I would like us to return to the old system where we can do some of these enquiries in the afternoon.

Now, Sir, I feel that in an effort to reduce the backlog of coroner's enquiries, a drastic approach must be taken to the present situation. I can find nothing wrong in principle in appointing, as a special assignment and on contract, for example - I am not pleading specially, I am just saying - a person like the Chief Magistrate who has just retired. Ask him to come back for a year or 18 months, two years, to start knocking down some of these inquests. He can draw up his schedule that we will be doing District "E" in one

month, District "D" another month, District "C" and so on, moving around and let us break the back of these things. I am really serious, Sir, it is causing tremendous suffering out there. You may be able to find two retired people who can come and do them in the afternoon, but give the profession good notice. It is an expense but it is an expense which I think is necessary and desirable. It might not be a lot of money.

I throw that out to Government as perhaps a way we can look at breaking the back of this thing. There are people who have had to retire because of the compulsory age of retirement, but whose faculties are sufficiently sound and who are healthy and energetic, who would be quite happy to do this as a special assignment for Government. I think that is one way we can go. I am not reflecting on the present group of Magistrates, but we have to face it. They are overburdened by the sheer volume of work which comes before them. In the system which we have in Barbados there is a great strain placed on the mental capacity of people to concentrate beyond a certain time.

A Magistrate has to sit and write evidence, watch witnesses and assess the demeanour of witnesses and the quality of the evidence the person is giving and, hopefully, give a decision without delay. Forthwith is the best thing, Sir, it is a summary situation. You believe this side, you do not believe that, or whatever, give your decision. But with the vast increase in crime that we have had in Barbados, and with the numerous claims for debt in the Magistrates Courts and wrongful dismissals, judicial time in the magistracy is virtually fully utilised. One must have sympathy with a situation where a Magistrate finds his list on a day showing 40 cases. He cannot do all. He may take some guilty pleas and get rid of 10, then he has adjournments, he has some that are going to be contested and so on, and he or she can work right up to 1.30 or 2 o'clock, concentrating the whole time, then to ask them to come back later in the afternoon it can be quite taxing, so I have the utmost sympathy with the stresses, strains and the pressures that are put on the existing Magistrates. Although I think that just as we in private practice have to work outside of the period when we are in Chambers, we have to do a lot of work at home and so on, I think a sense of duty should also compel some people to go the extra mile outside the 8.00 to 4.00 period.

Sir, I have no quarrel with the amendment in the law to allow people who wish to plead guilty in their absence from court to do that. 1.00p.m.

I think that, too, will speed up a lot of the present... and it would certainly reduce the number of hours that people waste going to Court, hanging about when they could be doing something else. I think that the conditions for the admissibility of a guilty plea in absence are

satisfactory and offer adequate protection to an accused person in his absence.

I am not going to detain the House any longer, Sir, but I hope that perhaps the Attorney General would give favourable consideration to the suggestion I made for employing a person or two on contract to help us reduce the backlog of coroners' enquiries. Much obliged.

Mr. D. J. H. THOMPSON: Mr. Speaker, I wish to rise to support this Bill and compliment the Attorney General for responding to the crying need for legislation of this sort to assist in the speed and effectiveness of legal business in the courts today. Perhaps it comes from a recognition probably too long in surfacing in Barbados that the Courts are about business and therefore litigants who have business to conduct, particularly matters relating to civil jurisdiction in the Magistrates' Court, expect those matters to be dealt with swiftly and expect the courts to respond in a timely fashion to their needs, whatever they may be, and to the disputes between people in a community.

The fact is, Sir, that the jurisdiction of Magistrates throughout the world and also in Barbados has been increased significantly. The monetary jurisdiction in some matters, for example under the Severance Payment Act and also the jurisdiction in relation to the imposition of penalty under recent legislation, for example the Drug Abuse Act and the Proceeds of Crime Bill have in fact extended this jurisdiction so substantially that there is a crying need for amendments of this sort to give people who are the recipients of awards or judgments against some and/or penalties a faster remedy by way of appeal if they have been unjustly dealt with from time to time.

So that commensurate with the expansion of the jurisdiction of Magistrates we have therefore to put in place legislation to safeguard in a timely fashion the rights of citizens who would not have been exposed to this jurisdiction before. Now, the point is, Sir, that the delays that presently occur in the court system are having a tremendous impact on the society.

People talk very often in Barbados about law and order as though it only relates to groups of young people who may get into some kind of fracas from time to time, but there are a lot of disputes in rural areas and also in urban Barbados that arise between parties over which the police decline jurisdiction or over which they may in fact have no jurisdiction. For example, disputes relating to line marks, people throwing dirty water on people's land, which is always a complaint, people passing too close to the line mark or digging them out of the ground, all kinds of disputes that occur in Barbados on a daily basis. Now, if Barbadians feel that putting these disputes before the Court is going to result in lengthy delays at the end of the day they will determine that the Courts are serving no useful purpose; that they cannot respond to their needs quickly and

effectively and they will take the law into their own hands and that in itself will have a more profound impact on the society and on the way in which we relate to each other than the outbreaks of violence or other forms of disrespect for law and order. So, if the Courts themselves by the way in which they function do not respond quickly to the needs of the society that in itself can have an impact on the nature of law and order in this society. " **

People will say: "Well, look, it is no point putting matters of this sort before the Court because the time that will be taken to solve them will indeed and in fact be too long and therefore I am going to take up a cutlass and go and chop my neighbour or I am going to throw rocks on top of his roof," or do some kind of violent act. So it is just not the acts of omission of those in authority that impact on the question of law and order in the society but it also relates in the manner that the court system responds to the needs of people. **

Again, in relation to matters of wrongful dismissal in Barbados, even though the legislation was expanded to increase the jurisdiction of Magistrates, what in fact has happened is that because there are so many delays in getting appeals heard very often when judgment is awarded against one of the parties they immediately lodge an appeal knowing that it may take three, four, perhaps even five years for that appeal to be heard, by which time the party on * the other side may become totally frustrated and may not be interested in pursuing it, or for that matter, by the time the matter comes on for hearing aspects of the record are deficient and so on. So, the fact that the courts take so long to respond in relation to appeals from decisions of Magistrates means that lawyers themselves are using it as a device to frustrate litigants. A lawyer on the opposing side lodges an appeal to frustrate a litigant in getting justice. Again, this is because the system itself has bred this kind of creative response to judgment being awarded against clients. It is a common occurrence. It is something that * perhaps attorneys-at-law should avoid but it is not something that they do avoid and the large number of appeals from matters relating to wrongful dismissal in Barbados... In fact it is frustrating the very rights of the workers of this country because the majority of those appeals I am certain are appeals by companies against awards that have been made and that is something that I know will be expanded on in this debate. This legislation, by effecting a simple procedure in relation to appeals will speed up the process and hopefully those persons will not have to wait and the maxim "Justice delayed is Justice denied" will no longer apply because they will know that even if the matter goes on appeal they can have a speedy resolution of their disputes.

I am concerned about the large number of workers in ^, Barbados who have been deprived of their award in relation to wrongful dismissal matters and for whose appeals or where those awards were appealed those appeals have not

yet come on for hearing and for four and five years they are denied the rights that they should enjoy if the appeal is not successful.

This legislation is critical therefore at this time in relation to the needs of the magistracy and the need of litigants in Barbados, particularly those who are less well-off and need the courts to solve many of their disputes.

Now, in relation to the powers of the Chief Magistrate, I do not know what rights and responsibilities will be given to the holder of this office consequent on this legislation being passed but the first thing is the organisational structure of the magistracy and that is very important. As it stands in Barbados today, Sir, I do not know how the organizational changes take place. For example, when they reassign Magistrates to different jurisdictions - you can be in the middle of a partly heard matter when a Magistrate can be reassigned to another jurisdiction and you may have to get down on bended knees to ask that Magistrate to complete the matter or hear it to its completion. These are the kinds of things that I would hope that by the introduction of a Chief Magistrate one would be able to avoid, that if you start a matter in District "A" and then the magistrate is reassigned to another jurisdiction that you don't literally have to beg him to finish the matter but that the organisational change would be effected—and would not give the Magistrate the right, as happens in Barbados today, basically to abandon all of his old cases. If you are moving from traffic to civil everything I started down there I have to start over again or, alternatively, the person who comes to take over the Traffic Court has to commence matters that had already been commenced. 1.10p.m.

All that kind of time-wasting is part of the problem that we have presently in relation to the judicial system. It is caused by minor issues that could be resolved if the organisational structure of the judiciary, particularly in the Magistrates' Courts, was conceived of and implemented in the way this legislation, I would hope, would seek to rectify and that the Chief Magistrate will be given power in relation to organisational structure, the jurisdiction of Magistrates and that the Chief Magistrate will see his or her role as being activist in relation to uniformity of sentencing, uniformity of approaches in court, and those kinds of things.

This idea that in one court the police are in charge, in another court the Magistrate is in charge, and in another court the lawyers are in charge has to stop. As it stands now, there are some Magistrates who merely sit on the bench. The police determine what matters they are going to hear, what dates they are going to hear the matters on, at what time the accuse arrives in court, when he leaves and basically, they have full control over nearly every aspect of the proceeding.

In a recent case a Magistrate justified this approach by saying that he shows no favouritism. The reason why he lets the police choose the cases is because it is not his role to favour lawyers, or to pick out a particular lawyer and say, let me call your case first. What he does not realise he is doing is that he is giving the average man who comes into that court the impression that the court is a police court and that his only responsibility there is to hear evidence and determine the end result. That is not the case.

If the police are prosecuting they cannot also be running the courts. The rule against bias and all of the other rules relating to fair hearing would have to apply in relation to Magistrate's Courts. This perception of the Magistrate's Courts being police courts is a perception that comes from the indifference of some judicial officers in relation to running their own courts.

I should not have to go into a court and beg a policeman to put a case up for me. A Magistrate sitting in a court whose court it is as such should extend that courtesy to me. I should in turn extend whatever courtesy is necessary to him while in court. The concept that presently obtains, as I said, is that the prosecutor runs everything relating to the courts.

The Magistrates can get together and determine that setting of dates is their affair, setting of business in the courts is their affair. These are the areas of operation that they are going to be responsible for instead of finding a situation where in one court one procedure obtains, in another court another procedure obtains and so on.

The next point is that as presently obtains, one is not easily sure who complaints should be made to in relation to the conduct of judicial officers. I oppose the present system where the Chief Justice as head of the judiciary, is also head of the Judicial and Legal Service Commission. If you tell a man that he is head of the judiciary, his basic aim is to make sure that the judiciary functions well. Any criticisms that you make of the judiciary or of judicial officers, or of the manner in which the judiciary functions, he would seek to deal with in his own way as an administrator, to cause as little publicity as possible in order to paper over the cracks that appear within his administration.

I believe that serious complaints presently are supposed to go to the Judicial and Legal Service Commission. What happens is people take them to the Chief Justice. He seeks to deal with them in an informal manner which is his right, but they may never reach the level which they should reach. I believe this is a very important consideration. Both the Chief Magistrate and the Chief Justice should be given specific powers in relation to complaints. Those that they cannot deal with themselves should be passed on to the Judicial and Legal Service Commission and it should not be within their discretion to

determine what should be dealt with by the Judicial and Legal Service Commission and what should not.

The point that was raised by the Honourable Member for St. Thomas and which is very valid is the matter relating to the coroner's inquests and the grave concerns that at present obtain in relation to the delays. The delays are presently horrendous. You cannot imagine, unless you were exposed to it on a daily basis, the extent to which people in Barbados are essentially being denied access to the courts because of the indifference of the administrative structure and, perhaps, the judicial officers in relation to matters such as coroner's inquests.

As I understand it, several appeals have been made by the Bar Association to the relevant authority asking to have these coroner's inquests dispensed with as quickly as possible. These have basically met with no positive response. I therefore agree with the suggestion made that a Magistrate, either a sitting Magistrate or a - I am not so fond of the contract approach where you contract a person to carry out judicial duties because that is always subject to all kinds of influences.

If you tell a man, well I am going to give you a one year contract until further notice and he realises that his performance is what relates to renewal of that contract, that, in itself, can cause him to do things that he should not do. If you appear in court and your job is to determine whether that contract is extended, he will see it as his duty to appease you. There are very few people who are going to be so independent-minded that if you give them a contract subject to renewal that if it stands within your power to renew it, that person is obviously going to look at each case that comes before him in relation to how he feels you would perceive the outcome. Do not fool yourself about that.

It may not be the case with inquests but once you start with inquests and this is how the Public Service often operates. You start with one precedent and you say, let us bring in a contract officer to do coroners' inquests. Next thing you will have wrongful dismissals backed up and they will say, let us bring in a contract officer to do wrongful dismissals. Somebody will bring a case against the Government in which the Attorney General has to appear, and that contract officer will determine, well if my contract is to be renewed I cannot give judgement against the Crown. These influences are bad in a judicial system and I do not necessarily support the concept of a contract officer. I feel that one of the existing Magistrates who could be, perhaps, taken off the normal circuit could be used to complete the coroner's inquests that are presently outstanding. 1.20p.m.

But this matter should be settled as swiftly as possible and I call upon the authorities who are responsible to understand the human needs of individuals in this society

who are being disadvantaged because of delays in relation to completion of Coroner's Inquest.

I also want to say that I have never particularly supported the idea of Magistrates Courts in different jurisdictions in Barbados. I do not think it makes sense to have District "F" having twelve cases on a morning. I have to drive down there. The case is adjourned and by 9:30 a.m. the Magistrate is finished. He or she is sitting down in the office with nothing to do and I have to trek back to Bridgetown 40 minutes later to then start to do some productive work. It honestly does not make sense. If you carried out an analysis of the District Courts that are operating - Horse Hill, Belleplaine, Districts "B" and "C" - you realize that some Magistrates are assigned there for two days and then let us say to another jurisdiction for one day. A lot of that is man hours that are being lost. You may go to Horse Hill and find six cases down. You may go to District "D" and find 10, but when you come to Bridgetown you see 60, two pages of the Causes List of matters that are to be heard. It is not always the case that the most productive Magistrates are placed in Bridgetown and therefore they may not be heard as quickly as they should be. •

So I believe that in a small country like Barbados where transportation is not as serious a problem as it is in some other places - for instance, if you are in St. Lucia and you live in the north in View Fort, I would see why they would have a Magistrate's Court there - in a place like Barbados where it is easy for you to get to Bridgetown, I do not know if we are making effective use of man hours, legal officers, and attorneys-at-law and so on by having people trekking all around Barbados.

I believe that the concept of jurisdictions could very well be abolished and that the concept of District Magistrates' Courts could be abolished and that we could centralize the system because of the developments in technology. It does not make sense continuing with old and archaic systems just because they existed once and they served us well. Years ago a man bringing a dispute relating to a line mark could get up a morning and walk to District "C" from Massiah Street to St. John. Today it is more trouble for him to walk to District "C" than it is for him to come to Bridgetown. It is also more trouble for the lawyer to leave Bridgetown to go to District "C" to deal with it or have it adjourned than it is for him to be in a central location where his time is at a premium and where he can effectively carry out his duty.

Therefore, it is my belief that the concept of jurisdictions, District "A" to "F", could very well be abolished and that we could seek to centralize the Magistrates' Courts in Barbados and make effective use of a pool of magistrates in the Bridgetown area. This is a matter that I would like to recommend to the Attorney General and which I would hope will speed up the problem that exists.

Those are the major issues, Sir, that I felt were necessary to raise. I want to say that very often we might be critical of the judiciary, but we are no more critical in here than persons who are out there who are being disenfranchised and whose right to be empowered is being taken away by people who will not do, as I have said already, a full day's work for a full day's pay. I am still saying that the criticisms that are often levelled against the judiciary in Barbados are essentially valid criticisms. Very often you hear a little squeak from the judiciary in response to those criticisms. Well, I believe that in the nature of modern society the judiciary should be given an opportunity to respond to those criticisms. I think that if the magistracy feels that people are accusing them unjustly of not doing a full day's work they should be able to respond. They should not be frightened. I feel if we are entitled to criticize them that they should be entitled to respond to those criticisms and justify their responsibility in this society. "Power without responsibility" was in that famous quotation. I cannot finish it because it would be unparliamentary. But the concept of power without responsibility is not something that a democratic society should accept. If people are given power to meet certain needs in the society, they are accountable to the people. This system where judicial officers seem over protected by the system and where the system itself inbreeds its over protection I believe has to come to an end at some point. People should be entitled to criticize the judiciary and to lodge complaints against the judiciary for failure to act in a professional manner or for doing things that are unethical. These complaints should be met with by swift action by the authorities. Whether those authorities are their brother judges or their sister Chief Magistrates or whatever, these criticisms should be met with effective responses.

Recommendations have been made in Britain recently for a Complaints Committee that should be entitled to listen to complaints of litigants in relation to how magistrates and judges treat them. This is one of the things that I also think is a useful suggestion that we should consider in Barbados. I think that litigants should feel comfortable entering into the Courts in this country. They should feel happy that the matter they brought before the Court is going to be decided on in a fair and impartial manner. They should not be discriminated against because they are poor or appear ignorant. They should not be discriminated against because of the circumstances in which they come to the Court, nor should they be discriminated against if they are wealthy, popular, or for any of the other reasons that might occur.

Too often one senses some kind of resentment coming from judicial officers when they are carrying out their exercises. They might not like a lawyer and they make it known. They may see a woman come in Court and they make insulting remarks about her. People should be entitled to complain about them. The Courts do not belong to any single individual or to the Magistrate himself. They belong to the people and they must be accountable. The idea that

when you criticize them that in effect what you are doing is tearing down the judiciary is foolishness. If the judiciary is a main pillar of our society, criticism can only help. It cannot destroy it and that relates to all of the major institutional pillars in this society. People who criticize those institutions do not seek to destroy them particularly if the criticism is constructive.

I feel very upset that when matters relating to the judiciary come up in here that I feel some kind of hesitation about saying things and I have to couch my language in a certain way because of the ignorance of people who would take what you say and would twist it up for their own benefit whether through the Press or other institutions in the society. One as a representative of the people should not feel reticent or inhibited about representing their interest even in relation to the Courts. Therefore, when you step into the House of Assembly with a responsibility to ensure that people's rights are not being taken away just like a judge has that responsibility to ensure that every citizen has access to the Courts with the responsibility to ensure that each citizen must be treated equally before the Courts, then you have a responsibility at some point in time during your political career to speak about the actions of the judiciary.

You pick up all of the respected newspapers in England on a daily basis. You had one of the most scandalous and sensational events in the British Judiciary arising out of the actions of Justice Pickles. Well, Pickles started out in England as an advocate of change. He went a bit wild. He locked up a woman who was pregnant and said that getting pregnant should not stop a person from being locked up. She eventually came out of prison and lost her child. He has made some pretty wild statements later on in his legal career. He called the Chief Justice of England a dinosaur and made all kinds of other sharp criticisms of the judiciary and the way in which it functions. He has even written a book recently on the functions of the British Judiciary. I cannot remember the name of it. The point is that within the legal system here is a man who is interested in helping justice. He is a judge who has recognized problems which all of the Etonians and Oxford trained legal people will not recognize because that is an old boy network for them. 1.30p.m.

Perhaps he is an Etonian, but I do not think so. They brought a man from Manchester to give him an opportunity to function within the British Judiciary, he exposed the British Judiciary for what it was, as a legal officer, and the pressures that then started to build up on him caused him to become even more erratic. It is like a person hankering after publicity. If you get your first press release published, then you issue one every day and you get headlines.

Aside.

Mr. D. J. H. THOMPSON: No, people generally. That is part of the nature of human beings, particularly those who lust after any particular publicity or whatever. That is what then happens. It goes through a series of changes and causes the person to harken after that kind of thing more than doing the things they are supposed to be doing. The point is, however, that we have a responsibility, because this Parliament is responsible for enacting legislation for the good government of people, for upholding the Constitution and for working on behalf of the people. Therefore, we have a responsibility to analyse critically the Judiciary, the manner in which it functions and the manner in which judicial officers are supposed to be carrying out their responsibility in this country.

As I say, I often feel upset that as soon as legislation of this nature comes before the House I have to restrain myself in saying, first of all, all that I know, but there are two reasons for it. The first is that I belong to a conservative profession in which you are not expected to step out of line and you are expected to conform to those hallowed traditions, most of which mean nothing to black people living in the West Indies but which are followed slavishly.

The second thing is that as a parliamentary people seem to believe that when one is dealing with judicial officers, diplomats and so on you are no longer representing the people, you are part of that old boy network and that you feel so proud that you meet a Judge once a year, or talk to an Ambassador or somebody, that when you see them you cannot analyse their motive in life or the manner in which they function in relation to the people whom you represent.

Aside.

Mr. D. J. H. THOMPSON: Whatever you want to call it, I do not want to ascribe a name to it, I will be more basic in my approach. At the end of the day, however, we have the responsibility because nobody votes for a judge in Barbados, nobody votes for a magistrate, they do not vote for a bus driver, they do not vote for any civil servant in this country. At the end of the day they vote for us to carry out certain reforms on their behalf and those reforms have to be carried out at the bottom and also at the top, if that is what the people have given a mandate to do. So we should not feel any reticence or inhibition about criticising the function of the Judiciary in this country if we are to strengthen it. People who therefore meet me and say I should not have said what I said, or who may say other people who criticise the Judiciary should not say what they had said, they do not understand that we do not criticise them out of any malice. I have never lost a case that has upset me sufficiently, except for maybe an hour after, which is a normal reaction, but it has not upset me for four weeks, or a year, or for my entire political career, because you win some and you lose some.

If you see a practice continuing on a daily basis, where people who are unrepresented appear before people who have had legal education and know what it is to represent a client, or understand the nature of an illiterate person standing in a dock, who essentially does not understand what is going on around him, and that judicial officer allows the police or the prison officers or any other agency in this country who functions around the court to do as they like while a trial is going on, before or after, then I have the responsibility to speak out, whether it is my client or not. I only want people who feel that our criticisms are too sharp from time to time, not to take it from me, do not assess me as the representative of the people of St. John, do not even think about me, go down there and see it for yourselves. If you think that a man sitting in judgment can effectively deliver a decision by mumbling, and when you ask him to say what he has just said for your benefit and he refuses, then go down there and see it for yourself. Do not ask me. But when a witness comes on the stand and mumbles, you hear "Wait, where you come from? Speak up in this court! You can't read and write?" This kind of thing.

The point is that I do not wish to become emotional today on it. I am not going to do it again, so help me God, because I have said I belong to a profession that does not like it, that is the first thing, and the second thing is that I am not going to bother to say it in here under the safe comfort of the parliamentary privilege or any other privilege that has been extended to me by the 4,000 people in St. John who voted for me. I will go out there and tell them that my understanding of what the Constitution of Barbados demands for them is something better than what is presently going on in the legal system in this country.

Aside.

Mr. D. J. H. THOMPSON: That is my understanding. If I am wrong, somebody can get on a soap box opposite me and can tell me that their understanding of the Constitution is different and that a magistrate or a judge is a god and we can have a debate. Until that is the case, I still feel that it is my responsibility to expose for the benefit of all Barbadians, even though my time is running out...

Asides.

Mr. D. J. H. THOMPSON: Not my time in here. I have a responsibility to expose those things that I think are denying average citizens justice. All I say to them is, do not take it from me. Just as they can come in the Public Gallery of this Parliament and they can pass judgment on my performance, or just as they can go out to a political meeting, or just as they can go to nearly every aspect of the manner in which the country is governed, except to Cabinet meetings, let them go down to the courts for themselves and if they are satisfied with the system I will not say anything else about it, I will say I did what I thought was correct, but obviously I am wrong; we are happy with our system of

justice, we are happy with the way in which litigants are being treated, we are happy with the speed with which trials are being conducted, we are happy with all manner of things related to the judicial system, let us not say anything about it. And I will close my mouth. I assume all of us in here will determine that the Judiciary and the legal system in this country is not an issue.

I still feel that the frustrations of people out there, as soon as they start to doubt that that judicial system is functioning for the interest of all of Barbados, and fast enough, they will take the law into their own hands and you would not need me in here, because passing a law would not make any sense, it is not going to help. A fellow who determines that it will take him four years to get a case on for hearing before a magistrate will take up a cutlass, he will chop me, he will chop you and he will chop every judge and all the people around him before he determines that the legal system is the safest recourse in a time of trouble.

I support this legislation and I will support even more. I have not been asked about the other things and I do not intend to encroach upon the four corners of this to do so, but I will support even more reform of the judicial system in this country, because I think it is my responsibility and our responsibility as a whole in here at the end of the day to do so.

Thank you, Mr. Speaker.

Mr. J. J. PAYNE: Mr. Speaker, I would like to add my contribution to this debate on this Bill and I would like to start by indicating my support for the Bill because it is one which adds to the improvement of the judicial system in this country particularly the system of justice as obtains in the Magistrate's Courts. 1.40p.m.

Mr. Speaker, it is well recognised that the Magistrate's Courts are established for many reasons but one of the reasons is the fact that they are required to give speedy trials and a speedy system of justice. People go before the Magistrate's Courts because they expect quick results from their actions and the Magistrate's Courts of this country attract people from all cross sections of our society. People go before the Magistrate's Courts with a wide variety of matters, whether it is a traffic matter whether it is a matter involving wrongful dismissal or whether it is a matter involving income tax or some other matter of that nature. People from all sectors of our society find themselves before the Magistrate's Courts at one time or another.

The Bill which is presently before this Chamber seeks to do a variety of things to improve the system of justice as obtained in the Magistrate's Courts. First of all, it touches on the question of the jurisdiction of the Chief Magistrate

and I believe this is a move which most of us in the legal profession will welcome.

When I first started to practise law about 15 years ago, this was a problem which was widely recognised and I am very pleased to say that it has taken a long time in coming. I will try to give you an example of the kind of problem that can be encompassed from a problem of this nature. Let us say, for example, that a young man from St. Thomas was arrested on a Monday for an offence and the Court in that jurisdiction meets only one day per week, on Wednesday, it means that that young man will be taken to a court in a different jurisdiction but when he goes before the Magistrate in that other jurisdiction the Magistrate will say to him: "Well, I do not have jurisdiction to try this matter. I will either have to remand you in custody until Wednesday when you can go to St. Thomas but in any event your matter cannot be tried before Wednesday". In the process, you have the duplicated services of the police, the prison authorities, the court officers in having that man brought to court on Monday and then the repeated process again on Wednesday as a result. Whereas if there was a system of wider jurisdiction when the young man goes before the court on Monday, the whole matter could be disposed of on one occasion and the matter complete which would save a considerable amount of time and money and resources.

I believe that this move is a step in that direction particularly since it gives accused persons the opportunity to plead guilty in certain matters by not making a physical appearance at court and this is a move which I believe will go towards improving the system of justice in the country.

The other point on which this Bill touches is the question of appeals from Magistrates' decisions. Now, the present system of appeals is one which has caused considerable injustice to many poor people in this country. I can tell you that there are many decisions that are pending for as many as six and seven years where there are persons who have lodged appeals for one reason or another and have not been successful in getting their appeals heard. A good example would be where a person appeals against a case of wrongful dismissal. Now in the majority of these cases these are persons who are depending on the money from the award in order to bridge the gap between the time they are unemployed and they find a new job and if persons have to wait 5, 6 or 7 years before they can receive that award one cannot take much to imagine the amount of harm and injustice which will be caused to that person and to the relatives of that individual who must wait that considerable period of time before their appeals are heard. As a matter of fact, I know of one appeal which came before the Divisional Court recently where a young man convicted in 1980 of a criminal offence and was given three months imprisonment and the appeal came up before the Divisional Court some 9 years later and the Divisional Court agreed with the decision of the Magistrate but did not proceed to impose the three months because it was felt that such a long

period of time had elapsed that it would be unjust really to ask the man to go to prison in 1989 for something that had happened way back in 1980. So, that will give you some example of the kind of injustice that can be caused by protracting these appeals and having them stretch over such a long period of time.

It is my view that this system whereby the Divisional Court can proceed to hear an appeal in the absence of written decisions given by Magistrates is one which will go a long way in alleviating that injustice which is felt by these people who are presently under this disadvantage.

One must not believe that when people speak about these situations relating to Magistrate's Courts that people are attacking the judicial officers involved but it is the system which we are talking about and I believe that we as a people must continue to resort to new systems which have the end result of bringing justice to our people and justice to our society. We will not be perfect at any given time but we have to aim towards that and I believe that this system of giving the Divisional Court power to intervene will only assist persons in having justice brought out most forcefully.

The Honourable Member for St. Thomas when he spoke raised the question of coroners' inquests and this is another area, Mr. Speaker, which has caused considerable injustice. I have a number of cases which are pending where the relatives of persons are still in the waiting line for assistance in this regard. A perfect example would be where a young man is involved in an accident and he has 7 or 8 children and he dies as a result of the accident and these 7 or 8 children are waiting on the result of that case so that they can benefit from any negligence on the part of somebody who may be involved, but no inquest is heard. In most of these cases, the Police may have conducted investigations and they would have interviewed a variety of persons and collected all of the relevant information necessary for the plaintiff who would be acting on behalf of the estate to assist those relatives in getting the matter tried. Now if a coroner's inquest is not held, this information will, remain in files in a department somewhere and it will be bidden away so that some injustice would be caused because of the fact that the information does not come to light. I believe that if we have a system where these inquests are held much speedier that it would bring a satisfactory sign of relief to these people because the insurance companies in this country are in my judgment, the main beneficiaries of this inefficiency in the system. 1.50p.m.

I believe that the people who suffer most are the unfortunate relatives of persons involved in these tragedies. The insurance companies are, perhaps, the main beneficiaries. This, in my judgement, is a blatant sign of injustice because, in most cases, these people are depending on these funds in order to bridge the gap and to bring some sort of relief to the relatives of these persons.

I would like, basically, to highlight those particular points. I believe that there are some additional areas that need improvement. We would like to see soon a system whereby our women who are involved in giving evidence in court cases will not have to go through the embarrassment of having these matters brought out publicly. I know that there is a lot of discussion on the subject of having these cases, particularly rape cases, held in camera. -I believe a move in this direction would be welcome. Also, a system where children who are giving evidence in some of these matters would be avoided the embarrassment of having many of their matters brought into public.

I believe that the judicial system and the judiciary, in particular, is one of the institutions that make this country great. There are certain institutions which, over the past 100 years, have contributed to making this country a great country. The judiciary can be singled out as one of those institutions. Any attempt by a Government, particularly this Government, to bring improvements to the system of justice can only be regarded as a move to strengthen this country and to strengthen the system of justice which obtains for our people.

In giving my contribution to this debate I think we can only compliment the effort of the Attorney General and the Ministry of Legal Affairs in having this matter brought before this Chamber because in my judgement it is a matter which we will all benefit from as people of the country.

I thank you, Mr. Speaker.

Mr. R. P. BYER: Sir, most of the salient matters in relation to this Bill have already been covered. I would want to begin by saying that I agree with the principles as set out in the long title. These principles are three in number. As it says:

- "(a) to provide for the taking of a guilty plea in the absence of the accused;
- (b) to make better provision for the hearing of appeals against the decisions of Magistrates; and
- (c) to provide for related matters", (which are few in number).

Now, Sir, the fact that this legislation has to be brought before Parliament to cover some of the areas that it indeed covers up to this point, says something about the kind of judicial system that we have and some of the problems that we were encountering. For example, if I may refer to section 7 of the Bill at page 3, this is something which should have been catered to for a long time ago. I am glad that it has now been catered for - plea of guilty on behalf of the accused - because there are some matters that really and truly do not need the attendance of the accused

person in court. Simple traffic matters, parking in a no-parking area and so on are but a few examples that we can give. If you are speeding, for example, and you agree that you were exceeding the speed limit, then you can instruct your counsel to enter a guilty plea on your behalf and that is that. It saves a lot of time for people who would otherwise have to come to court for these matters to be covered.

Apart from that, Sir, what is even more significant about the Bill is the matter contained at Pages 11 and 12 dealing with the hearing of certain appeals in the Divisional Court. As I am told by the Honourable Member for St. Thomas - I was not here when he spoke - he said, and I agree with him, that it allows for appeals in the Divisional Court to be heard even though Magistrates have not given reasons for the decisions. What this says about the judiciary is that for some time now we have had problems in pursuing appeals where Magistrates have not given those appeals in a timely fashion.

I remember we had a Magistrate on contract from one of the neighbouring islands who was given an assignment in Bermuda. He went off to Bermuda leaving many decisions unwritten. Many cases that were heard before and were on appeal, decisions had not been written. These matters had to be reheard. It also affects other areas as well. Sometimes Magistrates are given promotion and through no fault of their own, decisions might not have been written. This allows for that hiccup in the administration of justice to be avoided, so to speak. We can now have decisions of Magistrates appealed against and those appeals proceeded with even though the Magistrates have not written the decisions.

In a sense the Bill as set out does say something about the system also that I need to talk about and it is this. I do not see why it takes Magistrates so long to give decisions in Barbados. As some Members have said, this works to the disadvantage of many litigants. Several reasons have been put forward as to why this is so.

On a recent debate in the Press between one Magistrate and a senior member of the Bar the fact that Magistrates might not sit for a whole day could be one of the reasons why decisions have not been given. On the other hand, one has to be very careful with that because the conditions under which Magistrates in Barbados have to operate are not the best conditions.

If you look at District "B", Boarded Hall, for example, a court in which I practise very often, one is appalled at the conditions under which Magistrates have to operate in that court. District "D" in St. Thomas is one which is frequently cited in here as well. If we are to expect a better performance from Magistrates, I would urge that the accommodation at the Magistrate's Court be upgraded.

In this connection I would want to find out from the Attorney General when the District "B", Boarded Hall Magistrate's Court will be relocated. What are the plans in that area? I believe at some time there was some talk about that Court being relocated to the Glebe in St. George. I would want to know from the Attorney General if he can tell me, if I am correct, if the plan is still being proceeded with.

At the same time, Mr. Speaker, I would want to also add a little word of caution. 2.00 p.m.

I agree that we live in a democratic society. I also agree that in societies of this nature we are free to criticize even judicial officers. We criticize the Prime Minister, police, and everybody. Notwithstanding that lawyers come from a conservative profession, I would still like to add a word of caution when we come to criticize the judiciary in Barbados. I will not go as far as certain people whether it is inside or outside of this Chamber in calling Magistrates foolish or otherwise. I will not go that far. I may have certain things to say about Magistrates. Most of the Magistrates that are presently sitting on the Bench were in the same classrooms sitting together and I think that I can go and approach any one of them and tell them when I think they are going off a bit.

Now I had the experience recently of appearing in a Magistrate's Court and watching the behaviour of a Magistrate. I am not particularly impressed with his behaviour when it comes to dealing with poor and ignorant litigants - ignorant of the law I am talking about. I was very shocked at the way that Magistrate behaved and I intend to have a word with that Magistrate in the not too distant future. As I said, we all sat in the same classroom and some of them were a year or so behind me. I believe that is how it ought to be done when it comes to behaviour. When it comes to a decision of a Magistrate on a point of law, if I disagree with that decision I will say so publicly. If I am given to writing something about it that any newspaper will carry, I will do that publicly. But when it comes to the behaviour of Magistrates in open Court, I will be very cautious in the way how I approach the criticism of the Magistrate.

I was also privileged in Court on one occasion when I was representing an accused person. The first issue that would have been dealt with was the question of bail. No person made any application for bail including the police and then out of the blue this Magistrate said, "Who is the ring leader?" Now I do not think that that behaviour was an appropriate behaviour when all of the circumstances are concerned. I have heard Magistrates in Court urging lawyers to work for their money on simple applications. I do not think that that is proper behaviour and, as I said, whenever it manifests itself I will have something to say about it but not in public. I will approach the Magistrate in

his Chambers and tell him what I think because I do not believe that we ought to approach people in that way. I do not believe that people ought to be dealt with in that fashion. Even though we live in a democratic society and we can criticize, I will refrain from criticizing when the first offense is committed. If I speak to a Magistrate about his behaviour as an officer of the Court, I have that responsibility. Then if he does it again I shall get up in open Court and be critical about it. In any forum at all, I will be critical of that Magistrate whether it is in this Parliament given the coverage of privilege or in the public domain when I would not have this privilege. But I would be careful in what language my criticisms are couched. As I said, when we are dealing with people who do not know about legal procedures and do not know the law as judicial officers, we ought to be more humane in the way we approach those persons and Magistrates are not above that. They have got to be humane in the way they dispense justice and humane in the way they deal with litigants that appear before them.

SUSPENSION OF SITTING

Hon. P. M. GREAVES: Sir, I move that the sitting be now suspended until 3 o'clock today, Sir.

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

The question that this sitting be suspended until 3 o'clock was put and resolved in the affirmative without division, and Mr. SPEAKER suspended the sitting accordingly. 2.05 p.m.

RESUMPTION

Mr. DEPUTY SPEAKER: This sitting is resumed. The Honourable Member for St. Michael South Central.

Dr. R. C. HAYNES: Welcome to the Chair, Mr. Deputy Speaker. Sir, I have listened to all the speeches today on this particular matter and there are all generally supportive of this particular piece of legislation since it would, I think, improve the administration of justice. However, Sir, what does bother me is that there is not a single point that has been raised in this debate today that I have not heard again and again on the floor of this House except perhaps the one relating to the impact of the delay in hearing of Coroner's inquests. I believe today is the first time that the matter has been highlighted to the extent to which it was highlighted.

So that what clearly one is addressing is a chronic problem that has been there for some time. It does disturb me, Sir, that issues of this kind should take so long even to have minimal legislation brought down here to deal with it.

Asides.

Dr. R. C. HAYNES: It is a fact. These complaints were here all the time. The other aspect to this whole thing is that it does bother me. Much of the debate today has centered around the public from the impact of the defects in the system and justice as dispensed to the public of Barbados. One has sought to single out one group of officers of the Court, namely the Magistrates.

However, Sir, in my experience as a layman, I hear fewer complaints about the Magistrates than about other officers of the Court. In other words, if in the past 10 years that I have heard complaints expressed by the people of Barbados in matters related to the dispensing of justice, I cannot recall one instance where a complaint was made to me about a Magistrate in Barbados; and that is a fact. All I am saying is that different categories of complaints may go to different persons and perhaps the legal profession might be approached far more frequently than other persons in the society. In fact, I asked the Honourable Member for Christ Church East when I was coming up the stairs with him just now whether or not he himself has had any such complaints since he has been in the public life of Barbados about Magistrates.

Sir, the point I am trying to make is that you may hear numerous complaints about other officers of the Court and you hardly ever get a complaint about a Magistrate. I certainly cannot recall any. I do not know whether it has been the experience of other Members of Parliament. It has certainly not been my experience. I think that the Magistrates and the Judges in this country enjoy a very high reputation among the general public of Barbados and we must be very careful when we are criticizing these persons as a class that we do not undermine the very system that we are trying to improve. 3.10p.m.

I believe, Sir, that I have been around for long enough that if the average citizen perceived that he had a problem with the Magistrates of this country, those complaints would come to you, whether they are reasonable or unreasonable, far more frequently. I think that in this Honourable House more often than not we hear of the particular problems of those persons involved in the day to day practice of law that they encounter in terms of their practices and so on, and those problems might loom large to them, but the same kinds of problems might not occupy that high level of importance among the general populace of Barbados.

I cannot conceive of a situation where the general public of Barbados felt that they were being hard done by the magistracy and you hear no grumblings coming from among the people. I have never heard it. I am being very serious about this. People have come to me, they have complained about lawyers, they have complained about police officers, they have complained about a whole range of persons involved in the judicial process/They have

complained about marshals and all sorts of people, but I have never received a complaint relating to a Magistrate.

I believe that one has to look at these things in some kind of perspective. I do not know what inter-personal problems exist among the Magistrates. I am not that close to the system to know. From what I have heard today, quite clearly if there is a clear system of authority established within the magistracy, then there might be some possibility of dealing with the kind of problems which have been described at the inter-personal level, the allocation of duties, the uniformity of sentencing and that kind of thing.

I start off on the assumption that the Magistrates are not foolish people, as previously described by the Honourable Member for St. John. Nor do I believe that they are any different from any other Barbadians of the same level of exposure and education. I believe that their professional commitment and their social commitment would be about at least the same as any other group of Barbadians. Therefore, if these problems are as acute as described here on the Floor of the House, there must be other problems. Nor do I believe that there could be any process of selection which would have resulted in a magistracy that is completely different and unreflective of the general run in the society.

I believe that we have to look and see whether or not Magistrates have available to them the kind of supportive services that are necessary in order to expedite the kind of work that has to be done after a case is completed. It might well be that there is such enormous pressure of work on the Magistrates that they cannot respond in time, within the prescribed limits within the law or otherwise...

Aside.

Dr. R. C. HAYNES: What I am saying is that that might well be the case. The Magistrates certainly have put their case, and it is quite clear to me that they are of the view (1) that they are overworked, (2) that the supportive services are not there, and (3) that they have numerous problems with various other persons involved in the delivery of law and order in Barbados.

I would think, Sir, that it would be wrong for any signal to go forth from this Honourable House, whilst we are seeking to improve the administration of justice, that with one voice a biased position was taken suggesting that the Magistrates are principally responsible for the kinds of problems that have been highlighted. There are other problems as well, and as I said, there has to be some difference between the perception of those who spoke before and myself as to the impact that this has on people.

You know, Sir, if you are a doctor and if you are dealing with institutions that you function with every day, you might have a completely different perception of those

institutions than the recipients of medical care at those institutions. Someone may believe that a hospital is an excellent hospital and you may know deep down inside you the kind of problems that arise within the institution and the kind of risks that persons are exposed to. So that I would caution that we certainly must not send any signals out there that this Honourable House overwhelmingly is of the opinion that the Magistrates are a lot of lazy people or anything like that, and that they are not performing their duties and as a result law and order for the broad masses of people in Barbados is being compromised because of any negligence on the part of the Magistrates.

I believe, Sir, that it is probably the system that is a problem. I believe that there is a need to take an overall look at the entire area of the administration of justice, and as the Honourable Member for St. Thomas has again and again said on the Floor of this House, there is a tremendous urgency in this country to address the problem of penal reform. I think that we are being overtaken by events, that while we have been talking and talking over the years I see no determined mind to bear on these problems and to try to improve the overall administration of justice in Barbados. That is why I started off by saying that we have heard talk and talk down the years and very little has been done.

If you take a matter, for example, like the new Supreme Court, do you have any idea how long that was being discussed on the Floor of this Honourable House? Do you know how long it was being said that it is critical that you have such a physical environment for the proper dispensation of justice? The whole question of a court of appeal, Sir. Do you know how long that was being discussed? Not today, not yesterday or a year or two years ago. It has been going on for years and years and years, and what bothers me is the slowness. I think, Sir, if there is any slowness in terms of the administration of justice in Barbados, I think that the reform element of that is even slower than the administration of justice. So when we criticise the speed with which justice is administered, at the same time we have to recognise that the process of reform and adjustment, which only this Parliament can take, has been equally slow down the years.

I believe that this Bill would just simply address some of the problems relating to the magistracy and a few related matters, but there are also other matters. 3.20p.m.

The whole question of adjournments, the whole question of hanging around courts all day must make the legal profession itself significantly inefficient in its operation and there must be some improvement in that area as well. On the other hand, Sir, I understand that what happens to a young lawyer is that when he first starts he gets frustrated and concerned about the system. He cannot understand why if he has two or three cases today he cannot

get on with them and after a while he gets so accustomed to it that it becomes part and parcel of the way of life.

Now, Sir, a more frequent complaint that I hear is the number of adjournments - this is what people complain of - the number of times that their cases are adjourned for one reason or another, not necessarily involving the presiding officer. Those adjournments can just go on and on. So there are a whole lot of problems and I would say, Sir, that the kind of complaints that I hear about, as I said, very few of them relate to the Magistrates. I don't know whether people are silent about Magistrates because they are afraid of Magistrates but they are certainly far more vocal about other persons in the Court. So, whilst we attempt to deal with the problems relating to the magistracy we must recognise that there are a large number of other problems out there relating to the smooth administration of justice which also need to be addressed.

Now, Sir, I am not in a position - because I do not know the details of the kinds of problems because I only hear the complaints - to know these things can be sorted out but certainly an examination of the factors which lead to so much wastage of time by the legal profession around the courts of Barbados rather than getting on with other work that that is something that needs to be looked at and to see whether there could be some kind of reorganization of the entire system to deal with those particular problems. It does bother me.

I was speaking to a lawyer the other day and that person told me that she was in the court all morning waiting to deal with some minor matter and was in the court all morning and eventually the matter was dealt with probably, I think, about 12 o'clock or thereabout. Now, that kind of thing certainly needs to be dealt with. I don't know whether this is perceived as a problem by those involved in the practice of law but I know that the delays and recurrent adjournments and this kind of thing is something which the general public are very concerned about. What I am trying to suggest, Sir, is that whereas this Bill seeks to deal with one or two categories of problems it does not seem to me to be capable of resolving the many other issues which impact on the delivery of justice and certainly does not address the kinds of problems which the people complain of far more frequently in terms of their capacity to access the judicial system in Barbados and to feel confident that justice has been dispensed.

Now, Sir, my view may be a distorted view but what I am saying is that I am here to express the views and the problems that the average man out there has in relation to justice and what he complains of to me and if one were to go on a sliding scale I would say that there are many others in terms of the numbers of complaints, that there are many other problems in relation to the administration of justice which need to be dealt with. Now, I know that the legal profession has specific problems and are very concerned

about many of the things raised here today as it impacts on them and the magistracy, their relationship with the magistracy and their relationship with their clients. All I am saying is, Sir, that there is a wider perspective which needs to be looked at and I think that those other problems need to be dealt with and need to be dealt with decisively, because it is not only at the point of appeals or seeking an appeal from the magistracy to a higher court where there can be ^ long delays. Long delays occur also at the levels of the Magistrate's Courts as well in order to get cases heard, frequent adjournments and all that kind of thing.

From time to time I have seen in the Press the Magistrates complaining that the lawyers waste their time then at other times you see the lawyers complaining that a Magistrate might have threatened to go on and hear their case without their being present and so on. So it seems to me that the whole thing needs to be looked at because there ^ must be a better way of organising the justice system. I do not know what kind of problems exist in other societies but certainly I, for example, lived in Scotland for about 12 years and I have never heard of these -kinds of administrative problems being voiced in public as often as they are voiced in Barbados.

The final point I want to make is this, Sir: the message to the public should be that there are problems, that any ^ problems with the magistracy... that this Bill seeks to improve on what exists, that there are other problems and that Parliament itself is prepared to address those problems. However, we must not seek to suggest to anyone that the Magistrates of Barbados are not doing a good job. I am not saying that they could not do a better job because generally speaking in my experience I have not heard any complaints - I am talking about from people about the Magistrates. There may be. Others may have heard complaints. I don't know, but I have not heard any. Certainly if I had heard complaints coming from the people - I have heard j> complaints coming from members of the profession. Anytime I hear complaints coming from the people then I would be quite happy to give the House the benefit of what I have heard if they appear to be reasonable, but generally speaking I think that we can feel comfortable on this occasion...

Aside.

Dr. R. C. HAYNES: Mr. Deputy Speaker, what I am saying is that I feel comfortable on this occasion in supporting the Attorney General in this particular matter and Sir, it just shows, Sir, that if he had bestirred himself before the last lap now, Sir, that we could have had some interesting bits of legislation on the Statute Books because all the other areas of concern that I have mentioned might have been susceptible to improvement by appropriate legislative intervention. However, as they say, better late

than never. I believe that this is the principle on which the Attorney General operates. 3.30 p.m.

Hon. M. A. KING: Mr. Deputy Speaker, the Honourable Member for St. Michael South Central just cannot help it. The one point he has made in the course of this debate is that he has heard no complaints from anyone about Magistrates. While the fact that he has heard no complaints is neither here nor there the fact is that there have been complaints about the fact that Magistrates have not written reasons for decisions and as a result a considerable number of appeal cases are being held up and that justice to that extent is being delayed and consequentially, is being denied.

If the Honourable Member has not heard that complaint, I am saying it is nothing big. I am sure there are a lot of persons all over Barbados who have heard that complaint. I am sure the Honourable Member for St. George South would have heard that complaint. A variety of people would have heard that complaint. That is a general complaint throughout the country.

Aside.

Hon. M. A. KING: A lot of litigants who have gone to court cannot get their cases disposed of. That is why I started by making the point that the fact that the Honourable Member for St. Michael South Central has not heard complaints is neither here nor there because the Honourable Member is capable of making a political point out of any issue, about anything which is non-contentious, about the most elementary issue, about the most trivial issue.

Aside.

Hon. M. A. KING: Miller shut up. You are always getting involved. You have such a one-track mind that you cannot think about anything else.

Mr. DEPUTY SPEAKER: It would be a good thing if the Honourable Attorney General would please ignore the asides and address the Chair. I would also urge the Honourable Member for the City not to provoke the Honourable Attorney General.

Hon. M. A. KING: The Honourable Member for the City is in the habit of heckling. He likes to heckle.

Mr. DEPUTY SPEAKER: We have got accustomed to that.

Hon. M. A. KING: He does overdo it sometimes.

Aside.

Hon. M. A. KING: Nothing is getting to me. You do not see how cool I am today?

I was making the point, Mr. Deputy Speaker, that the only point the Honourable Member for St. Michael South Central made was that he had not heard any complaints. He said that there were a lot of other issues about which he heard complaints and about other functionaries in the profession other than the Magistrates. He did not go on to particularise the areas in respect of which he heard complaints and about the functionaries against whom he had heard those complaints.

Clearly, from the tenor of his argument one could deduce, I suppose, that the Honourable Member was making the point that in relation to the long adjournments which again resulted in delays and denial of justice that in respect of those the lawyers and the prosecutors did have a part to play. One cannot deny that. That is true. You cannot ignore the fact that in the final analysis it is the judicial officer presiding who has control of the court and who, to a large extent, can dictate what happens in the court.

There are some judges whom you would not dare go before to try to get adjournments whenever you appear. There are some other judges whom you feel very comfortable appearing before asking for adjournments and being almost fairly sure to get them. To a large extent you are dealing with a question of personalities, character of persons, strengths of personalities, the extent to which a Magistrate is going to say: "Look, let us get on with the case and get the case done".

On the contrary you may have a position where a Magistrate may have no serious objection. If the opposing sides are amenable to an adjournment, he decides to adjourn the case. On the other hand, you may find that there are some presiding officers who are strong and say: "Look, in the interest of justice, let us get the case decided and get on with it." If you had more presiding officers who adopted that attitude and frame of mind, I think you would have much less problems with persons involved in the administration of justice passing the buck from one to the other, the Magistrates saying it is the lawyers, the prosecutors saying it is the Magistrates and the judicial officers saying it is the two opposing sides who are essentially responsible for the law's delay.

Now, the law's delay is nothing significant to Barbados. The law's delay is something which characterises the law in most parts of the world unless you are dealing with jungle justice where you go under the palm tree, you try a man and you knock off his head if you find him guilty immediately after you have the hearing. Palm tree justice is one thing. Justice in the courts as we understand it and which we practise it is another thing.

The fact that the Honourable Member for St. Michael South Central has lived in Scotland for presumably, 12 years somewhere in the distance, not in the recent past, and, as he said, did not hear the type of complaints about the judicial system in Scotland as you hear now, that again is a *non sequitur*. It is a totally insignificant and irrelevant point.

Aside.

Hon. M. A. KING: It is a point nevertheless. It is a point calculated to mislead as you are so good at doing.

Dr. R. C. HAYNES: On a point of elucidation, Sir. The Honourable Member is struggling hard to be political in a matter that has no political content. The Honourable Member raised a question of delay. I have always understood that reasonable delay can lead sometimes to good and constructive decisions in a judicial system. What we are talking about is unreasonable delay which can have the opposite effect. You made the point just now about delays and instant justice.

Hon. M. A. KING: That is not the point. The Honourable Member again is trying to divert attention. I was trying to talk about the Honourable Member's living in Scotland for 12 years - how long ago? Thirty years ago?

Dr. R. C. HAYNES: On a point of order, Sir.

Mr. DEPUTY SPEAKER: Before you make the point I would just want to say that to the extent that I allowed the Honourable Member to make the statement, I would not want to proceed on the ground that it was irrelevant. Perhaps we can continue from that point. I will still hear you.

Dr. R. C. HAYNES: I think an Honourable Member cannot deliberately mislead this Honourable House with impunity when he says that I lived in Scotland for 12 years 30 years ago. That is deliberately misleading the House. Looking at me alone that could not be true. 3.40p.m.

Hon. M. A. KING: The Honourable Member is being trivial. I did phrase it in the form of a question. However, the significant point that I was making is that it was a long time ago. So that I am saying that the reference is irrelevant and calculated to mislead.

Now the Honourable Member spoke about speaking to a lawyer who mentioned to him

Asides.

Hon. M. A. KING: Does she have one case a month? -1 would not know, I am not in practice now, how she was in Court and talked about how lawyers are hanging around the corridors and not doing anything.

Aside.

Mr. DEPUTY SPEAKER: Order please.

Hon. M. A. KING: She said that surely this must indicate inefficiency in the profession.

Aside.

Hon. M. A. KING: What do you want to hear? The only point I am making is this. There are inevitably going to be delays in having cases heard during the course of a day. But the essential point I am making is this. For a young lawyer who has just qualified, for instance, that is no major problem because those youngsters who just qualified need to knock around the Courts to understand what is going on and to see how cases are being done. You cannot as a young person walk into Court and be able to deal with a case effectively from start to finish. Get in Court, watch and * observe how the seniors and the people who have been practising law have done it. Do a critical analysis. See where they make mistakes. That is how I learned.

Aside.

Hon. M. A. KING: Well, I learned not like you.

Mr. DEPUTY SPEAKER: Just one moment. I would *** prefer if in addressing the Chamber that Members address the Chair and do not refer to Members by name during their contributions. The Honourable Member for St. George South.

Mr. R. P. BYER: On a point of order, Sir. The point that the Attorney General is making about the Court is all right and valid, but that does not detract from the point that the Leader of the Opposition made.

Mr. DEPUTY SPEAKER: What Rule is he breaching? *

Mr. R. P. BYER: The point I am making, Sir....

Aside.

Mr. R. P. BYER: I rose on a point of order. The point I am making on a point of order is that what the Attorney General said does not detract from the point the Leader of the Opposition made that many people go to Court whether —• they are experienced or inexperienced and sit at the Bar for ***** long hours.

Aside.

Hon. M. A. KING: Mr. Deputy Speaker, it is not even a counter argument. «

Mr. DEPUTY SPEAKER: I would like the Honourable Attorney General to continue please.

Hon. M. A. KING: Mr. Deputy Speaker, the point I am making is that the two points are not opposed. I am not denying the fact. I began by saying that there are inevitably a number of delays in the system and they are some inevitable delays at that. You would have to have many judicial officers that you could assign one judicial officer for every single case. I mean you have a number of cases in the Magistrate's Courts and only one can be done at a time. So inevitably some lawyers are going to have to be sitting at the Bar Table waiting for the cases to come on or go in other areas. This happens in every jurisdiction in every part of the world. You are behaving as if this is something which is so unusual to Barbados. There is a possibility, of course, that work can be organized to the extent....

Aside.

Hon. M. A. KING: What did he say now?

Hon. B. M. TAITT: He said that sometimes you have to wait for the doctors from Delaware to bring reports.

Hon. M. A. KING: Oh! That is true too and wait on them to come and give evidence in the cases too. All these things contribute to the problem. Yes, sometimes you have to wait on the doctors to come and give evidence sometimes too. It is no big thing.

Aside.

Hon. M. A. KING: The Honourable Member for the City thinks that I am a "mullet", Sir.

Mr. DEPUTY SPEAKER: I do not understand why the remarks from the Honourable Member for the City continue to provoke you.

Hon. M. A. KING: Mr. Deputy Speaker, the remarks of the Honourable Member for the City do not provoke me. They amuse me but more critical they are nuisances. They are more nuisances than provocative.

Another point which the Honourable Member for St. Michael South Central has made is that the talk about getting a new building for the Supreme Court for the delivery of justice and for the establishment for the Court of Appeal is nothing new. In fact, he said that he has heard nothing new on this issue in the course of this debate. One can say that that is precisely like the arguments of the Honourable Member for St. Michael South Central when he addresses the issues on finance and economics. You hear nothing new. You hear the same statement everytime the Honourable Member gets up to speak.

So that the fact that we have heard these statements before is neither here nor there, because the problems about the administration of justice have been with us for a long time and believe it or not they will not be remedied

overnight. I wonder if the Honourable Member for St. Michael South Central would remember for instance when he was Minister of Finance on the change of Government when we were discussing issues about building the new Supreme Court the things that you told me. You told me to wait a few years.

Aside.

Hon. M. A. KING: No, no, no. You could not manage it. Of course, you could not manage it at that time but we all understood that. We understood that we had to wait sometime until the economy of the country was in a position to afford putting some money aside for the construction of a new Supreme Court complex. So that if you realized that when you were Minister of Finance and you are coming at this time saying - "Well, look that is old hash. There is a delay in getting on with it. Stop talking about it and get on with it" We are getting on with it now because plans as you are aware have been made for the establishment of the building. Plans have been made, Mr. Speaker, for the acquisition of the property for the establishment of the new Supreme Court and everybody knows that plans are well on the way for constructing the new Supreme Court Building and all that since you ceased to be Minister of Finance. Are you aware of that? Is the Honourable Member for St. Michael South Central aware of that? 3.50p.m.

Mr. DEPUTY SPEAKER: I would caution Honourable Members not to speak across the Chamber to each other. I do not want to have to repeat that too often. It interrupts any Member who is speaking when Members shout across the Chamber to each other. I think that is not the way we should conduct our debates.

Dr. R. C. HAYNES: On a point of elucidation, Sir. The Honourable Member has indicated to the House that between August 1987, since I ceased to be Minister of Finance, and now it has taken three years to acquire a piece of land and to start drawing a Supreme Court building. That is what he has just told the House.

Hon. M. A. KING: Mr. Deputy Speaker, I made the point that the Honourable Member for St. Michael South Central can make a political point out of every issue. Every Honourable Member in this House who spoke did so in support of the Bill before the House. The Honourable Member has not spoken against it, but like how they tell you, it is a left handed compliment, like Tiny Tim. He did not speak against it, but he had to raise some issues which are really irrelevant, but in order to score a political point against the Bill.

The Honourable Member for St. John, for instance, made some legitimate points of criticism and the Honourable Member for St. Michael South Central has

made the point that one has got to be careful not to undermine the system we are trying to improve. Has anybody said anything which is remotely capable of being construed as undermining the system which we are trying to improve? Has anybody heard anything in this Honourable House today which can on an objective analysis be classified as something which is capable of undermining the system which we are seeking to improve? The Honourable Member for St. John was very careful in his presentation to make the point that he was trying to devoid his presentation of any emotion, because of the very fact that what he said, legitimate points of criticism, can be misconstrued by mischievous persons who for political purposes want to distort an argument. Those are the problems which we have to deal with.

If you want to curse the Magistrates, curse the Magistrates. If the Honourable Member for the City wants to curse the Magistrates, he has to get up and curse the Magistrates and not try to put curse words in other people's mouths.

Mr. DEPUTY SPEAKER: Let me just indicate that I do not think he will curse them in here.

Hon. M. A. KING: Mr. Speaker, I think I am finished with the Honourable Member for St. Michael South Central for the time being, unless he provokes me further, but there are one or two other points, more rational points, which have been made by other Honourable Members in the course of the debate.

First of all, there was a point made by the Honourable Member for St. Thomas about the possibility of using Magistrates on contract, or even appointing additional Magistrates, to hear and complete coroner's inquests, which I think we are all concerned about, the fact that there has been such an inordinate delay in coming to grips with completing coroner's inquests. It is a useful point, Mr. Deputy Speaker, and it is a point which we will, as the Americans say, take under advisement.

Some time ago we were addressing the point of providing for an additional Magistrate. I had in fact spoken to the Minister responsible for Establishments about adding another Magistrate to the Establishment and the Minister had agreed in principle to the idea, but the problem was getting adequate space for the sitting of the Magistrate.

Traditionally inquests used to be held in the afternoon by having an extra Magistrate on contract to hear the inquests. Whilst the existing Magistrates may not be sitting in the afternoons, an additional Magistrate could usefully sit in the afternoons in the courts which are not used by the sitting Magistrates and complete inquests in those areas.

There is a whole number of other issues raised by the Honourable Member for St. John in the course of his

presentation. One point he made worth some comment, I suppose, is in relation to the fact that there are presently in existence magisterial districts. The Honourable Member thought that the concept of dividing the country into magisterial districts and having separate jurisdictions for Magistrates should be abolished and that the courts should be centralised. This is an argument which has been mooted from time to time. There are a number of arguments for and against it. The argument in favour of retaining the magisterial districts is the community argument. You tend to establish presiding officers to serve communities.

We are, to some extent, looking at this. The whole issue needs to be rationalised. With the change in demographic considerations throughout the country, change in population centres, different configurations so far as population locations are concerned, the time will come, if it is not right now, that this issue needs to be looked at carefully, rationalised, and perhaps you may find it might be useful to make some adjustment, for instance, in the location of Magistrate's courts. I do not at this time favour any idea of a complete centralisation, but I believe that there can be a sensible rationalisation of the distribution of the magisterial districts, and we are in fact looking at that.

The Honourable Member for St. George South, I believe, had made a point about the state of the Boarded Hall court and about the St. Thomas court. The St. Thomas court is in such a terrible state, I do not think there is any possibility of rehabilitating that at all. We have taken a decision to build a new Magistrate's court at Welchman Hall in St. Thomas. 4.00 p.m.

We are at the moment in the process of preparing plans for that Magistrate's Court with a police station and ancillary facilities at Welchman Hall.

In relation to Boarded Hall, I was of the view that substantial work had been done on Boarded Hall and has been done on restoring the Boarded Hall station. The plans for relocating the Boarded Hall station is still a part of our program but it has been postponed so to speak and in place of that what we have done is to advance the idea of getting the headquarters for the northern division, the Hometown court, established. So that with the Hometown complex we consider that we should give that precedence over the relocation of the Boarded Hall court at the Glebe. But, that part of the project is still a part of the program and in fullness of time when all the appropriate finance and all the planning arrangements are done will become a part of the program of the Ministry of Legal Affairs.

I don't know that there any other issues which I wish to address at this point but suffice it to say that in the... and this is a coverall point to make a response to a multiplicity of issues which have been raised during the course of this debate that the effect that presiding officers can play in

relation to any proceeding is largely dependent upon how the presiding officer sees his role, the extent to which he is prepared to go to ensure that the work of his court is done. It depends largely on the personality of the officer, on the character of the presiding officer and in all of the arguments which we banter to and fro in relation to a variety of problems which exist one thing we can't ignore is the personal element. How does X as a person respond in a particular position? How would Y as a person respond in that particular position and the human element is something which we cannot ignore when we deal with the variety and multiplicity of issues which we face.

We feel that the existing legislation which is before us - we are not saying that it is a panacea for all the difficulties which presently encompass the administration of justice but it is one of these bits of legislation which deal with some of the problems which do exist and I am grateful for the support which Honourable Members on all sides have given to the proposals. Thank you Mr. Deputy Speaker.

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

On the motion of Hon. M. A. KING seconded by Hon. B. M. TAITT, Mr. DEPUTY SPEAKER left the Chair and the House went into committee on the Bill, Mr. L. L. BRATHWAITE in the Chair.

Mr. CHAIRMAN: The House is in committee.

Clauses 1 to 8 were called and passed. Clause 9

was called.

Hon. M. A. KING: Mr. Chairman, in moving that Clause 9 stand part I just wish to make the point that these proposals for the amendment, in particular in relation to Clause 9 which deals with the problems of the failure of the Magistrates to write the legal decisions and gives power to the Divisional Courts. The proposals for these, as indeed in relation to other aspects of the Bill, did originate with the Judicial Advisory Council and I wanted to just make the point that the Judicial Advisory Council was at all stages part of the process of consultation in relation to the amendments which are now proposed.

Hon. B. M. TAITT: I want to say a word very briefly on this clause, Sir. During the course of the debate the Honourable Member for St. John touched on the question of the need for the system for the society to criticise certain acts that might occur in the magistracy or the judiciary and in the course of this presentation the Leader of the Opposition seemed to me to be suggesting that any criticism of the magistracy or the judiciary is dangerous *per se* and I just want to make the point that the democracy is the worse off when there is no criticism of the judiciary or

of the magistracy when such criticism is necessary and desirable. Now when we have a situation where the Judicial Advisory Council itself which is the administrative agency for the magistracy and indeed the judiciary in the country in the broader sense of that term, when that Council can feel *itself* bound to draw to the attention of the Government the necessity for legislation to get a Magistrate to do his or her duty - it is the responsibility of a Magistrate to write reasons when he or she gives a decision. It is not a decision about dog fleas. It is a decision about people and this foolishness which goes on in this country where you are to allow certain people to do things that are contrary to the entire system of the country and you are not to say anything must never be allowed to take root. When a person goes before the Courts, that person has a right, not at the whim of somebody, to have his case dealt with expeditiously. It doesn't matter who is presiding. The judicial officer or the Magistrate takes an oath to perform his or her duty and that is what *mandamus* is all about. *Mandamus* is when the Court tells an officer in some aspect of public duty, "go do your duty", and when you have situations where persons are not able to get an appeal heard because some Magistrate decides on a whim or fancy as though he or she is a potentate not to do his or her duty - a politician who gets elected has to do his duty or her duty. The politician who becomes a Minister is required every five years or thereabouts to go and renew his mandate and must do his duty. Civil Servants are expected to do their duty and there is no principle that exists in this democratic system we have which says that judges are not required to do their duty. 4.10p.m.

In the Caribbean from the time we had stipendiary Magistrates, where you used to have people on the bench who were ignorant of the law that is the history of the system - we used to have Magistrates who were ignorant of the law. Now that we have Magistrates who are supposed to know the law, the first thing they know or ought to know when they sit as Magistrates is their duty to the people who come before them. This attempt to silence the Honourable Member for St. John or any other person who has been exposed to the study of the law and the practices of the law has no foundation in English law.

As a matter of fact, there is probably nobody that is criticised more evenly and heavily in relation to its job than the judges in the English legal system. Anyone who is familiar and I think the Honourable Member for St. Thomas and the Leader of the Minority Opposition, the Attorney General and others can confirm that the most criticised public persons anywhere are probably the judges. There are more words committed to criticising the decisions of judges than anything else.

We are not discussing the criticising of a person in his personal life. We are discussing criticising decisions that are made and there have been and will continue to be wrong decisions made. But it is even more heinous not to if a

person makes a wrong decision because that is part of the course, but a judge is entitled to be wrong. A Magistrate is entitled to be wrong otherwise there would not be a need for appeal courts. But there is no justification for a Magistrate not writing the reasons for a decision in a country this size.

I want to join my voice, and I feel able to speak with authority on the matter, in saying that this country must become accustomed to clean, clear, crisp criticism that is honest and that is intellectually pure.

Aside.

Hon. B. M. TAITT: We are dealing with serious matters. I do not want to get involved in that. It is you who is going around saying that I would not speak at political meetings, that I have withdrawn.

Mr. CHAIRMAN: I certainly did not say that. Hon. B.

M. TAITT: Sunday in the Square. Sorry, Sir. Mr.

CHAIRMAN: Please address the Chair.

Hon. B. M. TAITT: I was just telling the Honourable Member for St. Thomas that he will hear me further on this issue of law and justice, if necessary, Sunday in the Square. He knows why I have not been speaking. They all know why. We would not spend time on that.

Mr. CHAIRMAN: Let us have some order.

Hon. B. M. TAITT: Mr. Chairman, the point I am making I think has been made that this section here personifies the difficulty. When you think about that Parliament has to pass legislation which says where a Magistrate has not complied with subsection (1), and subsection (1) is dealing with the Magistrate not giving reasons for his decision and where he resigns or retires, as the case may be without having complied with subsection (1), he may be summoned to appear before the Divisional Court. When we reach a point where the Judicial Advisory Council feels bound to call upon the legislature to pass legislation to summon a Magistrate there is good and sufficient reason for us to be critical.

I salute the Honourable Member for St. John for having the courage to discuss these matters up front. I hope that other lawyers, especially other young lawyers because the older lawyers are not themselves disposed to this kind of approach, will recognise the need not to be pig-headed, but to be critical in the more serious sense of the use of that word so that our system of justice will become better by improvement.

I am grateful to your Honour.

The question that section 9 stand part was put and resolved in the affirmative without division.

Clauses 10 -12 inclusive were called and passed.

On motion of Hon. M. A. KING seconded by Hon. B. M. TAITT Mr. CHAIRMAN reported to His Honour, the DEPUTY SPEAKER, the passing of one Bill in Committee and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. M. A. KING seconded by Hon. B. M. TAITT the Bill was read a third time and passed.

ORDER NO. 4: RESOLUTION TO APPROVE THE COMPULSORY ACQUISITION OF LAND FOR THE IMPROVEMENT OF HIGHWAY 2A

Hon. P. M. GREAVES: Mr. Deputy Speaker, this Resolution is for the acquisition of 82 parcels of land situated in the Parishes of St. Peter and St. James. The purpose of the Government acquiring these lands and the acquisition of these lands were in train and in process since 1985 when it was conceived that the Highway 2A should be improved. The notices were advertised as required by the Land Acquisition Act during the year to which I made reference. Much of the land that we are now acquiring has already been utilised, if not all, for the purposes of the construction of that section of the Highway for which a contract had been awarded.

If Honourable Members would remember, the road construction will be in two phases, phase 1 and phase 2. We are now into phase 1. There is a contract awarded for phase 1. That contract, I believe, is coming to its end, if it has not already ended. That section of road for which the contract was awarded extended from Mile-And-A-Quarter to Westmoreland. I am aware that the contractors have been doing some work in the Westmoreland area having already started its work at Mile-And-A-Quarter and moving southwards towards Westmoreland.

Section 2 of that Highway, which is Highway 2A, that contract is yet to be awarded. It has not yet been awarded to anyone. As a matter of fact, it has not even been advertised. In due course that will be advertised and the contract awarded in order to complete the improvements so that we will have a link stretching from Warrens right down to Mile-And-A-Quarter in the North. 4.20 p.m.

As a matter of fact, it already does that. But I believe, Sir, it will do it more capably than it is being done at the moment. There is not very much more I can tell the House on this particular matter. I think we have already discussed this matter on more than one occasion, once when the

contract was being awarded and on other occasions when notices were being advertised for these lands.

Sir, I should also tell the House that as a result of the construction of that highway a number of houses had to be relocated. As a matter of fact in some cases, houses had to be rebuilt for persons who had already owned houses and their houses had to be taken. So all that, Sir, has already been completed. The houses that were relocated have been relocated to the satisfaction of the previous house owners. I think that is what is important.

I, therefore, move that the Resolution do now pass.

Hon. B. M. TAITT: I beg to second that and reserve my right to speak.

Dr. R. C. HAYNES: Mr. Deputy Speaker, really and truly in introducing this particular matter one must note that the Honourable Minister of Housing who was in his place earlier seems to have taken flight from the House. The Honourable Leader of the House introduced the matter and said nothing and sat down. Since there is nothing to reply to in terms of what he said, one has now to begin to look at other aspects of this particular matter.

First of all, Sir, it was indicated fleetingly that notices of this acquisition were issued since 1985 or thereabouts. This is now 1990, Sir, and I wonder what has been the delay. We were further told that Government had already utilized most of these spots and now the Government is coming to Parliament to seek approval for the acquisition. In other words, we are being asked to come in to rubber stamp what has already been done. The normal process is that if Government wishes to acquire a piece of land for public purposes Government will come to the House and acquire the land and then thereafter proceed to utilize the land for public purposes.

Aside.

Dr. R. C. HAYNES: We have just been told that most of these lots here have already been utilized by Government. All I am saying is that you cannot go and utilize other peoples' lands. You cannot act illegally.

Hon. B. M. TAITT: On a point of order, Sir. The Honourable Member is blatantly misleading this House, Sir. The Honourable Member is seised of the particular law under which acquisition is done. He is seised of it, but he does not know the law. He has been advised on more than one occasion at least when he was over here. He knows that the Government on serving the relevant notices to an owner under Sections 3 and 4 of Land Acquisition Act, that the law specifically makes provision for the Government to enter upon and utilize the land until such time as the compensation is made available by virtue of an Act of Parliament to buy the land. The Honourable Member knows

that, Sir. Therefore, for him to make that speech, he is deliberately misleading the House and I submit to Your Honour that the Honourable Member should not be allowed: (a) to do that and (b) what he said in that regard should be struck from the record.

Dr. R. C. HAYNES: Mr. Speaker, one would hardly believe that that is the same Honourable Member that got up in this Honourable House on numerous occasions and joined with me in assaulting the Barbados Labour Party Government of the day, pointing out to them that they cannot treat Parliament in this way. What was pointed out, Sir...

Hon. B. M. TAITT: On a point of order, Sir. He is absolutely correct, Sir, and this is part of what we used to quarrel about. This land was utilized by the Barbados Labour Party, but we do not come in here and say that it was the Barbados Labour Party. We came as the Government because Government is a continuing thing. We agree with the Honourable Member. Had we started from the beginning we might not be in this position, but we are only trying to tidy up the situation.

Mr. DEPUTY SPEAKER: Before the Honourable Member proceeds, we would like you to speak to the Resolution, really.

Dr. R. C. HAYNES: Hansard, Sir, is replete with long speeches indicating that this kind of procedure, in fact, is a major breach of the law if not a breach of the letter of the law. It was clearly understood that the procedure should be a notice of acquisition but that the Government should come to Parliament and acquire the land before the Government sets foot on the lands of its citizens.

The other area, Sir, of dispute has always been the question of payment. There has always been an argument of whether or not you can proceed after acquiring the land without settling the quantum for which you would pay. That is the area of dispute.

Aside.

Mr. D. A. C. SIMMONS: On a point of order, Mr. Deputy Speaker. I wish to say that I remember the former Prime Minister Barrow saying at about the time of the elections and just after on a television programme in relation to land acquisitions that if you did not get your money from the Government within 14 days of the acquisition to sue the Government and put them in Court. He said that. They have abandoned Mr. Barrow since he is dead.

Hon. P. M. GREAVES: We have not advised anybody not to sue. The Government has not abandoned anything.

Dr. R. C. HAYNES: Mr. Deputy Speaker, I am saying that it is not good enough to have allowed four years to lapse between posting a notice or issuing a Notice of Acquisition and then coming in here to acquire some 80 something parcels of land in this kind of way. I am saying, Sir, that it is an infringement of their rights.

Hon. B. M. TAITT: On a point of order, Sir. The Honourable Member more than anyone else will know that when you have a large number of parcels of land that it takes long to survey it. The Honourable Member has this experience.

Dr. R. C. HAYNES: Mr. Deputy Speaker, I know abuse of power when I see it and this is a naked case of abuse of power.

Hon. B. M. TAITT: On a point of order, Sir. The Honourable Member cannot in any way suggest that this time honoured methodology is an abuse of power. I object most strenuously to his suggestion that this is abuse of power. This is a normal acquisition of land Resolution for 82 parcels, Sir, not 8 parcels but 82 parcels. The Honourable Member is deliberately misleading the House.

Dr. R. C. HAYNES: It is an abandonment of all the civilized norms of the relationships between the Government and the people of Barbados. We all understand and we are willing to cede our private property to the state if it is needed for a public purpose. We all understand that. We all expect to be reasonably compensated. 4.30 p. m.

Certain remarks made by Dr. R. C. HAYNES were ordered by Mr. DEPUTY SPEAKER to be struck from the record.

Dr. R. C. HAYNES: I will withdraw that particular sentence. That is the ruling of the Presiding Officer and there is no question of striking out all I have said so far. The Honourable Member, through a *sotto voce* remark, is trying to send the wrong signal to the Reporters of the House.

Mr. DEPUTY SPEAKER: We have to get the point cleared up, because Members of this Chamber do not put up notices on people's land. If you are making reference to the people who put notices on people's land, you certainly must be referring to public officers.

Dr. R. C. HAYNES: I do not know who put them, Sir, whether they are public officers or not. The Honourable Leader of the House can say who put them there. I am referring, Sir, to the people who posted the notices. I do not know who they are. I am referring to the same people the Leader of the House was referring to.

If I may continue, Sir. That is my first concern. The second concern is this. I want the Honourable Leader of the

House to tell me whether it is a fact or not that a considerable amount of the delay in relation to the completion of Highway 2A was due to the fact that the work was held up because Government either did not proceed with the acquisitions on time or did not complete negotiations with the owners of houses on time. However, the bottom line was that houses could not be moved and therefore the contractor was held up and could not proceed as rapidly as possible. I want to tell the Honourable House how much that has cost the Treasury, and will cost the Treasury.

I am talking, Sir, of gross administrative mismanagement. You are talking here, Sir, of a four year gap between the posting of a notice and coming to Parliament. In the meantime, I know as a matter of fact...

Hon. P. M. GREAVES: On a point of order, Sir. I thought the Honourable Member for St. Michael West was at pains to point out to the Honourable Member, but he seems not too quick to learn, that once Government has posted those notices, as was done in 1985, Government then moves in, takes possession of the land and carries out the works. There is no question then of delay in acquisition which would hold up any contracts.

Dr. R. C. HAYNES: Mr. Deputy Speaker, the Honourable Member is just side-stepping the issue. I am saying that it is a matter of fact that work on more than one segment of Highway 2A, the first section that was being done, was held up on more than one occasion because of the incompetence of the Government in ensuring that those houses which they intended to acquire and resile were moved out of the way of the road in order that construction can continue. I am asking the Government whether or not that kind of delay is going to add to the cost which the taxpayers will have to pay for Highway 2A. That is the first question I would like to get an answer to.

The second question is this, whether or not the cost of this acquisition would increase the projected cost of the whole project, and by how much. In other words, when the Government has acquired these 82 parcels of land, how much are they going to be paying for the 82 parcels of land and how much is it going to increase the overall cost of the project by? I would hate to think that the Government would come down here with a Resolution to acquire 82 parcels of land and have no idea what the cost of the land will be after four years of deliberation.

I am quite sure you are not going to hear any answers to these questions today.

Mr. DEPUTY SPEAKER: If you are insisting on answers, I must remind you that there is a procedure for asking questions in the Chamber, and to insist on answers to your questions can be done by that procedure.

Dr. R. C. HAYNES: I know there is such a procedure, Sir, but I also know when a Minister is well informed he takes the opportunity to get up and respond to such questions.

The third matter I would like to raise is this, whether or not the highway is going to be completed on time; how much money has been spent on the highway so far; and how much money the Government owes the contractor. To what extent is the Government prepared to compensate those thousands of persons to whom they owe millions of dollars all over the place for the interest costs to those persons?

We are faced with a situation where this Government has come in here year after year acquiring people's properties. The last figure I heard some years ago as to the amount of money owing to persons whose properties have been acquired in Barbados was \$12 million. I have tried again and again to find out the outstanding amount owing to the citizens of Barbados as a result of land acquisitions and there is always silence. I believe that that figure may well now be in the region of \$20 million. When one judges by the amount of land acquisitions that go through this Parliament, and you look in the Estimates and you see what is voted in the Estimates, there has certainly been no vote in the Estimates which would liquidate the backlog of \$12 million that was owed at one time.

I think it is wrong, Sir, to keep coming in here all the time acquiring people's land, through a lawful process, because this will be the law when it is passed today and most of these people here will not see one cent for many a year, and there are hundreds out there who have had their lands acquired who have not seen one cent today. 4.40 p.m.

There are people for example in the area of Halls Road, all out there, people who have had their properties acquired and so on and they haven't been paid one cent after many years, and it is about time that we start dedicating ourselves to the paying off of the citizens for their property which this Parliament has acquired by resolution. The reality, Sir, is that this Government has embarked on a project and they have done very little to make sure that that project goes smoothly. They have failed to coordinate the process of the moving and realignment of homes in order that the contractor will be able to continue his work and there has to be stoppages on many occasions because of that problem.

As a matter of fact, Sir, on my way to a very large meeting that we had at Mile-And-A-Quarter only two Sundays ago, a very well attended meeting, Sir. I am sure that at the Westmoreland, at the end near to Bridgetown, at that end in that area that the holdup has partially been due to the problem with removal of houses too and a lot of these delays have gone on, not for days or weeks, but it has been

going on for months. Eventually that is going to translate into dollar bills for the taxpayers because, you see, when a contractor's costs increase because of the negligence of the Government of Barbados they have to pay him even without question, once the bill is reasonable and you can expect the cost of highway 2A to increase considerably because of the negligence of the Government in coordinating the whole acquisition process and the resiling of those homes along Highway 2A.

Now, Sir, one always has to be careful. Anytime you see, Sir, someone as experienced as the Honourable Deputy Prime Minister rise in this Honourable House and introduce a resolution and say as little as possible whilst at the same time they make sure that the man who cannot control his mouth, the Minister of Housing is not in the House you can be quite sure, Sir, that they are concealing something that is important.

Mr. DEPUTY SPEAKER: No. To make that statement would be a reflection.

Dr. R. C. HAYNES: On what? If he can't control his mouth, he can't control his mouth. There is nothing wrong with that. No. I am not accusing you.

Mr. DEPUTY SPEAKER: I think what you are saying is that the Government is making sure that the Honourable Minister of Housing is not present and to say that the Government is making sure that he is not present really unless you can support that would be a reflection on the Members of this House.

Dr. R. C. HAYNES: Sure, Sir. I can support it. I said it and I am responsible for everything I say. That is simple. That is the rule of the House. I don't have to bring in any affidavit or anything like that. You think Sir, that they are going to tell me that they told him not to come in.

Hon. M. A. KING: A point of order. What the Honourable Member has said is imputing improper motives to the Leader of the House. It is as simple as that. Any Honourable Member in this House can rise on a point of order if a point of order is breached. The Honourable Member is in breach of the rules of the House. He is imputing improper motives to an Honourable Member of this House to say that the Minister whose mouth can't be closed and imputing that certainly those who are responsible for piloting this Resolution are in the business of concealing facts from this Honourable House. That is a serious indictment of those who are responsible for introducing the Resolution in this House and a reflection on Honourable Members and the Honourable Member must withdraw it.

Mr. DEPUTY SPEAKER: I am sure that the Honourable Member agrees with our submission and I suggest that those remarks be withdrawn.

Dr. R. C. HAYNES: Mr. Deputy Speaker, if that is your ruling I will be only too happy to withdraw the remarks, Sir, in respect of the Honourable Leader of the House whom I have always found to be a man of the highest probity, Sir. That does not mean, Sir, that in a situation of collective responsibility that he may not introduce a motion without saying very much and he may have a good reason for so doing. That's all I am saying, Sir.

Sir, the final point I wish to make is this. I believe and I have often asked for it. It was always the custom inside here whenever acquisitions of land were brought "before the House that the House would be accorded the courtesy of a map so that Honourable Members can see where the parcels of land are and when I first came in here, Sir, the map used to be passed around and now we have come in here and we acquire lands and nobody ever bothers to bring a map, Sir. The Honourable Member for St. Michael West, Sir, would be the kind of person who would always get up and ask to have the map sent over and the map used to be available.

Hon. B. M. TAITT: On a point of order. If the Honourable Member wants to see the map it is on the file. You want a survey plan, too? Whatever the Honourable Member wants. It's not a problem. We will let him have whatever it is he wants, Sir.

Dr. R. C. HAYNES: Now, Sir, I would like to see the plan because I have heard certain complaints from persons in that area - complaints about the kind of money that had been offered to them and they are not satisfied so I do not know whether these particular lots here fall into that group or not.

Aside.

Dr. R. C. HAYNES: I do not know and therefore that is why as a matter of courtesy these maps should be made available to all Members of the House and the Government must not be reluctant to do so and what is worse, Sir, it's the Honourable Leader of the House, if my memory is correct, who would be the person who would examine those maps on our behalf when we were on the other side.

Asides.

Dr. R. C. HAYNES: I am not finished speaking. I am having a look at them here.

Mr. Deputy Speaker, I have no problems because I immediately see here one or two questions that I want to ask. Now, Sir, this plan indicates to me that that particular development must have involved the building of bridges which is quite evident here from the map and I want to know who was the sub-contractor for the building of the bridges or whether they were built by the prime contractor and how much did they cost and whether the building of

bridges is going to impact in such a way as to increase the cost of this section of the highway to Government?

Hon. B. M. TAITT: Point of order, Sir. The Honourable Member is perhaps inadvertently but in breach of a rule of the House which says that you cannot reflect on a vote previously taken. 4.50 p.m.

The Honourable Member will recall that when the question of the Highway 2A contract was being awarded that the Minister for Transport and Works gave a full and complete exposition on this matter. Now, this is a matter that has already been settled in the same session. The Honourable Member knows that. This is a mere acquisition. The Honourable Member cannot now re-open a debate that has already taken place in the same session.

Mr. DEPUTY SPEAKER: There is a Rule which prevents Members from reflecting on a previous vote. It is Order 28.

Dr. R. C. HAYNES: Mr. Deputy Speaker, I think that you would do a good job if you do not listen to the Honourable Member for St. Michael West. The point I was trying to make was there was never any debate on this House relating to any bridges as far as Highway 2A is concerned.

Hon. B. M. TAITT: On a point of order, Sir. On the contrary. You would be aware that the awarding of a contract of that nature would include, as the Honourable Member is saying, a subcontractor for the bridges and culverts. You will recall that took a substantial amount of time during the debate. The Honourable Member, if he is not aware, is reflecting. I submit again, Sir, that the Honourable Member is not able to reflect on a vote already taken in this House.

Mr. DEPUTY SPEAKER: Yes. Also to the extent that we are debating a Resolution for the acquisition of land, the bridges really and truly I do not know to what extent they would fall within this. Please proceed.

Dr. R. C. HAYNES: Everything we do in life is for some purpose or the other even if we do not know it. The point is this, if we are acquiring land we are acquiring land for a purpose.

The other point I want to make is this. Now, we know that the World Bank is either still here...

Aside.

Dr. R. C. HAYNES: Yes, the World Bank. I did not say the IMF. They are coming next month. They are coming in January. I am talking about the World Bank.

I know that the World Bank is here now. I would like to know, Sir, whether we can look forward to some World Bank financing for the continuation of Highway 2A and to assist with this acquisition. I know that the World Bank is very upset. I know that they are going to be following the processes of structural adjustment in relation to certain lending to Barbados. I know what that would mean because they work very closely nowadays in terms of structural adjustment programmes with their partner, the sister organisation across the road, the International Monetary Fund.

Hon. B. M. TAITT: Sir, on a point of order. I submit to Your Honour that the Honourable Member is beginning to range wide and far beyond the four corners of a Resolution to acquire land, Sir. My experience, and as the Honourable Member has said, Sir, I spent a lot of time helping him to gain some experience here. The Chair, while giving some latitude, does not allow this wide and far extension of a debate to acquire land.

As you would recall, Sir, Mr. Speaker Hinds would have stopped him in his tracks even before he opened his mouth. It is on that basis that I am raising the question with Your Honour that although Your Honour is tolerant that you do not allow the Honourable Member to open this debate, to carry it beyond the bounds of a simple acquisition of 82 parcels of land.

Mr. DEPUTY SPEAKER: It is a good thing Hinds is not here, but he is still inside the crease, so you may continue.

Dr. R. C. HAYNES: Well said, Sir. It is quite evident to me, Sir, that there are certain Members of this Honourable House who do not wish me to speak judging by their interruptions and their attempt to put all kinds of bogus points of orders to the Chair.

Mr. DEPUTY SPEAKER: I will not permit that. That is again a reflection. You cannot say that Members are making bogus points of order. I cannot accept that.

Dr. R. C. HAYNES: Making points of order that are not points of order. I trust you. I have every confidence in your judgement. I hope that I do not speak prematurely.

Mr. DEPUTY SPEAKER: Please proceed. You are going very well.

Dr. R. C. HAYNES: If I may wind up, Sir. I think I have made the important points, Sir, relating to the questionable legality or certainly the moral components of the legality of this method of acquisition. That is the first point I made.

Secondly and finally, Sir, I will wind up by asking how the Government is going to pay for it. We know that

the overdraft at the Central Bank is something like \$30 million above the legal limit and that the Government is operating strictly unlawfully in Barbados. It is for that reason and only for that reason I sought to find out whether the World Bank would assist.

Sir, the only reason why I have not thought of seeking judicial redress to ensure that the financial system of this country is administered within the law is because I know the Members on the Other Side are going to walk around and say that I do not want the civil servants to get paid. After they have been paid, you may still have to face the courts. Keep on bursting the overdraft and operating \$20 million, \$30 million above the legal limit. If you check the law carefully anyone out there on the street can seek address in the courts and seek a declaration in the courts.

Aside.

Dr. R. C. HAYNES: Never mind. I have already had legal advice on the matter. You can ignore the court. What I am saying is we know that the Government has not got one cent to pay for this acquisition. What I am asking, Sir, is if the Government has made up with the World Bank so that we can look forward to getting some foreign currency coming into the country to help pay for this ...

Mr. DEPUTY SPEAKER: Let me just indicate that you are now outside the crease. There is a debate coming up on the foreign loans in which you can raise those points. This is a debate to do with the acquisition of housing. I think you have really gone off on an excursion.

Dr. R. C. HAYNES: You may also recall, Sir, that the Honourable Leader of the House in the very few words that he used introducing this Resolution spoke about phase 2.

Mr. DEPUTY SPEAKER: That will come. We are in phase 1 now.

Dr. R. C. HAYNES: He did, Sir. He mentioned phase 2.1 want to mention now, Sir, whether he can tell us what progress has been made. How soon they will be going out to tender. Whether there is any likelihood of World Bank financing of phase 2 of this Highway 2A. I think this would really make me feel more comfortable when I vote for this knowing that there will be money coming into the project.

Finally, Sir, I want him to give me an assurance that the project would not be held up again because of problems having houses removed from the particular sites in the way of the contractor. I believe that the next few weeks may be crucial because my understanding is, from what was said in this House before, that during the crop season I think work has had to come to a stop on certain parts of that Highway. I believe that one should make every effort to get it concluded before the beginning of the crop season.

Mr. Deputy Speaker, I am seised of much more information. The Honourable Member better be aware that those questions are asked because I am fully aware of the answers. I believe he had an obligation when he introduced the Resolution to have indicated to this Honourable House the kinds of problems which I tried to address during my very brief intervention on this matter.

Thank you very much, Mr. Deputy Speaker.
5.00 p.m.

Hon. B. M. TAITT: There are some things which are put into the record which we have to make quite clear. Sir, this acquisition is a simple, straightforward bringing of the matter into legal nicety, legal purview, *et cetera*. The Honourable Member sought to give the impression that some strange thing was happening. When you are acquiring 82 parcels of land in Barbados, Sir, the 82 parcels of land must be surveyed. They are not likely to be surveyed in a week and there are a number of legal things, as Your Honour very well knows, to be done before the Government is in a position to make a specific payment to a specific piece of land.

The divide which we had between the Barbados Labour Party and the Democratic Labour Party was in the methodology to be used. There was nothing illegal about either one of the methods. The Barbados Labour Party felt, as outlined by the then Deputy Prime Minister and subsequent Prime Minister, Mr. Bernard St. John, that the proper method for them was to put the Section 3 Notice down, get the Section 4 going, move in and use the land and subsequently discuss the price.

The Democratic Labour Party's position before it went out of Government in 1976, and during the time it was in Opposition and subsequently has been that wherever possible we would acquire land by private treaty rather than by acquisition and that we would discuss with the persons concerned the price to be paid and to get a mutual agreement. At no point in that philosophical position was it ever suggested that the works to be carried would be held up because the parties were negotiating the price for the land. It has always been assumed by both sides that where the Government has determined that a particular set of work would occur that the plans for those works would proceed either by using the method as outlined by the Barbados Labour Party or the method outlined by the Democratic Labour Party, but in either case not holding up the particular works as one discussed the price of the land and reached agreement.

When you are acquiring 82 pieces of land, therefore, anyone who has had to buy one piece of land in Barbados can attest to the length of time a transaction for one piece of land can take. The Honourable Member and Leader of the Opposition is probably the best placed person in this House to understand the length of time it can take for a transaction

in land. The Honourable Member knows that. Therefore, to suggest that the Government had some nefarious activity is merely to obfuscate and to be mischievous, Sir. It is merely to be mischievous for anyone to make that suggestion.

The Honourable Member is as seised as any other person in Barbados with interest that we started a two-phase operation on Highway 2A. He knows, Sir, that a contract for \$10.6 million was awarded for Highway 2A Phase I to Rayside Asphalt Paving Company. He would know better than almost anybody else in this House that the contract was in two parts. One part was for road improvements estimated to cost \$6.1 million and the other part was for bridges and culverts estimated to cost \$4.5 million. The work started in July 1988.

The Honourable Member knows that, Sir. The Honourable Member knows that because of the crop season that the work has been done to accommodate the crop and that attempts have been made to do certain parts of the work during the crop and other parts out of crop season. The Honourable Member knows that recently one of the newspapers in the country had to apologize to the contractor profusely for having made the error to suggest that the contractor was not in time. The Honourable Member is fully aware that in the award of the contract there was a dispute that was settled in a particular way, which this present debate does not permit me to repeat. The Honourable Member could only be deemed by reasonable people to be seeking to create mischief, Sir, when we come to acquire 82 parcels of land to ask questions about who is the contractor for the bridges and culverts. The Honourable Member knows that better than anybody else. He was in there and he knows that the contract for bridges and culverts was awarded to the same contractor.

So that when he comes to this House and raises questions about the commencement of Phase II, everybody knows that Phase II is going to follow Phase I sometime in January or February next year. The Honourable Member knows that, Sir. So the record must show that when we came to the House, we came more speedily in regard to the size of the lots and the number of lots than at any other previous time for these acquisitions.

When the Honourable Member was Minister of Finance, and the Minister of Housing will be happy to tell this House, the Honourable Member was instrumental in some of the monumental delays which occurred in the payment to persons.

Aside.

Hon. B. M. TAITT: Do you want to get up on a point of order? I give way to the Leader of the Opposition. I am going to give way to the Minister of Housing, Sir. But I just wish to say, Sir, that the return to this House of the Minister of Housing gives the lie to the wicked and obviously

vicious attempt by the Honourable Member, Leader of the Opposition, were it not for the vigilance of the Chair to castigate this Government and cast aspersions on the integrity of this Government, Sir.

Mr. Deputy Speaker, the Minister of Housing is here in the flesh and you have proof, Sir, that there was no attempt on the part of this Government to either hide that Minister or any other Minister. We are going to "wrestle with the beast" ever since we did not take the Leader of the Opposition for breakfast, lunch, and dinner, Sir. We know him well. We will drink sea water after. We can handle him. He is light stuff. We are more concerned with the little manoeuvrings of the other little party because they are much more subtle. But he is light stuff. We can handle him everyday, Sir. We went to Quakers Road recently and I was amazed the way how a virtual neophyte, Sir, was able to take hold of this massive Leader of the Opposition by the throat, Sir, and throw him down and walk all over him, dragged him across the floor, and left him in a state of complete disarray in the constituency. It was not necessary to put the big guns on him.

So that we have no problem with him but we have to keep the record straight. What amazes me, Sir, is that the Deputy Leader of the National Democratic Party, the Honourable Member for St. George South would sit there...

Aside.

Hon. B. M. TAITT: The Deputy Leader of the NDP is in his place now. I know that for a fact. 5.10p.m.

Mr. DEPUTY SPEAKER: We are still on the land acquisition.

Hon. B. M. TAITT: Yes, Sir. I am saying the Honourable Member for St. George South, who is fully seised of these matters, and who on more than one occasion would have been able to brief the Leader of the Opposition, should not have allowed him to make some of the errors he made in his presentation.

Mr. Deputy Speaker, I give way to my colleague, the Honourable Member for St. Philip South, who will now administer the coup de grace to the Leader of the Opposition in this matter.

Hon. H. A. BLACKMAN: Mr. Deputy Speaker, I was not here when this item was introduced, because unfortunately I had to take my little boy home from school. There was no question of hiding or running away from anything and the Leader of the Opposition should know that I do not run away from anything, least of all you. I did not run from Tom Adams, so I am never going to run from you. Get that straight to start with.

Mr. Deputy Speaker, the acquisition of these parcels of land started in 1985, before this administration took office. At that time there were 90 parcels. You will notice that this Resolution refers to 82. Late in 1985 section 3 notices were published in respect of 90 parcels of land. As the surveying work continued, it was evident that the first section 3 notice published did not accurately represent the parcels of land to be used in the project and this necessitated the publication of additional notices. This is one of the main reasons for the delay, because the original section 3 notices were not accurate and therefore we had to do the thing all over again, as it were. The first additional section 3 notice was published early in 1989.

Mr. Deputy Speaker, these are 82 parcels of land we are dealing with, not two or three, and when you find errors with 82, you can imagine the amount of work you have to do. Furthermore, let me say something, Mr. Speaker. The reason why we rushed this is because these persons' lands were acquired in 1985 and this Government felt that it was about time that these persons got paid. That was the main reason why these were rushed to be here today, because we wanted to pay the people.

When the Honourable Member was Minister of Finance, every time the talk came up about paying for the acquisition of land for the Northern Access Road, for Highway 2A and all these things, he would tell me not to bother my head about paying people for land, that people waiting 8,10,15 years for land was an ongoing thing.

Dr. R. C. HAYNES: On a point of order, Sir.

Mr. DEPUTY SPEAKER: Before you make your point, let me just remind Members that when they are speaking they are not permitted to just give way. You conclude your speech and allow someone else to make their contribution.

Dr. R. C. HAYNES: The Honourable Member is misleading this Honourable House. What I told the Honourable Member was that there was no way that the budget in one year could meet the demands of payment for land acquisition in that year and all the historic arrears, and that the arrears would have to be spread over time, that is, that one would try to remain current and pay the outstanding arrears, which was \$12 million over a period of time. So when you say what you say, quite clearly you misunderstood what I told you.

Hon. H. A. BLACKMAN: Mr. Speaker, I am repeating that what he told me was not to worry my head about paying people for land, because delay in payment was something that was going on for years. That is what he told me on more than one occasion.

Asides.

Dr. R. C. HAYNES: On a point of order, Sir. I am saying that is a categorical untruth.

Mr. DEPUTY SPEAKER: Two Honourable Members are on their feet.

Dr. R. C. HAYNES: I am on a point of order.

Mr. DEPUTY SPEAKER: Just one moment. Whenever...

Dr. R. C. HAYNES: The Honourable Member, Sir, has accused me of making a statement.

Mr. DEPUTY SPEAKER: Could you hear me, please? I am speaking.

Dr. R. C. HAYNES: On a point of order.

Mr. DEPUTY SPEAKER: But I am speaking. Whenever an Honourable Member rises on a point of order he must first wait until he is called upon to speak. When two Honourable Members are on their feet, it creates difficulty for the Chair. I will hear the Honourable Member for St. Michael South Central now.

Dr. R. C. HAYNES: On a point of order, Sir. I do not propose to get into any silly argument with the Honourable Member for St. Philip South, I just wish it to be recorded that the Honourable Member has repeated an untruth. I have told this Honourable House that since as a new Government you had no acquisitions to pay for, except what was in the budget of that year, and that the outstanding arrears would have to be paid for year by year, but that he should try to keep current in his payments for all acquisitions made in 1986 and beyond and the payment of arrears would have to be stretched out.

Hon. H. A. BLACKMAN: Mr. Deputy Speaker, I do not have any intention of prolonging this debate, but he started this with statements that I was running away, that I - was not here. I am speaking the truth, the whole truth and nothing but the truth, that he told me not to worry my head about paying the people for land. I have witnesses too.

Dr. R. C. HAYNES: On a point of order, Sir. The Honourable Member is misleading this Honourable House. I rise for the third and last time on this matter and there it rests.

Hon. H. A. BLACKMAN: Mr. Deputy Speaker, the matter of payment for acquisitions came up in certain fora on more than one occasion, mentioned by the Honourable Member for St. Michael North and the Honourable Member for St. Lucy, and the Member for St. Michael South Central used to tell me not to worry my head about paying anybody because that was a long standing thing, not to get myself bogged down in that. This administration took a decision

that it was immoral to take people's land and not pay them for 8, 10 and 15 years afterward and that is why we have been rushing to pay people. That is why within the last three or four years the Ministry of Housing has paid more people in those years than has been paid in any three years in the history of Barbados. 5.20 p.m.

I will bring the figures to Parliament the next debate we have on Housing to show you how much money the Ministry of Housing - to show the Honourable Member for St. Michael South Central how much money the Ministry of Housing has paid out in the last three or four years...

Dr. R. C. HAYNES: On a point of order. You don't have to bring it. I have been asking you again and again to bring a statement of your arrears in that matter. This is about the third time I have asked you to do it.

Mr. SPEAKER: No point of order. Just one moment before you proceed. There is no need to generate all this heat. It is a simple matter before the Chamber.

Hon. H. A. BLACKMAN: I am sorry, Mr. Speaker. You see, Mr. Speaker, if you are dealing with the Honourable Member for St. Michael South Central, the former Minister of Finance in this country, you have to deal with him in a certain way. You have to deal with him and point out the type of person you are dealing with. Normally, this is a very simple matter. You came here to regularise a situation where you want to pay 82 people for the land you took from them and he took it and made it a political football.

I was running here and I was running there. Any afternoon, I am forced to leave in here I cannot help it because this is the first call on my duty. The point is that I do not understand the Honourable Member for St. Michael South Central trying to give the impression that I have anything to hide. This is not the first time he told me about this hiding. He has already told me that I had better check what the Prime Minister is doing in my Ministry that he sent the Honourable Member for St. Andrew to check on my Ministry and I told him as I would tell him now again, my Ministry is an open Ministry. Anybody can check it. Any decision I have made I will stand by until the end of this world. I have nothing to be ashamed of.

Let me proceed to get away from that matter. As I said, Mr. Speaker, the first additional section 3 notice published was not correct, therefore we had to change the section 3 notice. A further section 3 notice was published in May 1990 to amend the earlier notice of which several parcels were discovered to differ substantially in relation to the areas published for acquisition and areas actually utilised. At the same time that took place, Mr. Speaker, survey work which is now complete revealed that an additional 15 parcels so far unaccounted for in the previous

notices were utilized in the project. So, this was the cause of the confusion. Fifteen parcels that you had already used were not mentioned at all. Therefore it was not a simple matter and in fact the Ministry has worked diligently and hard to get this before this Chamber this afternoon for approval.

As you said, Mr. Speaker, it was a simple matter. I believed it was a simple matter and I believe most Members in here believed it was a simple matter. I didn't reckon for the Honourable Member for St. Michael South Central.

Mr. Speaker, with those few words I beg that this Resolution to acquire these 82 parcels of land, several parts of St. James and St. Peter do now pass.

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

ORDER NO. 3 - RESOLUTION TO APPROVE THE BORROWING BY GOVERNMENT OF AN ADDITIONAL SUM OF US \$850 000 FROM THE VENEZUELA INVESTMENT FUND FOR THE PURPOSE OF ASSISTING IN FINANCING THE CONSTRUCTION OF 496 INDEPENDENT HOUSING UNITS OF THE INDUSTRIAL TYPE AT HUSBANDS, ST. JAMES

Rt. Hon. L. E. SANDIFORD: Mr. Deputy Speaker, this is another simple, straightforward Resolution, Sir. It is seeking the approval of this Honourable Chamber for the borrowing of up to \$850,000 US from the Venezuelan Investment Fund in order to help finance the Housing construction project which is being carried out principally in St. James and under which some 496 houses are expected to be constructed.

Honourable Members will recall that this Honourable House has already given approval for the construction of those houses and for the financing arrangements under which the housing project should be carried out principally with loan funds from Venezuela. So all of the arrangements, Sir, have virtually been agreed upon in principle. The House has already given its approval for the construction of the houses and for the financing arrangements under which the project would take place but in order to refresh the memories of Honourable Members I would simply say briefly that the cost of the project is estimated to be about \$32 million Bds approximately and the financing was on the following basis: \$7.7 million from a Venezuelan entity called Telexco which is an autonomous agency in the Government in Venezuela. US\$1 million from the Banco Mercantil in Venezuela, US\$1.17 million from ABA Inversiones, which is, Sir, among other things, a construction company and the principal company carrying out the construction project and US\$2 million from the Venezuelan Investment Fund together with 7.5 million Bolivars from that Venezuelan Investment Fund as well and

the difference would be provided by the Government of Barbados.

Sir, what has happened is that in respect of one component there has been a significant development and that is in respect of the contribution from the Venezuelan Investment Fund which I just explained was on the basis of US\$2 million plus 7.5 million Bolivars. Since the agreement had been entered into there has been a devaluation of the Bolivar and this has affected that component from the Venezuelan Investment Fund which was denominated in Bolivars. When the agreement was entered into, I believe that was in June 1987 the 7.5 million Bolivars were the equivalent of some US\$1 million but with the devaluation of the bolivar the 7.5 million Bolivars is now worth, Sir, only about US\$153,061.22. So, there has been a loss of some US\$846,900.38 approximately and it was in order to make good that deficiency so that the project could continue at the same level of financing that had been agreed upon. 5.30 p.m.

The Government of Barbados approached the international authorities in order to make good that deficiency so that the amount of funds originally agreed to would still be put into the project.

The Venezuelan authorities agreed and suggested the following procedure, namely:

- (i) that the Government of Barbados should request that the portion of the loan denominated in Bolivars should be disbursed in United States dollars, that the authorities in Venezuela should be given a promissory note for that amount;
- (ii) that the Government of Barbados should request that the loans should be increased by US \$750 000.

These steps have been complied with. The additional amount which we are therefore seeking by this Resolution for approval is up to US \$850 000. That amount can only be borrowed - it is an additional amount - with the approval of this Parliament just as the original amount was borrowed with the approval of this Honourable Chamber.

The original terms in respect of the loan will apply to the additional amount, that is, interest at the rate of 2% in relation to the funds which have been sourced from the Third Agreement under the Barbados/Venezuelan Oil Facility and at 6% under the Fourth Agreement in relation to the same Oil Facility. These payments become due on June 30 and December of each year.

The maturity period of the loan is for 10 years. The amortisation is 21 consecutive semi-annual instalments. Those were the original terms of the loan. It is within that

framework that this additional amount will be inserted. This borrowing will be done under the Special Loans Act Cap. 105. That requires that any borrowing under that Act should have the approval of Parliament. It is therefore in accordance with the provisions of the Act that I am seeking the approval of this Honourable Chamber for the borrowing of this amount.

Let me recap, Sir. This is a supplemental loan because the original agreement and the original terms approved by this Honourable House and entered into with the Venezuelan Authorities have been modified somewhat on account of the devaluation of the Bolivar. In order to ensure that the same level of funds flow into the project, we are therefore seeking approval for this additional amount of the loan. I believe that Honourable Members would understand this but I thought I would take time to explain as fully as possible the reasons why this amount is being borrowed. It has to do with the devaluation of the Bolivar.

Sir, the principle has already been approved. The construction project is in place. The terms of this Resolution are quite narrowly drawn. I expect that within the framework of the Resolution and given the background to this matter where the principle and everything of the construction and the loan have already been approved, I expect that this Honourable Chamber will give very speedy approval to this particular matter.

I beg to move that this Resolution do now pass.

Hon. B. M. TAITT: Mr. Deputy Speaker, I beg to second this Resolution and reserve my right to speak.

Dr. R. C. HAYNES: Mr. Deputy Speaker, I think that one of the most formidable past Members of this House any time he was introducing a motion on behalf of his party where he was smart enough to recognise that it could open up serious political debate to the disadvantage of his party, he always started off by saying "this is a simple matter". His entire introduction was around the fact that it was a simple matter and it would be so unparliamentary and so unreasonable for anyone to attempt to treat it other than as a simple matter.

That Member, Sir, although, in fact, he spoke a bit like the Honourable Member for St. Philip South, he, in fact, was a very highly intelligent person and could not be induced into a kind of rabid rage like the Honourable Member for St. Philip South.

Now, Sir, if I may continue. This is not the first occasion in which this loan has been affected by the process of devaluation in the Bolivar. If my memory serves me right, Sir, I believe that prior to the signing of the original loan that in point of fact some adjustments had to be made at that point which resulted in a little delay in the signing of the loan. Indeed, the understanding has always been,

certainly in relation to the FIV, that adjustments would be made if there are significant devaluations of the Bolivar.

Sir, I think it is important to recognise that every Resolution in this House is a Resolution in its own right therefore subject to the same scrutiny. All this begging not to debate it and let it go through fast because we have dealt with similar things in the past is completely irrelevant as far as the Rules of the House are concerned. The Resolution in itself is a composite thing to become a Resolution in the first instance and is subject only to the Rules of the House as far as I understand the Rules of the House. 5.40 p.m.

The project was a Barbados Labour Party project and the Minister of Housing of the day, I think around 1985, was raising a lot of questions about whether or not the houses would be acceptable to the people of Barbados built in a particular style. I believe there were modifications. So that by the time the DLP took office in 1986 the matter came through the Ministry of Finance. When the Ministry of Housing was invited to see whether or not their stance would be the same as their predecessors' in office, eventually they came up with a housing proposal which left it to the Ministry of Finance to conclude the appropriate arrangements with an Expo-Banco Mercantile Inversiones and the FIV. After a lot of delays and lots of problems and I think one or two trips to Venezuela, eventually the agreements were all signed here in Barbados. I believe it must have been around the first or second week of June and that is where the whole thing started.

So I had no difficulty in principle with the project because the interest rate structure was right and it represented an opportunity to have some foreign currency component in a housing development in Barbados which would satisfy even the purist that at least that project could not lead to any foreign exchange leakage. So I had no difficulty with that then. I have no difficulty with it now. So I do not think anybody needs to be unduly afraid of any criticisms that I may make in this regard, except that it is my understanding that there have been considerable delays in the payment of various categories of workers in relation to that project. One is unsure from statements made whether the delays are at the Barbados or whether the delays are at the Venezuela end. If so, I think the House is entitled to know when a matter of this nature is being introduced what are the financial constraints which have resulted in —

recurrent complaints by workers, contractors, and other people of not being paid. I think that I am correct in saying that I have seen several Press reports of workers on that site not being paid on time and so on.

So that it is one thing having a project but when problems develop which affect the citizens of Barbados, I think the Government has a duty to try and clarify the situation. Now it has been suggested that there was a problem of getting foreign currency out of Venezuela

because of the financial problems which the Venezuelan Government has. But certainly looking at the sources of this financing and one of the interesting things about the financing here, the Venezuelan component of the financing is a mixed source of financing with an Expo and FIV which are largely governmental institutions and A. B. Inversiones and Banco Mercantil which are predominantly private institutions. So I do not know what the problem is. I cannot imagine that Venezuela, although 75 per cent of its export earnings probably still go to pay debt, would have a problem in the transmitting of small sums of this nature to cause the kinds of public relations problems anyhow. I know that the Venezuelan Government certainly has been very interested in the promotion of good relationships within the Caribbean and for one or two million dollars or less perhaps I am quite sure there must be some structural problem in getting the money out. But it seems to be a continuing thing and several of the subcontractors have indicated to me that they have a problem in getting their money. I know if it is the Government of Barbados it is not a problem because they are not paying anybody. They owe just like everybody throughout Barbados. So it is no big thing. Do not expect any money from them. You know it is one thing for someone who hardly ever understands anything to misinterpret what you tell them in that no one can expect a Budget to pay 5 or 6 years of arrears in one year. That kind of clowning, Sir, is one thing. On the other hand not paying people at all is another matter. So I think that this project here may be caught up in two ways. I believe the Government will be making some contribution during the construction phase of the project. Am I correct? I do not know whether there are any delays at the Government end as well.

Now, Sir, it is" also my understanding that despite the original reluctance of the people of Barbados to warm to the houses, now that some people have moved in and they are seeing some element of landscaping in the area and so on and after some modification that the people actually are beginning to like them and there is some significant demand.

Sir, if I may move on to another point and it is this. It must be understood that you can build as many houses as you like, but in a society where people have no access to credit and mortgages then you have created a major problem for the people in order for them to own houses. There is no way that the housing situation in Barbados would improve unless the Government addresses the question of a reallocation of credit in Barbados to make sure that there is adequate mortgage money and adequate credit available for housing. It is one thing building houses. It is another thing for people to get the funds in order to buy the houses. Apart from one or two distinguished lawyers and so on who earn large incomes like your good self, Sir, most people have to rely on a mortgage in order to acquire a home.

So that I believe that we would like to hear what is the problem that is central to this non-payment of bills and whether anything is being done to rectify the particular complaints being made by so many Barbadians. That is on the one end, Sir. But Sir, this Resolution also comes at an interesting time in the financial history of Barbados, because although it is for housing these external loans all go into one pool. There is only one foreign exchange pool in Barbados. Although it comes in for housing, you do not spend U.S. dollars in Barbados. You spend Barbados dollars in Barbados and it goes into the foreign exchange pool. I think it is part of the exercise where the Government is raking and scraping every single cent because of the disastrous position in relation to the foreign exchange availability in Barbados. The shocking news, Sir, I received only recently that the net foreign exchange position of the Central Bank of Barbados has sunk to minus more than \$50 million. Of course, that has been accompanied by a corresponding downward plunge in the reserves of Barbados. 5.50p.m.

I believe, Sir, that when you take that combination of gross depletion of the foreign reserves of Barbados, then even a few thousand dollars of this nature coming in for this project will be of some help, because I understand there is also a significant bill to be paid at the end of the month. When this is compounded by the fact that the Government is in a situation where for the first time in its history it is operating strictly in the area of illegality in respect of a continuing overdraft, and the Government has not got access to matching funds and so on, then you see that there is going to be a problem as to how this money would be best used.

One other point I wish to make, Sir, is that where you get a situation of severe depletion of your foreign reserves to the extent that they exist today, and that, combined with the kind of alarming deficit which now confronts Barbados, and with a credit squeeze and unavailability of credit, which means that the Government will have to have continuing access to Central Bank financing, I think that that combination may well put intolerable pressure on the Barbados currency.

I hope and pray that in addition to these little bits that we are getting in from week to week - I think last week we got a few million dollars from somewhere for the Industrial Credit Fund and now we are getting a few hundred thousand dollars today from this source - when in point of fact what the country needs is a significant foreign loan to avert disaster, otherwise one would be comfortably in the hands of the International Monetary Fund with your guard completely dropped, with everything completely out of order and just one single recommendation that they make, they will come inside here and fix a ceiling on the domestic assets of the Central Bank. You cannot go above \$100 million or whatever they fix it at, inclusive of your Treasury

Bills, and then you are going to see what is going to happen. That is the first thing they are going to do.

I say no more in that area, except to say this. This particular housing project is one in which I played a minor role, because most of the things were already in place. Conceptually it seemed to me to be right, it seemed to have the right mix of long term financing, foreign exchange and local currency components so that one had no difficulty in pursuing the matter at the level of the Ministry of Finance. Of course it was up to the other Ministries to determine things like the type of housing, price at which the houses could be sold, acceptability of the houses and so on, which were the responsibility of the executing Ministry, which is the Ministry of Housing.

What we are seeing here I believe is probably the end of a long process, which I think would have been stretching way back from 1983 to 1984, if my memory serves me correctly, coming up to 1985, certainly 1986, a seven year period, a long period of gestation of the whole process, and this represents the period when it may be coming to a close.

The other point, Sir. I believe that the Prime Minister might have taken the opportunity to indicate to us the general response of Barbadians, not only in terms of liking the houses, but also in terms of buying the houses; in other words, the market acceptability of the houses is something which would be interesting to hear about, because it could be a determinant of the kind of direction in which housing might go in the future. I believe that one aspect of this housing is that there is an industrial component to the construction of the houses, in that there certainly was originally - it may not be exactly what happened - an element of prefabrication, higher use of technology, more industrial activity relating to the actual building of the unit.

Over and over again we have heard that we have to look at new technologies in order to reduce the cost of housing. I recall that that kind of debate was going on way back in the 60s. It was going on, Sir, when the Honourable* Leader of the House was Minister of Housing, in the 1966-71 period, in order to find an appropriate technology for Barbados where houses can be mass produced with a finish which is acceptable to Barbadians. I do not know of any such project, except this one to some extent, which I think is being partially mass produced. I think that one has to look at the final prices, one has to look and see what were the difficulties in terms of the infrastructure in Barbados which would have militated against this kind of activity and see whether or not it is a pointer for future housing development in Barbados.

We all know that one of the big costs in housing in Barbados is a well, which nowadays can cost a few thousand dollars. My understanding is that for the first time in Barbados well digging equipment, a machine that can dig a well, has been brought into Barbados and has been used

on this project. I may be wrong, I think someone told me that If that is the case, just to be able to put well digging in Barbados on a mechanised basis would save the Government a fortune and would reduce the cost of housing substantially. If you get a machine that can dig 10, 12, 20 wells a day, you are really in good business. It is a pretty hard thing on a person when they have built a house and when they suddenly realise what the cost of digging that well is, a major infrastructural cost, unless you are lucky and hit a suck quite early, but sometimes you have to go down 20, 30 or 40 feet before you can hit a decent suck, and there is no point digging a well unless you can get a series of sucks that are going to pull effectively, otherwise you are going to spend the rest of your life just cleaning out the well.

So, Sir, we need this money. We need the foreign exchange, there is no question about it. A small amount though it is, it will be very helpful. 6.00p.m.

One hopes that the project will continue successfully and that it will come in where the price is right for Barbadians and that in due course the Minister of Finance will see the wisdom of a more effective allocation of credit in this country so that people can have mortgage money at reasonable interest rates.

I believe, Sir, only recently I saw one of the major contractors to the Ministry of Housing who has done a lot of building for the Ministry of Housing in recent years and I gather they have done a reasonable job. It is true, Sir, that the Honourable Minister of Housing went and complained to them and said that I made certain remarks on the floor of the House...

Aside.

Dr. R. C. HAYNES: Certain remarks - you went and complained to them for me. Locked up for what? Let me hear. You want me to repeat them? You want me to give you the account number in Miami?

Mr. DEPUTY SPEAKER: Please let us...

Dr. R. C. HAYNES: Will you stop interfering with me. Just relax yourself. Why are you so uptight all the time? Just keep quiet.

Asides.

Dr. R. C. HAYNES: Mr. Deputy Speaker, you know that if that fellow was not my good friend and make no mistake, Sir, if the Honourable Member for St. Philip South was not my good and personal friend, I would certainly have to deal with him very decisively but we understand the emotionalism, Sir, of the Honourable Member. We understand that he feels that he has a duty to try to defend

the impossible but nevertheless we respect him for trying to defend the impossibility and he will always remain my good friend. For example, Sir, he came in the House here, Sir, one day and he fired me as his doctor and he came back the next day to the House and apologized and reappointed me...

Mr. DEPUTY SPEAKER: I am trying to assist the Honourable Member. Please, even though we would like to hear those episodes we are still on this Resolution and perhaps you should please stick close to the Resolution.

Dr. R. C. HAYNES. Yes, Sir. If I may wind up, I should say that one should not take these exchanges between myself and the Honourable Member for St. Philip South too seriously because he is my good and personal friend and when he goes out of here - I am just indicating the spirit and also the content of what he says has to be judged against that - and the Honourable Prime Minister shouldn't get upset by that at all. He will always be my good friend because he knew what he wanted me to do which I refused to do.

If I may continue, Sir. The focus of this Resolution, Sir, has to be what that foreign exchange borrowing means to the disastrous situation facing Barbados and I hope that I will soon see a Resolution coming before me indicating - at least coming in the delivery of my House papers - indicating that the Government has been successful in its efforts to raise money in the international markets because my judgment of this matter is that if the Government is not successful then it is virtually impossible to ward off a disastrous situation in respect of the Barbados financial system. I thank you very much, Sir.

Hon. H. A. BLACKMAN: Mr. Deputy Speaker, I really had no intentions of getting involved in this debate because once again I felt it was a very simple Resolution.

Mr. Deputy Speaker, let me give you the background to this. When this contract was signed by the Honourable Member who was Minister of Finance then, the amount of Bolivars that we were getting from the Venezuelans was 7.5 million Bolivars which at that time was US\$1 million. In late 1987, the Bolivar...The point is that when the contract was signed it was US\$1 million. At the end of 1987 and early 1988 when the decision was made for this, that same amount of Bolivars, 7.5 million, had dropped to US\$167,000. From US\$1 million down to US\$167,000, a "drop of just over US\$800,000. If you add some other incidentals, the point is that this decision to seek the equivalent to what we had borrowed was made in the Ministry of Housing and Lands by the Housing Planning Unit which has the authority and which has overall control over this project. It was made in February 1988 and it had nothing to do with any cash flow problem in 1990 but I said before that regardless of what you bring to the House of Assembly, no matter what you bring in here, it will end up

every single speech that the Honourable Member has made for the past two years, no matter what it is, it goes back to how bad the economy is.

Two years ago, it was all devaluation. In fact, it has started up again. So, if you are debating Housing the economy is in trouble. You are debating Health, the economy is in trouble. You are debating the Ministry of Employment, Labour and Community Services, the economy is in trouble and those of us who have to sit in here day after day, night after night, week after week have to sit down and listen to the Honourable Member making the same speech over and over all the time. Don't you think that that is a burden? That is why we are so tired when we go home at night. That is why we are so tired when we leave in here because you had to sit down and listen to the same rubbish over and over all the time.

Asides.

Hon. H. A. BLACKMAN: Mr. Deputy Speaker, the point is it was a simple Resolution. The amount that you were borrowing originally that the Honourable Member signed for was US\$1 million. The Bolivar devalued and the Bolivar dropped then that took it down to US\$167,000 and all you are saying is: "Okay, let us have the amount that we borrowed or that you said you were going to lend us for the housing".

Let me just say some other things, Mr. Deputy Speaker. The original total amount of the contract has had an increase of US\$943,710.68 due to the following reasons. There was an increase in the cost of the houses due to the changes in the specifications obviously put forward by the owners. The owners would say: "Well, I don't like this and I like that" and things like that. The original contract as the Honourable Member may recall, the Venezuelans believed that they were going to be able to bring in cement from outside and this Government took the decision that you can't bring in cement from outside. We have cement here. If you remember, that decision was taken by this Administration so the Venezuelans then had to turn around and buy cement from the Cement Plant here instead of bringing in the cement. That increased the cost as well. There was an increase in the cost of materials and labour in Venezuela and in Barbados. 6.10p.m.

That is another increase. Now, originally the Venezuelan houses, all 496, were to be built in Husbands. The Honourable Member should have remembered that. It was determined - again this Administration determined - that there is no way that you should build 496 houses in any one area without any recreational area. That is what was done in West Terrace. That is why a project like West Terrace which should be a model all over Barbados is something that whoever decided that, if they had to do it again would do it differently because you cannot put 496

houses in an area without any recreational area. That is what took place in West Terrace Gardens. Not a single recreational area.

The original contract was that 496 houses were to be built in Husbands so that would be one cost. When this administration looked at the matter we decided that there is no way you can build 496 houses in there without any recreational areas so we left out large areas and some small areas as well for recreational activity. Therefore, we had to look around then to find some place else to build the other 102 houses because there are only 394 being built at Husbands. That was at another additional cost. The Venezuelans then had to decide to go up to Cane Garden to build the other 102. The point I am trying to make, Mr. Deputy Speaker is this. The amount of this new contract surpassed the original amount by over US\$500 000. The facts reveal this. The amount of finance has increased by US\$1.4 million whilst the available financing has decreased by US\$830 000 so you have a situation where the amount of finance has increased by \$1.5 million and the available financing has decreased by almost \$1 million. That created a deficit in the contract then of almost US\$2 million.

You had an original contract where everything was tidy. Now, because of certain things that have taken place, including the fall in value of the Bolivar, there is a deficit of US\$2 million. That is basically the reason why the decision was made by the Housing Planning Unit in 1988. It has nothing to do with any cash flow problem in 1990.

Mr. Deputy Speaker, the facts of the matter are very simple. I have set them out. I have set out the reasons. One of the other things that was mentioned by the Honourable Member was about the original doubt that the people of Barbados had about the Venezuelan houses. That doubt was the normal Barbadian reaction to something that is new. They want to see what is happening.

Despite all this reaction, there were over 2 000 applications for those houses. I am saying this that from all the reports of the people down there they are pleased with those houses because I have been told that they are some of the strongest houses ever built in Barbados. We had problems with about three or four of them where some part of the roof was leaking. The National Housing Corporation has taken it upon itself to go and rectify that situation.

There have been delays in the construction of the original houses at Husbands. The delays were due to a lot of reasons. The Honourable Member said that he heard there were cash flow problems. That is true but you must not give the impression that the cash flow problems have anything to do with Government's cash flow problems because the cash flow problems at Husbands started way back and the reason for it is this.

The FENEXPO was not releasing their funds. The company was not receiving their claims in the full amount from FENEXPO. Let us say that FENEXPO said that they needed \$2 million. They may only release \$1 million. Then the time the company says it wants \$1.5 million. FENEXPO may only release \$500 000. That was where the problem started. We were going through this matter with the Venezuelans for months. It has nothing to do with this year.

About four or five months ago I had to hold a meeting with the Venezuelan Ambassador to Barbados and explain my situation to him. There were a lot of things that he and the person he brought from Inversiones did not know. I could not believe it. When I mentioned some of the problems we were having they said: "I did not know about this". They said they would investigate it. Happily the situation has changed drastically. The Venezuelans are moving a bit quicker. I admit there were delays and those were the reasons. The contractors themselves have now advised that the situation has changed and things are moving a bit better.

Aside.

Hon. H. A. BLACKMAN: The Honourable Member for Christ Church West would like to know how many houses have been allocated. Almost the 396 are finished but about 200 people have actually gone in. I do not know the exact number. In the next debate on housing in here I can bring that information as well. They are moving well. As I said, the delay was due to the fact that the contractors were not getting the funds up front as they needed.

Mr. Deputy Speaker, all I would like to say finally is that the reason for going for this - it is less than U.S. \$1 million. It has nothing to do with any cash flow problem. It has to do with the fact that the original sum and the sum you need now, there is a deficit there of about \$2 million mainly due to the fall in the value of the Bolivars. The Housing Planning Unit in the Ministry of Housing decided that since the original contract was this, let us see if these people would honour the original contract. That is all it is.

Thank you, Mr. Deputy Speaker.

The question that the Resolution do now pass was put and resolved in the affirmative without division.
6.20 p.m.

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QUESTION TIME

Hon. N. K. SIMMONS: Mr. Deputy Speaker, I beg to lay the reply to Question 146.

Mr. DEPUTY SPEAKER: If there is no objection, that

answer to the question will be laid.

ADJOURNMENT

Hon. P. M. GREAVES: Mr. Deputy Speaker, there is one matter on the Order Paper that I do not intend to do today. I think Honourable Members should have an opportunity to study that particular matter. For that reason, Sir, I have no intention...

Mr. DEPUTY SPEAKER: Which number is that?

Hon. P. M. GREAVES: That is No. 5, Sir, the Road Traffic (Amendment) Bill. I do not intend to proceed with that today. Therefore, I move that the House be adjourned....

Aside.

Hon. P. M. GREAVES: Do you have business? State it or forever hold your peace.

Sir, I move that the House be adjourned until...

Aside.

Hon. P. M. GREAVES: Someone said "*sine die*". Does that excite you? Does that scare you? - November 27, 1990 at 12 o'clock noon, Sir.

Hon. B. M. TAITT: Sir, in rising to second that motion, I was surprised that the Honourable Leader did not think that Members were ready to proceed, Sir, because the Leader of the Opposition always has his speech ready. Even though it is about road traffic, he would have been able to give us his speech on the economy again. But I understand that he will "wait until next week.

Mr. DEPUTY SPEAKER: I take it that you second the Resolution.

Hon. B. M. TAITT: I second the Resolution, Sir.

Dr. R. C. HAYNES: Mr. Deputy Speaker, I am speaking on the Adjournment. I can assure the Honourable Member that we are always prepared and fully prepared for another event anytime that it comes, as you may have noticed from the 70 000 circulars and so on already in the homes of people.

The question that this House be now adjourned was put and resolved in the affirmative without division, and Mr. DEPUTY SPEAKER adjourned the sitting accordingly at 6.25 p. m. 6.25 p.m.

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