

THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1991 - 96

HOUSE OF ASSEMBLY

Tuesday, June 22, 1993

Pursuant to the adjournment, the House of Assembly met at 12:20 p.m. o'clock.

PRESENT

His Honour L. A. WEEKES, G.C.M., J.P., (Speaker)

His Honour T. C. ESTWICK, B.Sc., LL.B., (Deputy Speaker)

Rt. Hon. L. E. SANDIFORD, B.A., M.A.(Econ.), J.P., (Prime Minister, Minister of Finance and Economic Affairs and Minister for the Civil Service)

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

Hon. B. M. TATTT, 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 Public Works, Communications and Transportation and Leader of the House)

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

Hon. W. O. FRANKLIN, A.I.C., M.I.A.S., J.P., (Minister of Trade, Industry and Commerce)

Hon. N. K. SIMMONS, (Minister of Justice and Public Safety) •

Mr. H. A. BLACKMAN, B.Sc. (Econ.)

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

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

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

Hon. E. E. GREAVES, G.C.M., B.A., Ed.M., (Minister of Housing, Lands, Community Development and Culture)

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

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

Hon. H. B. St. JOHN, Q.C., LL.B.

Mr. L. R. TULL, Q.C., M.A.

Miss B. A. MILLER

Mr. DeL. O. BRADSHAW

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

Mr. J. O. TUDOR

Mr. D. W. BOWEN, (Minister of Agriculture, Food and Fisheries)

Mr. G. W. PAYNE

Mr. R. C. EASTMOND, B.A., LL.B.

Prayers were led by Father Mark Harewood.

Mr. SPEAKER: The House is in session.

MINUTES

Mr. SPEAKER: The Minutes of Tuesday, June 15, 1993.

Hon. P. M. GREAVES: Mr. Speaker, I move, Sir, that the Minutes of the Meeting held on June 15, 1993 which I understand have been circulated be taken as read and confirmed.

Hon. W. O. FRANKLIN: I beg to second that.

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

PAPERS

Rt. Hon. L. E. SANDIFORD: Mr. Speaker, I am commanded to lay Guarantees granted under the Exempt Insurance Act, Cap. 308 A to the following:

(a) M.I. Insurance (Barbados) Limited

- (b) F.I.I. Limited
- (c) Chancery Reinsurance Limited
- (d) RAL Insurance Company Limited
- (e) Manatee Insurance Company Limited
- (f) Ablan Insurance Corporation
- (g) Aurie Insurance Company Inc.

REPORTS FROM SELECT COMMITTEES

Mr. H. deB. FORDE: Mr. Speaker, Sir, I will be asking that this item be deferred. An interim report from the Public Accounts Committee is ready and I am awaiting the arrival of a couple of Members to sign the report. It was approved yesterday and I hope to lay it today.

ORDERS OF THE DAY

SUSPENSION OF STANDING ORDERS

Hon. P. M. GREAVES: Mr. Speaker, I am moving, Sir, that Standing Orders Nos. 6, 16, 18, 20, 42(5), 43 and 44 be suspended for the remainder of the day's sitting.

Hon. M. A. KING: I beg to second that, Sir.

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

ORDER NO. 3 - A BILL TO AMEND THE SUPREME COURT OF JUDICATURE ACT, CAP 117A

Hon. M. A. KING: Mr. Speaker, this is a very short Bill, in fact comprising 3 sections. Section 1 is the short title which gives the name of the Act and section 3 indicates that the Act should have come into operation on 1st April 1993, but that, Mr. Speaker, will have to be amended because the Bill has been laid in Parliament for some time.

The background to this matter, Mr. Speaker, is this. The Supreme Court of Judicature Act makes provision for the High Court of Barbados to consist of not more than 5 Judges who are called Judges of the High Court. The Chief Justice is *ex officio* a Judge of the High Court and is included among the 5 Judges of the High Court.

The Act also provides for the Court of Appeal to consist of the Chief Justice as President of the Court and not less than 2 and not more than 4 other Judges who are called Justices of Appeal. So that the Chief Justice is a member of the High Court as well as of the Court of Appeal.

Now, it has been known to all of us and to the country at large that in recent years the work of the High Court has increased considerably. The Bar Association has been recommending that the number of High Court Judges should be increased to deal with the volume of work before the High Court.

In the civil jurisdiction of the High Court, Mr. Speaker, there is no question that the work load has increased because the Family Law Act has certainly resulted in increased proceedings under the Family Law Act in relation to family disputes which will be set out. In fact on occasions there have been calls for the establishment of a separate family court to deal with the entirety of matters relating to family and family law, not only relating to settlements in relation to disputes of property but in relation to children - in other words the whole gamut of law covered by the Family Law Act. So there is no question that there has been a considerable increase in the work load of the Supreme Court as a result of the passing of the Family Law Act.

In recent times there are a considerable number of cases which are brought under the provisions of section 24 of the Constitution for constitutional redress and proceedings for judicial review under the Administrative Justice Act and some applications under the old Prerogative Orders, under Order 53 of the Rules of the Supreme Court.

In relation of the criminal jurisdiction of the court, there has been a general increase in crime. The assize courts are dealing with, I believe, many more cases than they have had to deal with over the years and the unfortunate situation arises, where from time to time, significant numbers of cases have to be traversed from one Assizes to the other. 12.30 p.m.

In fact, at the time this Bill was introduced in this Parliament there were some 33 cases that had been traversed from one Assizes to the other. I suppose the answer, and this is a view which I support, is that the Criminal Court should probably be sitting continuously through the year rather than breaking the year up into Assizes. The time has come maybe when the High Court exercising criminal jurisdiction sits continuously through the year.

In addition to those two areas of general jurisdiction to which I have spoken, Mr. Speaker, you will recall that some years ago the Proceeds of Crime Act was passed. That Act provides for certain proceedings relating to forfeiture of the assets of convicted drug offenders to be brought in the Supreme Court. Mr. Speaker, there has not as yet been a situation where any considerable increase or any significant proceedings under the Proceeds of Crime Act in relation to forfeiture and confiscation of proceeds of crime have taken place. But the potential for an increase

in the workload of the Court as the result of administration of the Proceeds of Crime Act is there. Once proceedings in this area of the law have begun in relation to Forfeiture Orders, Confiscation Orders for Disclosure of Information, Production and Inspection Orders and Search Warrants under the Proceeds of Crime Act, that can be an area where there is an increase in the work of the Court

Mr. Speaker, I believe that the Bar Association has been calling for an increase in the number of judges beyond what is contemplated in the existing legislation. The existing legislation proposes the increase in the number of judges in the High Court by one. I believe the Bar Association is of the view that an increase of two might be more appropriate in the circumstances. That is what they say. There is also the other point of view, Mr. Speaker, that perhaps there might not even be a need for an increase in the number of judges. People from time to time have complained about the number of adjournments which take place in the Courts for one reason or another. I am not at this point attributing blame to anyone. Invariably, lawyers on both sides are not necessarily ready to proceed with civil actions when they have been set down for hearing. I do not think that anybody can dispute the fact that there is a considerable number of adjournments which take place in the Courts from day to day and this is not a particularly desirable way to deal with the cases and perhaps some tidying up of the administration in that area would best serve the Administration of Justice.

We have adopted the position, Mr. Speaker, that it is not inappropriate to provide for an increase in the complement of judges of the High Court by one. The Chief Justice at times now does still handle cases at first instance. He does that within the powers which he has under the existing law and the increase in judges may make it unnecessary for the Chief Justice to adjudicate on cases at first instance and the Chief Justice could probably and more effectively reserve his adjudication to the Court of Appeal.

The terms and conditions of the new judge, of course, will fall into the pattern of the existing arrangement for judges of the High Court. The personal emoluments of the appropriate head of expenditure would be proportionately increased in relation to the existing structure of the terms and conditions of the employment of the judges.

Essentially, the Bill is to provide for one additional judge of the High Court and, accordingly, I move that this Bill to amend the Supreme Court of Judicature Act for that purpose be now read a second time.

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

Mr. SPEAKER: The question is that this Bill be now read a second time...

Hon. H. B. St. JOHN: Mr. Speaker, I believe that this Bill should incur some debate. We need to have a debate on the position of the Administration of Justice in Barbados. It is my view that the time has come when Barbados has to look at the creation of an intermediate level between the High Court and the Magistrates Court. The Honourable Attorney General has quite rightly pointed out that there has been an increase in the areas of work under the Family Law Act under the provisions of Section 24 of the Constitution Judicial Review and in criminal jurisdiction.

We must be one of the few places where the criminal jurisdiction is exercised to a large extent at the higher level only by the High Court. Because of the increase of crime in other places, an Intermediate Court in the United Kingdom - the Crown Court, was formed and sitting continuously to deal with this matter. I believe that, unless you have a Court sitting continuously, you are not going to make any serious impact or inroads into the arrears. As soon as you increase the laws that create criminal offences which incur a great fine or of importance to the freedom of the citizen, you have to allocate that out of necessity to a judge higher than the level of a magistrate. So you are automatically building in more work. I want to say, Sir, that Barbados is going to be no different from any other country in the world and that is the rise in white collar crime is going to hit Barbados. Whether we like it or not, there is going to be an increase in white collar crime. I believe that a large amount of white collar crime in Barbados is dealt with extra-judicially or dealt with between the parties. Particularly with our offshore regime and particularly with the developments that have taken place with computerization and matters of that kind, we should anticipate that there will be a group of people who believe that it is possible for them to beat the system. 12.40 p.m.

We cannot afford, if we really want to be serious, to continue in the present way in which there is a long time lag. I was looking at it the other day and I believe sometimes it has reached as much as 3 years between the date of the offence and the date of the hearing, because 3 years is a long time. I see that they have cases of a capital nature in Barbados, and when you look at it you will see that it was in 1990 or 1991 in which people are being asked to give evidence and relate to matters which occurred 2 to 3 years previously. I do not think that is fair, I do not think that is right and I feel therefore there should be some machinery in existence to ensure that we have a speedier trial than 2 or more years elapsing between the commission of the offence and the hearing. I believe, as I said, that some consideration should be given to the creation of an intermediate course.

I do not deal with the Family Law Court, Sir. As far as I am concerned, that needs a court by itself. I cannot deal with that, because when you are dealing with that you

are dealing with human beings in a state in which the normal control of their senses is no longer in existence. You are dealing with people who are highly emotionally charged and reason departs. Therefore, a Judge sitting in that court finds himself in a very difficult position and very often, in order to get sense and reason to prevail, he has to adjourn for a time for the cooling off of passion. Many countries have found that the Family Law Act as a consequence has given rise to the number of cases going before the court.

Now, Sir, we also have another problem. I am dealing with the civil jurisdiction. In my opinion, today many of the non-contentious debt collecting activities which in the past would have been dealt with, because of the monetary values at that time, in the Magistrates' Courts, particularly District "A", now have to go to the High Court. Surely we have reached the stage where an increase in the amount the Magistrate has jurisdiction over in these civil cases should take place. I do not see why in Barbados we should not have a Magistrate dealing with cases of a similar nature under \$25,000. What is wrong with that? That would help to reduce the time which is taken.

Alternatively to that, Sir, in many other countries you have the position in certain of these cases where, unless you have a really good defence, it is possible to have a mechanism where the judgment can be given by an officer other than a Judge of the Supreme Court, which tends to reduce the time. I am talking about the amounts that are collected in relation to banking, money lending, hire purchase and in relation to all these things, where the real issue is only how much and then you have justice. Again, Sir, steps should be taken.

I have another point, Sir, which is very fundamental. It is very easy for us to sit here and appoint additional judges, but we must remember that judges do not function in a vacuum. Before a case comes before a judge there are a host of activities that must take place. This must be one of the few places in which we are giving consideration to the increase in the number of judges and we are not dealing with the subsidiary offices in the Supreme Court. I cannot see how one Registrar and one Deputy or 2 can function effectively and do their work for 5 judges. It seems to me that there are many other things which could be done at that level if you had more officers and the arrangements under the Rules. The Rules clearly envisage that functions of an important nature in civil matters can be performed by the Registry, but you would have to have more people.

I again point out, Sir, we are moving in this country towards the position in which the High Court of Barbados will of necessity be required to make adjudications on important matters in relation to accounts, to corporate disputes and things of that kind because we have an offshore regime. One of the characteristics and one of the

drawing cards, they tell me, of the United Kingdom as an international business centre is the fact that they have machinery for the resolution of disputes among these international corporations in such a manner as to create confidence among the parties involved. It is useless for us to think that we are going to be separate and distinct and superior to a number of other jurisdictions, who are competitors in the Caribbean and elsewhere, if we do not have the machinery in the form of a judicial system that disputes can be settled quickly. That is another point we have to look at.

It seems to me very clear that this ad hocism has got to come to an end when we are dealing with this matter. We need a comprehensive look at our whole judicial system, and in saying this I want it to be well understood that we would not be unique in this direction. Many countries periodically take a look at the whole structure to see whether their existing forms and machinery are functioning. Such a look will, in my opinion, reveal that in addition to the matters I have mentioned there is still need for more help in the courts in the form of the utilisation of modern recording techniques and things of that kind. I can say that we have started, but we are by no means finished in relation to the improvement of the machinery of justice in Barbados.

Mr. R. C. EASTMOND: Mr. Speaker, Sir, there are 2 matters I would like to raise in relation to the administration of justice in this country.

In the Magistrates' Courts in civil matters there is a system by which parties are brought to court by way of service by Marshals. In the last 4 or 5 years there have been several problems with service. We have a situation where very often it took extremely long to serve documents, which were supposed to have been served by Marshals, sometimes in circumstances where the Marshals pretended they could not find parties. Sometimes the Marshals resided in areas where those to be served lived and sometimes Marshals for reasons best known to themselves would not serve. This has meant that not only is a backlog developed in the Magistrates' Courts but very often a lot of injustice has been worked where when parties should have been procured before the Courts they never came and matters were never disposed of. 12.50 p.m.

As you know, Mr. Speaker, there exists a system where for High Court matters private bailiffs not in the employ of the Government are permitted to serve process. These present bailiffs would serve process and swear affidavits to the effect that service has been effected. We have no such system in the Magistrates' Courts so that we have to rely on the government-appointed Marshals in the Magistrates' Courts to effect service. In almost every magisterial jurisdiction in this country there has existed this problem with service.

I would like the Government to consider permitting a situation to be introduced for Magistrates' Courts where the same situation that applies to civil matters in the High Court in respect of service should be allowed to obtain in the Magistrates' Courts. If a present bailiff called Mr. X or Mr. Y or Mr. Z can serve writs for civil matters for the High Court I do not see why the same should not obtain for the Magistrates' Courts to relieve the pressure on the Marshal and at the same time to allow for service to be obtained.

In addition, Sir, as far as I am aware, there exists a proper means of securing service for the Magistrates' Courts. If a person is a tortfeasor and does a wrong and it is a High Court action and he lives outside the jurisdiction then there is a clear procedure for substituting service to be effected, either by newspaper, advertisement or by serving the ambassadors or counsels here but in terms of matters in the Magistrates' Courts, we have no such situation. I would urge the Government to look at the question of substituting service because there are some matters which fall clearly within the jurisdiction of the Magistrates' Courts which would not normally be taken to the High Court where substituted service should really be effected and where we have no known proper procedure for it.

I support the view advanced by my friend, the Honourable Member for Christ Church South, who has urged that we look closely at the question of the monetary jurisdiction limit that obtains in the Magistrates' Courts. For most matters, outside of wrongful dismissal cases, liens, the Magistrates in Barbados can only award civil judgment in the amount of \$2 500 and that has been so for years. This needs to be looked at closely with the view towards raising it to a higher level.

In addition, Mr. Speaker, there are several matters affecting landlord/tenant relations where rents are to be collected by landlords and where some of these rents are in the amount of \$250 a month, \$300 and \$400 a month, not big amounts. Because of the limit to the Magistrates' Courts' jurisdiction in respect of money and this \$2 500 scenario, when landlord and tenant matters arise where the rent is computed on a yearly basis and it exceeds \$2 500, then all parties will have to go to the High Court. I cannot see why the point raised by my friend, the Honourable Member for Christ Church South, should not be taken.

We need to increase the civil jurisdiction of magistrates to allow for greater awards to the Magistrates' Courts. I support that view. We also have to look at the question of cost in the Magistrates' Courts. Would you believe that in the year of Our Lord 1993, outside of the wrongful dismissal cases, a magistrate is only permitted to award \$250 in costs. Sometimes magistrates find themselves making awards of costs and they can base something on the fact that they are constrained to award only \$250. For example if a person called Greaves out of

St. Lucy had been wrongfully dismissed in mysterious circumstances and his union true to form did not represent him properly, then if Greaves has been given \$80 000 by the magistrate the highest cost he would get would be \$250. I am suggesting that in 1993 that situation is untenable.

Finally; Mr. Speaker, my friend the Honourable Member for Christ Church South raised the question about the Registrar. I think the time has come when Barbados is going to have to look closely at the Magistrates' Courts. The Registrar's Office is burdened with so many matters and the Registrar herself is required to do so much that it is not fair to the Registrar for her to be doing statutory power and statutory duties, a whole range of statutes, and be so burdened as to have to do things like costs, a number of interlocutory matters and such like. I believe that my friend, the Attorney General, would do well to consider the question of appointing masters so as to dispose of interlocutory proceedings to get other matters going faster to relieve the pressure on the Registry and to ensure that justice is administered more promptly and expeditiously.

The concern of the public out there is that lawyers and the judiciary system tend to operate too slowly. I believe in respect of the suggestion to introduce Master's Courts for the purposes of disposing of interlocutory proceedings expeditiously Barbados will be on a happy ground. Already I believe Jamaica and certainly Trinidad... Mr. Speaker I believe your counterpart who is Speaker of the House of Assembly of Trinidad is a Master in the Courts. The idea is that with Master's Courts a number of matters that ordinarily go before the Registrar can be relieved and we can get a faster and more just system in terms of how matters are disposed of.

With these few words, I am obliged to you, Sir.

Mr. D. A. C. SIMMONS: Under the general provisions of this Bill, the decision to increase the number of High Court judges by one at this time is understandable. We understand the financial constraints upon Government that will preclude the appointment of additional judges. In addition to that, there is a problem of physical accommodation for more judges. I have not heard from the Attorney General what kind of overall plan he has in mind for the redevelopment of the physical plant that constitutes the Court structure in Barbados.

Sometime ago I mentioned that if it is proposed to provide a Court and Chambers for this additional judge in what is now District "A" Court then, because of the logistics of the matter, it seems to me that Government has to put in place before the judge can go in place some form of security that will insulate him from the possibility of violence or some criminal act being perpetrated against him.

Let me explain by reference to the particular situation what I mean. To gain access at the moment to the District "A" Civil Court you have to go through the yard and up the steps behind and then you get an admittance to the Court which is adjacent to a door of No. 3 Supreme Court. So unless you are asking the judge in No. 5 or 6 - the judge goes through into the, District "A" Civil Court - to go through No. 3 Court the only means of access at present to the proposed Court would be through the thoroughfare that is the yard and the precincts of the Courts and he would have to pass through among the crowd. 1.00 p.m.

There is a potential danger for a judge in that. I want to hear what ideas the Minister has to ensure that there will be some security for the judge who is to occupy what is presently the District "A" Civil Court.

The other judges have relative safety, certainly relatively short distances to go from their cars to their Courts, distances which can be quite properly and easily policed but a judge going in that Civil Court would not have those same facilities. That is my first concern about this additional judge. But, of course, I make the point that the appointment would be merited because of the tremendous number of cases which are filed on an annual basis now in the High Court.

Towards the end of last year I remember receiving a writ which was numbered 1225. That meant that on the civil side there had been 1 225 cases filed up to that date in December. Now, that has nothing to do with family matters. I do not do them so I do not know how many were filed but I believe in excess of 500 to 600. That is something like 1 700 family and civil matters alone. Now on top of that, because of the increase in criminality, the period for Assizes, which used to be on the average a month, has now been extended into 2 months, so you have a tremendous number of criminal cases coming to the High Court and impacting on the time of the High Court because there are so many more.

I hope we can move to the system of continuous Assizes so that when cases are finished before the examining magistrate they can be sent on and within fairly short order they can come up in the High Court. I think that will relieve some of the pressure. The problem comes when we try to stick to the system of Assizes at 4 points of the calendar every year. You get a bunching of cases in January, April, July and October. Those cases tend to throw the whole system out of gear because you have 2 of your 4, or whatever judges you have now in the High Court, continuously engaged upon hearing, determining and finishing the vast majority of those criminal cases. So you are tying up 2 judges for at least now 8 months a year to hear criminal matters and if you are not fully staffed on the civil side you probably only have 2 left to hear the 1 200 civil cases that I talked about and the 500 family cases.

Now that is a tremendous amount of pressure and workload that judges would be expected to carry so we have to try and find a system to reduce that.

I hear people complain about the length of time a case comes to trial. I do not want to sound complacent but Barbados is doing far better than a lot of our contemporaries and a lot of other Courts in the region. In England I was reading only night before last in a new book on Medical Negligence that a medical negligence action takes 5 years from the date of the accident until the trial, not judgment, to be heard in England.

I wish to say that all things being equal, a person in the ordinary civil action could get his case on from the date of filing writ to the trial within 2 years, probably 18 months. I do not think we are doing badly but there are several problems which cause cases to be spun out over a long period of time one of which is the system that because we have 4 judges in the High Court, they can only do so many matters at a time. What you find is that the list will show 4 and 5 cases before one judge for one day. He can probably only start one of them and the other 3 would have to be adjourned and adjournments are something like 6 months.

Suppose you went into Court today with 4 cases on Mr. Judge's X list, he is going to start one of them. He has of necessity to adjourn the other 3 and he will give them dates probably down in November or something like that. When those cases come back up in November there are other cases coming behind which are also slated for that day so you get the bottleneck. In November he can only do one so you are always carrying forward a backlog and cases in arrears. That is one of the problems.

Another problem, of course, is request for adjournments. There is provision, I am pretty sure, in the Rules but it is not being followed as rigorously as it should and it is this. When you know that a case cannot come off, let us say in 2 weeks' time, the Registry should be notified that that case cannot come off on June 30. In its stead another case which can come off should be slotted in. Very often what happens is that cases are set for a day, counsel on both sides know the matter cannot be heard and will be adjourned, but do not give the Registry enough lead time to make alternative arrangements so everybody turns up in Court that day and applies for the adjournment. The case is then set for months hence and again the backlog continues because the list is not sufficiently well pruned to take out those which cannot be heard.

I am concerned, Mr. Speaker, that there is a serious problem of under-staffing in the Director of Public Prosecution's Office. I know of cases where there have been criminal offences committed last year, let us say October, matters which are of an indictable nature, matters in respect of which the accused has had no bail and is up

at Glendairy on remand. For all these months, 6, 8 and 9 months the case against those accused have not started. Not one line of evidence has been taken. Now, I do not think that is fair to an accused person. 1.10 p.m.

When you speak to the DPP's office there is a problem between that office and the police department. The police would tell you that they have sent the file up to the DPP's office and all kinds of things. When you find out, that is not really so. Under the system of paper committals, the DPP needs the lawyers in his chambers to go through statements on the file and clean them up from hearsay and opinion evidence and evidence which is not generally admissible. But they do not have the time to sit down and clean those statements. Because, as I pointed out just now, for two months every quarter the lawyers from that department are in town prosecuting cases all day long. You do a case today, you have to move on and continue the preparation for tomorrow. You have no time to sit down objectively and looking at statements being sent up by the police and the thing is that files are piled high and no action is being taken on them because there is a shortage of staff. I wish to tell the Attorney-General to tell us what are his plans for increasing the staff in the DPP's office having regard to the increase in crime, having regard to the delays that are operating against the interest of accused persons.

Sir, in the Magistrate's Court some time ago I asked - about two years ago - that an attack be made on the backlog of coroner's inquests by the appointment of a special coroner or two on contract to get rid of the backlog. I suggested that they could find retired magistrates or lawyers and indeed they could follow the example of England, not in the area of inquests but in other areas of appointing senior lawyers who are not directly involved in the particular matter to conduct the inquest proceedings. Nothing has been done and the position with arrears with the coroner's inquests is still as it was for all these years. There are cases where people die unnaturally, going back to the eighties, which have not been dealt with. I have pointed out that this works an injustice because very often a deceased's relatives know that he has been, let us say, killed in a motor vehicle accident and they have no real information as to how he met his death. One of the great advantages of the coroner's proceedings is that lawyers can hold what are called watching briefs and go in to an inquest, hear the evidence that the police have been able to gather, ask questions and out of that evidence they can determine in their own minds how the person died and to what extent party A or party B was negligent. That is important because you have 3 years to file an action in respect of a person who has met his death in an accident. If you issue a writ say, within the first year, and you are not in a position fully to plead your statement of claim the other side can ask to comply with the rules and file a statement of claim. The reality is that very often you do not

have the particulars of injuries, how the man died, what he died from and you do not have particulars of any negligence. So you are unable properly to plea. If you cannot plea properly you might find that your action is struck out because you have been unable to prosecute it. That is how it can work an injustice. So it is important that coroner's inquests are done expeditiously in the larger interest of doing justice to all concerned in fatal accidents.

Sir, in 1985 I tried to introduce the system of masters in the High Court. I recommended to the then Chief Justice that the rules should be changed - because there was this build-up in litigation - to allow for masters to operate at the level between judge and registrar. I got no support for it then. The then Chief Justice did not seem in favour. I think that it is a useful procedure and that it should be pursued. I support the Honourable Member for St. James North who has reiterated the call today. It would help to take some of the burden off the judges and, indeed, the Registry but particularly off the judges, because interlocutory matters could all be dealt with by the master. And if you are not satisfied you have a right of appeal from the master to the judge. It has the advantage too that it would provide some avenue for additional employment of lawyers in the system and it will help to create a career path where you have Crown Counsel, Senior Principal, Deputy Registrar, Registrar, then, you could be master and then from there somebody can aspire to judge. That is how it works in England. Very often a lot of masters ultimately graduate to the level of judge. Perhaps one or two such persons would be ideal in our system. Let us start with one and see how it works. But these are areas that I think the Ministry can usefully pursue with a view to ensuring that the 4 principals which are wont to underpin any judicial system are, as far as possible, satisfied. My 4 principals surely are that the system should be efficient, effective and speedy. I think that if we provide this infrastructure of personnel we will be making a meaningful indentation on the problems that currently attend the judicial system in Barbados.

The question of cost was raised by the Honourable Member for St. James North. One area where I think we need to look is in relation to cost in the Court of Appeal on the criminal side. As far as I am aware there are no rules which currently exist. On the civil side we are governed by the provisions of Order 59 and Order 62 of the Rules of the Supreme Court. But, for let us say, matters which used to attract the attention of the Divisional Court, for years those of us who did appeals in the Divisional Court used to get \$35. We have a Court of Appeal and we have abolished the Divisional Court. For those magisterial appeals there is no system of cost that is fixed or provided for. That is one where the Judicial Advisory Council and the Rules Committee should look at that, because the court would give you cost but nobody knows what to do when you win a magisterial appeal in the Court of Appeal.

That is one, Sir, that I think we need to give some attention to.

I would reserve anything else I have for other occasions. There would be several opportunities.

The only final point that I would make in relation to this particular Bill is that at the moment we have 3 appointed High Court judges and one who has been acting for a considerable length of time. 1.20p.m.

And, as I have said before, Sir, if a judge can act continuously - and I do want to appear to be holding a brief for anybody, I certainly am not. I am looking at the matter as one of principle. If a judge can act continuously for 3 years I believe, then isn't that person worthy of appointing? The problem is also this, that that Judge has had to do a number of part-heard matters and you will find that cases are adjourned all into next year. Now, if you appoint another person and that Judge has to go home, what will happen to all those part-heards?

The Honourable Member for St. George South is making a very strong point to me that again it flies in the face of the principle of the independence of the judiciary to have somebody acting on a string for 3 years. He does not know where he is. All the others have security of tenure and all the perks that go with the office. What tenure does a person who has been acting, have? It is not fair. I think we have to address these matters, not on the basis of personalities but rather on the high ground of what is morally and otherwise fair and I ask the Government to approach the appointment of this additional judge on that basis.

Mr. Speaker, Sir, before I sit down, I think there is a gap, as we call it a lacuna in the law in relation to the powers of the Court of Appeal. I do not believe that on the criminal side the Judges in the Court of Appeal are permitted to give dissenting judgements. If it has already been dealt with by way of amendment then, as the Act now stands - and gradually the Attorney General is picking up the point - a Judge in the Court of Appeal in a Criminal matter cannot give a dissenting judgement. Check 117 here. That is my memory of it, Sir. I remember seeing it some time and thinking that it was an anomaly. If they can give a dissenting judgement as we have seen in civil cases, why can't they give a dissenting judgement in criminal cases? So that anomaly needs to be rectified.

I am not aware that we have passed any legislation in here to rectify it but if we have that would have happened at a time that I was not in the House.

Aside.

Mr. D. A. C. SIMMONS: Okay, the Attorney General says he proposes to deal with it. So those are my comments in the interest of this Bill and I will support it.

Hon. M. A. KING: Mr. Speaker, the point just raised by the Honourable Member for St. Thomas about the possibility that a Judge of the Court of Appeal in a criminal matter might not be able to give a dissenting judgement is a point which I have been looking at and I did propose bringing to Parliament an adjustment of the law in that regard.

I believe the law requires at the moment that the President of the Court consent to any Judge giving a dissenting judgement. I think that is the position, but that certainly is a position which can be suitably adjusted. I will make an effort to get legislation in that regard after reviewing the matter carefully and if legislation is necessary to change this position, to have that legislation brought before Parliament.

A number of issues have been raised during the course of this debate, Mr. Speaker, which are more relevant, I suggest, to a debate on an amendment to the Magistrates Court Bill. I believe it was during the course of the debate on the Estimates when I did indicate to this Honourable House that proposals for a new Magistrates Court Act were well on the way. A draft had been completed.

We had a committee which comprised some members of the Bar Association and members of the University who had looked at the legislation and had gone through the early drafts and made some suggestions for changes. The draftsman has the Bill with the recommendations for change and was putting together a final draft for consideration and approval.

In that draft I had indicated, I believe, in the earlier debate that some of the very comments which Honourable Members are making now would be addressed. For instance, the increase in the monetary jurisdiction of the Magistrates' Courts of which the Honourable Member for Christ Church South spoke, is being addressed. He suggested today that the monetary jurisdiction should be somewhere in the vicinity of \$20 000 to \$25 000. We did not propose taking it that high. We thought that a figure in the vicinity of about \$10 000 might be appropriate for the monetary jurisdiction of Magistrates. If you are going to increase their jurisdiction significantly you are obviously going to have to think in terms of increasing significantly the level of salaries too.

The Honourable Member for St. James North made some comments in relation to the desirability of having private bailiffs serve process in the Magistrates' Courts, again not directly relevant to the debate on the increase in the numbers of the Judges of the Supreme Court but again

that issue on private bailiffs serving process in the Magistrates' Courts is being addressed as well in the new Magistrates Courts Act, and the same kinds of procedure in relation to private service of process which is now available in the Magistrates' Courts is being proposed in the new Magistrates Court Bill. 1.30 p.m.

The Honourable Members made some points about the desirability of having Masters in Chambers. The Honourable Member for St. Thomas made the point that having that office would provide additional employment and provide a career for Public Service lawyers. Having Masters in Chambers, Mr. Speaker, is something which I think all lawyers who have had the experience of practising in Courts will agree with. I think all Honourable Members would understand the cost of setting up so many new offices is a matter of concern and the cost of providing for Masters in Chambers, highly desirable as it is, has to be viewed in the context of what the finances of the country can reasonably afford at this time. That comment can also, to some extent I suppose, be addressed to the query raised by the Honourable Member for St. Thomas in relation to the staffing of the Office of the Director of Public Prosecutions and other offices of the Public Service.

Mr. Speaker, that can also be looked at in the context of the need to review the whole system of the Administration of Justice and the delivery of justice in this country. I have no difficulty whatsoever with the proposal by the Honourable Member for Christ Church South that we need to look at the whole Court system and the delivery of justice in this country from a holistic point of view. Those reviews periodically become necessary in any system where the entire system needs to be looked at in terms of modern techniques which are introduced and all of that. Again, I urge Members to understand that all of this has to be viewed in the context of our country being at this time in a period of structural adjustment. We do have to look at it in a holistic manner and I give the assurance that as soon as is reasonably practicable the whole system of the delivery of justice will be looked at from the point of view of the structure of the Courts, the availability of officers to deal with what is required for the effective, and speedy delivery of justice. Once the financial headaches are over, which I hope will not be too much longer, I hope we will be in a position to deal with all of the problems raised by Honourable Members.

Thank you, Mr. Speaker.

The question that the 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. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. L. L. BRATHWAITE in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

Clauses 1 and 2 were called and passed. Clause 3 was called.

Hon. M. A. KING: Mr. Chairman, in moving that Clause 3 stand part, there is an amendment which is necessary. Clause 3 says that the action come into being on the 1st day of April, 1993. I am going to propose an amendment that that be the 1st day of July, 1993. With that amendment, I move that Clause 3 stand part.

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

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

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

Hon. P. M. GREAVES: Mr. Speaker, the next matter which I want dealt with is Order No. 4 on the Order Paper. Let me say, Sir, that we are proposing that that Order substitute for an amendment that has been circulated today. This amendment contains all the particularities in the Resolution that had been earlier circulated. Order No. 4 deals with the vesting of land in the Barbados Investment and Development Corporation. As I said, Sir, it contains all the particularities. It is a question more of form rather than substance.

ORDER NO. 4 was called -

Resolution to rescind Resolution 91/1984 for the vesting in the Barbados Industrial Development Corporation of a total of 3.6769 hectares of land at Brighton, Saint Michael, part of a parcel of 54 292 square metres of land compulsorily acquired in 1980 from U. J. Parravicino for road development,

To approve the change of use of the said 3.6769 hectares of land to Industrial Purposes, and

To approve the vesting of that 3.6769 hectares of land in the Barbados Investment and Development Corporation for use for Industrial Purposes.

Hon. E. E. GREAVES: Mr. Speaker, as the amended Resolution indicates, this Resolution is seeking to vest

parcels of land in the Schedule attached to the Resolution in the Barbados Investment and Development Corporation. There is a Schedule here for this particular purpose.

There is a history in respect of this acquisition and, basically, I think that the Resolution sets out very clearly the history of it. We are just 'attempting to tidy up the entire acquisition and at the same time to go through the process of vesting lands in the BIDC. 1.40 p.m.

We are just really attempting to tidy up the entire acquisition and at the same time to go through the process of vesting land in the BIDC.

As a matter of fact, the note suggested that as far back as February 1981 5.429 hectares of land at Brighton were acquired by U. J. Parravacino for road development. Subsequent to this, on 16th February, 1984 the Cabinet examined a paper relating to the vesting of land at Spring Garden in the Industrial Development Corporation and concluded that a parcel of land consisting of 1.2099 hectares at Spring Garden should be allocated to the Industrial Development Corporation for industrial usage. It further concluded that an adjoining parcel consisting of 2.4 hectares should be vested in the Corporation.

I want to point out that these 2 parcels were part of a larger area, 5.429 hectares, which had been acquired for road development. Parliamentary action was accordingly taken to vest the land in the Corporation with Resolution No. 91 of 1984 being approved by the House of Assembly on 6th October, 1984 and concurred in by the Senate on 19th December of the same year. It was later found that this Resolution was defective since, according to its Addendum, the approval of Parliament was being sought for vesting lands in the Industrial Development Corporation in accordance with the provisions of Section 5 of the Land Acquisition Act, Cap. 228. This was incorrectly stated, since this power is only possible through the Crown Lands (Vesting and Disposal) Act, Cap. 225. In addition, parliamentary approval was never sought for the proposed change of the use of land. The land having been acquired for road development purposes had first to be approved by Parliament for use by the Industrial Development Corporation. The approval of the Chief Town Planner was sought and obtained for a change of the use of land from road improvement to industrial use.

What we are now seeking to do in vesting these 2 areas of land in the BIDC is at the same time, as the Resolution indicates, to rescind Resolution No. 91 of 1984 and approve the change of use of land, and thirdly, therefore, approve the vesting of the parcels of land described in the Schedule hereto in the Barbados Investment and Development Corporation. I think when this is passed that matter would be properly dealt with and would therefore properly place the lands described under

the control and, of course, ownership of the Barbados Investment and Development Corporation.

With those remarks, Sir, I beg to move that this Resolution do now pass and I want to indicate that the plans in respect of the Resolution are available for Honourable Members to inspect. Thank you.

Hon. M. A. KING: Mr. Speaker, in seconding' this Resolution, I just want to state briefly that some questions have been raised about the efficacy of the original vesting and the Resolution before the House is just for the purpose of removing any doubt whatsoever about the vesting of the land in what is now the successor to the IDC.

These 2 parcels of land which are now being proposed to be vested in the Barbados Investment and Development Corporation had in fact been part of a parcel of land which had been originally acquired by Parliament for road development. Parliament had approved the acquisition for road development and that is the purpose for which it should be used. If there is to be a change in the use or the purpose for which Parliament had permitted its acquisition, we considered it only right that Parliament should authorise any change in the use for which Parliament had originally permitted its acquisition.

In addition to that, the original Resolution had contained some errors in the Addendum. One may argue that the Addendum is really not part of the Resolution, but the original Resolution did contain some errors and had requested Parliament to approve the vesting of the lands in the IDC in accordance with the provisions of Section 5 of the Land Acquisition Act, Cap. 228. That was clearly an error, because the vesting of Crown lands in statutory or other incorporations is not done by virtue of the provisions of the Land Acquisition Act, but by virtue of the provisions of the Crown Lands (Vesting and Disposal) Act. So that the opportunity has been taken in this Resolution to tidy up all the inelegancies which were in the original Resolution. The purpose is to rescind the original Resolution which vested the land in the IDC, to secure parliamentary approval for the change of use from what Parliament had originally approved the acquisition for, and now to approve the vesting of those 2 parcels of land in the Barbados Investment and Development Corporation.

Thank you, Mr. Speaker.

Mr. DeL. O. BRADSHAW: Mr. Speaker, I am glad to hear the Attorney General's explanation, because it is necessary for us to be quite clear as to what we are doing and the particular Section under which we acquire lands and dispose of them. There are quite a few areas which Government should look at. There are cases where people have been told that the land would be vested in them, but the Government has not done so as yet and people are concerned as to what particular section of the land would

be vested in them. I refer to an area of land in Wildey which was acquired by the Government.

Aside.

Mr. DeL. O. BRADSHAW: I am talking about vesting. I would hope that the Attorney General would move to clarify that in the same way he took time earlier to explain why it was necessary to have an amended version of the original Resolution. There are people who have an interest in land that was supposed to be vested in them. 1.50 p.m.

Now they are having some confusion as to whether...

Asides.

Mr. DeL. O. BRADSHAW: I am talking about the Wildey House. I do not know if Government owns that land. It was supposed to be vested in the Pinelands Development Council. I doubt many of us in here would know who owns the land. What I do know is that some 2 years ago the Honourable Prime Minister and the then representative went to the area and promised the people that land. The impression was that it was Government land to be vested in them. It was on television.

What has happened is that people have written me asking what is the position - I will talk to the Minister - and how are they going to clarify having this land vested in them. As far as I am concerned, the land was vested in the National Housing Corporation but here it is you have an undertaking that the land is Government land to be vested in the Pinelands Development Council whereas, in fact, the land is owned by the National Housing Corporation.

All I am asking the Minister or the Honourable Attorney General to do is to advise the Ministry as to how it can go around to have that vesting and clarify this issue at the same time. That is all I would want to know, Mr. Speaker.

Hon. E. E. GREAVES: Mr. Speaker, without seeking to delay this Honourable Chamber, I think it must be placed on the records of the House that this Administration took a decision sometime ago to allow the Pinelands Development Centre, under agreed terms, to use the Wildey Great House for cultural purposes and cultural development as their headquarters. As a matter of fact, I think when one reflects on the decision, certainly this Administration must take some pride in that decision because the Pinelands Development Council has developed into a cultural group which has done the area proud and which has certainly done this country proud.

As far as vesting is concerned, since the Honourable Member raised the question of vesting I would want to

indicate that this particular aspect of the question I would have to investigate. What I do recall is that a decision was taken to allow them to use the property and they pay a peppercorn rent of about \$100 or something like that. The point is that it is a matter which I would need to be further briefed on because I would not want to get into any argument or discussion about whether the property is vested in them or whether it is vested in the National Housing Corporation. I would need to be properly advised on that particular matter but I think that I should make the point that it is an organisation which is functioning effectively.

There were no substantive points raised on this particular vesting and nothing for me to reply to so I want to move, Sir, that this Resolution do now pass.

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

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

Mr. SPEAKER: The Honourable Member for Christ Church West indicated earlier he wanted to have an item which was referred in the first instance to be brought back.

There seems to be no objection.

Mr. H. deB. FORDE: Mr. Speaker, Sir, I am commanded by the Public Accounts Committee to lay the Interim Report of the Committee, each section of which having been put to and proved paragraph by paragraph by members of the Committee and approved or amended. The Report has been duly signed. The Honourable Member for St. Michael South Central has asked me however to state that subject to the reservation which he made yesterday and his not being too sure of the terms of reference of the Committee he will not sign the Report but will in due course issue a Minority Report.

The Report however has been approved in Committee by all members of the Committee. I therefore beg to lay the Interim Report of the Public Accounts Committee dated June 22, 1993. I am laying 2 copies and I ask that they be printed.

ADJOURNMENT

Hon. B. M. TAITT: Mr. Speaker, I beg to move that this House do now adjourn until July 13, 1993 at 12 o'clock noon. 160.7

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

The question was put and resolved in the affirmative without division and Mr. SPEAKER adjourned the House accordingly. 1.58 p.m.

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