
THE House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1994 – 99

HOUSE OF ASSEMBLY

Tuesday, December 17, 1996

Pursuant to the adjournment, the House of Assembly met at 11.25 a.m. on Tuesday, December 17, 1996.

PRESENT

His Honour I. A. ROETT, B.A., Dip. Ed. (Speaker)
His Honour R. D. MARSHALL (Deputy Speaker)
Rt. Hon. L. E. SANDIFORD, B.A., M.A., (Econ.),

J.F.

Mr. H. deB. FORDE, Q.C., M.A., LL.B.

Mr. B. M. TAITT, B.A. (Hons.), M.P.A., LL.B. (Hons.)

Rt. Hon. O. S. ARTHUR, M.Sc. (Econ.), (Prime Minister, Minister of Finance and Economic Affairs and Minister for the Civil Service)

Hon. D. A. C. SIMMONS, Q.C., LL.M. (Attorney General and Minister of Home Affairs)

Mr. D. J. H. THOMPSON, LL.B. (Hons.) (Leader of the Opposition)

Hon. Sir HAROLD St. JOHN, Q.C., LL.B.

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

Hon. Miss B. A. MILLER (Deputy Prime Minister, Minister of Foreign Affairs, Tourism and International Transport) (Leader of the House)

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

Mr. J. O. TUDOR, J.P.

Hon. G. W. PAYNE (Minister of Public Works, Transport and Housing)

Hon. R. C. EASTMOND, J.P., B.A. (Hons.), Dip. Ed., LL.B. (Hons.), L.E.C. (Minister of Agriculture and Rural Development)

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

Mr. D. CARTER

Hon. R. N. GREENIDGE, B.A. LL.B. (Minister of Labour, Community Development and Sports)

Mr. G. A. CLARKE, B.Sc., Dip. Ed. (Parliamentary Secretary; Ministry of Public Works, Transport and Housing)

Mr. J. M. EDGHILL

Mr. F. J. STUART, B.A., LL.M.

Mr. W. C. C. CALLENDER, J.P., B.A., Dip. Ed., B.Sc. (Chairman of Committees)

Mr. H. F. LASHLEY

Hon. R. Sr. C. TOPPIN, LL.B. (Minister of State, Ministry of Foreign Affairs, Tourism and International Transport)

Mr. D. St. E. KELLMAN

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

Hon. Miss M. A. MOTTLEY, LL.B. (Minister of Education, Youth Affairs and Culture)

Mr. C. A. MASCOLL

Prayers were led by Rev. Canon Ivan Harewood.

Mr. SPEAKER: This House is now in session.

MINUTES

Mr. SPEAKER: Minutes of Tuesday, December 10, 1996.

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that the Minutes of the proceedings of the Honourable the House of Assembly of its meeting on Tuesday, December 10, 1996 which Minutes have been circulated be taken as read.

Rt. Hon. O. S. ARTHUR: I beg to second that, Sir.

Mr. SPEAKER: If there are no corrections or observations, then let those Minutes stand confirmed.

ANNOUNCEMENTS BY HIS HONOUR THE SPEAKER

Mr. SPEAKER: I **am** to report that I **am** in receipt of the Accounts and Statements for the months of July, August and September, 1996 prepared by the Accountant General.

PAPERS

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, I **am** commanded to lay the Duties, Taxes and Other Payments (Exemption) (No. 25) Order, 1996.

GOVERNMENT NOTICES

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to give notice of a Resolution to approve the guarantee of the payment of the principal and interest **thereon** in respect of the loan for \$22.6 million by Citicorp. Merchant Bank Limited to the Barbados Agricultural Development and Marketing Corporation.

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I would wish to intimate to **Your** Honour and to Members on all sides that the Government would wish to proceed with this Resolution to finality today.

REPORTS FROM SELECT COMMITTEES

His Honour R. D. MARSHALL: Mr. Speaker, I move that the Report of the Select Committee on the Insurance Bill, 1996 be adopted.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

The question that the Report be adopted was put and resolved in the affirmative without division.

FIRST READING OF BILLS

Hon. Miss B. A. MILLER: Mr. Speaker, I beg to move that the Property Transfer Tax (Amendment) Bill, 1996 be read a first time.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

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

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that the Income Tax (Amendment) Bill, 1996 be read a first time.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

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

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that the Excise Tax Bill, 1996 be read a first time.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

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

Hon. Miss B. A. MILLER: Mr. Speaker, I beg to move that the Road Traffic (Licensing Authority) (Validation) Bill, 1996 be read a first time.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

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

SUSPENSION OF STANDING ORDERS

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move the suspension of Standing Orders 6, 16, 18, 20, 42(5), 43 and 44 for the rest of today's sitting.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

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

GOVERNMENT BUSINESS

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

ORDER NO. 5 - TO MOVE THAT THIS HOUSE RESOLVE ITSELF INTO COMMITTEE OF SUPPLY TO CONSIDER THE GRANT OF SUMS OF MONEY FOR THE SERVICE OF BARBADOS

On the motion of Hon. Miss B. A. MILLER, seconded by Rt. Hon. O. S. ARTHUR, Mr. SPEAKER left the Chair and the House went into Committee of Supply, Mr. W. C. CALLENDER in the Chair.

COMMITTEE OF SUPPLY

Mr. CHAIRMAN: This Honourable Chamber is now in Committee of Supply.

ITEM (A) – A RESOLUTION TO GRANT THE SUM
OF \$114 570 FROM THE CONSOLIDATED **FUND**
TO SUPPLEMENT THE ESTIMATES 1996-97
AS SHOWN IN THE ESTIMATES NO. 7

HEAD 15 – CABINET OFFICE

Rt. Hon. O. S. ARTHUR: Mr. Chairman, at the time of the preparation of the Estimates, it was not within the knowledge of the Government that a by-election was likely to be held in the Constituency of St. Michael North West. As a result, Sir, and quite reasonably so no provision was made in the Estimates to provide for the meeting of the expenses associated with the by-election in that constituency. The Member for St. Michael West is demonstrating from his seat that this is not enough money but he would know how this supplementary was not fully supplemented, but he would not want me to get into that issue at all, Mr. Chairman. The House is being invited to approve an amount of \$94 575 000 to cover the cost of the by-election expenses and I am about to propose that this expenditure be approved.

In addition, Mr. Chairman, because of the additional activities that Barbados has sponsored this year and a number of conferences, the most recent of which was yesterday of an important Heads of Government Conference dealing with the coordination of regional policy, there has been a strain on government's hospitality vote and I am seeking the House's permission for an additional amount of \$20 000 be added to the original provision to cover government's hospitality for the rest of the year.

I beg to move that this Head do now stand part.

Hon. Miss B. A. MILLER: I beg to second that, Sir.

Mr. D. J. H. THOMPSON: Mr. Chairman, I will be very short. I am going to support this particular measure and I want to extend the gratitude of the Opposition Party for the hard and excellent work which the officials in the Electoral and Boundaries Commission did in the execution of their duties leading up to and during the by-election. Generally speaking, the arrangements went quite smoothly but for a few concerns which we will raise under a substantive head in due course relative to concerns we have, for example in relation to the electoral list. This is a general concern that both sides of the House have. Despite very serious attempts to clean up the electoral list in St. Michael North West by the political parties going through that list, there was still a large number of circulars which were returned which demonstrates that perhaps there may be as many as 600 or more persons on the list who should

not be there. Therefore, first of all, the figures in relation to the number of electors need to be revised substantially because it may give the impression that the poll is very low when in fact we should be discounting as many as 500 or 600 voters from that list. Despite the attempts by both political parties to clean up that list, at the end of the day the list still remains problematic. This is something that we have to find a solution to. I know the Honourable Member for St. Michael South Central made some recommendations. Others on this side from time to time have made recommendations and no doubt there are those on the other side who have made them. But we tend to bellyache after elections about the size of the poll, when in fact if a more accurate list was available it would perhaps demonstrate that the poll was not as low as we had in fact thought, 600 votes may account for about 12% of the electorate in St. Michael North West. I do not remember what the figures were, but that would be a substantial readjustment one would have to make and we would not want to go off half-cocked making assessments about participation by electors in elections in Barbados unless we were reasonably certain that the electoral lists were pure and that the procedures which we have in place are adequate.

11.35 a.m.

When, therefore, we raise these matters on this side, Mr. Chairman, we raise them, as any other political party is entitled to do, on the basis that without vigilance by political parties in relation to the electoral process we can slide into bad habits, that is, when we have by-elections and we have the time and resources to actually undertake that kind of analysis, we always come up with some very glaring and obvious areas to which attention needs to be paid. Certainly on our own part, whatever influence we can exert within the bounds of propriety on the members of the Electoral and Boundaries Commission who have been appointed by the Leader of the Opposition, we will do so. On the advice of the Leader of the Opposition we will certainly give them a remit to ensure that island wide attempts are made to deal with this major problem.

We had only heard, Mr. Chairman, that there was a substantial disparity between the number of electors in all constituencies and what the last enumeration revealed. We were given the assurance that that enumeration did not impact on this by-election, but if an enumeration, apart from the provision of the law, is properly done it should give us a fairly accurate clue as to what is happening. Therefore, if it is accurate when the political parties go into an area during a by-election we should also be coming up with the same result, but for some reason we are not coming up with the same result the enumeration came up with. If not, it would be almost impossible for 600 or more...

Aside.

Mr. D. J. H. THOMPSON: That is true. I understand that point, but the fact that you do not use enumerations is not the point I am making. The enumeration nevertheless tells you something. Nobody is criticising the enumeration, what we on this side are saying is that if the enumeration is done and it tells you that you cannot find 100 voters, then it means that it is our duty to assist in the process of cleaning up that list, but it also tells us a number of things. Either the enumeration is not properly done or people do not respond to the enumerators, or they are so disaffected they are not interested in being enumerated, or that the methods which are used under the relevant legislation do not permit the level of accuracy which is required. Whether a list is made pure as the result of an enumeration or not, we know what the law is and we know what the Minister or the relevant authority has to do to make that enumeration relevant, but before the enumeration impacts on the list the enumeration gives us information...

Aside.

Mr. D. J. H. THOMPSON: Precisely. The point being that the size of the number of non-participants which is in excess of 30 000 people...

Aside.

Mr. D. J. H. THOMPSON: ... I know, that is what I am saying. We should be uncomfortable and in addition to that if you did any analysis, as a statistician, we could almost have predicted that the number of persons who could not be found in the constituency would number about six or seven hundred. If you are using an average across constituencies of 7 000 or more, you would expect that to be the case.

What we are saying is that there must be some way we can come to grips with this kind of issue to make sure it is not unnecessarily contentious and some way in which the political parties, agreeing to a process for the enumeration of voters, can then throw their weight behind that process and say yes, this is a process with which we concur. Likewise, the Electoral and Boundaries Commission which is protected by an ouster clause still, despite that protection in my view, does not function sufficiently independently. The Electoral and Boundaries Commission should not be relying on the Government Information Service, in my view, to carry out its public relations programmes, it should not be relying on agencies which people may assume have any connection – and they may be wrong and in some cases they may be right – with Government or the Opposition or anything else, they should be given a greater degree of independence and should be sanitised from the process. When, therefore, you see a GIS announcer who the week before is telling you the impact of

the VAT or how wonderful the work of the Attorney General is in honouring his 25 promises, or how well the Honourable Member for the City addressed the **U.N.**, coming on your television then to tell you that 35 000 voters cannot be found, it may create the wrong impression in the mind of the public. Therefore, my view is that the Electoral and Boundaries Commission should be free to retain an independent public relations organisation to carry out that particular analysis.

11.45 a.m.

Aside.

Mr. D. J. H. THOMPSON: That is the problem. You spend public relations time and energy on things that are irrelevant and things that are relevant like the right to vote and VAT which are the areas that the public needs to understand. Nobody in Barbados could tell me that they could be satisfied putting on their television set every night and hearing a man saying that 35 000 persons who were previously on the electoral list cannot now be found and they have to write them letters to find out where they are in the midst of a by-election. That confuses the public and we have a duty Mr. Chairman, to ensure that the public is not confused.

Rt. Hon. O. S. ARTHUR: On a point of order, Sir. The enumeration exercise was undertaken before the elections and the ads by GIS were taking place well in advance of the by-election and it was a continuous exercise intended purely by the Electoral Office and the GIS to let persons know that their names were on a previous list but not on the enumerators' list.

The nonsense that the Member for St. John is now speaking that it is something intended to confuse the public is a gross misrepresentation of the motives of the GIS. It calls the integrity of the officers into question. It is casting the aspersion that an exercise that was continuing even before a by-election was called was politically motivated and intended to confuse the public and I think it is doing a grave and misleading disservice to the integrity of the officers and the office of the GIS and it ought not to be pursued because it really has no place in this House. It is ridiculous.

Mr. D. J. H. THOMPSON: Mr. Chairman, I don't worry with the Honourable Member. He is reeling and a bit disoriented and therefore he would not necessarily understand the gravamen of the point being made on this side.

What I am saying, and there are many countries in the world which have understood this point, is that a government information service, it is true, does

public relations for the government. There is a very thin line between the promotion of government's objectives and what people internalise as the promotion of the objectives of the political party which forms the government. Therefore, if you see a GIS officer, and he is an excellent GIS officer at that, promoting the objectives of the Value Added Tax or promoting other objectives of the Government because the GIS doesn't promote the objectives of the Opposition. It is to promote Government's programmes. When that officer comes on the television to tell people that there is a problem in relation to the enumeration unwittingly the public is confused by a situation which...

Rt. Hon. O. S. ARTHUR: I rise again on a point of order, Mr. Chairman. There is no problem in relation to the enumeration. That is the point I am making to the Member for St. John. There was an official list published in January and the enumeration was undertaken subsequent to the publication of the official list as required by law. The number of people enumerated differed from the number of people on the official list by 35 000. There was no problem with the enumeration and that is what I am at pains to point out to the Member for St. John. The only role being performed by the GIS was to bring to people's attention that they were previously on an official list, they were not now on a list of people enumerated and they bring it to their attention so that if by some reason they were not enumerated they can have the situation rectified before their names were taken off the list.

The notion that there is a problem with the enumeration is a joke. The official list published as required by the law in January differed from the list of persons enumerated following an enumeration exercise that took place subsequent to January. So the GIS was not involved in any propaganda exercise. It was just simply bringing to the public's attention a matter of fact and this is not the first time. This is how this matter has been handled every time there has been an enumeration exercise and I would urge the Member for St. John to try to read the Representation of the People Act and understand the relationship between an official list published by the end of January and what happens when there is an enumeration exercise. He is confusing the House.

Mr. D. J. H. THOMPSON: Mr. Chairman, I am not going to let the Rt. Honourable Member humbug me. I didn't have to summon any former Deputy Chairman of the Electoral and Boundaries Commission to my office to write a press release explaining how enumerations are conducted. I was part of the Select Committee in Parliament which reviewed those laws and the present laws which are in place are as a result of the work of that Select Committee of which I was a member.

The Honourable Member for St. Peter cannot tell me and he cannot even begin to explain the origin of some of those changes in relation to the electoral laws in Barbados. If an enumeration is conducted for whatever purpose and it is conducted by enumerators appointed by the Electoral and Boundaries Commission and after the enumeration is conducted, a large number of persons when they compare the list as a result of the enumeration to the list which would be used if there was an election held, if there is a disparity, there must be a problem. Either it means that there is a problem with the list which was being used before or there is a problem with the list which the enumerator came up with.

There are many commentators in Barbados who have been able to see through some of the problems which have existed in relation to enumeration. This is not a new issue and Honourable Members on that side who remember and who understand would not jump up as quickly as the Rt. Honourable Member for St. Peter to refute comments which are made. Enumerations are always problematic. The enumeration in some constituencies was very difficult because people felt that the enumerators were coming around canvassing and they refused to respond to the enumerators. That is well known.

There were problems with the enumeration which the Electoral and Boundaries Commission carried out and the Honourable Member on that side should take advice from members of the Electoral and Boundaries Commission whom he appointed. They will let him know that there were problems in carrying out the enumeration. Some enumerators were not even allowed to ask questions. They were chased away from people's front doors and what I am trying to say is and for a variety of reasons which I am not going to go into now. I believe the Honourable Member for St. Michael South Central in a column by his Party dealt with those issues and it would be foolish of us to ignore that there are problems in relation to the enumerations carried out in Barbados.

The method of selection of enumerators. That is an issue that has been of concern and there are a whole range of other issues which arise but based on the law and on what is required by law the Electoral and Boundaries Commission discharged its duties excellently in relation to this by-election.

At the end of the day, Mr. Chairman, there will still be 700 persons in the constituency who would not receive their circulars because they could not be found by the people who deliver mail to those houses every day and if that doesn't tell the Honourable Member for the City that that is a problem it means that she has not been in Barbados long enough to understand it.

Hon. Miss B. A. MILLER: Mr. Chairman, Sir, on a point of order. I have not yet spoken in this debate and I will, with your permission when he is finished talking his drivel.

Mr. D. J. H. THOMPSON: And you will be here until midnight then because we all are going to talk drivel for the whole day and the whole night. I will speak as many times as I can on this matter.

Mr. Chairman, Sir, both of us on either side know that there were a large number of circulars returned. If there was no problem with the list on that side they would not have undertaken the task of trying to get 40 persons taken off the electoral list. I do not think that we filed one objection and then the Hon. Member on that side can say there is no problem with the list.
11.55 a.m.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, the Hon. Member is misleading the House. The filing of an objection is a matter that is recognised by the law. It has been the practice in Barbadian politics ever since there have been elections and the member now is seeking to institute that as an aspect of propaganda and a breakdown in the system. It is the system functioning rather than a breakdown in the system, and that is the point. The system functions by objections being raised. It is not a breakdown in the system. That is the beauty of the system that we have and for the member to treat it as a problem is giving rise to the kind of extravagant foolishness that gives vent to cause Barbadians to believe that we were seeking to disenfranchise 3 500 people as part of this exercise.

Mr. D. J. H. THOMPSON: If that is what is worrying the Honourable Member for St. Peter he issued a Press Release already. You mean that my word carries so much weight in Barbados that having issued your Press Release you did not solve the problem? What the Honourable Member did was to issue a Press Release and then they were able to find 40 persons spread between two or three boxes, not the entire constituency, coming from two or three boxes in the constituency. Now, if you can find 40 names that you could object to, spread between two or three boxes on a list which the Honourable Member for St. Peter suggests is pure and correct, and he has all of a sudden found that there are no problems in the system, what would be the basis for those 40 objections? It means that in a very small area there were at least 409 persons on the list whom the Honourable Members on that side felt should not be on it.

Aside.

Mr. D. J. H. THOMPSON: We did not object to any. We do not play that kind of politics, but I leave you to the people...

Aside.

Mr. D. J. H. THOMPSON: I want to thank the Honourable Member for St. Michael West Central for that intervention because, attached to this amendment to the Explanatory Note, I was not sure whether there was a connection between the increase needed for the Government hospitality and the by-election itself. The Honourable Member for St. Peter did not clarify whether the increase needed for Government hospitality was as a result of the by-election. I have reason to believe, Sir, unless he says otherwise, that there may be a very close connection between those two items.

Mr. CHAIRMAN: The Honourable Member has one more minute.

Mr. D. J. H. THOMPSON: With respect to the amendment to the Explanatory Note, I believe there should be some further amendments and under these Heads perhaps the Honourable Member would wish to add mattresses, paint, weed wackers, lawn mowers and professional fees for entertainers. I will wait for the Honourable Member's response on that.

Dr. R. C. HAYNES: Mr. Chairman, it always disturbs me a bit when matters arise in this House that impinge very profoundly on the democratic processes of Barbados that they should be treated with any level of triviality. It is crystal clear to me that where you have a situation where an enumeration has taken place and 35 000 persons on a previous list cannot be located, then there is something that is very wrong indeed for the very simple reason that there are some 260 000 in Barbados, necessarily some 70 000 to 80 000 of those are ineligible to vote because of their age. They are under 18. That means that you are left with some 178 000 which should be the maximum figure you can have on a list in Barbados. When you have an error involving 35 000 people you are talking about as much as 20 per cent of the demographically defined electorate who are eligible to vote in this country. That is a very serious matter.

I have been informed reliably that there have been problems in the Electoral Office which resulted in probable errors in relation to this enumeration and the general feeling is that 15 000 to 20 000 persons not being found would probably be a normal situation but 35 000 is excessive. This suggests to me that we are accepting the lowest possible level of competence in terms of getting these lists in Barbados cleaned up.

I certainly have been involved in the electoral process for many years. What I do in my constituency is that

I have a house to house done every two or three years through my captains in every polling district and I can guarantee you that when we check on the number of persons living in each polling district it bears very little relation to what appears on any list at any time throughout the 20 years that I have been involved in an electoral process in this country. This is something that is very wrong.

I have raised this issue again and again. There is nothing that anyone can do about it unless certain fundamental decisions are taken and that has to be taken by the Government and this Parliament. Again and again I say this is what needs to be done. We need a new enumeration to start off with. Any enumeration that ends up with 35 000 people not being found is so fundamentally flawed that it is useless. It is recognised as being useless by the people in the Electoral Office and people on the present Electoral and Boundaries Commission are deeply concerned about the findings of that enumeration.

The time to take this matter seriously is now. This is not a partisan speech I am making. I am making a speech to try to improve on the electoral process in this country. There are certain positions I have taken which I believe would improve the situation.

First of all, no one should be appointed an enumerator unless that person lives in the polling district where the enumeration is taking place. That is step one. If I am asked to go to a polling district in St. Lucy or St. Peter and do the enumeration, what on earth will I do? I do not know where to start. I do not know how I can trust the information I am getting. I have a problem.
12.05 p.m.

I have also advocated, again and again, that if you want to strengthen the system, that you should have political scrutineers. Scrutineers from the political parties who will accompany the enumerator. The scrutineer will not enter these people's homes. When the enumerator comes out of that home, his findings can be examined on the spot by the scrutineers. So we have two major steps to improve the situation. One, does not appoint anyone as an enumerator unless they are from the polling district. The second important point is that the political parties should be allowed to appoint scrutineer. As I said, these people will not enter people's homes with the enumerator, but any information brought out from the house would be examined on the spot. In other words, if someone goes into a house and comes out with a name Dick Thomas on the list, this means that the scrutineer, they can say, look Dick Thomas left Barbados 20 or or 30 years ago, or that Dick Thomas now lives in St. Lucy, or Dick Thomas died 10 years ago.

There will be people from the polling district and you will have a balancing systems there. So that when you come up with a list you would have a relatively perfect list and that is the only way to do it.

I happened to know that on the list in my constituency, a large number of people who are living in the constituency, their names will not appear on the January 1997 list. Do you know what is going to happen? Listen to what is going to happen. I will now have to mount a political exercise in my constituency to make sure those names are restored to the Register. I am not in the business of restoring the names of known opponents in the constituency. This is what is going to happen. It is unreasonable to expect a member of the Barbados Labour Party, for example, or the Democratic Labour Party to seek to restore to the list a known committed...

Asides.

Dr. R. C. HAYNES: I have never seen people so upset that I did not run a candidate. I have never seen so many people from one political party so upset that the NDP did not run a candidate.

Asides.

Dr. R. C. HAYNES: I feel so sorry for those who are upset.

Asides,

Dr. R. C. HAYNES: I feel so sorry for all those who are upset. I will not be disturbed by the Honourable Member for Christ Church South. What we are talking about here in the NDP is the time to improve the electoral process.

Asides.

Dr. R. C. HAYNES: Between September 1994 and the last meeting before the by-election, we were a one man band. All of a sudden we became a major political party letting down the country by not running a candidate, and immediately after the by-election we are a one man band again.

Asides.

Hon. D. A. C. SIMMONS: On a point of order. The Honourable Member for St. Michael South Central for referring to what Dr. Caddle and Mr. Comissiong said on Saturday and was published on Sunday about the failure of his party to run a candidate. That is what they said, Sir. We have not spoken, Sir.

Asides.

Dr. R. C. HAYNES: I have no idea who said what. I could only respond to what I have heard on the Floor of this House today and that is what I am responding to.

Another major problem that we have is this, Sir, especially in the urban St. Michael areas, a lot of major and wrong decisions in the past have been taken in relation to changes in the boundaries on the basis of these erroneous and inflated lists. Then we start talking about the number of constituencies. I have heard talk about this. I would strongly suggest that we have a proper enumeration before. All I am saying is, let us have a proper enumeration even before we print or give any thought whatsoever to increasing the number of constituencies in Barbados.

The Prime Minister made a statement about that sometime ago. Not a commitment.

Asides.

Dr. R. C. HAYNES: You were just dealing with the idea of the probability of increasing the number of seats.

Asides.

Rt. Hon. O. S. ARTHUR: On a point of order. Mr. Chairman, Sir, I have never on the Floor of this House or elsewhere spoken on any matter pertaining to the number of seats or constituencies in future election in Barbados, Sir. I have not spoken about the matter at all.

I would want, Sir, that very misleading and sensation seeking statement by the Member for St. Michael South Central, the former leader of the NDP, Sir, to be withdrawn from the records. I have never said it. I have not in any respect. The matter of seats being increased has not even been raised and I therefore want that to be struck from the records and withdrawn.

Asides,

Dr. R. C. HAYNES: Mr. Chairman, I have listened to the soon to be former Leader of the Barbados Labour Party and if I am mistaken in my recollection that he made an input somewhere along on the question of increasing the number of constituencies, then I am very sorry and I will ask for it to be withdrawn if he insists on that.

The point that I am simply making is this, that the issue or the question of an increase of seats have been raised by some persons in Barbados. I am suggesting that any such matter be put on the back burner until we establish for sure what is the true status in any constituency.

I am further saying this, that the enumeration that was recently done should be scrapped. It must be a very faulty enumeration to have resulted in 35 000 people not being found. Let us have a new enumeration as you begin the process to prepare a list for a general election. Let us put in place the very simple system which I have suggested, enumerators from the polling districts and scrutineers from the political parties, and I can guarantee you that if that is done, then 95% of the problems could be overcome overnight.

There can be no consideration of cost when it comes to dealing with the fundamentals of the democratic process in this country. Sir, I have had to put up with a situation in a by-election where the Honourable Member for Christ Church South organised to have 18 people registered in my constituency.

Asides.
12.15 p.m.

Hon. Sir HAROLD St. JOHN: That novel accusation, Sir, is totally untrue and I ask the Honourable Member to withdraw it, Sir. I object to that remark, Sir.

Dr. R. C. HAYNES: His cousin, Mr. Charlie Hinds.

Hon. Sir HAROLD St. JOHN: The Honourable Member must not use the Floor of the House to demonstrate his capacity for speaking facts that are non-existent, Sir.

Dr. R. C. HAYNES: It is an absolute fact, Sir, that his good friend Mr. Charlie Hinds told me that he was the person who organised for those 18 people to be placed on a list, care of a funeral home on Belmont Road and I got them removed.

The Honourable Member for St. Michael South and the Honourable Member for St. Peter rose.

Mr. CHAIRMAN: The Honourable Member for St. Michael South.

Rt. Hon. L. E. SANDIFORD: Have a heart, I am the father of the House. I will only be a minute, Sir. I will only make the comment, Sir, that those same 18 persons constituted the total audience of the Honourable Member's last election appeal in the 1991 General Elections.

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

The Honourable Member for St. Peter rose and the Honourable Member for St. Michael West rose.

Dr. R. C. HAYNES: The Honourable Member for St. Michael South has deliberately misled this House and

I want to make it clear to all those who believe that I would increase the turn out in the St. Michael North West By-election that I have absolutely no powers to raise the dead or to get them to vote.

Rt. Hon. O. S. ARTHUR: Sir, I am not rising to wind up nor shall I speak long, Sir.

Mr. B. M. TAITT: Mr. Chairman, Sir, on a point of privilege. Mr. Chairman, Sir, in the practice in this Honourable Committee it has been the practice and has been the practice that Members who have not spoken are given the opportunity to speak before a person who has spoken is given the opportunity to speak a second time unless they agree.

Asides.

Mr. B. M. TAITT: Mr. Chairman, can I be heard or not? I came in here, not in a box cart. I was elected in here. You think you could stop me from speaking in here.

Mr. Chairman, I am saying that while I have been in here that has been the practice. I wish know if that has changed, Sir. I wish Your Honour to tell me if it has changed and if necessary let us go back and ask Mr. Speaker if it has changed. It has always been that way, Sir, and I do not see why between 11.00 o'clock and 1.00 o'clock the Prime Minister should be allowed to speak twice before I speak once. I do not see why, Sir.

Hon. Miss B. A. MILLER: Mr. Chairman, Sir, on a point of order. The Standing Orders of this House make no reference to points of privilege but they do make reference to the fact that it is who catches the eye of the Speaker or the Chair, that is permitted to speak. There is no favouritism in this administration.

Mr. B. M. TAITT: I am glad to hear there is no favouritism and that is why he should not speak twice before I speak once in here. He is no Prime Minister in here. He is a member like me. He is from St. Peter and I am from St. Michael West.

Asides.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, Sir, the Member is seeking to deprive me of my right of catching your eye as you give me the privilege to speak in this House.

Mr. CHAIRMAN: Order, please.

Mr. CHAIRMAN rose to his feet.

Mr. CHAIRMAN: The Chair is prepared to give the Honourable Member for St. Peter a chance to elucidate on any matter which has been raised before in this discussion. This is the condition under which the Honourable Member for St. Peter is being allowed to speak on a matter of elucidation.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, this is a very serious matter affecting the integrity of the electoral system in Barbados and the Members of the Opposition are doing a very dangerous thing. On the one hand, Sir, they are seeking to congratulate the Electoral Office for what they purport to be the excellent job that it did in the discharge of its responsibility in relation to the conduct of an election but then saying that it did a deplorable job in relation to the enumeration and that is why I feel the need, Sir, to speak in this matter. Sir, there is a kind of hypocrisy going through this, Sir, and the hypocrisy flows from the fact that very strong statements were made raising the notion of fraud in relation to the fact that the list of voters arising from the enumeration exercise was different from that on the Official Register by the amount of 35 000. Now, Mr. Chairman, the House must be aware that one of the difficulties that we have with the registration of people in this country is that our Representation of the People Act at section 9 institutionalises and enshrines a person's right to remain registered. I want to stress the point, Sir, that our laws are so drafted that it becomes as a matter of principle, a very difficult thing to take someone's name off the Register because the law vests in Barbadian citizens over the age of 18 a right not just to vote, but a right to remain registered and it is very explicit, Sir. It says that you have a right to remain registered unless it is either because you have died, unless there is an objection in the registration that has been allowed, and unless being a foreign service officer you have been absent from Barbados for a period not exceeding 5 years and that is where a lot of the difficulty comes, Sir. A lot of the difficulty comes from the provision that unless, not being a foreign services elector you have been absent from Barbados for a period not exceeding 5 years or that you have been otherwise been disqualified.

Sir, a lot of the difficulties in relation to getting accurate lists in Barbados flow not from any major deficiency in the Electoral Office because I submit to this House, Sir, that the same officers who were responsible for the excellent conduct of the by-election in St. Michael North West were the same officers who supervised the enumeration and they have no motive in trying to subvert the electoral process in this country. Barbadians have a right to remain registered and a large part of the difficulty in getting a clean list has to do with the fact that persons can go away, come back and once they have been back for a period of time and you cannot show that they have been away for more than 5 years...

12.25 p.m.

Dr. R. C. HAYNES: Mr. Chairman, on a point of order. He is misleading the House and misinterpreting the law. If an enumerator goes into constituency "A" and another enumerator goes into constituency "B" and the person has moved from constituency "A" to constituency "B", the Electoral Office can transfer his name to "B" and he is still registered.

Aside.

Dr. R. C. HAYNES: Hold on. There is one register and 90 per cent of the problems do not relate either to the dead or to those who have gone away. You are saying that the problem relates to the law, but that is only about 10 per cent or less. The major problem relates to internal migrational people especially in the St. Michael area and the City area and the City is more affected by this than any other constituency.

Sir, the point I am trying to make here to the Prime Minister is that I take his point about the law. But what I am saying is that the major problem can be solved without doing violence to the law as it stands and as it relates to migratory activity within the St. Michael area.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, I am prepared to accept the multiplicity of factors including both internal and external migration. But I want the House to understand that we have enshrined a person's right to vote but also a person's right to remain registered because our laws protect the right of a person in Barbados who wants to vote and who is a Barbadian citizen.

Now, Sir, the process of managing the enumeration process was going smoothly. The law requires that every year by 30th January that there should be a register of electors published. Subsequent to January 30th there was the enumeration exercise and it was an exercise that was going smoothly. The list of electors garnered as a result of the enumeration list is not the final list, Sir. The Electoral Office thereafter wrote the political parties, it wrote the persons themselves and it started to mount a public relations exercise to bring to the public's attention the fact that there had been a list published in January and that that list differs substantially from the number of persons who were found to be persons registerable as a result of the enumeration. That is where the 35 000 came up.

Sir, that exercise was going smoothly as it has gone from time immemorial and the exercise of enumeration is not the final exercise. The Electoral Officer wrote every person whose name did not arise out of the enumeration to bring to their attention that they were on the January list but that they had not been found at their residence at the time of the enumeration. So let nobody believe, Sir, that

because the enumeration exercise gave rise to a number of electors that were 35 000 less than was at the end of the process, that was not the end of the process. It has never been the end of the process in any year in Barbados in which an enumeration has been undertaken. What was being done, Sir, was an exercise undertaken in good faith to give every Barbadian the privilege to enjoy the rights invested in them by Section 9 of the Representation of The People Act. It only became an issue because the Honourable Member for St. John, to be precise, drew attention to the difference between the number of electors on the electoral list as published in January and the number of people found in Barbados as a result of the enumeration exercise in a context in which he wanted to set it as a framework for the preparation of the list for the by-election in St. Michael North West. My press release was to satisfy the point that we could not possibly use the list arising out of the enumeration exercise because the conduct of elections in Barbados is governed also by law.

Mr. D. J. H. THOMPSON: Mr. Chairman, on a point of order. I want to make it very clear that the Honourable Member is misleading the House because at no point did I ever say that the by-election would have been conducted on the basis of the enumeration. The Democratic Labour Party's position was that we were uncomfortable going into a by-election where an enumeration had been undertaken and that enumeration showed that 35 000 voters as a result of the enumeration when compared to the list could not be found. That should be everybody's discomfort and not just the Opposition and I called on the Electoral and Boundaries Commission to explain carefully what the problems were and I called on the Minister responsible for elections to make the resources available to the Electoral and Boundaries Commission to correct any deficiencies. That was the extent of my commentary and I reserve the right to make it time and time again and will continue to say regardless of the Honourable Member's misunderstanding of my view.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, Sir, the Member for St. John went beyond saying what he just said. He spoke in terms of fraud and our decision to disenfranchise 35 000 people.

Hon. D. J. H. THOMPSON: Mr. Chairman, on a point of order. At no time did I allege fraud. It is the Honourable Member for St. Peter who in his usual way of putting a spin on what others say to give the impression they said what they have not said and then try to beat them for saying it. Who said there has never been and is not now electoral fraud in Barbados. No such allegation was made by the Democratic Labour Party. The strongest position we took was that unless we clearly understood what was happening with the list we would not be participating in the by-election, and the Right Honourable Member for

St. Peter clarified that point and we had nothing to say about the electoral list after that. So the 'Honourable Member solved the matter by indicating what the position was. What is he jumping up rehashing all of this for? This is a dying man clutching at straws.

12.35 p.m.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, I am speaking as clearly as I am on the matter today because two persons speaking on behalf of the Opposition benches have drawn reference to what they call a breakdown in the system at the Electoral Office arising out of the enumeration exercise, and I am saying that all that is happening is that the Electoral Office is going through the **process**, that an enumeration has taken place and it is now using every device to ensure that persons' rights as vested in them by section 9 of the Act are protected. **It** has been **using** GIS, it has not invoked the help of the political parties, it has written to the electors. This has only become an issue now because the Honourable Member for St. John and the Honourable Member for St. Michael South Central in their previous speeches to the House, rather than **observe** that a process is going on, are speaking in terms of the breakdown of the enumeration exercise.

Dr. R. C. HAYNES: On a point of order, Sir. The Honourable Member continues to mislead this Honourable House. He does not understand the law. My recollection is that some time in May 1978 there was an amendment to the Representation of the People Act, a few weeks before I came in here, which made the final list that **was published** either after or before Nomination Day – I do not now remember which – the official list, not the list that was published in January of any year. In point of fact, under existing law, an enumeration which modified the January list in conformity with the other provisions of the Representation of the People Act could constitute the basis of the list. That is the law.

Certain remarks made by Dr. R. C. HAYNES were ordered by the CHAIRMAN to be expunged from the record.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, the Honourable Member for St. Michael South Central's intervention indicates that I will have to speak additionally on what happens when there is a writ for an election in a constituency. When there is a writ for an election in a constituency, Sir, a provisional list is issued and then persons in the constituency are given a period of 19 days in which they can either ask that their names be added to or subtracted from the list. On the basis of that process a final list is prepared.

Aside.

Rt. Hon. O. S. ARTHUR: But I am saying to the House that our Representation of the People Act only recognises the list as published by the Electoral and Boundaries Commission on 31st January as an official list.

Aside.

Rt. Hon. O. S. ARTHUR: If the Honourable Member for St. Michael South Central would listen, Sir, the preliminary list would have been based on the list that is published on January 31, not on any list from any enumeration. That is the point.

Dr. R. C. HAYNES: On a point of order, Sir. The introduction of the word "preliminary" indicates that the Honourable Prime Minister has taken my point, so I will not bother him **anymore**. He has taken the point.

Rt. Hon. O. S. ARTHUR: The point I am making, Sir, is simply this, that there is no circumstance under which the Chief Electoral Officer could base an election or a by-election on a raw list arising from an enumeration exercise, because the only list the law recognises is the list as published at January 31, and that would have to be updated during the process of that period between the writ of election having been issued and the election taking place. A period of 19 days is given, but the preliminary list for the election has to be based upon the list as published in January.

My intervention, Sir, is to say that the Electoral Office is going through the process of trying now to ensure that no Barbadian is deprived of the right vested in him or her under section 9 of the law. That is why GIS has been used, that is why we have written the political parties and that is how it has been done from time immemorial. I would wish Members of the House to speak in terms of improving the system – I take the point about the scrutineers – because all of us in our constituencies have from time to time found that the list has people on it who we know we cannot find because perhaps they have gone away, they have gone to other constituencies or elsewhere, and it would behove the House, a House that is recognising the work of the Electoral Office in making sure that there was an excellent arrangement for a by-election, that this same House should give the Electoral Office its support in making sure that its efforts at trying to get a clean list goes through without public controversy, rather than sink to the level of debate that unfortunately has followed the proceedings of the House on this occasion.

I am obliged to you, Mr. Chairman.

Mr. B. M. TAITT: Mr. Chairman, I am most grateful that you have been able to catch my eye.

Aside.

Mr. B. M. TAITT: Well I have been able to catch his but he has not been able to catch mine.

Mr. Chairman, Sir, if I may start off by saying that the Prime Minister in his second intervention started off by quoting section 9, but he was discussing it in the context of someone casting aspersions on the work of the functionaries of the Electoral and Boundaries Commission. I did not myself hear and I think I am able to state categorically that no one, certainly on this side, has now or has had any doubt about the probity of any officer in the Electoral and Boundaries Commission. As a matter of fact, Barbados is extremely fortunate that ever since we formalised the Electoral and Boundaries Commission, except for the odd aberration here and there, that we have always had officers of the highest level of integrity functioning in the office. That does not negate the fact that from time to time we have had serious problems emanating from the functioning of the system, and the same section 9 which the Prime Minister just referred to requires some examination. None of us has the answer at this point, I would submit, but it requires some examination because election after election there is a situation where either on the one hand there are a number of names appearing on the electoral list who are ineligible to vote because they are not available to vote, and political parties, certainly constituency representatives who are doing their work properly, will know that in spite of the fact that the name appears on the list that person is not available to vote.

I gave this example publicly before. In the election which we just had, the names of the Bishop of the Windward and Leeward Islands and his family appear on the list, and it is not a secret that he lives in the Windward Islands, but his name cannot be removed...

Aside.

Mr. B. M. TAITT: It is not if five years have passed. There is too much ignorance about this particular piece of legislation, because if he comes back into Barbados four years and 364 days from now and spends any time, goes to a place which he calls his residence, the five years start to run again. So it is the duty of the people who monitor these lists, and this includes the Press too, there are too many hairy fairy statements and there are too many people who make comments about the paucity of people going to the polls who do not examine to see if it is true and they suggest therefore that we have had a low poll and a low turnout and people are not interested in politics, and all kinds of rubbish, when in fact when you examine the list itself and you examine all those who are available to vote there is usually something like 10% difference in the numbers who actually went to the polls.

Mr. Chairman, when we are examining this, what we need to do is to find a methodology by which we do not have this constant difficulty. Here is one of the problems. We have computers in Barbados, the list is now computerised, but the Electoral and Boundaries Commission has a computerised list but other Departments of the Government do not have the corresponding computerised capacity, so that long after persons have died their names remain on the Electoral list, because the Chief Electoral Officer cannot remove them until he has the certification of their death. I have said in here before, and I am saying again today, there is something ridiculous about the fact that a person can die and it takes 2½ to five years for that name to be transmitted to the Electoral and Boundaries Commission. There ought to be an automatic referral of information from the place that issues the death certificate to the Chief Electoral Office. A death certificate that is issued ought automatically to be referred to the Electoral and Boundaries Commission. That would take care of those who died more than a few months. Those who go away and who have gone on permanent residence outside of Barbados, that information is also available and you cannot have permanent residence two places. It is impossible to have pennisant residence two places.

12.45 p.m.

If you accept permanent residence somewhere else, automatically that information should be transferred to the Electoral and Boundaries Commission. This rubbish of our running back and forth trying to get this body off the list – the fundamental electoral law allows a person to have a residence where that person wishes to have their residence.

Asides.

Mr. B. M. TAITT: The Minister who is speaking from her seat always has difficulty with legal concepts. So if she hears language last week she thinks that the language last week is the same.

Hon. Miss B. A. MILLER: On a point of order, Mr. Chairman, Sir, this has nothing to do with legal concepts. The Honourable Member for St. Michael West said in here last week that you can have 5 different residences and you can live 5 different places in Barbados and that it is the norm. Today, he is saying one. He must make up his mind. He must make a choice. You cannot approbate and reprobate too.

Mr. B. M. TAITT: First of all, Sir, the Honourable Member said that I said in here last week.

Aside.

Mr. B. M. TAITT: ... You are just as miserable as she is. The Honourable Member is saying that I was in

here last week but Mr. Chairman, you know that this debate did not come up last week. The Honourable Member is so accustomed to making profound statements off the top of her head...

Hon. Miss B. A. MILLER: Mr. Chairman, on a point of order. This debate did not have to come for the Honourable Member for St. Michael West to make large statements as is his wont. He said it in here and he is now saying a different thing. He wants to approbate and reprobate at one and the same time, as is his custom.

Mr. B. M. TAITT: Mr. Chairman, I just will not dignify the Honourable Member's utterance except to say that what she is saying is not true.

Aside,

Mr. B. M. TAITT: That is not the first time you are hearing voices. You are always hearing voices. You cannot help hearing voices.

Mr. Chairman, can't you get the Honourable Member for the City off my back?

Mr. Chairman, the point I am making is that we are duty bound to start to find a solution to that problem. It is not fair, for example, for the Caddles who have never moved from St. Stephen's Hill to have a by-election in their constituency and discover on election day 'that they cannot vote even though they have never ceased to vote from that spot.

Asides.

Mr. B. M. TAITT: For the Attorney General to tell me to ask somebody what happened in 1971, I do not understand the Barbados Labour Party thinkers. Here is the Attorney General now saying from his seat that I must ask somebody what happened in 1971. What has that got to do with what we are discussing now? The Honourable Member was not Attorney General in 1971 otherwise what he said happened could never have happened. I do not know by what quirk or twist the Caddles got to be in St. George. What I think happened is that one of the Caddles, a Caddle moved to St. George and somebody presumed that if a Caddle moved all Caddles have moved. It is not an unreasonable conclusion.

Mr. Chairman, for the people who cannot vote on that day it is a negation of their rights which ought not to happen in Barbados in 1996. If we are arguing that we are the best in the world or nearly so when it comes to electoral arrangements that we ought not in 1996 to have that situation where people cannot vote. This rubbish of

trying to take people off the Register, I know for a fact that the gentleman who signed the document saying that he objected and wanted to swear that somebody was living in Christ Church is a faithful follower of the Barbados Labour Party and I would not hold it against him but I hold it against those who steered him in that direction, who caused him to sign his name to something which he could hardly understand. If any Honourable Member in here is guilty of that they should be ashamed of themselves.

The Member for St. Michael West Central seems to be suggesting that he had some hand in it. If he is responsible for taking that poor man and duping him and making him go and swear to something, I cannot believe that the representative for St. Michael West Central would have participated in that. Anyhow, Sir, mine is not to reason why. I appeared at the hearing and I cannot divulge that.

Asides.

Mr. B. M. TAITT: As a matter of fact, the way how they unceremoniously removed my daughter's name from the electoral list, left me... I advised her not to get involved in fighting with them because they are not worthwhile. If they were so desperate that they thought that her vote would make the difference between Mascoll and their candidate, so be it. Suffice it to say that the Barbados Labour Party demonstrated a form of desperation that was surprising to anybody paying attention to politics, considering the elaborate statements which had been made in the past by the Prime Minister, the Deputy Prime Minister, the campaign manager, on how they were going to win the election, I was amazed that they spent so much time trying to take the names of prominent people as perceived by them off the electoral rolls in the election.

Aside.

Mr. B. M. TAITT: I had the foresight to adjust accordingly. Mr. Chairman, the legislation which we fight elections under is basically good legislation. It just needs some adjustment.

This business of enumeration, Mr. Chairman, you have heard me say in here before, the persons who are appointed as enumerators are not always persons... certainly in the case of one who functions as enumerator in my constituency, a person who is specifically against me and who, as I have said in here, assaulted me. I wrote a letter to the Chief Electoral Officer and to my horror the person still remains as enumerator.

I am saying that the appointment of the enumerators should be transparent, that the names of persons who are to be appointed as enumerators ought to be published.

Members of Parliament and other people should have a chance to object.
12.55 p.m.,

Aside.

Mr. B. M. TAITT: The Honourable Member for St. Andrew from his seat is saying "Why wunna din do that?" We did not do it because we cannot interfere with the Electoral, and Boundaries Commission. It is a separate, distinct and constitutional entity and is therefore not for us, "wunna" or anybody else to do.

Mr. CHAIRMAN: The Honourable Member is asked to wind up.

Mr. B. M. TAITT: The point I am making, Mr. Chairman, is that enumerators ought to be people whom everybody is satisfied with and if they are not satisfied any objection just like when you are joining a club or whatever, or being blackballed by someone on reasonable grounds should be sufficient because that work is very serious work. I share the view of the Honourable Member for St. Michael South Central that there should be scrutineers and that the scrutineers should be appointed by all political parties that have an interest in the particular enumeration.

Mr. CHAIRMAN: The Honourable Member is asked to wind up.

Mr. B. M. TAITT: It cannot hurt and that is what is done in other countries. It is done in Britain, and the United States.

Mr. CHAIRMAN: Please conclude.

Mr. B. M. TAITT: Yes, Mr. Chairman, I hear you, Sir. I am winding up.

There is one other point. There is a part of the law which led one of the Honourable Members to make an utterance, which I am not going to comment on the quality of it at this point, but it has to do with this business of "bringing information out of the polling station."

Mr. CHAIRMAN: You may deal with that on another time but your time is up. I have given you a little latitude.

Mr. B. M. TAITT: I am finishing, Sir.

Mr. CHAIRMAN: Your time is up. Finish your sentence.

Mr. CHAIRMAN: In North America, Sir, the information about who has already voted is freely available

as it is in Canada. This is one of the ways in which this business of having large numbers of people not going to the polls can be corrected. I will speak to it again.

On the motion of Hon. Miss. B. A. MILLER, seconded by Hon. D. A. C. SZMMONS, Mr. CHAIRMAN reported progress to His Honour the SPEAKER and asked for leave to sit again and Mr. SPEAKER resumed the Chair and reported accordingly.

SUSPENSION OF SITTING

Hon. Miss B. A. MILLER: Mr. Speaker, I beg to move that this Sitting be suspended until 2.15 p.m. today.

Hon. D. A. C. SIMMONS: I beg to second that.

The question that the Sitting be suspended until 2.15 o'clock in the afternoon was put and was resolved in the affirmative without division. Mr. SPEAKER suspended the sitting accordingly.

RESUMPTION

Mr. SPEAKER: This Sitting is resumed. When the suspension was taken the House was in Committee of Supply, to that it will now revert.

Mr. SPEAKER left the Chair and Mr. W. C. C. CALLENDER resumed the Chair.

COMMITTEE OF SUPPLY (Resumed)

Rt. Hon. L. E. SANDIFORD: Mr. Chairman, I will not detain the Committee for very long. I wish just to make a few points. I believe that along with the Member for Christ Church West, I might be the member in here who have had more familiarity with elections in this country than any other member. I think out of that experience, I would certainly advise the Committee that we should be seeking on a bipartisan basis to improve our electoral system and electoral machinery.

We have certainly come a long way in terms of the administration and conduct of elections. That does not mean that we have perfected the system, but it does mean that on a comparative basis we take second place to few countries in the world. I believe, however, that in as much as we are dealing with human nature, and we are dealing with mechanisms put in place by human beings, that we can always seek to learn from the experiences of others to the extent that those experiences are instructive and, secondly, out of our own ingenuities and our own experiences we can improve upon our system.

We must remember we are talking about fundamental, human, civic and political rights and we should not

be tampering with these arrangements lightly. That is why, Sir, I would advocate a constant study and examination best done outside of the heat of partisan politics and also in the spirit of bipartisanship as far **as** the machinery, mechanisms, and arrangements **are** concerned. That is why it hurts me, Sir, to know that was the track we were on, that an Institute for Democracy was established at the Barbados Community College and that one of the objectives of that particular operation was to ensure that throughout the Caribbean there was at least one centre dedicated to this issue of examination, training and research.

Sir, I would certainly think that in our haste to **downplay** the measures and steps taken by previous administrations sometimes we tend to throw out the baby with the bath water. I say no more, Sir. I will just leave it at that because in the end it is the country that will suffer. We must take this question of the training of persons for responsibility more seriously than we are taking them, particularly in an area of elections. We must not take these things for granted, because we can very well find, Sir, that those things that we take for granted, the integrity and also the probity that we believe may be automatic, they tend to slip. Once you get into a slippery path it is more difficult to correct, Sir. That is why I would advise, in terms of the machinery, that there should be a bipartisan approach here.
2.20 p.m.

Second point, and a small point, Sir, I wish to make, is that we are all elected as Members of Parliament, and as Members of Parliament, as representatives of the people, we are entitled to information and we are entitled also to be given material which relate to our business **as** Members of Parliament and of those who faced the electorate.

I believe, Sir, that each member in here is entitled as a member, **as** a representative of the people, elected by the people, to a copy, Sir, of the very document that we may be arguing about, like the Register of Electors. I do not believe that responsibilities are discharged simply by saying that something has gone to a political party.

Asides.

Rt. Hon L. E. **SANDIFORD**: So, Sir, I will not detain this Committee any longer, but I simply go on the records as having made those few points. The main point I am making, Sir, is that we seek to set up the mechanism for an approach to this very serious matter which is fundamental to the working of our democratic system.

Thank you.

Hon. Miss B. A. **MILLER**: Mr. Chairman, Sir, I welcome the opportunity to speak in this debate. It is a debate about a serious matter. I regret that at times, before luncheon, it appeared to disintegrate into trivia, shouting, and that sort of thing.

I represent the City of Bridgetown, Sir, and I have so represented it over the past **20** years. I can say, I believe, Sir, with some authority, that never from one general election to another, not even from a by-election to a general election, in the space of **3** months intervening as occurred in 1976 where I fought that by-election in that constituency in May of 1976, and then had to fight for my seat all over again in September, a few months later, in no election in the City of Bridgetown is the Electoral List the same. Mr. Chairman, Sir, there is far more out migration in this country than people are willing to accept. We hear people in authority talking about immigration doors closing here, closing there. The truth is, there is still a great deal of it, and anybody who understands about population dynamics in this country well knows it.

In addition to that, there is a great deal of in and out migration. Particularly in the huge metropolitan parish of St. Michael of which the City of Bridgetown is part. In addition to that, we live in a society where people pride themselves, sometimes, on their geographical mobility. If you asked a person where they live, they will give you **2** or **3** addresses, **3** or **4** phone numbers. They do not have any difficulty with that and it is socially acceptable.

We live in a society, not unlike many others, too, Sir, where people tend to be very suspicious and sometimes even contemptuous of establishment figures who come to them, as enumerators who sometimes have to do, for information, and who will deliberately misadvise, but that is not the majority. The majority of people in this country are law-abiding people who respect the parliamentary process and the electoral process and are anxious to give correct and good reliable information.

We have, as the Honourable Prime Minister has pointed out, certain rights which people value highly, even if they do not always have the opportunity to exercise them, but the knowledge that this is a right to which they are privileged, to which they are entitled, is a matter of very high priority with some people.

I campaigned in the last by-election in a particular area. I know the area well because it is the **area** in which I grew up for **17** years of my life. Seventeen years were spent in that area. I know people who live there and when I looked at the electoral list, I was able at a glance to see where there were people who had been abroad, some of them in excess of **20** years, who were still on the list, who had, clearly no intention to come back to live here.

But there is a reluctance to take people off the list, and this is associated with what the Honourable Prime Minister pointed out, people's right to remain on the Electoral Register, if they so chose. There are people who go out of their way to come back to Barbados and renew themselves in that connection. People do that for the reason that they own property here. They do that with reasons which have to do with a wish to come back and retire here at some point. People may live abroad for **25** or 40 years, but we see these returning nationals all the time.

Then there is the migration from one constituency to another. This is particularly true in Bridgetown where people, and particularly people who are coming from OECS and other countries to Barbados, their first stop tends to be very often in the City of Bridgetown. As they settle down and begin to prosper, we find that they will move out to another St. Michael constituency or the more metropolitan of the Christ Church, the George and the St. James constituencies. All of these are considerations which help to complicate the life of the enumerator.

When the Honourable Member for St. John said that it is such a terrible thing that **35 000** people would come off of the Electoral Register at the last enumeration, in my judgement, Mr. Chairman, Sir, that may well be a reflection on the enumeration before that, and to how they got onto the register in the first instance.

Now in the City of Bridgetown, through the years at election time, all kinds of iniquities are to be found. I have been told by all kinds of people about padding the list and who getting people on the list and so. I have never been able to understand it because there is a process, and the process is a continuous one. In this process, as Members of Parliament or prospective Members of Parliament, we too have our responsibility.

At the beginning of 1997 I will do my own cleaning of the list in the City of Bridgetown as I always do at mid-term. I cannot wait until a few months before election or after the election itself has been called to satisfy myself, as a candidate or a prospective candidate, that the list is as clean as I will like it to be.

There is a lot of merit in what was said by those who asked that the enumerators should be people who come from the district and know the district, but there is another side to that coin, Mr. Chairman, Sir. The other side of that coin has to do with political partisanship. Can you find sufficiently politically independent people or politically neutral people who will not be tempted to abuse the process and the system? I agree that it makes the best sense in the world but I do not simply depend on the Electoral and Boundaries Commission's officials and in particular my

registering officer to reassure me about the cleanness or otherwise of the list. I maintain a healthy and a regular relationship with whoever is my registering officer because this is the person who must go into the constituency and identify that so and so does in fact live at a particular place. This is the person who once an objection is made has to go and as I would say in another connection to make discovery.

2.30 p.m.

Mr. Chairman, Sir, it is not always an easy task and there is not necessarily anything wrong with the list. That is the nature of electoral lists. People either struggling to get on them or in some instances to get off because they want to be transferred from one constituency to another. People in Barbados move from one district within a constituency to another district within the same constituency. That is another quite regular occurrence and candidates and aspiring candidates have to be able to determine how important it is for a particular elector to make the extra distance or trek to another box to vote. Some people who may have been voting in a particular polling station or a particular district for years may not have that little extra incentive unless you are prepared to come and transport them yourselves or call them up the night before and remind them and that sort of thing.

Now there is another consideration as well in this whole process of enumerating, Sir, and it has to do with those who are selected and appointed to be enumerators. In my own experience in the City of Bridgetown, I find that from enumeration to enumeration they try as far as possible in the Electoral Office to bring back into the City of Bridgetown for enumeration purposes, people who have had experience in earlier enumerations and to a large extent you are dealing with the same people who know the constituency, have done the work before and can tell where there has been movement within the constituency.

I remember **20** years ago, Sir, the number of dead people whom you would find on the Electoral List. You do not find that much nowadays, if you find **3** or **4** it may be the most recent. That part of the process has been tightened up, just as information about births and deaths moves from the Registry in Coleridge Street to various departments of Government including the National Insurance and Inland Revenue and so on and so forth for all kinds of civic purposes, so too would information move to the Electoral and Boundaries Commission and so we do not find as many people like that on the list.

At the other end of the spectrum you have young people who get a registration number when they reach the age of 16 but obviously do not come on to the voting register until they become 18 and that, with the use of the new technology, you would think would be an automatic process. It does not always happen. I would wish to

hear the Chief Electoral Officer on that. There are a whole bunch of things that have to happen including that the computer would not make an error but people have to take certain steps. You have to have your photograph taken. That card they get at 16 is a different thing from what they get when they are 18 as far as I know it, so it is not as automatic a process as we think. It is not as uncomplicated a process as you think. Any process where the human factor plays such a high role is always going to be subject to dissatisfactions of one kind or another.

I have found over the past **20** years that in every election it is a little easier with me in respect to the Electoral and Boundaries Commissions Officers. Maybe that is because, as I grow older, I know more and more about the system and how it works. I find that the Register is cleaner now in the City of Bridgetown than it was **20** years ago. That is not to say it is clean now because I can tell you and I say this without fear of contradiction that as a result of the last enumeration I am satisfied that the Register in the City of Bridgetown is still a very dirty register and it is partly the job of the registering officer to go on and on in the process of cleaning it up but I, as the sitting member, must have a responsibility to help in that process and I like to think that I have a good working relationship with my registering officer but things are not nearly as difficult as they used to be.

I can remember, Mr. Chairman, Sir, in May and in September of 1976 spending many, many hours on election day itself in the Electoral Office because people who should have been on the Bridgetown Register were on the St. Peter Register and were on the St. **Philip** Register. Not people who were registered in Bridgetown and living in St. **Philip** and St. Peter, they were on the St. Peter Register. I can only speak for the City of Bridgetown. That did not happen in my constituency in 1996 or in 1991. But you see, Mr. Chairman, Sir, you are also dealing with a process which can often tempt people to abuse it. Yes, I have seen it happen. I have seen electors on election day go from palling station to polling station some of them with tears in their eyes because they want to vote and cannot find where they are properly registered to vote. Some of it has to do with the fact of this migration that we see from constituency to constituency and within constituencies where people, ordinary Barbadians, ordinary electors, do not know how long they need to be living in a constituency before they can be registered to vote in that constituency. They do not know how long they have to be abroad before they can apply to be. I am saying that they are and I would imagine that anybody who has been a candidate knows what these temptations are. I think that in Barbados we have a clean process and I think that our elections and naturally I am going to be biased, but I like to think that in Barbados our elections are the cleanest in this region and our process is the cleanest in this region but because it is ours we have the right to criticise it.

Mr. CHAIRMAN: Honourable Member has one more minute.

Hon. Miss B. A. MILLER: There are still things that I would like to see different about our process and tightened up but I think it would be dishonest of anybody to suggest that there is fraud or has been fraud. Certainly in my time in this House in our system I have not seen it. I believe that the Electoral Office, their staff and registering officers try their best to do a good job. But, Mr. Chairman, the human factor can sometimes frustrate the effort even of the most conscientious of registering officers.
2.40 p.m.

Hon. D. A. C. SIMMONS: Mr. Chairman, I have to be very careful of how I speak in this debate. Sir, regarding the question of the conduct of elections in Barbados, I think one can only speak sometimes from one's own experience with a view to making general propositions. I would accept, Sir, that by and large the elections in Barbados have been free from the kinds of large scale fraudulent or corrupt practices that obtain in other parts of the world and even in other parts of the Caribbean. But on this matter one is not putting forward a Cabinet position, I am speaking personally. I had two sets of experiences in relation to St. **Philip** North about which I have spoken in this House previously, at least twice on the Floor, and for the sake of consistency and truthfulness of the experience, I feel obliged to mention it. The first was on General Election Day 1976 at **12.40 p.m.** at the Holy Trinity School in the yard of that school. The voting was taking place upstairs. You had to go up the steps. Downstairs in the yard the present President of the Senate, Sir Fred Gollop and I, and the late Victor Nurse better known as Rector saw the officer in charge of that polling station, Mr. Lorde, in the yard with ballot papers in his hand writing up the ballot papers...

At this point certain words of the Honourable Member for St. Thomas were asked to be expunged from the record by Mr. CHAIRMAN.

Mr. CHAIRMAN: Please rephrase what you want to say.

Hon. D. A. C. SIMMONS: I am rephrasing what I have to say, Sir. I hope that this meets with your approval that I have personal experience of which the President of the Senate was a witness that at **12.40 p.m.** on General Election Day, September 2, 1976 we saw persons well known to me, Sir, involved in the electoral process purporting to mark ballot papers not in the polling booth but in the open area in the yard between the school and Holy Trinity Church where a Fiat car was parked and the marking was going on at the top of the car. Is that all right, Sir? Then I will proceed.

The second occasion related to the 1981 General Election and as a result of **that** experience I have adopted an attitude to elections similar to that of the Honourable Member for St. Michael South Central. That is to say that at some stage before the election is announced I have a thorough house to house done in my constituency of the voters to make a comparison between what we find from our canvasses and what the list purports to represent. This is a bit of experience which I have passed on to others and, if the Honourable Member for St. Michael West were here, he would understand when I say that he asked me in the St. Thomas by-election why he could not see me or why we were keeping no meetings for the first 8 to 10 days of the campaign. The reason for that was that I was on the ground cleaning the list. What happened in 1981, Sir, was that I made an assumption that by reason of what had been done in St. **Philip** North there was no need for me to do a systematic and organized cleaning of the list. I was negligent to my cost because after the election and despite the warning of Joy Edwards – Now let me interject the warning of Joy Edwards – my friend called me several times before the election to say to me: "They are working on you."

2.50 p.m.

Mr. D. St. E. KELLMAN: Mr. Chairman, on a point of order. The Honourable Member seems to be misleading the House when he says: "They are working on you". The impression is that the Democratic Labour Party was in Government and they were working on him to make sure that he did not win the seat. The point I am making is that the Barbados Labour Party was in control of the Electoral Office at the time.

Hon. D. A. C. SIMMONS: Will you let me finish? I am not talking about the Electoral Office. He told me they were working on me, Sir, and he never explained how. He just told me to make sure that I try to do what I thought was right and appropriate in the circumstances. But on election day, not having done the detailed scrutiny of the list that I should have – that is why I said I was negligent and I paid for it – about 4 o'clock at Blades Hill, they were voting at St. Mark's School in Blades Hill, there was a sudden spurt of **Suzuki** vehicles into that area, between 4 o'clock and the closing of the polls, vehicles we did not recognise and people in the district did not recognise, and the occupants were not recognisable. The result was that I lost the election by 140 votes.

I heard within a couple of weeks that a number of persons came from outside the constituency and voted. We therefore embarked on an exercise to check the list very carefully against who had voted. The Chief Electoral Officer, who is in here now, can go back to his office this afternoon and search the files and he will find there a letter from me setting out 170 names that were on the list of

persons who voted, but of persons who did not reside in St. **Philip** North. Now that is my fault that these 170 were on the list. If I had been careful and we had done it systematically, I should have picked up most of them and objected, as was my legal right, to those persons. I did not and, as I said, I paid the price. The Chief Electoral Officer at the time replied to me some weeks after and **confirmed** everything I had said in my letter.

Aside.

Hon. D. A. C. SIMMONS: I said the present Chief Electoral Officer can go and check. I have a file in the vault of my own chambers with this correspondence. But that is not the end of the matter.

Aside.

Hon. D. A. C. SIMMONS: By then I was in the Senate. I had turned right instead of turning left, but I was not back in here, for my own negligence, carelessness. But I never had confirmation of what had gone on until 1994, 13 years later. One always had an assumption, one always had a belief that something fishy had been done, but in 1994 at the constituency office of the Honourable Member for St. **Philip** North, I was asked to come to his office and address a meeting, during the campaign. At that meeting a person from St. **Philip** North, who is now or was then supporting the Honourable Member for St. **Philip** North, well known, with legal connections and airline connections, a person from St. **Philip** North **confirmed** to me that in 1981 he and others had participated in a design to unseat me by padding the list with people not from St. **Philip** North. I will never forget those experiences. I plan to write about those experiences, on which occasion I will be free to call all names.

Aside.

Hon. D. A. C. SIMMONS: I have confessed to my own negligence, but I am saying that the system can be manipulated. Because the system can be manipulated, the law itself provides devices to as far as possible assist in purifying the list. Some of those devices are that if you claim to be entitled to vote in a particular area, you can make a claim by filling out the requisite form saying you wish to vote in this district because you have lived there for the requisite period of time. On the other hand, if there are persons on the list who ought not to be on the list because they do not reside within the constituency and have not satisfied the qualifications for residence, the law says you can fill up a form and object.

I believe perhaps there needs to be some refinement in the law dealing with objections. There should always, in my view, be a hearing of the objections. Both sides should be heard, but those are matters of detail. I think

anybody who has to adjudicate a matter like that is putting himself fairly and squarely within the provisions of the Administrative Justice Act and he has to do fairness, otherwise his decision can be reviewed. But there is a procedure for claims, there is a procedure for objections.

Now we talk about migration. I think we have to look at the legislation in terms, perhaps, of its present weaknesses to make sure that there is a proper procedure for objections. We deal with the problems of migration by **transfer** method. If you canvass and you find that somebody in the last 3 years or whatever, since you have last been there has moved into the constituency, you ask them if they want to vote in their constituency or where they live. If they say that they want to vote you are entitled to have the form filled up and transfer them from their former district to the particular district that they are in. All of these things are to take care of them, but you will always find the problem and the potential for abuse.
3.00 p.m.

Sir, I think that by and large, however, we have done remarkably well and more and more the opportunities for fraud will be minimised as candidates understand the value of lists more than canvassing. This is what I insisted on when I was campaign manager of 1994 and gearing up for campaigns. More than public meetings keeping, a lot of noise at night, the key thing is to get on the ground with those lists and make sure that you clear it.

Rt. Hon. L. E. SANDIFORD: Sir, if as the Attorney General is saying that he has all of this information from 1981 to 1994, this is information which could lead to a prosecution; because if he is claiming that people came from outside of the constituency who were not entitled to vote in the constituency and voted in the constituency that is an election offence which is punishable under the law. I am wondering, Sir, because I don't want the impression to go out that somebody was manipulating something. The member has a responsibility and duty to take what action he feels is desirable under the law.

Hon. D. A. C. SIMMONS: The folly of that is that these are offences which have a 6-months limitation. Six **months** after the 1981 elections they would have expired. It is not for me to prosecute. I gave the information. I saw them and I cannot bring the case. The Chief Electoral Officer has to bring it. The Honourable Member ought to realise that. The latest member of this Honourable House of Assembly, did he file his returns in 1994 in time? Isn't that an offence? Was he prosecuted?

Asides.

Hon. D. A. C. SIMMONS: After all these years the case is dead. I have the information but the case cannot be founded because of the limitation.

Sir, I think it is so important that I made the point in an early debate after the 1994 election. I read the newspapers, the columnists and the analysts and I laugh when they talk about a low vote. They have not applied any critical powers to the electoral process. We found over 600 letters that were sent came back. They cannot be found. You deduct them from whatever is the registered number but the lists are always padded because of the provision that restricts the Electoral Boundaries Commission from removing the names of people who have been outside of Barbados. Until we find a mechanism to deal with that situation, so long as you preserve the right for them to remain on the lists even though they are outside of Barbados, you will always have a list contaminated, diluted and polluted but as far as the question of deaths is concerned I believe that there has been a lot more efficiency brought to that area because of the cooperation between the Registry and the Electoral Department.

Within months of a death the Electoral Department ought to get a return from the Registry. That is what was happening. With computerisation of the Registry and the Electoral Department it will be an easy thing on a daily basis to feed information about deaths form the Registry to the Electoral Department. I am obliged to you, Sir.

Rt. Hon. O. S. ARTHUR: I beg to second it.

Mr. H. deB. FORDE: Mr. Chairman, Sir, obviously most members who have made a contribution have concentrated on the problems which confront the registration of electors and have dealt principally with matters arising under the Representation of the People Act. This is understandable because members are fresh from a recent event and obviously the House, immediately after an election or by election, takes a little while to get matters of this nature out of their system. Sometimes one usually gets a good deal of exorbitant claims as was manifested in the speech of the Honourable Member for St. Michael South Central who is now not in his place.

He made some very wild claims about how elections were dealt with and changes made in the law in 1978. The claims have no foundation at all in fact. Indeed, Mr. Chairman, if you look through the Representation of the People Act and the amendments which have been made you will see that those changes have remained part of the law of Barbados and have obviously improved the holding of elections in Barbados and have met with no disapproval of successive governments. Otherwise, I would have expected that when the Honourable Member for St. Michael South Central had the opportunity not only as

a Member of the House but as a Member of the Cabinet he would have persuaded his then colleagues in the Democratic Labour Party to make those changes.

I don't believe that this House should take the Honourable Member for St. Michael South Central too seriously when he makes some of the criticisms that he has made about amendments to the legislation or the suggestion of people trying to gerrymander or to misuse the Representation of the People Act.

I have just returned from a meeting of the International Institute for Democracy and Electoral Assistance. It is an inter-governmental body formed almost 2 years ago. Barbados had the honour to be a founder member of that body as one of the 18 countries in the world selected for such an honour. The body is composed not only of countries but of organisations such as the International Press Institute and the directors are chosen for their ability to contribute I hope, to the maintenance and sustenance of democracy and electoral probity. I think it is a tribute to Barbados' and a recognition of Barbados almost perfect role in the conduct and holding of elections.

3.10 p.m.

It ought to be known too, Sir, that the present acting Chief Electoral Officer has been making a tremendous **contribution** to the electoral bodies who hold the forum on democracy. They have held one in Sweden as recent as July this year and will be holding one next near in which we concentrate on improving the administration of elections and concentrate on reducing the cost of elections, both the public cost and the individual cost to candidates and other ways of improving the system in order to maintain democracy. Therefore, when I hear members speak on matters such as we have been discussing in this House, I put the best interpretation on most of the speeches that we are trying to improve a good system.

Barbados has a reasonable good system. It is not a perfect system and there are other things we can do to improve it. I do hope that Barbados will make use, not only of the expertise which we have here in Barbados, but will also make use of the facilities now which we can provide in the International Institute for Democracy and Electoral Assistance.

It is significant, Sir, that our Electoral and Boundaries **Commission** which has been discussed in this House, only came into being in 1981. It came into being as an amendment to the Constitution of Barbados because the Labour Party felt very strongly that there should be an independent body looking after the conduct of elections and that responsibility should not reside in the hands of a Minister. That issue was canvassed as long ago as 1966

when we set out on Independence. The position of the Democratic Labour Party then, as manifested in all of the documents dealing with the Constitution, was that it was unnecessary and that the conduct of elections should remain in the hands of a Minister. That was changed, Sir.

The Constitution now entrenches subclause 41 (a) to (e) as an entrenched clause making the Electoral and Boundaries Commission for whom we are voting this money today, one of those bodies that cannot be got rid of except by a two-thirds vote to alter the Constitution.

I believe, Sir, that we have to go further in order to strengthen the conduct and administration of elections. I hope that the Constitutional Review Commission would have submissions from all the political parties as well as from Members of this House and other persons on how we can improve the impartiality and objectivity of the Electoral and Boundaries Commission.

Mr. Chairman, I am pleased to say that the Constitutional Review Commission has begun its work already. We have had two meetings. We have had a subcommittee meeting and another subcommittee is meeting this week. We hope by early January to be hearing oral submissions from the public. We have already invited written submissions which should be submitted by February 28, next year. I hope that all three political parties which are represented on the Commission, as well as Members of this House and the other House, would take the opportunity to send in concrete and positive proposals for improving the functioning of the Electoral and Boundaries Commission and strengthening that Commission.

Since I am Chairman of the Commission, Mr. Chairman, it would be invidious of me to give my own personal views on these matters. I would suggest that one of the things we would want to consider is whether the Commission, although being its own master in some respects in relation to procedure, has no control over the persons who are appointed by the Commission on the administrative side and whether we should not look at South Africa, for instance, in a model constitution which has just become its own guiding and supreme law, as South Africa has looked to strengthen that Commission and given it the independence which such occasions deserve. That is one of the areas we would wish to look at.

There should be other areas but now is not the occasion for me to go into that exercise except to invite members to consider that we have a duty not only to enshrine the Electoral and Boundaries Commission but to ensure that it has adequate funds, staff, proper training and that it has the wherewithal in human resources in the legal protection we give to it to be independent of politicians of any of the political parties, and that its procedures

are subject only to the laws of the land and not the dictate of politicians at any role.

I believe we are maturing enough that we have moved beyond the stage that we would want to find an electoral process that is tainted by partisan considerations. We should say to the officials who have the day-to-day conduct of the elections that regardless of what maybe their internal political feelings, that they have to rise above these occasions when they are dealing with enumeration, registration, objections, removal from the Commission, the counting of votes and the taking of votes that they must be above that and approach the matter objectively.

That is the approach I hope Members of this House will bring to these sorts of debates. It does not do the House and it does not set a standard for the country if we give the impression to particularly new voters, that we ourselves are seeing the process so tainted and corrupt, that it favours one party which is in office and disfavors a party out of office, and *vice versa* as we change sides after an election.

Mr. Chairman this manifests itself in the lower voter turnout. It is one aspect of cynicism that has crept into political life the world over. In this regard, we are even better off than the United States.

It is a shocking shame that the only superpower in this world today, with all of the economic and military might that it has, can only have 49 per cent of voters voting in the last election to elect a President and that President will be elected on 44 per cent of 49 per cent and this country holds itself forward as a democracy to be followed by those of us who have a better function existing. We really have to concentrate on these matters because democracy is threatened in democratic countries themselves and, in fact, we have to concentrate on democratic countries to see how we can strengthen democracy whilst we are also putting the pressure on non-democratic countries to move into a democratic frame of mind. This is extremely important that I spend therefore some time in this House not talking about the problems that occur in most elections and which are capable of solution with the right will, but looking at the real fundamental of what we want to maintain if we are a true democratic nation.

Mr. Chairman, the right to vote is an important right. I have the honour to be a member of a party who ensured that every Barbadian adult has the right to vote. People must be reminded that it was a right which we fought for very hard. I regret again that although the right to vote is such an important right, those of us who were at the 1966 Conference did not enshrine that right as one of the

fundamental rights in our Constitution. Once again, we have the opportunity to do so now we are reviewing the Constitution.

3.20 p.m.

I think that if any one of us try to alter the Representation of the People Act, to take away that right, we would cause a revolution in Barbados. So *de facto*, you may say, that it is secure, but I would like us to cover it with the law as well, so that we can say that the new way, the right to vote has been secured.

Mr. Chairman, I use the opportunity as well to talk to the electorate. Members have discussed this issue today in terms of their own experiences, which is quite right, or in terms of their party's partisan view, to be expected, but I have not heard any member speak to the electorate and say to the electorate, that the electorate should really appreciate that they have that right to vote, and that they have a duty to see that they are registered and remain registered in the right place and on the Register.

I emphasise that on each occasion over the last 25 years, in my own constituency. I make it clear, and I will continue to make it clear that Barbadians and people who live in democracies should cherish the right to change governments, and I would hope that we will appeal to the electorate, to say to them every year, to check the register, which is posted up, to ensure that they are there and that they have a duty when they move out of a constituency and have lived out of it for 3 months, to draw their move to the attention of the Registering Officer.

We have a continuous process in Barbados, Sir. Every month new people come on the Register as they reach the age of 18, and every month it is possible for a person who has moved from one, migrated as members have used the term, constituency to another to be transferred. It really does not do the system any good, and it really, in my view, debases the political process if we have to wait until there is an election or by-election, to be spending our time chastising each other, making allegation that there is gerrymandering and interfering in the poll.

I appeal to electors to use the opportunity to put these type of questions outside of the pale of partisan politics, so that Barbados can maintain its reputation as an outstanding democracy, small as we are, and that we can be a leader to the world with a few other countries that manage to attain our eminence as well.

I believe my time has run out, Sir, but I will get an opportunity sometime in the future, indeed, to talk at large about the importance of the electoral process to the maintenance of democracy in countries such as ours.

I feel proud as a Barbadian that despite the limitations that we have, and despite some of the difficulties that we have, that we are still among the leading countries in the world in the practice of democracy and the holding of elections.

Mr. D. St. E. KELLMAN: Mr. Chairman, I have listened to many speeches today, Sir, but I want to say something today and I hope that at the end of my speech that we will be able to convince voters that they need not fear the politicians.

Mr. Chairman, while canvassing, I kept hearing one thing, Sir, among the young people, and that was that, "If I vote people would know who I voted for." I am calling on the Electoral Office to assure...

Asides.

Mr. D. St. E. KELLMAN: Mr. Chairman, I **am** calling on the Electoral Office to assure young people that politicians do not have any right to look at their vote.

Asides.

Mr. D. St. E. KELLMAN: Mr. **Chairman**, I am saying that the officers have a right to let the voters of Barbados know that no politician can give the impression that if they vote for part " X or "Y," that they would know who they vote for.

There are politicians who would go to people and give the impression that if they vote one party or the other that they would know. I am saying that if you stop that, a lot more people would vote in Barbados.

Asides.

Rt. Hon. O. S. ARTHUR: On a point of order. Mr. Chairman, I need to point out to you, Sir, that the Honourable Member for St. Lucy is pointing his finger at the Member for St. Michael West when he is making that very extravagant charge about politicians. I would not want the Member for St. Michael West's integrity to be brought into question at this time.

Asides.

Mr. D. St. E. KELLMAN: Mr. Chairman, the impression that is given...

Asides.

Mr. D. St. E. KELLMAN: The impression that is given, Sir, is that people can go and look at your ballot. It

is the duty of the Electoral Office, Sir, to educate the people that it cannot happen, and the only way that it can happen is if you do it by an Order of the High Court, Sir.

A lot of people would not want me to make this point, Sir, because they did the same thing. They told people that if they voted for " X party or "Y" party, that they would know who they voted for. We must stop trying to abuse poor people by giving the impression that we would know who they voted for. Sir, it is foolishness, and I am saying that if the Electoral Office does the job it should do and educate the people, Sir, we would only get between 5% and 10% in the increase number of people not voting in this country.

I have to tell people, Sir, that if they did not vote, people will know, but if they voted, no one would know. It is a fact, Sir, because if people do not vote, all you have to do is look at your list and you can see. Whenever you go and vote, even if you put the " X through all the names, no one would know who you have voted for. It is something that the Electoral Office should educate the citizens of Barbados about.

Mr. Chairman, I have listened to many speakers, and everything went back to 1981. I want to recall, Sir, that in 1981 there was a lot of talk about electoral fraud. It is amazing, Sir, that the time in 1981 it was one party, but today you are hearing that a member of the ruling party, at the time, admitting that there is a possibility that some of the charges made by the opposition party, at the point in time, could be correct.

Mr. Chairman, if you go back to the newspapers of 1981, after the elections, you would see the charges made. It is only now in 1996, Sir, that we are hearing that the charges were correct. When there were made at the time, Sir, the impression was given that the opposition were sore losers, and that there was no basis for the charge.

Mr. Chairman, no one on the opposition side, Sir, could have **interfered** with the computer to make sure that certain people who should not have voted in St. Philip North, voted in St. Philip North.

Sir, what I **am** hearing today is exactly what I heard in 1981. I want to know how come the Honourable Member for St. Thomas, who happens to represent me, only today dealt with a case like that when he should have dealt with it in 1981. I will leave the dead. I am not here to defend the dead, and I am not prepared to speak of those who are passed already.

Asides.

Mr. D. St. E. KELLMAN: Mr. Chairman, I will also like the Electoral Office to make sure that all the

presiding officers know their roles, and I will also like them to read the law to them because I am sure, Sir, that if that is done, a lot of things that happened in 1996 and 1991 would not happen again. I am saying, Sir, that sometimes it is because of the ignorance of the law that some of these things happen.

I do not know why the Government side would want to quarrel with me. When the Honourable Member for St. Thomas was saying what he had to say, nobody said anything.

Asides.

Mr. D. St. E. KELLMAN: You should have said to him to stop talking, but you cannot tell me to stop talking.

Mr. Chairman, I am saying, Sir, that we must see it as our role to encourage people to vote. We cannot continue to encourage people to believe that because we are politicians we would know who they have voted for. It is cheap politics, and you will never see that type of politics practiced by me, Sir. I would always try to make sure that instead of doing that Sir, that I try to swim against the tide.

Thank you.

3.30 p.m.

Mr. B. M. TAITT: Mr. Chairman, the Honourable Member for Christ Church West, when he spoke had not had the benefit of earlier discussion and therefore some of the things he said would not warrant rebuttal because they had been dealt with earlier. I think it is important that we acknowledge from a historical point of view that the Honourable Member left an impression which I think needs to be erased, an impression which suggested that somehow in 1966 when they had taken a position on the establishment of an Electoral and Boundaries Commission the Democratic Labour Party was opposed to it at the time.

I think it is fair to say that the framework within which that discussion took place would not have warranted acceptance of an Electoral and Boundaries Commission. On the other hand the Honourable Member would recall that when he did bring, as Attorney General, the very novel and in many respects advanced concept of an Electoral and Boundaries Commission, framed as it presently is, he did have the support of the Democratic Labour Party at the time and to those who are not familiar with that might not be aware and might be left with the impression that the Democratic Labour Party was somewhat opposed to the concept of an Electoral and Boundaries Commission as presently framed.

I wish to say for the record and without fear of contradiction that the system we have by which the Opposition and the Government forms the Electoral and Boundaries Commission is unique and the Honourable Member for Christ Church West to the extent that he was the individual responsible for bringing the legislation must get the credit for it. I want to put it on the record that the Honourable Member for Christ Church West had the support of the Democratic Labour Party then, has the support of the Democratic Labour Party now, for having brought that relatively novel approach. Unfortunately, not many people understood and even now understand the concept. It is one which is worthy of emulation by other countries, not only developing countries but other countries anywhere in that it allows the political parties to make recommendations to the authorities to appoint the Electoral and Boundaries Commission.

There are some anomalies that will occur over time but those anomalies form part of the process of the democratic system. We cannot in the context of a partisan discussion lose sight of the reality of our own system which, as it exists, provides us with a proper basis for elections in this country. Except for 1981 when we never really got to the bottom of **what actually** happened, when many people found themselves in a position where they could not understand, I suspect myself that, as I said then and continue to say, there was some little **interference with** the computerised system. Except for that we have had the opportunity over a long period of time to participate in elections at a level that makes almost everybody satisfied.

I just wanted in case there was any doubt that my own political party, the Democratic Labour Party, participated in the debate at that time accepted the Barbados Constitution (Amendment) Act, 1981 which proposed the amendment and I wanted to be certain and sent for the record. I am not going to read the record because it would then appear to be...

Aside.

Mr. B. M. TAITT: Page 5515 and following of *Hansard* will show that the Democratic Labour Party supported the concept.

The Honourable Member will recall that we gave them the adequate praise. Perhaps it was not adequate. Certainly we were not stingy in our praise of his having brought the concept.

Mr. Chairman, it is important that the people of Barbados understand how fortunate we are as a people. We just had a by-election. There was some relatively violent abuse on the political platform from time to time but generally speaking we had a campaign in which

nobody was killed, nobody was hurt, nobody suffered except for the odd person who could not find his name on the electoral roll. Nobody suffered any deprivation. A few people were abused and I read in the newspapers that some people were abused and some members of the Barbados Labour Party may have been profuse in their capacity to assist voters. I know that in one or two areas the "Grantleys" flowed from what I hear. I do not know of these things. Notwithstanding that these were a few aberrations.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, Sir, the Honourable Member has put into the record that members of the Barbados Labour Party which would refer to Members on the Government side were involved in bribing electors on election day. That is a very serious crime, Mr. Chairman, and I would not at all wish to have those remarks that could be used elsewhere to attach criminality to the behaviour of members of the Barbados Labour Party and I ask that they be withdrawn and be expunged from the record.

Mr. B. M. TAITT: I made no such charge. If there was anyone who was losing "Grantleys" that was their problem but I made no such charge and least of all any Honourable Member on that side would be guilty of any criminality in any election. I would never, Sir, suggest that any Honourable Member in this House would ever participate in anything like that. I am concerned that people from the Barbados Labour Party are alleged and I do not know if the Prime Minister, Attorney General or the Deputy Prime Minister could shed any light on this, but people from the Barbados Labour Party are alleged to have spent some very serious time in assisting people in the provision of beds, stoves, doors and various things of that nature. I think that it is in keeping with the Barbados Labour Party's approach to by-election politics, if the St. Peter by-election should be any guide. There were no refrigerators to speak of in this by-election in St. Michael North West. I do not recall too many people receiving refrigerators as compared with what happened in St. Peter. You will recall, Sir, that we had a Minister who had been appointed to be responsible for floods because we had had a flood in St. Peter at that time and there was no flood except that the occasional, no more than the occasional. I am told, odd "Grantley" flowed here and there.
3.40 p.m.

Aside.

Mr. B. M. TAITT: You spent \$40 000. One of the things which I think is important though, Sir, is that we should change the legislation which allows for \$1.00 per constituent. That legislation is really not worthy of this Parliament in 1996 to be still sporting legislation which allows for the spending of \$1.00 per constituent given the

discussion that we have had. I think that the Government of the day owes it to the population to examine this issue and to come up with some realistic spending proposals for persons who are running an election. It presents a tremendous difficulty for a candidate to be able to stay within the four corners of the law. As an election agent in the last election, I can tell you that I have had to caution and after that bludgeon my candidate and our supporters. Fortunately, my candidate is a man who was able to follow to the letter the admonition which the election agent had given him, so that we were able to fall within the four corners of the law. But the stress and the strain which is put in the face of the reality is too much as we come towards the end of the 21st century.

You will recall, Sir, that there was a candidate from St. Andrew who put in a figure which I believe was designed to test the law and nothing happened. There is nothing worst than having a law which having been broken and nothing happens to it. So I will ask the Attorney General and the Government to make a recommendation to the Boundaries Commission to get an independent council to pay some attention to this issue.

Mr. Chairman, one of the reasons why some of the young people do not participate is this and let me just pause for a moment to say this. Unfortunately, some of the people who put forward information as analysts in elections in Barbados leave a lot to be desired. Young people everywhere in the world of first time voters do not vote and to suggest that the absence of first time voters in an election in Barbados is some affliction is misleading. First time voting especially where the voting age is 18 is something that terrorizes some of the young people. But the fact that they do not vote does not mean that they do not influence an election and I hope that our analysts in Barbados will spend a lot more time looking at some of the real causes. I must say, too, that I was somewhat taken back by some of the things that I have read since the by-election in the local newspapers and I really hope that it is not beyond the serious commentators in this country to regard our elections in a much more serious light. For any serious commentator to speak of our by-election as if it was some kind of spectator sport and to make light of it and to suggest that it is not an important issue is to make an error in my view. I believe the political parties have columns in the newspapers and, instead of berating each other or being puffed up, I think they should spend some time trying to educate some of the younger people as to what this business is all about. But at the end of the day, Sir, I think that Barbados is very fortunate to have...

Aside.

Mr. B. M. TAITT: The real chief over there is keeping very quiet. I do not know why you are

getting concerned about the two of them. The real chief over there is keeping very quiet. The Chairman of the Board ordered everyone to get on the political platform.

Aside.

Mr. B. M. TAITT: Why do you get upset? It is Christmas. The Prime Minister causes me stress, Sir. The Prime Minister is a man of no small repute. But why should the Prime Minister worry about what happens to me. I do not understand. The Chairman of the Barbados Labour Party was elected properly at an election that was held at an annual conference. Are you ashamed of your Annual Conference? He is Chairman.

Aside.

Mr. B. M. TAITT. The Members of the back bench have been crying out and you should pay attention to that. Why are you worried? I passed and saw people assisting in the painting of houses and I stopped and showed them that old houses do not take new paint so well and it was perfectly okay. I do not understand why you are getting so worried. My party is in opposition.

Quite seriously, the Chairman of the Party ordered everybody even the Member for Christ Church West who had sworn that he was not going on any political platform because he could not support no old candidate like that...

Mr. H. deB. FORDE: The Honourable Member obviously only wanted me to intervene. He is not telling the truth about even my intentions or any such thing. That is not so of the statement you have just made.

Mr. B. M. TAITT: Mr. Chairman, as I was saying, on hearing that the old guard and the outside children had decided that they were not participating each of them seriatim, he ordered them to go on the platform and show their solidarity and support for the candidate.

Hon. D. A. C. SIMMONS: I thought the Honourable Member would be dealing with facts. I formed the impression today both from the speech of this Honourable Member and the Member for St. Michael South Central that we treat too casually in this House of Assembly the business of making a speech and telling lies during the course of that speech. Anywhere else in the world you would have to resign your seat in Parliament. I do not mind the Honourable Member making a little fun but do not come and look straight at me and then say the Chairman of the **Party** ordered. Me? I was not the campaign manager. I am only the Chairman of the Party but we do not behave

like that over here. There is no one in this Party who has accused this Party of being undemocratic as recently as August. We on this side don't behave in an undemocratic way.

3.50 p.m.

Mr. B. M. TAITT: Let me put it this way, Sir, I hear the Honourable Member who just sat down pleading that he is only the Chairman of the party but Your Honour would have been aware yourself of the struggle of having the Honourable Member for St. Joseph, the Honourable Member for St. George South, the Honourable Member for Christ Church South, the Honourable Member for Christ Church West and yourself labouring. I heard them stranded in terms of fact, in terms of commitment, in terms of attitude and recognising them from how I have heard them in the past when they were vibrant, informed, committed and strong. It was clear to any man, a blind man on a trotting horse would have been aware that they had been ordered to perform their duty. If the member says that he had not ordered them to perform their duty, then it was the Prime Minister who would have ordered them to get out there and show solidarity.

From my own knowledge in the constituency and I live in the constituency, the underground word was that their candidate had had a discussion with the campaign team and had suggested that none of the big guns except for the Deputy Prime Minister who was ineffective had come out to support him. Therefore, I understood that and it was only in that context that I was making the plea. But I withdraw any imputation that the Chairman had sufficient power to order the outside children to do anything.

Mr. CHAIRMAN: Conclude. Your time is up.

Mr. B. M. TAITT: In all the circumstances I would still like to say, Sir, that the election for Barbados was a victory even though we won on this side. It was a victory for all of Barbados, and I want to put that on record that Barbados at the end of the day was a victor because everybody participated and everybody won. I am grateful to you all.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, Sir, I rise to wind up the debate and I want to thank members who have spoken in the debate. The debate has highlighted a number of issues concerning the effectiveness of our system for the conduct of elections but I would like to set it in context because a lot of comments have been made about the accuracy of the present electoral register and there is a piece of information of which the House ought to be seised. It is that at the end of the **1994** election over **30 000** of the forms that the Electoral Office had submitted and carried out by postmen to the electors of Barbados, were returned to the Electoral Office because the persons could not be found.

Sir, the Barbados Labour Party then was not in charge of the electoral system but over 30 000 of the forms that were sent out by the Electoral Office to potential electors were **returned**. That should tell the House something about the fact first of all that the problem is a longstanding one, that the over 30 000 names did not just vanish from the list as the Member for St. John would have the public believe. "Unaccounted for" were the words that he used. It was a long standing problem that existed in 1994 and before 1994 because as I said we enshrined the right both to vote and the right to remain on the Register. Nobody is saying to leave it like that forever. We are saying that intelligent people coming to this House, knowing of those facts and speaking to the public, would not cite the fact that those 30 000 persons on the overall list as something having to do with fraud but as something having to do with the fact that the right to remain registered has caused a problem which we must deal with sensitively.

I do not believe that we should trifle with the system and in trying to solve the problem we create a menace. The right to vote has been fought for savagely and well and must be protected and with the right to vote must go the right to be registered. We have to be sensitive to the fact that in conferring rights we can also create problems and find ways of improving the system without destroying people's rights. That is why I would seek with some of recommendations that were put by other countries in the Caribbean where a system of scrutineers is used. The political parties are now expected to be scrutineers after the fact. We are now expected to go through the lists and help the Electoral Office to be advised as to whether or not the persons who cannot now be found are in fact now not living in the constituencies that they were previously assigned to. I think that we can entertain recommendations regarding the manner in which the Representation of the People Act can be improved as well as the way in which matters such as electoral expenses can be dealt with.

Certain remarks made by the Rt. Honourable Member for St. Peter, the Honourable Member for St. John and the Honourable Member for Christ Church West were ordered expunged from the record by Mr. CHAIRMAN.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, Sir, from the Other Side we have heard comments that are trying to ridicule the contribution of the Barbados Labour Party in the St. Michael North West campaign. That is the whole point of our focus. It ridicules the efforts of members and it has pervaded the speeches but I just want to say that before people begin to gloat the Barbados Labour Party got 31.2% of the vote in that constituency in 1986. We got 30.9% of the vote in that same constituency in 1991. We got 42% in 1994 and 44% in 1996. So those who want to gloat about winning in a constituency where the percentage

of the constituency voted for the Barbados Labour Party has substantially increased in the course of the last 6 years are welcome to continue to do so.

The Member for St. John knows.
4.00 p.m.

Aside.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, it appears as if I cannot ever get up in this House and speak unless we have this constant grumbling from this old lady that sits at the head of the Opposition benches, or who appears to be an old lady.

Aside.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, it is remarkable that from the time I rise on my feet, no matter what my speech is, Sir, the albino from St. John is grumbling, grumbling all the while and I am trying to make a simple response in this debate just to say that there is absolutely nothing wrong with our electoral system.

Mr. CHAIRMAN: The Honourable Member has one minute to wind up.

Rt. Hon. O. S. ARTHUR: The difference between the number of people on the list and the number of people enumerated is no evidence of fraud that we have found in this election, as well as that a large number of people on the list cannot be found through no error of the Electoral Office.

Rt. Hon. L. E. SANDIFORD: On a point of order, Sir. As the father of the House I...

Aside.

Rt. Hon. L. E. SANDIFORD: Sir, I rise on a point of order. I am certain the Member for St. Peter will take the point of order and will not wait on you to ask him to withdraw the remarks. I have cast my eyes around, Sir, and I do not see any ladies on this side, young or old, and to refer to the Member for St. John as an old lady is certainly a misrepresentation of fact. It is also a breach of the Standing Orders of this House because it is insulting and offensive to refer to an Honourable Member who is clearly male, and very masculine, as an old lady. I think the member should withdraw the remark.

Mr. CHAIRMAN: The Honourable Member is asked to withdraw the remarks.

Rt. Hon. O. S. ARTHUR: Without difficulty, Sir, I withdraw my remarks. I am just saying to the House

that I cannot help noticing that I can never get up on my feet to give a speech in this House unless I am **interrupted** by the constant **grumbings** of a certain member who reminds me in his grumbling of a miserable old lady.

Aside.

Rt. Hon. O. S. ARTHUR: I have withdrawn them, Sir.

Mr. CHAIRMAN: He has withdrawn them. This debate has come to an end.

Rt. Hon. O. S. ARTHUR: Mr. Chairman, I am going to conclude my speech by saying that there is absolutely nothing wrong with the character of our electoral system and that the Government is going to take to heart the recommendations that have come from both sides regarding the way in which a system that is already the envy of many countries in the world can be better improved.

It is within that context that I beg to move that these sums that have been spent to fund the by-election be approved by this Parliament.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

The question that Head 15 stand part was put and resolved in the affirmative without division.

On the motion of Hon. Miss B. A. MILLER, seconded by Hon. D. A. C. SIMMONS, Mr. CHAIRMAN reported to His Honour the SPEAKER, the passing of one Resolution in Committee. Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Rt. Hon. O. S. ARTHUR, seconded by Hon. D. A. C. SIMMONS, the Resolution was read a first and second time and agreed to.

ORDER NO. 2 - THE MAGISTRATES COURTS BILL, 1996 (Resumed)

Mr. F. J. STUART: Mr. Speaker, I do not intend to delay the House with this Bill. It is a wholly uncontroversial piece of legislation and I will therefore be very brief. Magistrates are very important ingredients of our judicial system and represent the lowest layer of the administration of justice in that system and because of the status of magistrates and what they are required to deal with, the public usually gets introduced to the judicial system through the Magistrates Courts. Therefore it is important that proper arrangements be made for magistrates and the magistrates courts if the public of Barbados is to have a positive impression of our administration of justice. 4.10 p.m.

So against that background, we on this side are supportive of this Bill. It seeks, as I understand it, to rationalise the administration of justice in the Magistrates Courts, and to rationalise the organisation of the magistrates courts as well. Of course, what it seeks to do can best be understood by contrasting what this Bill is attempting to do, with what exist at the present time.

Magistrates exercise both a civil and a criminal jurisdiction, and how they exercise that criminal jurisdiction is contained in the existing Chapter 116 of the Laws of Barbados, the Magistrates Jurisdiction and Procedure Act. How they exercise the civil jurisdiction is contained in the Petty Debt Act.

The first positive feature of this Bill is that it brings under one Act, one piece of legislation, the Rules relating to the civil procedure in the Magistrates Court and the criminal procedure in those courts as well. As of now, when an attorney-at-law wants to research any issue relating to the Magistrate in the exercise of the civil jurisdiction, he has to go to Petty Debt Act, and when he wants to research any issue relating to the magistrate in the exercise of the criminal jurisdiction, he has to go to the Magistrates Jurisdiction and Procedure Act. This Bill brings in one piece of legislation both the civil and the criminal dimensions of the magistrates responsibility.

I am particularly impressed, Mr. Speaker, with the fact that this legislation recognises the need to enlarge the jurisdiction of Magistrates. I am aware that the Honourable Member for Christ Church South, on a number of occasions since I was in this House, had called for the enlargement of the jurisdiction of magistrates in the exercise of their civil jurisdiction. Under the existing legislation, Magistrates Courts can only take cognizance of claims which amount to \$2 500 or less. So that if a litigant has a claim in excess of \$2 500, that claim has to be resolved in the High Court unless the litigant is prepared to forfeit the excess of \$2 500, and there are consequences for litigants in those circumstances where time and legal costs are concerned. This legislation which enlarges the monetary jurisdiction of Magistrates by \$7 500 is in my view a positive feature. It takes a lot of the burden off the High Court, which as of now, has to deal with claims in excess of \$2 500, but claims as small as \$10 000, what this legislation is doing, as I understand it, is now making it possible for Magistrates to deal with claims where the award of damages would be in the realm of \$10 000.

Very important, because in the context of litigants having to pay legal cost and in the context of the time it takes for matters to get through Be High Court, it is proper, and in my view, since that the monetary jurisdiction of the Magistrates should be enlarged to take account of those realities, and necessarily, since the magistrates can award larger sums of money now than previously,

of course, they could award unlimited sums under the Severance Payments Act. Outside of the Severance Payments Act, as far as I can recall, they were otherwise limited to awards of \$2 500 or less, and because they were limited to \$2 500, it seems to me that the power to award interest was correspondingly undermined, because the claims were regarded as so small, that the interest component would be negligible.

The legislation now, since the monetary jurisdiction has been enlarged, gives the Magistrate a new power to award interest. Again, this was a power that was reserved exclusively for Judges under the Supreme Court Act. Now the Magistrates can award interest, and I think this would **redown** to the advantage of litigants who have often asked the question, if they can get interest for debts outstanding from judgements obtained in the Magistrates Courts. The litigants have usually been disappointed to hear that the Magistrates did not have the power to award interest, because very often they have had to wait to have their claims satisfied that they have felt penalised in this way. They will no longer have to face that inconvenience. The Magistrate can now, for the first time, award interest on damages or on debts.

I **am** heartened by the fact that the Bill retained some critical provisions of the Petty Debt Act, particularly from Section **43** of the Petty Debt Act. There is still a tendency in the Magistrates courts for attorneys-at-law to bother themselves unduly with matters of pleading, becoming caught up with the technicalities of how things are said in a claim submitted in the Magistrates courts.

I think it was for that reason, that under the Petty Debt Act, Magistrates were given unlimited powers of amendment, because that Act recognises that the object of summary proceedings in the Magistrates courts was to ensure matters were resolved as quickly as possible, and therefore, litigants should not be required to go through the tortuous and labyrinthine process of following rules of the Supreme Court and trying to hammer out inconsistencies in pleading. This legislation has retained that feature.

I think it is a positive feature which I think must **be** emphasised, and that lawyers have to understand, better than they do now, I think, that issues and technicalities in pleading in the Magistrates Court when those courts are exercising their civil jurisdiction are totally irrelevant. The powers of the amendment of the Magistrates are unlimited, they should be, because people come to court to get their problem solved. Not to hear lawyers getting into exchanges of academic nature.

The judicial system at the Magistrates court level depends on a number of actors for its efficacious

functioning. No matter what kind of legislation you have, if the relevant actors do not pull their weight, then the legislation would be cheated of the fulfillment of its objectives. The actors to whom I refer, of course, are the Magistrates themselves, the attorneys-at-law, the police and the litigants. The system depends on all of these actors for its successful functioning. Of course, all the actors have causes of one kind or another.

For example, it is still a matter of concern to litigants and certainly to me, that in most of our Magistrates court, people who come to court to assist the court by way of giving evidence and basically assisting in the administration of justice, have to spend long hours, very often in the sun waiting for cases to be called. There are no facilities around to accommodate people who come to give evidence. At Oistins court the facilities are there and I believe at the new **Holetown** Complex as well but at the other Magistrates Courts the conditions are still very substandard. At **Holetown** the space is very cramped so that generally speaking at most of the Magistrates Courts people come to give evidence and litigants on the whole are treated as subhuman in my view. No facilities exist for their refreshment and they have to spend long and unkind hours standing up in the sun sometimes and waiting for cases to be called.

4.20 p.m.

I think that the time has come when we have to approach these matters in a more humanistic kind of way and I hope that the Government is taking cognizance of that difficulty and that in the fulness of time improvements can be put in place in the Magistrates Court to take account of the problems experienced by litigants. Of course that situation is worsened if the litigant is a young woman who has come to court to get maintenance for a child. It is bad enough that she has to come there in the first place but then when she has to come and be exposed to conditions as oppressive and as unkind as that it multiplies and exacerbates anger and sometimes tempers are seen to flare. So that is just a suggestion I throw out to the Government and I do not believe that it is lost on the Honourable Member for St. Thomas. I believe that he is familiar enough with these things and that the Government would be thinking of ways in which to improve on the problems experienced by litigants who have to go the Magistrates Courts for one reason or another.

The other actors are the Magistrates themselves. I suppose if one wants to one can always find something to criticise Magistrates about and very often the criticisms are not without justification. But on the whole I would think that Barbados has a **corp** of able Magistrates. Like all other human beings they are subject to their moods and if you find them in the wrong mood on a given day you can be a victim of their wrath but generally speaking, I think,

that working under very trying conditions our Magistrates try to do the best they can.

What I do not think that a lot of them appreciate though is that a large number of Barbadians are still overawed by the court environment and when people come into court very often they are timid and uncertain and they should be treated with a little more empathy and understanding. I do not think the average Magistrate really fully realizes how petrified with fear the average litigant is and very often persons who come to court to give evidence, and depending on the hour of day sometimes the Magistrate can lose his temper and give expression to fits of impatience which do nothing to fortify the confidence of litigants and witnesses who come to court. In those circumstances I would hope that Magistrates would be a little more sensitive in this regard.

I do not think I am able to make the same criticisms of the people in the higher judiciary. My observation in that area satisfies me that that same level of impatience and insensitivity is not as evident in the High Court as it is in the Magistrates Court but the fact that it is so evident in the Magistrates Court might have to do with the fact that Magistrates have to deal with so many cases in a day that I suppose sometimes their patience wears thin. But they are very important actors in the magisterial system which we operate and they depend for their strength and for their efficacy on the support of the public. I think they owe the public a duty to be a lot more courteous, a lot less impatient and a lot more understanding than is the case at the present time with some of them.

I am not referring to all of them because there are some Magistrates who are exemplary in the discharge of their duties and whose fits of impatience and expressions of disgust are rare indeed. Of course those fits of impatience and expressions of disgust are not limited to litigants and witnesses, they extend to lawyers as well. We do not have a centralised system of Magistrates Courts in Barbados and on any given day a lawyer who practices in the Magistrates Courts can find that he is in 4 different courts on the same day and all he has to do is to go to the wrong court first and if the Magistrate turns up late his diary is thrown into confusion for the remainder of the day. It is when that kind of thing happens that you get impatient and panicky calls from clients saying that the Magistrate has threatened to do the case behind your back and that kind of thing. I do not think that magistrates are often sufficiently sensitive to the difficulty experienced by lawyers who have to practice in those courts. The reason for that may very well be that the overwhelming majority of them have never come into private practice themselves and do not know first hand of the pressures under which defence lawyers have to operate. I think with a little more

understanding they would be a little more patient and recognise that at the end of the day their role is to promote the ends of justice and that a lawyer's absence usually has a good explanation. Very often it is that he is caught up in some other court and cannot make it up to the court over which that Magistrate presides.

I have had my own experiences with that and those experiences are not always pleasant. If I may lapse into anecdote, I recall being at the District "C" Magistrates Court on my feet doing a case and receiving a message that the Magistrate at Oistins was waiting on me. I checked my diary to realise that my diary did not indicate that I had any case at Oistins and I said so but the emissary came back and said the Magistrate was waiting on me and his report was that the Magistrate was carrying on very badly. I rushed through my case at District "C" to rush off to Oistins to see what this case was about. When I got there and I walked through the door I caught the Magistrate carrying on and as he saw me, he said, Oh, there he is and the accused who had told the court that I was her lawyer said: "Is that who Mr. **Stuart** is? Well, I do not mean him, Sir." Then the Magistrates had to retreat and do penance by saying to me that perhaps the lady likes me or likes my name. But all the damage had already been done. He had been ridiculing me before the **public** in a matter **which** I was innocent. It is that kind of impatience to which I take exception and I feel that a lot more understanding has to be shown by our magistrates when lawyers do not turn up to court. There is always an explanation for their not turning up to court. I do not think that any lawyer has any vested interest in not doing his cases or not turning up to court since, of course, there is a link between doing your work and earning your keep.

4.30 p.m.

Mr. Speaker, I think that the litigants, lawyers and magistrates have central roles to play in the administration of justice in the Magistrates Courts and there has to be smooth understanding between those three pillars of the system. But I must not leave out the Court Clerks themselves and they are a special breed. Court Clerks in the Magistrates Courts are a special breed who have to work under very trying conditions. Any visit to a Magistrates Court in Barbados on any given morning, if one has access to the office of the Magistrates Court, will disclose that **almost** secondly the telephone rings from some despairing mother calling to find out whether or not her child's father has left any money for the child. I am given to understand that the number of complaints for Court Clerks have increased over time because having to deal with these questions on a daily basis and so often, very often when a mother hears that no money is there rather than blame the man who did not bring it, she seems to blame the Clerk for telling her that the money is not there. Tempers often flare and there are sharp and

hot exchanges which result and in the end complaints are made for the Clerk that he is not courteous or something of the kind. Those Clerks work under very, very difficult conditions in the Magistrates Courts and I hope that in addition to passing a modern piece of legislation that the Government will give some thought to exploring ways and means by which the conditions under which Court Clerks in the Magistrates Courts work can be improved. They render yeoman service to this society. They are like sponges that absorb a lot of discontent from angry mothers who have to interact with the court to get maintenance for their children. I think that we cannot underestimate the contribution which they make to the administration of justice in the Magistrates Court.

I think, Mr. Speaker, that the legislation on the whole is uncontroversial. It seeks to modernize what we have and to rationalize it. I believe that it had its genesis under the Democratic Labour Party while we were in office and we have no basis really for opposing it.

A lot has been said about the magistrates and the Magistrates Courts and the exercise of their criminal jurisdiction. I do not want to add to that. We know all the problems that accused persons experience in the Magistrates Courts and those problems relate particularly to bail and to the grant of bail. I believe that a lot of those problems were explored last week when the debate on the Bail Bill took place. These problems are not going to be solved overnight although Honourable Members are right and correct in raising these issues because as much as we pay lip service to the maxim that every man is presumed innocent until proven guilty, there is still a mind-set in this society that an allegation amounts to truth and accused persons are usually treated as guilty persons, not only by judicial officers but by members of the public as well. That is a mind-set which has to be exorcized. We have to understand that a man is innocent until he is proven guilty. I have had recently in my constituency to caution people and outside of my constituency as well in relation to that very hideous murder that took place up there, that it is not as important to arrest somebody as it is important to arrest the right person because people are giving expression to the view that somebody should be arrested as though that would be the end of the matter. What the system aims at is getting at the real perpetrators and ensuring that justice takes its course. So issues of bail with which this Bill deals as well, are intimately bound up with how people perceive accused persons and there is a tendency to believe that the moment you are accused you are a criminal. The Magistrates did not fly in here from Bangladesh or Kirabati but they are products of this society. It is not surprising that sometimes they too behave as though an arrest and a charge amount to guilt.

As I said, those issues were explored last week when the Bail Bill was discussed and I do not intend to traverse

that territory again. But it is worth mentioning that accused persons do have serious problems in the Magistrates Court and there are problems of attitude as well. Too often presiding officers forget that accused persons have dignity and have egos as well and that the way they are treated can impact on how they perceive the system overall. But it all has to do with the fact that the mind-set of this society still is that as long as the police hold you and charge you that you have committed an offence. It does not matter if at the end of your trial you are acquitted that whenever reference is made to you in any given context, you are referred to as the man who did the particular wrong. Sometime in 1985, I represented a man on a number of fraud charges. He was acquitted but to this very day when people remind me of that case they discuss it in terms of the man who carried away so and so money. It does not matter to them that the man was acquitted on all the charges. So that is the kind of mind-set that grips the society and, as I said, it would be strange if magistrates and other presiding officers were insulated from that mind-set.

Interesting in the Bill also is the fact that unlike the existing legislation which rules out a grant of bail for treason or murder, this new piece of legislation contemplates a grant of bail in cases of treason, high treason and murder subject, of course, to the provisions of the Bail Act. That is a positive development because I believe that every case should turn on its own facts and there may be appropriate cases in which the facts would justify a presiding officer in granting bail for treason, high treason or murder even.

Having said all of that, Mr. Speaker, as I said I do not think there is much in the Bill that is worth complaining about. The Bill I think reflects substantially a consensus that the administration of justice in the Magistrates Courts have to be modernized and rationalized, and the Bill does that by bringing the civil and criminal procedures in the Magistrates' courts in the same bit of legislation and introducing other reforms, the most significant of which, in my view, from the civil point of view, is the enlargement of the monetary jurisdiction which takes some pressure off the High Court and speeds up the remedies available to litigants who no longer have to go through the twists and turns of civil procedure in the High Courts and in the context of the criminal procedures in the courts the fact that bail can now be granted to persons who are charged with offences of treason, high treason and murder.

4.40 p.m.

There are other reforms in the Bill but I don't believe that they will need detain me here and all in all we, on this side, support the Bill. I believe last week the Honourable Attorney General indicated that there might be

some amendments. I am not sure what those amendments are but I believe when he is winding up he will so indicate.

The limitation period. I could never understand what was meant in the Petty Debt Act by this 3 months limitation and what is meant in this one by a 6 months one. I am glad to see that this has been cleared up as I intended to raise this point and I am glad it was drawn to my attention that in fact the limitation period is 6 years.

Clause 206 deals with civil procedure and says 6 months. It should really be 6 years.

Mr. Speaker, I believe I have covered the area I wanted to cover in the time available to me. As I said, we on this side are supporting the Bill and the Government therefore can count on our cooperation in this regard. I am obliged to you, Sir.

Rt. Hon. L. E. SANDIFORD: Mr. Speaker, I think we on this side are indebted to the Attorney General, the Member for St. Thomas, and the House for agreeing to permit the House additional time to reflect on this Bill that is before us and to make a contribution. Perhaps I am one of the few non-legal persons rising to speak on this matter and I do so without any timidity or temerity because I believe that the administration of justice is important to all of us whether we are professional, legal minds or whether we are ordinary citizens, because the purpose of law and justice is to enlarge the freedom of the individual.

I believe, Sir, that the history of our country is one of a continual enlargement of that freedom through a number of processes including reforms in the administration of justice. This particular Bill deals with the administration of justice at the lower levels, at the level of the work of the magistracy and whatever is involved in that work.

I believe that history has come full circle because the mood and tempo of this era is one of increasing and empowering the magistrates to do more and more in the hope and belief that this will improve the administration of justice. This was not so in all of the eras of our history, because at one time freedom was actually severely restricted and constricted by the work of magistrates, especially those called stipendiary magistrates when, in fact, through the power that they were exercising, they were limiting the freedom of the individual and imposing some very harsh and rough sentences and keeping an iniquitous system of slavery going in this country.

Sir, we have come full circle and I believe we have come full circle because there may be certain restrictions put in place to ensure that if a magistrate or other judicial officer acts in an arbitrary manner that there may be some

redress against that kind of behaviour. Therefore, while we expand the role of the magistrate we also ensure that there are some controlling devices in place to safeguard the rights and freedoms of the individual.

Our system Sir, is based on a kind of a pyramid in which at the top we will have a Supreme Court which consists of the High Court and whatever else. I am not sure how it is put. There is the Court of Appeal and that is at the top. Then we have at the bottom the Magistrates' Court which may deal with cases summarily or on indictment or however they put it. At the very top you have the Appeal Court, not the one in Barbados, but the Judicial Committee of the Privy Council and whatever else may replace that in due course. The bulk of the work, if it is not disposed of in the Magistrates' Court it certainly starts there, and that is very important.

4.50 p.m.

We can operate on this basis, Sir, because of the principles that are enshrined in our Constitution and it is that Constitution that is the supreme law of the land. It is not the word of the executive but it is the rights that are guaranteed in the Constitution which is the supreme law of our land. It is the function of all judicial officers to ensure that those rights are respected and if they are not that there are certain courses of action which may be taken, including the prerogative orders of – I speak in English, Sir – *mandamus, certiorari*, prohibition and other orders which...

Aside.

Rt. Hon. L. E. SANDIFORD: Yes, that is the language that is used. It is the same thing though.

Sir, it is very significant and important that in each generation we should seek to review not only the jurisdiction and the procedures but also the scope of the magistrates and the other institutions within our judicial system.

I recall, Sir, being present in this Honourable Chamber as a stranger in the Visitors' Gallery as a school boy listening to a debate – I cannot remember the year. It must have been about 1956 or early 1957 – dealing with the whole question of updating the Magistrates' Jurisdiction and Procedure Act, or whatever it was called at that time.

Aside.

Rt. Hon. L. E. SANDIFORD: It was 1956, Sir. I am grateful to the Attorney General for putting me right on these dates. I think he was a junior at that time because he was 16 years old.

Aside.

Rt. Hon. L. E. SANDIFORD: Yes, that is true because progress in this country has been dependent upon the work of successive Governments and that is why we should not seek to belittle or demean the pedigree of those developments.

I must make a point here, Sir. This House is at its best, not when we are dealing with controversial issues in the aftermath of a by-election or a general election. The strong will survive and those who are not so strong may fall by the wayside. It is not necessarily the heat and passion of a debate but the good sense and the process of putting heads together for improvement of conditions in this country and that is when this House is at its best, Sir.

I have sat in this debate and heard some very insightful contributions made on both sides of the House on this issue in order to seek to improve what we have before us. I believe that the more of this kind of debate that we have, the better it is for our institution and for the public because we are still a great educating institution and under your benign guidance we are able to contribute to law making and the improvement of laws in this country.

Sir, there are a number of suggestions that have been made. I am not getting into that because I am not qualified to practise at the Bar and I certainly have no intention, if I can help it, of getting into any law court at the level of the Magistrates' Court or any other level of court in this country. If they defame me, Sir, I will seek suitable representation of a legal nature to defend my rights but I am not familiar with the nuts or bolts nor do I need to be familiar with those.

Aside.

Rt. Hon. L. E. SANDIFORD: The Honourable Member for St. Michael West just confessed that he is not familiar either with those procedures so I am in good company. When I am in his company I am always in good company, Sir, so that is understandable.

Sir, the system is an integrated system. You have the Judicial Committee of the Privy Council and a lot of people in this country and in the Caribbean believe that that Judicial Committee of the Privy Council is the highest court of appeal, not only for Barbados, but also for Britain and nothing could be further from the truth because it is the Law Lords in the House of Lords who constitute the highest court of appeal in Britain. It is only a few countries now which still retain the Judicial Committee of the Privy Council as the highest court of appeal. Sir, we were there before because there was a time – and I do know why these points are not made – there was a Court for the Federation. We already had a court but we have to go

through this process all the time of re-inventing the wheel and going through this agony, a trauma of doing what we should be doing without rancour and without division.
5.00 p.m.

Asides.

Mr. SPEAKER: Do not let him distract you.

Rt. Hon. L. E. SANDIFORD: They were here before and they were there before and they actually arrived at a draft when my government left office. There was a draft agreement, it was at the same stage as the Assembly for Caribbean Parliamentarians.

Hon. D. A. C. SIMMONS: On a point of order, Sir. It is not right that I should have shouted across the Floor to the Honourable Member, Sir. I apologise to him because I confused him. The draft I was speaking about, I said that draftsmen are here from Jamaica, Guyana, Trinidad and Tobago and Barbados. They have been drafting, finalising the draft of the Rules for the Caribbean Supreme Court and the necessary enabling legislation. What the Honourable Member is speaking about is the agreement setting up the court. I will pass over a copy for him to have a look at the latest bit that we have.

Rt. Hon. L. E. SANDIFORD: The point that I am making, Sir, is that this is an incremental and we must continue with this kind of work and it starts at the level of the Magistracy, Sir. That is where I am and that is where I will end Sir, because it is most important that we have a sound system of justice at that level because that is where most of our citizens will come into contact with the system. It is there that they must have a feeling that justice has been done and justice is seen to have been done and therefore whatever can be done to improve the system at that level in accordance with our resources, we must seek to put in place and we must not seek to attribute causes for the lack of development in certain areas to improper or wrong headed causes.

So we could look at any system or any aspect of our policy and say that resources were not provided to improve the system at that level. The record will show, Sir, that each administration has tried to improve the system of justice and to improve resources at that level. It is not a question, certainly my Cabinet did not deal with the question of the Magistrates, their jurisdiction and their procedures and so on the basis of whether votes would accrue from that or not or nothing at all. I never sat in or presided over a Cabinet where this was an issue or this was the basis or these were the propositions or tenets for conducting a discussion in relation to the development of the Judiciary or anything like that. So, we must get it right and must not attribute causes which are not fundamental or germane to the issues at hand.

I say no more on that particular issue but I join with other Members welcoming this as a step in the right direction. No doubt we will be coming in due course for amendment and improvement to it as the years go by and as our values change and develop but in our time as Members of this House, we must see that we take the steps to do what we believe is right at this given time.

I am indebted to you, Sir.

Mr. H. deB. FORDE: I wish to congratulate the Honourable Attorney General for the process of law reform which he initiated during this term of the Barbados Labour Party period in office. I had the honour, Mr. Speaker, myself, to hold the high office of Attorney General and I considered it then to be fundamental that law should be kept under constant reform. Very few people know that little money is provided to the Attorney General's office for this purpose and what a tremendous struggle it is to make the changes that are necessary to our laws, to keep up with the times and also reflect the changing ways of doing business, the changing standards and indeed the changing form of life in general – technological changes that occur.

Sir, this Bill is a tremendous improvement on what we had in the past the Petty Debt Act of 1896, and our Magistrates Courts and Procedure Act which although it came before this House in 1956 was by that date an outdated piece of legislation. Therefore, Sir, this legislation is more in keeping with the developmental trends which we find in those States that recognise that if they live under laws, the laws must be modernised and reflect the standards of society and the changes that are occurring.

The Honourable Attorney General has kept to the party's manifesto and to his word, and I have no doubt that he would go down in history when his period is finished and I hope it would not be finished quite soon, as one of the most farsighted, reforming Attorney Generals that we have had in the three hundred and almost sixty years now of our history. There are not many of us who have held this office and have had the foresight to recognise the importance of law reform but certainly this Attorney General does recognise the importance of law reform and this year alone he has brought before the House significant Bills reforming areas that are fundamental to the rights and freedom of our country.

I wish to say something about the Judiciary, particularly the second tier of the Judiciary of Magistrates. We have been lucky, in Barbados in particular and in the Caribbean in general, in having a Judiciary that by and large has not been tainted with the allegation or deeds of disrepute or corruption. I regret therefore, when sometimes I see reflected in the human rights reports of other

countries particularly the United States, allegations of corruption in the system in Caribbean countries.

Our Magistrates have not been well paid. It started because they have been fitted in under a particular part of the Civil Service – under a particular Head of the Civil Service – and their terms and conditions have been rigidly tied within that Head and we have not recognised the tremendous responsibility which they have. Over 80%, I would say between 70 – 80% of all the criminal trials in Barbados, which affects the fundamental rights of our citizens are disposed of by the Magistrates. Now that we are increasing their jurisdiction both *quasi* criminally and civilly they will be carrying a heavier burden than they are presently carrying and I believe that whenever the Government finds it possible to review the conditions and service of those in the Public Service that we should look specifically at the remuneration of the Judiciary. It is very vital that the Judiciary should be placed in a position where they will not feel tempted in any manner whatsoever to dispense justice for the wrong reasons at any time. They have not been in this country, despite the low salaries that they receive. In fact, Sir, I believe that the opportunity has also come for us in our constitutional revision exercise to look at what additional protections should be given to the Judiciary as a whole and to the Magistrates in particular in order to secure beyond doubt their independence and impartiality.

5.10 p.m.

If you look at the Constitution as it exists, it is only by the method of appointment through the Judicial and Legal Service Commission that Magistrates have any real degree of protection in their office, but certainly they were not on all fours with the Judges in the method in which their salaries can be reduced until the constitutional change which we made in here in general for all public servants. But I believe that we have to look at that because they are part of the Judiciary and should be treated at that level. If Barbados has to be the first in the Commonwealth or in the Caribbean or in the world at large to approach this question from a standpoint of principle and foresightedness I think we should do that.

I believe I would want to hear that the Constitutional Commission would want Members of this House and the political parties to address us on this issue. The Commission, as I said earlier in Committee, has begun its work and we have held sessions. The Commission is composed as you know, Mr. Speaker, Sir, of persons from the 3 political parties as well as persons representing both the social partners, the church and the youth. It is a very broad based commission and I am very pleased that all 3 political parties are serving on this Commission so that in the spirit which the Right Honourable Member for St. Michael South has spoken we can put certain matters

above the narrow day-to-day partisan line whether we are returned to government or not.

As a matter of fact, Sir, I think this is an important opportunity for me to say that those who are the elders of our party and who have been in the political life arena for many years should seriously debate and counsel our parties that there are some aspects of the life of our country that cannot and must not be subjected to narrow partisan considerations. Certainly the Judiciary is one such area and there are other areas as well in which we have to take a broader approach. One will be, Sir, and I missed the opportunity of saying it awhile ago, one will be the funding of political parties as a part of the preservation of democracy in this country and we have to send the right signals to the public on these issues.

I believe that it is wrong for us to continue to pay Magistrates as though they belong to some lower level of the civil service just beyond clerical grades. I believe it is wrong for us not to recognise in the Constitution the important role which they play in the preservation of the fundamental rights on which we lay so much store. I believe that they must always be subjected to criticism but when we are doing that we must be careful as well that those criticisms are constructive and are not ad *hominem*.

Obviously there are delays in our law courts. There are a lot of reasons why these delays occur. These delays occur sometimes because we have not ourselves updated the laws. I would wish when the Honourable Attorney General lays on the Table of this House the regulations that must go with this Bill that those regulations are simplified and that we are doing here what they are doing in England and other countries that are reforming their laws rather rapidly. We are making it easier for the adversarial system to work. We have full discovery for instance. We do not hide witnesses statements. We exchange information freely so as to save the time of the Magistrates and of the Judges. It is very difficult for a Magistrate to have before him on any day something like over 30 cases to adjudicate on in a short period of time unless there is full cooperation coming from the lawyers who are preparing and the litigants who are appearing before him or her. So, in addition to the reform of the substantive law I would like to see as well a reform and updating of the procedural law which underpins the workings of the substantive law.

I have no doubt that the Honourable Attorney General in speaking to me before I began my speech said that he was far ahead in the preparation of the necessary procedural regulations and rules that will go to underpin this particular Act.

Sir, there is one aspect that I must also address and that is the area of execution. Once people have had their

day in court and sentence or judgment has been pronounced then you have to execute. On the criminal side that execution may be collecting a fine or serving a period of imprisonment or under the present system which we have even it may be capital punishment. I believe that the debate on capital punishment whenever it comes before this House must be conducted on the highest level and that the House has a duty to lead and educate the public on the full implications of the different forms of punishment which the society will be administering. On the civil side, we must make our forms of execution not only to be easily accessible to people but to ensure that the judgments of the courts are properly carried out.

5.20 p.m.

This Bill to a large extent addresses some of the methods of execution on the criminal side. It is the machinery about which I have some reservation. I believe that the Court Process Act is in need of further revision. I believe that it was revised in the period 1976 to 1981. But in the light of our experience that Act should now be revised further and I will say to the Honourable Attorney General that again I believe he can make a strong case to the Ministry of the Civil Service and to the Judicial Service Commission for upgrading the head of the department which looks after the service of process and the administration of execution. I believe that the head of that department should be at the level of a Deputy Registrar. I am talking about the office of Chief Marshal. There is no doubt that it is too important an office for it to be so dilatory as it has been over the years in ensuring that judgments are executed and carried out properly. I believe that it needs to get into the modern technological age. I believe that we should use modern technology not only in that department but in the whole process of the Judiciary to improve the rate and pace in which our law courts function. I say this, Sir, because Barbados has become a leading financial destination. We have become this over a period of I would say the last 15 to 20 years. What is happening now is that the courts have begun to see the first spate of litigation arising out of the international business sector and business legislation. People who are coming to our jurisdictions in order to conduct offshore business or international business will not wait here if we have the sort of delays that we have been having in our society.

I have to speak in legal language on this, Sir, and I must ask if the public is listening at all to be forgiven. But I have to put it in the real legal language so that we understand what we are talking about. A person seeks an interim injunction because there is an abuse of the company's procedures and there may be something dealing with insider trading for instance and the price of shares is being effected or that the future of a patent is at stake. Therefore, you move the court swiftly for an interim injunction or an interlocutory injunction in order to hold

the *status quo* until the substantive matter can be tried. But that person may get that injunction at an unfair disadvantage without revealing fully to the court the true facts and that very injunction, although the Judge has acted properly on what had been before him, can ruin the whole process of business of an international financial institution, unless the other party can come before the court for variation of the injunction or curtailment of the injunction.

When the other party gets before the court, the court must act speedily and quickly and I am not satisfied that we are geared at this time either in terms of numbers or in terms of our procedure to deal with that situation.

I was in the British Virgin Islands earlier this year and recognized that they were following the Cayman Islands in setting up a particular court to deal with that situation. I am not sure that we need a particular court. What we do need however is an update of our legislation which is happening now and further updating of our procedures. I would go so far to say more judges. I know that we have increased the number of the Judiciary. But I still think that we have to go further. In the Bahamas today if we look at what is happening under Prime Minister Ingraham's Government, he is spending a tremendous amount of money in increasing the numbers of the Judiciary. Judicial training is being implemented. The terms and conditions of work are being upgraded and we have to follow that trend. We have started but we must let the public know that if we want high standards we sometimes must pay the price of that high standard. This is not putting lashes because I am talking to an Attorney General who like me understands the rule of law and who in this respect is a leader. He is not above criticism. He takes his criticism and his blows. His job in the Cabinet is one of the most thankless of jobs because he services everybody. I had the post so I know, I can talk from that position. You have to look after every department and sometimes they come to you without proper brief and you have to be able to deal with it from the Ministry of Finance back. I see the Right Honourable Member who was a Minister of Finance... But remember they send to the Attorney General and say that the Minister has made a budgetary statement in Parliament, please draw up the legislation and they do not give you any guidelines. So that is the sort of condition under which you act.

You also have the condition of shortage of staff, particularly parliamentary draftsmen. That is the sort of background under which an Attorney General's Chambers often function. But I would hope that we would make the money available for upgrading our Judiciary and our law courts. I understand that the Attorney General is once again looking at building new facilities for the Judiciary. Successive Governments have promised this. We must now get to the stage of implementing it. There was a time when we could never get money from international organizations

to help us in this respect whether it was the American Development Bank or bilaterally from the United Kingdom and United States. We all have approached them and despite their talk about democracy and the rule of law, they would never allow you to get a loan at the foreign exchange cost for improving the buildings and conditions under which the Judiciary functions.

I believe that time is changing now and I hope the Attorney General will be able during this period of the Government's life to convince, if not to complete, the new Halls of Justice and to put in as well the necessary technological changes that are necessary and that must come.

I understand that at the Community College we are about to start a course to train the Court Reporters and Parliamentary Reporters. That is good news, Sir. We tried it some years ago when Chief Justice Stoby was the Chief Justice. We brought a Barbadian from Canada who was quite an expert and we trained a few ladies here. Unfortunately, after that training, the machines disappeared and we never followed through, otherwise, we would have been ahead of Trinidad and Tobago and the other countries. I practise throughout the Caribbean and appeared in the British Virgin Islands some months ago. I was amazed that by the end of the day I had the whole transcript of the proceedings given to me within an hour of the court rising. The judge is in a position that on his screen he or she can look and see what the witness has said. It comes up there. Judges and Magistrates no longer have to take these things down in long hand because it saves time and you are dispensing justice more quickly; but there is a cost.

5.30 p.m.

The public must be told that they have to bear the cost if they wish a system of justice that is functioning properly. Not that we are saying that we are going to waste people's money, but we must be prepared to pay that cost and we must say as well to the balance of the Civil Service that there are some areas of the Civil Service in which we are going to have to pay salaries outside of the normal establishment order. I believe that the unions must accept this situation as well because it makes a nonsense to tie a judge's salary to the permanent secretary's all the time or indeed to tie a magistrate's salary to somewhere low down the order, as an administrative assistant, when the workload of the magistrates is so heavy.

On the other hand, you can just qualify and be an intern at the hospital and your salary is almost that of a High Court Judge who has had 15 years of experience and is exercising so much jurisdiction. We have to deal with these things in such a fair way.

Mr. Speaker, Sir, the Honourable Member for St. Philip South has drawn attention to some of the

reforming sections and I do not want to repeat what he has said except to say I concur. I think that these are tremendous improvements that have been made to the legislation and I believe that this legislation will certainly get the full support of the Bar. I am not a person who praises the Bar Association very often. I myself have had my great difficulties with them but I believe that they have made their comments on this Bill which would have helped with improving the Bill.

I hope the Attorney General will let us know what other programmes he has for law reform in this respect and I can only say that the Constitutional Commission is open to suggestions to assist in strengthening the Judiciary, its impartiality and its independence in such a way as to strengthen the rule of law and therefore to improve our democratic systems of government.

His Honour R. D. MARSHALL: I just want to raise two small points. I congratulate the learned Attorney General on his improvement of the Magistrates' Courts and the refurbishment but the question I am asking is that quite often you go to the Magistrates' Courts and you see vehicles, motorcycles and so on that were probably involved in accidents or were the cause of death and they are there all exposed to the elements. Now when a question is asked about that, some of the people at the police station will say to you that it is what they have to go through. It is time that we had some kind of protection for the vehicles because I would like to know at the end of the day when the case is completed who is responsible for that vehicle, whether it is the Government's responsibility.

The second thing I want to mention concerns the Magistrates' Courts, and we exhausted the topic on bail, but the Attorney General mentioned that where bail is concerned and a person is not in a position or feels that the person whom they have put up bail for is about to abscond he or she can approach the police station through some affidavit and say that the person is about to leave and they want to remove themselves from the surety. I want to ask the Attorney General what happens in a case when one knows that it is a liability and the person has found himself in a position financially because of some other commitment where he cannot now be responsible for the bail which is a liability. What happens in that case? I thank you, Sir.

Mr. B. M. TAITT: Mr. Speaker, Sir, I believe that my colleagues on this Side have spoken eloquently to our position on this legislation generally and I do not intend to repeat what they have so well placed in the record. I think that I would wish to share the view expressed by the Honourable Member for Christ Church West when he talked about an issue that I have raised over the years about the conditions of service for those who function in

the context of the Magistrates' Court. It is in that general framework that I would speak.

I believe, Sir, that the dispensing of justice in a society is perhaps the most important aspect of any society. I believe that except for the fundamentals of the provision of food and shelter and health that justice is the fabric within which any society will survive and one of the reasons why Barbados is still considered by those of us who have lived here and who expect to live here to be a place of civility is that justice is dispensed, generally speaking, in a manner that is known and acceptable to the majority of the citizens.

There are certain aspects of this legislation which concern me as I believe it would concern a number of other people and I shall speak to that in a few moments. I want to suggest that when the Attorney General brings this legislation to the House that perhaps there is companion legislation which ought to accompany this, for example, bail has already been done but in recent times the Magistrates who currently function in our jurisdiction have been trying innovative ways to avoid sending persons to prison.

Aside.

Mr. B. M. TAITT: The Attorney General is drawing to my attention that this matter was discussed by him in his Second Reading speech and, unfortunately, I was not here. To the extent that he indicated that a Bill for sentencing is coming, I will certainly be among those persons who look forward to it with a great degree of anticipation. It is very important, Mr. Speaker, that we regard the legislation connected with the deprivation of freedom of the individual as very important.

Mr. Speaker, it is a known fact that I am unfamiliar with the practices in the courts. Not having been trained in the field and not having spent any time around the courts, I am not going to pretend that I know the nuts and bolts of what happens in the courts. To the extent that I have had to deal however with constituents from the lower socio-economic brackets of the society I am fully seised of some of the difficulties with which they are confronted from time to time to the extent also that I have ongoing contact with some of the practitioners for varying reasons I am aware of some of the issues related to the Magistrates' jurisdiction. 5.40 p.m.

I am very pleased that on both sides of the House we have reached the point where we have accepted that functioning in salubrious conditions is a *sine qua non* of the proper dispensation of justice. I have addressed this issue when the Bail Bill was before us and I do not intend to repeat myself except to make the point which seemed

to have been misunderstood that persons who appear in the courts be treated humanely is not an indication of being "soft on crime" but rather is an indication of being hard on justice. I feel very strongly about these matters because, as I have said, the people who need these measures the most are those persons for whom we are constantly arguing that our major reason for existence as political functionaries is to see that these people receive a measure of justice.

Now, Mr. Speaker, I have wanted to believe that this legislation will carry us forward and that when this legislation would have been enacted that we would be in a position to say that we have moved into a modern era of our dispensation of justice.

I wish comfortably to look at the Administration of Justice Act of 1981 which is arguably the most advanced legislation in **any** Commonwealth country in the field and which, put in statutory form, a number of concepts which have been discussed and argued over time before and which, in the end, we had the temerity to bite the bullet, and which, I would say, have served us well in the last few years.

The Administrative Justice Act has been one of the bases on which many practitioners have been able to find essential justice for their clients where the older legislation and the legislation which existed before might have been deficient. I have wanted to believe that whenever we looked at legislation relating to the courts and the administration of justice that we would be moving in the direction of reform and advancement of modern day concepts.

Mr. Speaker, for the reason that these matters do not get reported in the popular Press, it is not fully known. I would suggest, that in the United Kingdom from which we draw our best examples in this field, that they have a number of reform Acts that have been placed on their statute books which make the administration of justice for those at the lower end of the economic scale much more efficacious than has been the case in the rest of the Caribbean.

An example, which I say only in passing because this is not a debate about it, has to do with what has occurred in the countries that are, strangely enough, not independent. The British Virgin Islands, Montserrat and Bermuda have been beneficiaries, or victims, depending on your point of view, of legislation passed in the United Kingdom. I have marvelled in the last few years that when some of the legislation was passed people in the respective territories reacted negatively at first and suggested that if there was any reason for having independence this business of the United Kingdom imposing legislation on them was sufficient cause.

One of the areas in which they have been very successful, in my view, is in the whole area of capital punishment. It is not known, because again it is not promulgated often, that in the British Virgin Islands, Montserrat and in Bermuda capital punishment has been abolished for all practical purposes. Since that legislation came into effect there **has** been no evidence of any increase in or intensification of the number of capital crimes in these respective territories.

It is something which some of us in these regions would do well to consider. In Bermuda, the British Virgin Islands and Montserrat, there has been no increase in capital crime, notwithstanding the fact that British legislation by virtue of the absence of independence in these **territories** has been imposed upon them and they have been functioning, I think, for the better, with their legislation.

I would have to say in passing, because, as I understand it, these matters are going to be discussed in detail **in** due course, that I have been saddened by the realisation that some of the people in positions of power in the independent Caribbean have perceived the creation of a Caribbean Court of Appeal as a vehicle for the carrying out of certain kinds of jurisdictional punishments, to wit, capital punishment and others.

There are some people who have wondered if one would have the temerity, as one person put it, to discuss these matters in public. But, Mr. Speaker, as Your Honour knows, there are some matters which one discusses in private which one has to discuss in public if one has to live with oneself. I am one of the people who, over the years, raised the issue of a Caribbean Court of Appeal and discussed it in the context of our jurisdiction, discussed it as something which is desirable from the point of view that any examination of decisions made by Judges at the court of first instance in the Caribbean which has gone through to appeal to the Privy Council over a sustained period of time will show that constantly the Privy Council has invariably agreed **with** the judgment at first instance as compared with the decision made at the Court of Appeal which, invariably, varied that judgment.

A comparative analysis done on that basis would show, therefore, that the competence of Caribbean Judges to assess legal issues, argue them effectively and come to conclusions that are not only justiciable but that are reasonable, is beyond any question for reasonable intellectually unchallenged persons. Mr. Speaker in recent times, unfortunately, the question of the establishment of the Caribbean Court of Appeal from which any decision of a Magistrate Court would ultimately go, the discussion has, fortunately, been framed in the context of the carrying out of a particular sentence or a particular system

of sentencing. Mr. Speaker, I never thought that I would live in my adult life to reach the point where I start siding with those who are in favour of, retention of Her Majesty's Privy Council, but to the extent that I fear that a Caribbean Appeal Court would be put together primarily for carrying out the perception of a majority of the people in the country, whose wish is to ensure that capital punishment happens. I have become very concerned because that cannot be the fundamental basis on which we agree on a Court of Appeal for the Caribbean.
5.50 p.m.

I say that in this debate to serve notice that I will wish to speak at length and forever on this issue when the time presents itself, but not today because this debate is limited as it is. Sir, I am able to refer to that because in this legislation I have found a measure with which I take issue with the Attorney General. I am disappointed that the Attorney General, who has demonstrated a capacity to understand these matters and to bring legislation of a certain kind, I take issue with it that he would allow this piece of legislation to come to this Chamber containing within it Section 71.

Now Section 71 of this legislation frightens me and I am going to refer to it. Section 71 innocently says, Sir, and I quote:

"Where any male person", now note that it starts off by saying any male person. I have always taken issue with that. You cannot have equality in a country and then have legislation for male persons, that excludes female persons. Listen to what it says.

"Where any male person who in the opinion of the Magistrate, is under the age of 16 but over the age of 7 and of sufficient capacity to commit crime, is convicted of an offence punishable upon the summary conviction, the Magistrate may, in his discretion"—

Mr. Speaker, Sir, "may in his discretion,"—

"In lieu of or in addition to any punishment to which he made be subject, sentence him to be privately whipped at the police station in the district in which the Magistrate's Court is situated by a member of the police force in the presence of a registered medical practitioner and a sergeant or police with a tamarind or other similar rod with not more than 12 strokes."

Mr. Speaker, I cannot and will not support that.

Asides.

Mr. SPEAKER: Please, let us continue.

Mr. B. M. TAITT: You do not have to be practising to know about this. Even now without the sanction of a magistrate they get beaten.

Asides.

Mr. B. M. TAITT: It has nothing to do with practice. It has to do with passing our legislation here. I am not going to support this. I am voting against Section 71, Sir. I want it to be registered. The Honourable Members on my side understand, if they are able to support it, I am not able to support it.

Asides.

Mr. B. M. TAITT: No amount of hollering at me is going to make any difference to me. You cannot pass legislation in 1996 for somebody between the age of 7 and 16 to be beaten in a police station because a Magistrate in his discretion feels that in addition to any sentence that he should order this person to be whipped. Mr. Speaker, we are not of that generation **anymore**. I do not mind if I am the only person in Barbados of that view. Let me be alone but I cannot support it, it makes no sense to me. I cannot understand how the Attorney General — I cannot understand it. It is no point indicating to me that that is what was in the legislation before. If legislation was there before and if I agree to legislation in the past we are now on the 17th day of December 1996 about to pass legislation and it is that legislation to which I am referring. There is no point anybody telling me of what happened in the past, what the common law was, we are here today and we are being called upon to pass that legislation and I cannot and will not support it.

There is no force on earth that can help me to agree to State violence. Mr. Speaker, why do men beat women and people are beating people in this country all the time, is because we keep perpetrating and perpetuating the concept of violence and we will not accept that violence is an illness. In this country, if the State is going to be the perpetrator of violence, how can we expect ordinary members of the State not to participate in violence? Beating of people is violence and because we were put at the stake and because we were whipped — I cannot understand how civilised persons in 1996 can discuss beating people with the Cat. They discuss beating people with the Cat as if they are talking about beating animals. They do not recognise that these human beings who are beaten, whether it is with a **tamarind** rod or the Cat or somebody's fist or your mother with an old clothes iron, that these were violent acts.

Asides.

Mr. B. M. TAITT: You have never seen the women that I have seen in my constituency who are battered

by people who have been battered themselves by people who say that it is a form of correction. I have seen mothers with children who are crying because they are uncomfortable. They dress them up in hot clothes and when the children start to cry, they spank them, Mr. Speaker, and they think that is correction. They think that is giving them...

Asides.

Mr. B. M. TAITT: Mr. Speaker, you know, Sir, because your Honour sees many of the results of this on a daily basis or you used to see when your Honour was able to **observe** – I do not know if your Honour still functions in that way – but you know in the school, Sir, you see many of these.

Mr. Speaker, the Honourable Members might think that I am being emotional. The Honourable Member said that I am being carried away. I have never been clearer in my mind, I have never been more sanguine and if you see passion in what I say, it is because I feel strongly about it. If we do not attempt at the level of the Parliament and at the level of the **government** to curb the concept of violence, we are never going to remove ourselves from the old society where beat and lock up was the order of the day. We are civilise persons. You cannot teach children at age 7 and 8 to speak French and speak Spanish, and to read books, and teach them about the Lord and show them how Christ came to change the conditions, and then on the other hand you are telling them to beat people as a norm. There must be another way of punishment.

Asides.

Mr. B. M. TAITT: The Honourable Members can undertake a discussion with me on Christ in the world **anytime**. I only have a half hour but I will say to Honourable Members that I disagree fundamentally with all of those clerics who seek to use old time history and old **time** theology to prove **and/or** to justify their own positions on violence.

Asides.

Mr. SPEAKER: Please, please.

Mr. B. M. TAITT: I do not have any problem with that. My position is one of love. It is rooted in the concept of love and if you say that you can love somebody by beating them, then you misunderstand what love is about. I have never understood it that way, Sir. I do not understand it that way. I understand it in the concept of what St. Paul advocated and what Christ himself said. But that is not the gravamen of my argument. I am saying that

on the basis of rationality, on the basis of what we have learnt and what we have accepted. The Attorney General is a person who has studied criminology, who understands human behaviour and yet I do not understand how the Attorney General can preside over this kind of approach to legislation. I do not charge him with any venal position as an individual. I just do not understand how we can have such disparate views on this issue when we seem to share humane approaches to other aspects of human behaviour. 6.00 p.m.

The Honourable Member for St. **Andrew** must get up and put his position on these issues rather than sit in his chair and seek to divert my position which is not capable of diversion because I would spend a substantial part of my adult life dealing with these matters in my own head. I do not need to be counselled, to be led or to be directed on these issues. I have taken my position in life on this. I do not have a problem with this Mr. Speaker. I am not going to be waffling as to where I stand and the Attorney General, even in a political campaign, acknowledged that this is my position. But the beatings in the legislation at this time disturbs me, not *per se*, although it does, but the fact that here we are, moving towards modern legislation, when the Chief Justice ruled in a relatively recent case that under the Prisons Act there was no provision for beating prisoners. There were people who jumped up and said we are going to have to pass legislation to do it, but in between then and now nothing has happened which suggested that not having the provision to beat prisoners had caused any outbreak or any difference in the behaviour of prisoners. Why must we **carry** it in legislation.

I am amazed that Honourable Members on that Side would be able to vote for this legislation without more... I believe that Honourable Members on both sides of the House would have to examine themselves to see if they can accept that a policeman in the police station, directed by a Magistrate, should beat somebody between 7 and 16. Mr. Speaker, one of the things which the Attorney General himself, when he was practicing law as a private practitioner, would recognise has been the bane of our system in this country is that there have always been policemen who were prepared not to do the kind of **foot-walking**, the kind of hard investigation that is necessary to arrive at a conclusion about a case. It is no secret that there have been policemen in Barbados from time immemorial who beat people for no particular reason. The only body who does not know about that is the Honourable Member for St. Andrew. That is not the Police Force, Sir. That has never been condoned by the Police Force. There have been bad eggs in the Police Force. I know about them **because** I represent people who live in small depressed neighbourhoods and I cannot come in here, cannot, will not ever come in here and agree that we must pass legislation for people to be beaten at a police station. The message is wrong. The signal is wrong.

Aside.

Mr. B. M. **TAITT**: You can beat them at the Queen Elizabeth Hospital. If you must beat them, go to the hospital so that there will be a doctor there when they faint. Listen, Mr. Speaker, the police doctor is as much policeman as the police. That is no secret. It is a fact. The police doctor on many occasions is as much policeman as the police. Mr. Speaker, I am not going to stifle my conscience. I have had too many of these situations to deal with for me to come in here and say I **am** going to agree to section 71. No, Sir. I establish beyond any shadow of a doubt, let there be no doubt in anybody's mind, I cannot, will not and will not ever support the beating of people as a normal part of our society.

Mr. **SPEAKER**: The Honourable Member has 2 minutes to wind up.

Mr. B. M. **TAITT**: The British have eliminated it and I have always been concerned why is it that we as a civilised people have to let somebody come from Britain or Switzerland or some part of America to tell us what is right for us. Why cannot we accept that there are human rights norms which have now evolved as part of the development of a society? Why do we always have to let somebody else come and tell us what is good for us? The British have imposed it on **Montserrat**, they have imposed it on the British Virgin Islands, on Bermuda, they have not suffered **anymore** than we have. Why cannot we evolve it? Why cannot we look as we have been doing and as we have evolved in other areas and come to the same conclusion. I am satisfied that within us we have the capacity to examine this matter, to discuss it in great detail but I do not think that now is the time in 1996 at Christmas time for me to be passing legislation to beat people between the ages of 7 and 16 in police stations and there is no Magistrate in Barbados that has the discretion that I accept, not one, Sir, but he is going to say this child should be beaten as opposed to that child.

Mr. Speaker, I say this to you, Sir, for the record. The Honourable Members in this House have children, all of us. Some of them are beyond 7 and 16. Mine are way beyond 16. There is not a child from any Honourable Member in here who is going before any Magistrate who is going to have any Magistrate expressing any discretion that that child should be beaten but I have some people down in Richmond Gap and Bank Hall and **Westbury** Road, and you have some, Sir, in Bush Hall and Quarry Road, those are the ones on whom the discretion will be exercised and to the question that those are the ones who steal, I say, Sir, that we must go before them. We must start dealing with the causes before we start coming up with these kinds of solutions.

Mr. Speaker, I am grateful to you, Sir.

Hon. D. A. C. **SIMMONS**: Mr. Speaker, we have had 2 days of debate on the Bail Bill and this Magistrates Court Bill. The Honourable Member for St. Michael South in his contribution said that the House is at its best in these types of constructive debate and he would wish that there were more of these, Sir, and less of the debates about the by-election and why by-elections were won and lost.
6.10 p.m.

Notwithstanding the last 15 minutes contribution from the Honourable Member for St. Michael West, Honourable Members have all been supportive of the legislation. The Honourable Member for St. Michael West finds clause 71 offensive. I will deal with that in due course. I understand his position, Sir. He made what I call an impassioned speech on the question of whipping. It is consistent with his attitude to the death penalty. But he is entitled personally to hold those views. I do not disagree with him and I **am** not upset with him. I only wish to say in passing that I do not think that he should find it incongruous that because I may hold certain liberal views in respect to punishment generally and the need for amelioration of the present penal system that I must necessarily find it incompatible with that attitude that a boy should not be told by a magistrate that, instead of sending you to Dodds for 3 years, what you need is a good whipping. I am going to ask the police at District C to give you 6 strokes with a tamarind rod instead of sending you to Dodds for 3 years. That is the effect of this. But we will come to that in due course, Sir. If he prefers that the boy should be sent to Dodds for 3 years instead of giving him 6 strokes with a tamarind rod however administered – fine. He has the choice but we will deal with those.

When certain Honourable Members were speaking, Sir, I made a little note. I had to shake my head at the time. I heard such wonderful things said about the legislation and what I am doing for improving the system and so on. I could not believe that I was in here when 2 weeks ago, not in here I do not get this abuse, but outside on the platform where I am not able to respond I heard all kinds of things. "If you just stump your toe, Simmons wants to lock you up for that. He has a lock up mentality – not in here across the table but out on the platform – my antecedents, how many convictions do I have, my parents, my father, all of that". The Advocate lied in the report? Anyhow, that is all right. I want them to curse me in here so I can deal with it on the Floor not out on a platform so I cannot respond.

Sir, let us get a couple of things straight before I get to this Bill. Now the first thing that we have to notice is the question of the illegitimate children. I want to deal with the illegitimate children first. The Bail Bill and

the Magistrates Courts Bill were sent to the political parties a year ago. We got contributions from the Judicial Council, the Judges, the Magistrates and the Police. The political parties had no objections to the legislation. I read last week where the Honourable Member for St. Michael South Central was called on the telephone and he said that he had spoken to me today on 6th January, 1995 advising that he had no substantial comment to make on the Magistrates Courts Bill. That was a note from the then Permanent Secretary. Section 71 that we hear about today has been out there in the public domain almost 2 years. This thing about whipping little boys has been out there in the Opposition offices for 2 years. Nobody has criticized it. Nobody said at the time when they were asked to send in comments – look, we do not like section 71. Nobody in either Party sent in comments. I tell you not to come in here and lie. 1994/12/15, Minute 39, Office of the Attorney General, Third Floor, Sir Frank Walcott Building, Mr. David J. H. Thompson, President of the Democratic Labour Party, Kennington, George Street, Belleville, St. Michael – I am forwarding to you copies of the draft Magistrates Courts Bill to you under cover of my letter 2104/9 dated 18 October, 1994 requesting that any comments that you wish to make on the draft and so on... more importantly dealing with the illegitimate children. This Order Paper on page 7 shows that notice of this Bill was given on 29th October this year. On that day everybody got copies of it. All of us got copies of it. The Bill was then gazetted on November 11, 1996. Honourable Members will recall that I said at the time that I would give a long time for Members to study the legislation, particularly the Magistrates Court Bill, because there were 290 clauses and we would deal with it after the by-election. Honourable Members had from October 29th until last week to read the legislation. I believe that Honourable Members should get copies of the Official Gazette as a matter of privilege or duty. You should at least subscribe to the Official Gazette and therefore you should have got the Bill when it came out in the Gazette on November 11...

Aside.

Hon. D. A. C. SIMMONS: Who? I am not winding up. Talking about winding up... I am submitting that we had ample time from October 29th until last week to familiarize ourselves with at least the general content of the Bill. The Magistrates Courts Bill I agree it is tough, it is dry and it is a lot, 290 sections. But at least Members could have got themselves familiar with the content of the Bill. So I reject any assertion from any quarter that anybody was treated like an outside child, illegitimate child or whatever because they had long enough, if they were interested, to read the Bill and understand it.

I go further...

Mr. L. R. TULL: Mr. Speaker, on a point of order. Last week, Mr. Speaker, I spoke on this Bill and I heard

the Honourable Attorney General making the reference that could only be directed to me. What was circulated and notice given is a completed Bill. I made the point at the time and I repeat it that a draft Bill was circulated and I understand the Honourable Attorney General is **saying** that he sent a copy to **the Honourable** Member for St. Michael South Central.

Aside.

Mr. L. R. TULL: I am speaking for myself. I heard the Honourable Attorney General say that he had sent a copy of a draft for a comment to the Honourable Member for St. Michael South Central and I said that I had not received a copy at that stage when the comments were being made. I saw the Bill when it was circulated after notice had been given in the House. By this time the Bill was completed, printed and circulated and I made the point that if I had seen the draft beforehand the very comments that I was making on the floor of Parliament I would have made at the earlier stage. So if there was any merit to the points I was making, they would have been taken into consideration in the final Bill that came before Parliament. That was the sole point I made and I would not want the Honourable Attorney General to add as an afterthought... Because it is not the point he took in relation to my comments last week. A lot of water has flowed under the bridge since then. The Honourable Attorney General may in view of the flood that has gone under the bridge feel that his reaction to my comments this week must be dealt with differently today to how they were dealt with last week.

6.20 p.m.

Mr. SPEAKER: Order, please!

Hon. D. A. C. SIMMONS: You will recall I was very careful, Mr. Speaker, to point out both last week and today that both of the Opposition Parties had copies of the Bill for comment and I quoted them. I repeat now that on January 6, 1995 the Leader of the **NDP** spoke to the Permanent Secretary in the Attorney General's Chambers and said that he had no substantial comments to make on the Bill. I have not changed that position. All I am saying is that I am refuting the point being made last week that people did not have enough time with the legislation, by saying the legislation was out since October 29. If anybody had comments to make they should have sent in comments then. We have not shown an unwillingness to take amendments on the Floor if we agree with them. Honourable Members know that, but we will make sure, just as we send copies of correspondence to the secretaries of various opposition parties, that we send to the Barbados Labour Party if that is what they want. I thought that that was what was being done.

Asides.

Hon. D. A. C. SIMMONS: He is not an outside child. He must not think of himself as an outside child. There can be no outside children in the Barbados Labour Party because the Labour Party is the party that by the Status of Children Reform Act abolished the question of bastardisation. It does not apply.

Rt. Hon. L. E. SANDIFORD: Sir, on a point of order. I am not dealing with mischief, but I wish to make the point that the question of circulation of Bills and of certain documents have been raised by me in this House already. The Member for St. George South is making a very substantial point very much in line with the point that I have made that when documentation is being put relating to all kinds of groups the only group which does not receive copies are Members of Parliament. That is what I interpreted the Member for St. George South to be saying, that he should have got a copy when it was being circulated. I am not dealing with mischief, Sir, because I had enough of that in my time. I am just making the point that with circulation we should consider the status of Honourable Members.

Hon. D. A. C. SIMMONS: Mr. Speaker, I hear the Honourable Member for St. Michael South. I really have to tell him that I will not give Honourable Members the assurance that every member will get a draft of legislation as soon as it passes Cabinet. What we have tried to do with a view to containing costs is to send the Bills to interested groups like the Judges, in this case, Police Magistrates, the secretaries or presidents of political parties on the assumption that they probably make copies in the political parties and pass them around.

What we wish to do is at a later stage when the Bill comes out is to make sure that everybody has a copy. In the meantime, you can send in your comments on the Bill. The Law Reform Committee takes comments.

Mr. D. J. H. THOMPSON: Mr. Speaker, on a point of order perhaps I should assist the Honourable Member unless, unwittingly, the House is misled not by him but by the various exchanges. Other than the comments of the Honourable Member for St. Michael West, and he was expressing his personal view which also has the support of individuals because we have always taken that stance in relation to that particular issue, there is nothing else in the Bill which we in the Democratic Labour Party are opposed, other than to write and thank you for sending us the Bill for which we were very grateful. This was part of the legislative programme of the previous Administration as well. Therefore, one should not assume that any comments which have been made other than our raising them as

individual parliamentarians to help in the process of having the highest level of debate in the House should detract from the fact that we support the position of this legislation and that should be made very clear.

Hon. D. A. C. SIMMONS: The only section that members found difficulty with and only the Member for St. Michael West expressed himself on is section 71, but I am dealing with the principle and it is important for me to deal with the principle of consultation by circulation of **drafts**. The very last thing that this Manifesto says on page 44 is:

"We will circulate drafts of major legislation to all political parties, to interest groups and interested members of the public to facilitate discussion and comment prior to their introduction into Parliament."

I tried to follow that by asking the Parliamentary Counsels when they have a draft like we are doing with the Copyright legislation to send it out. Some people hear that it has gone out. NCF called and then they wrote. Some other group wrote and said that they heard it was out and they wanted a copy. We tried to get it out before we bring it in here, to get the comments of the public so that when we come here the areas of dispute are narrowed. So this Bill has had wide circulation.

In relation to some specific matters raised by various Members. The Honourable Member for Christ Church West and the Honourable Member for St. Joseph spoke about the Court Process Office critically. I am grateful to them for their criticisms of the Court Process Department. There are problems in the Court Process Department which won't go away in a hurry. Perhaps, in due course, we will be able to take the necessary action to deal with the Court Process Department.

One of the fundamental weaknesses of that department is that in the establishment there is no provision for marshals who go on leave to have substitutes or who go on holiday so that we need to put that department on a completely different basis. When a marshal goes on holiday now, the work that he has is put to one side until he comes back. That is not good enough. This means negotiation with the Ministry of the Civil Service and the Ministry of Finance to get the additional staff to allow for rotation of personnel.

6.30 p.m.

Sir, I have to tell Honourable Members that there are, at least, three volumes of the Barbados Law Reports which we have just got. I do not know if the Honourable Member for St. Michael West was involved in any of them, but we have three volumes of the Barbados Law Reports and we shall be advertising early in the new year the fact that we have these volumes. We also have the...

Aside.

Hon. D. A. C. SIMMONS: We are also working to get the Laws updated. I am speaking to the Honourable Member for St. Lucy in particular, Sir. The problem with the Laws I have not really dwelt upon because I have tried as much as possible not to rake up the past but rather to look forward and go forward.

The Laws of Barbados were kept under the basement at Marine House. They were subjected to rats, bats, cats, water, dust, all kinds of external influences and, indeed, effluvia. The result was that when we assumed office nobody **would** volunteer to go down in the basement to **look** at the state of the Laws. The Permanent Secretary and I, and two ladies from the Department, put on some different clothes one day and decided we would go. What we saw was awful. We tried with a special team to get them out. We fumigated them. The Archives Department told us how to spray them and treat what we could. We salvaged and saved some, but the vast majority had to be thrown away.

We had nowhere to store them. We found a room at the Police Band headquarters. We stored them up there. We got three temporary clerks with the assistance of people in the Law Revision Department to try and prepare full sets. They tell me they have 36 sets almost ready.

Aside.

Hon. D. A. C. SIMMONS: These are not in bad shape at all.

We are discussing with the Printery the question of printing another set for us. I think they took quotations from two or three private printers. I suspect that eventually in the new year you might have to give a contract to the private sector to do the printing because the Printery claims they are overloaded, but I ask Honourable Members to hold. Early in the new year you will get your Laws **and** at least three volumes of the Law Reports will go on sale shortly.

Sir, the Honourable Member for Christ Church West spoke about the new court. I just wish to tell him that I am calling on him early in the new year as Chairman of the National Insurance Board to put together a consortium of insurance interests headed by the National Insurance, if I can get a couple of other insurance companies interested and involved, to fund construction of a new Supreme Court. We have a design. Plans have been done. We are not too happy with the original site at Passage Road. We think there is a better site in the old Foundry Building near to King **Street** over by the Cotton Factory, Sir, the one that

burnt down. We went on a tour with the Honourable Member for the City.

Aside.

Hon. D. A. C. SIMMONS: Opposite Charleton House. I did not want to give you any unfair advantage. We went with the architects and they have since come back and said that the design can fit on that land. We have to go through the problems now of acquisitions and if we can put together a local consortium to finance the building we can get that building started in reasonably short order. I think it is needed. Of course, when that is established, that will allow the possibility of centralisation of the Magistrates' Courts that the Leader of the Opposition spoke to last week. I think we need to have that facility first, clear out the present High Court and then move the Magistrates in there.

Sir, in relation to section 71 of the Bill, it is a re-enactment from the Democratic Labour Party in 1967, the then Democratic Labour Party under **Errol** Barrow. Look at section 63 of Cap. 116, and you will see that L.N. 16811967 is the same identical section **Barrow** brought in here.

Aside.

Hon. D. A. C. SIMMONS: All right. I am dealing with the history of it. It is in the same terms. All it boils down to is a discretion vested in the Magistrate to order a flogging, if he thinks fit, for...

Mr. B. M. TAITT: If the Honourable Member will give way, on a point of elucidation. In 1967, Sir, I was Consul General in New York and the year before I had a discussion with the then Premier of Barbados and then Prime Minister. Any of my colleagues will tell you that between 1967 and 1977 my position has invariably been the same.

The gravamen of my statement was not whether the thing existed in the law before. The gravamen of my statement was that as we were bringing new legislation, as we were moving toward the 21st Century, I was disappointed that the Attorney General continued to allow that clause to remain in the law,

Hon. D. A. C. SIMMONS: Just let me explain, Sir. It only says that the Magistrate has a discretion to order a flogging for boys between the age of 7 and 16. Now, I want first of all to tell Honourable Members that this 7 years will not continue much beyond 1997. The age of criminal responsibility in Barbados is too low. I feel confident that the Steering Committee on Penal Reform will recommend an increase from 7 to 12 but we

are criminalising children under existing law, not this, under the existing Juvenile Offenders Act. We are criminalising them at 7 saying that they are capable of understanding criminal conduct at that age.

I have every intention of changing it. Even if the Steering Committee does not recommend it I am going to recommend to Cabinet when the time comes that the age of criminal responsibility be raised to 12. However, as the law presently stands, if a Magistrate feels that in lieu of or in addition to any punishment which he might order that a child should be given a flogging he has a discretion. He can order not more than 12 strokes, that means from 1 – 12. It is up to him. He does it at a police station, by a police officer of that station in the presence of a doctor to ensure that the child is not brutalised and if he gets a scrape that it is dealt with.

6.40 p.m.

Now, headmasters in schools have the authority to order corporal punishment in schools and inflict it in schools. Now you are saying that a judicial officer should not have that ability to order a couple lashes for boys that are playing the fool. Are you saying that? Now I am hearing all this talk about 1996. In 1992 when the Honourable Member for St. Michael West was not only a Minister but the Minister of Health, he sat in here, voted and did not criticise the Sexual Offences Act, Section 37, I think it is.

Mr. B. M. TAITT: On a point of order, Sir, I moved that that section be struck from that particular Bill in here, and I asked the Member for Christ Church West to second it and he did not.

Asides.

Hon. D. A. C. SIMMONS: Section 37, Sexual Offences Act, the Democratic Labour Party, 4 years ago, in 1992 brought legislation in here which passed by a majority – he said that he did not vote for it. I cannot challenge him now because I do not have the Hansard but I am going to check though. This is what it says:

"Where any person – not a little boy you know, a big man – is convicted on indictment of an offence as specified in 3, 4, 5, 7, 8 – various sections, Sir, – the court may, the same discretion, in addition to the punishment awarded by the section – now hear this – this legislation says in lieu of, my legislation says in lieu of or in addition. His legislation did not say in lieu of, it gave one option – in addition to the punishment awarded by the section, direct that the person – it not only talked about male and female – if a male, be whipped". Four years ago, you did not

come with any gender equality, if male is what your party brought.

Mr. B. M. TAITT: On a point of order, Sir. I was against it then and I am against it now and I will be against it 4 years from now. Let the records show, Sir, and even if by any stretch of the imagination I agreed to it then, the point is that today I stand totally and completely against it, Sir.

Asides.

Hon. D. A. C. SIMMONS: Whipping, as we recognise is part of the law of Barbados, certainly since 1967, Sir, the Barrow legislation, it was provided for in schools. The Democratic Labour Party as recently as 1992 brought it in not to be used on its own but in addition to any other punishment for males to be flogged and now this legislation, all it does, is to say, Sir, is that the magistrates can deal with little boys by ordering a flogging for them, Sir, with tamarind or similar rod.

Asides.

Hon. D. A. C. SIMMONS: Sir, the Honourable Member is sitting, having made this big speech on his feet, saying that he would like some whipping for the men that interfere with little boys, Sir. You are not really concerned about whipping.

Mr. B. M. TAITT: On a point of order, Sir. The Honourable Member wants me to put it on the record. I said from my seat, why you do not start whipping the men who interfere with little boys.

Asides.

Hon. D. A. C. SIMMONS: You must not get too emotional about this whipping, Sir.

Asides.

Hon. D. A. C. SIMMONS: The Government is not prepared at this time, Sir, to abandon corporal punishment. In certain limited cases where we think that it may be beneficial to a youngster to pull him up sharp, Sir, or as a mean of denouncing vehemently, conduct such as the type spoken of by the Honourable Member for St. Michael West. For example sexual abuse and misconduct, Sir. I do not suppose it could be anything as defiling as the rape of a woman or some such sexual offence involving violence. The law reserves that right in appropriate cases to order whipping and we have provided for it, Sir, as a Parliament in 1992 and we are similarly providing in 1996.

Subject to those observations Sir, I take the Honourable Member for St. Joseph's point that

the Magistrates Courts and the Bail Bill will require a public relation programme as he said last week.

Asides.

Hon. D. A. C. SIMMONS: As part of continuing legal education, Sir, later on in the year we will have a seminar on the 2 pieces of legislation. Finally, Sir, for the avoidance of doubt let me also announce, Sir, that on Thursday I am taking to Cabinet the Limitation of Actions Bill, the Minor Offences Bill, and the Rehabilitation of Offenders Bill. If they pass Cabinet on Thursday, Honourable Members will get copies from the political parties within a short order.

Asides.

Hon. D. A. C. SIMMONS: Mr. Speaker, with those words, Sir, I beg to move that this Bill be now read a second time.

On the motion of Hon. D. A. C. SIMMONS, seconded by Hon. R. C. EASTMOND, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. W. C. C. CALLENDER in the Chair.
6.50 p.m.

Clause 2 was called and passed.

Part I, clauses 3 – 11, was called and passed.

Part 11, clauses 12 – 16, was called and passed.

Part 111, clauses 17 – 30, was called and passed.

Part IV – clauses 31 – 85, was called.

Hon. D. A. C. SIMMONS: Mr. Chairman, I beg to move that Part 1V, clauses 31 to 85 do now stand part.

Hon. G. W. PAYNE: I beg to second that.

Mr. B. M. TAITT: Mr. Chairman, I just want to draw to the Attorney General's attention, first of all section 41 as currently drafted, and I am only drawing it to **his** attention, suggests to me that there is a possibility of double jeopardy. I think the Attorney General would wish to take another look at this. I am not saying that it is. I am just saying that the way it is worded, it is capable of that interpretation. Examine the issue. I do not want to argue it. If you go before the court on an issue, according to this as it is drafted here – dismissal of an information for want of prosecution. But when a thing is dismissed for want of prosecution the matter has come before the courts and for whatever reason the police have not been able to make their case. It is a combination of **autrefois acquit**. The question I was really raising with you I am not saying that you need to redo this one. I am asking you to take a look

at it. It is a question of merit. What constitutes merit? I want you to examine it. You have a case where the matter is down for hearing. The fellow comes this week. He comes next week. He comes for 2 years. The Magistrate says, listen, this matter has been down here for two years, if you are not ready next week, through the eddoes. As soon as he goes outside **the** police arrest him, the same offence, the same information. What is that? I just put it out for you to...

Hon. D. A. C. SIMMONS: It would not really happen in practice because if it were a summary offence it would die after 6 months. So if it is dismissed in the 5th month, the police would have to hustle and get it back in in the 6 months period but they should not bring it back after the 6 months because it would die then on the basis of another section in here that says there is a limitation. But I think the principle of double jeopardy only applies when the case has been heard, people have given evidence, the Magistrate comes to a conclusion and makes a decision **autre fois** whatever. Then that is referred to as a trial on the merits. You cannot bring it back then. What the court is saying for want of prosecution is different because where evidence has been given the matter has been ventilated. You know what witnesses are going to say it and would then be contrary to principle to bring them back, put the man to face a similar kind of trial when everybody knows what everybody is saying. Here for want of prosecution you go to court time and time again, witnesses do not come and the Magistrate says I am dismissing this for want of prosecution. You have not heard anything so if he brings it back you are still in the same position. The only thing is you will end up having to pay two sets of fees.

Hon. D. A. C. SIMMONS: Clause 71, Sir, the Honourable Member did point out that he wished to record his dissent.

Mr. B. M. TAITT: Before you get to Clause 71, I would like to raise a question of 62(3). Clause 62, Sir, generally deals with this question where under any enactment whether passed before or after the commencement of this Act, a Magistrate has power to sentence an offender to imprisonment for a period specified by the enactment or to a fine of an amount specified by the enactment, then, the Magistrate may sentence him to imprisonment for less than that period or as the case may be to a fine of less than that amount. I have no quarrel with that because you are saying the Magistrate may vary any enactment downwards but not upwards.

Now when you go to section 3: Where under any such enactment a Magistrate has power to sentence an offender to imprisonment or other detention but not to a fine, then, the Magistrate may, instead of sentencing him to imprisonment or other detention, impose a fine.

Hon. D. A. C. SIMMONS: One example I can see of that off hand, Sir, is the Cane Fires legislation. There is no fine as far as I recall provided for in the Cane Fires Legislation. I would have to check but I think if you are caught lighting canes it is automatic prison and I think I had cause to say that last year, Sir. So this will take care of this. There may be one or two others but that is the only one I can remember off the top of my head right now.

Mr. B. M. TAITT: I really want to confirm that the Magistrate now... where there is automatic imprisonment, it is now varied by this legislation. This legislation now supersedes any legislation that has imprisonment automatically. Now Clause 71, Sir.

Mr. CHAIRMAN: All right. We now have to take clauses 31 to 70.

The question that Clauses 31 to 70 stand part was put and resolved in the affirmative without division.
7.00 p.m.

Clause 71 was called.

Mr. B. M. TAITT: In the interest of time, Sir, my position has been put. The Honourable Member can record my position. The Honourable Member for St. Lucy can get up and say...

The question that Clause 71 stand part was put and resolved in the affirmative with the House dividing as follows:

Ayes: Hon. D. A. C. SIMMONS, Hon. R. C. EASTMOND, Hon. Miss M. A. MOTTLEY, Sir HAROLD St. JOHN, His Honour R. D. MARSHALL, Mr. H. deB. FORDE, Mr. J. M. EDGHILL, Mr. D. CARTER and Mr. G. A. CLARKE – 9

Noes: Mr. F. J. STUART, Mr. B. M. TAITT, Mr. J. O. TUDOR and Mr. D. St. E. KELLMAN – 4

Clauses 72 – 85 were called and passed.

Part V – Clauses 86 – 108 was called,

Hon. D. A. C. SIMMONS: Mr. Chairman, just above the arrangement of Section 103, you will see the word "cost". I wish to add the "s" there. Is it there? Okay. Oh, yes. My Bill did not have it.

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

Part VI – Clauses 109 – 125 – was called and passed.

Part VII – Clauses 126 – 137 was called and passed.

Part VIII – Clauses 138 – 145 was called and passed.

Part IX – Clauses 146 – 208 was called.

Hon. D. A. C. SIMMONS: Mr. Chairman, I just want to point out to Honourable Members in case they do not have the circulated amendment that in Clause 147 (1)(d) there is an amendment consequential upon the passing of the Defamation Act. We no longer have the distinction of libel and slander in Barbados. So that we delete the words for libel and slander and substitute for defamation. In addition, Sir, section 206 of the draft was confusing because it seemed to have put a limitation that would have been at variance with other law dealing with limitations of prosecutions and actions. So we have deleted the whole of 206 (1) and have substituted the draft as circulated which now says:

"Notice in writing of an action or prosecution to be commenced against any person for anything done in pursuance of sections 183 to 205."

Then what is presently sub-clause (3) becomes sub-clause (2). Subject to those amendments, I beg to move that Part IX stand part.

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

Part X as amended – Clauses 209 – 228 was called and passed.

Part XI as amended – Clauses 229 – 237 was called and passed.

Part XII as amended – Clauses 238 – 267 was called and passed.

Part XIII – Clauses 268 – 270 was called and passed.

The First Schedule was called.

Hon. D. A. C. SIMMONS: Sir, I beg to move that the First Schedule be the First Schedule of the Bill.

Mr. B. M. TAITT: I have a question on the First Schedule, Mr. Chairman. I want to ask the Attorney General and by extension the Honourable Members. Did the Honourable Member ever consider first of all that parish boundaries do not exist? The law concerning the parish boundaries has been repealed and there has been no substitute. That is a fact. Check it. But that notwithstanding, I want to ask the Attorney General should we not by now consider that these divisions are

out-of-date? These jurisdictions are completely out of date. It seems to me that we could successfully consider Barbados as a single jurisdiction. I am thinking now in terms of efficiency. Instead of having a Magistrate at District A, it seems to me that if you had the country in one jurisdiction and you could have **x** numbers of Magistrates we would get a lot more work done. We would get a lot more production out of the Magistrates' Courts than now where you have a situation where offences are related to geographical locations.
7.10 p.m.

If you examine the workload and the methodology that is used, it would seem to me that a number of cases could be divided up on entirely different grounds and it would help in terms of the administration. It is something that is worth studying. I don't think you could willy-nilly make a decision. I would recommend to the Attorney General that he give some serious consideration to study this question of jurisdiction. These jurisdictions worked very well in the old days when Magistrates used to come in a buggy but nowadays when everybody is able to move **from** point A to point B in half an hour or less it seems to me that there is merit in examining whether these jurisdictions are still relevant.

Hon. D. A. C. SIMMONS: Mr. Chairman, the **Honourable** Member has made an important contribution. I am not going to argue the law now. It was pointed out to me that the parish Boundaries Act still exists as Cap. 10A. I have it here. I remember there was an argument **once** in here about it. However, I just want to draw the **Honourable** Member's attention to section 6(2) and read it together with section 9 of the Bill.

"The Minister may by order increase or decrease the number of magisterial districts or may vary the extent or boundaries thereof and require that one or more courts be held in each district."

So I have the authority to look at this matter and re-arrange magisterial districts after due consultation.

The question that Schedules 1 to 8 be the Schedules to the Bill was put and resolved in the affirmative without division.

On the motion of Hon. D. A. C. SZMMONS seconded by His Honour R. D. MARSHALL, Mr. CHAIRMAN reported to Mr. SPEAKER the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On separate motions of Hon. D. A. C. SIMMONS seconded by Hon. R. C. EASTMOND the Bill was read a third time and passed and the title read and agreed to.

SUSPENSION

Hon. Miss B. A. MILLER: Mr. Speaker, I beg to move that this House be suspended until 8.15 p.m. this evening.

Hon. D. A. C. SIMMONS: I beg to second that.
7.19 p.m.

RESUMPTION

Mr. SPEAKER: This Sitting is resumed. Order No. 13.

ORDER NO. 13 – RESOLUTION TO APPROVE THE GUARANTEE OF THE PAYMENT OF A LOAN OF \$22.6 MILLION BY THE CITICORP MERCHANT BANK LTD. TO THE BARBADOS AGRICULTURAL DEVELOPMENT AND MARKETING CORPORATION

Hon. R. C. EASTMOND: Mr. Speaker, in moving that the current Resolution be passed by this Honourable House, I want to give some background information as to the reason for seeking parliamentary approval for the guarantee of \$22.6 million for a loan which the Barbados Agricultural Development and Marketing Corporation is seeking to raise.

Mr. Speaker, prior to 1993 we had two disparate and separate entities in Barbados, one called the Barbados Marketing Corporation and the other one called the Agricultural Development Corporation which operated entirely on their own with the ADC set to perform a developmental function for agriculture in Barbados while the Barbados Marketing Corporation was supposed to have performed a marketing function, especially on behalf of small **farmers**.

The Government of the day in 1993 saw fit to merge these two entities. The reasons for the merger, as were outlined in 1993 were:

1. To develop agriculture and to operate and participate in such agricultural projects as the Minister of Agriculture may approve.
2. To facilitate Government's policy with respect to rural development and land reform.
3. To manage on a commercial basis such plantations and other agricultural land as may be vested in the Corporation in accordance with the Government's agricultural policy.
4. To stimulate and improve the production and processing of produce.

5. To stimulate and assist with the marketing and sale of agricultural produce locally and externally.
6. To import produce; and
7. To facilitate the development of agricultural programmes for the youth and the development of agricultural cooperative societies.

These were the stated objectives, Mr. Speaker, in 1993. I would want to indicate that at the time of the merger a situation had already arisen where the Agricultural Development Corporation had for a long time been chalking up considerable losses and where even though the Barbados Marketing Corporation was apparently in a state of complete solvency, the facts are that the Barbados Marketing Corporation's accounts at 1993 could not be properly verified. Some time before 1993 the BMC's accounts were in a parlous and unhappy state and insufficient information was available on the BMC's side as far as the accounts were concerned.

I can, however, tell this Honourable House, Mr. Speaker, that at the date of the merger, the new entity, namely, the Barbados Agricultural Development and Marketing Corporation, started off with a cash liability of \$12 643 271 so at its very birth, at the outset, this new entity started with a cash indebtedness in the amount of \$12 643 271. At that very time there was no indication as to what capital either by way of a huge lump sum or by way of actual working capital would be invested.

We had a situation, Mr. Speaker, where a new entity started its life with massive indebtedness, a financial burden around its neck and, at the same time, there was no fresh capital injection to get things going. Indeed, within a matter of weeks after the entity was started, a situation arose where some 57 persons were hired to work at the BADMC in a situation where, quite often, job descriptions were not crystal clear and where they could not have been seen as anything more or better than persons who were given the opportunity to work there as a result of hard and severe representation being made by particular politicians who used their influence to place them there.

This situation, Mr. Speaker, developed in such a way that from the start the Corporation was cash strapped. Despite its objectives it was not headed in a particularly proper direction. In addition, the management of the Corporation at the time inherited a situation where there were workers coming from the ADC some of whom were taken back, I believe, *moreso* through generosity than anything else. The management at the time found it very hard to properly stimulate staff effort for the reason that a large number of the staff members had no clear job

descriptions and might not really have been needed to perform meaningful work.

Mr. Speaker, a situation developed where, as time progressed, between 1993 and 1994 and beyond, the ADC side continued to represent a severe strain on the BADMC. I should say that the ADC even before the merger was a Corporation that was created in circumstances where a number of plantations that had failed in the private sector were somehow taken by a quasi governmental entity in the name of the ADC. These non-performing estates that had never performed prior to their coming under the aegis of the ADC, continued under the ADC to misperform and represented a severe burden for the new BADMC to carry.

As I indicated, Mr. Speaker, this particular side of the BADMC's operations continued to put severe pressure on the finances of the Corporation to such a degree that some time this year, after a lot of probing and pushing, and a hard effort to get hold of important financial data, we came to a situation where we realised that the Corporation had proceeded along a path where it had become financially strained to the point of *bankruptcy* and where the Government had to intervene to find some formula by which a very grave situation could be reversed.

The upshot of it all, Mr. Speaker, is that in circumstances where this Government has decided that sugar production should be given a boost and where we should redouble every effort to increase sugar production to the maximum that we can achieve, we decided to take the estates that had been placed under the BADMC, these estates being Bath, Spencers, Spring Hall and Fairy Valley, from under the control of the Barbados Agricultural Development and Marketing Corporation and we have transferred them over to the BAMC, which is a totally different entity, for purposes to permit the BAMC which is better equipped to handle estates like these, to use these estates to enhance sugar production. In fact, we are confident that the estates taken from the BADMC when they get going under BAMC will be able to increase sugar production while, at the same time, adding a measure of diversity to agricultural production in Barbados.

I should mention, however, Mr. Speaker, that in the process some 212 workers formerly employed at these estates, Bath, Spencers, Spring Hall and Fairy Valley, have been severed and paid what we call in law, "notice money," that is, money that is paid to workers in lieu of notice. I believe that in Labour law if you give a man actual notice of 4 weeks, 6 weeks, whatever is the required notice, there is no need to pay but if you do not give proper notice you have to pay. The payment in lieu of notice and the vacation money granted to these workers who have been severed from Bath, Spencers, Spring

Hall and Fairy Valley, has come to \$254 556.37 and has already been paid.

Aside.

Hon. R. C. EASTMOND: Two hundred and twelve persons in all. I should indicate, Mr. Speaker, that of these 212 persons some 21 were over 65 years, therefore, could not qualify under Cap. 355A, the Severance Payments Act, but as a matter of humanity, out of all consideration of altruism, notwithstanding the fact that they were **disqualified** from getting severance under the Severance Payments Act, we paid these people and will be paying severance to these people.

In addition, Mr. Speaker, I can inform you that 11 workshop staff members have been severed.
8.25 p.m.

The Motor Tractor Cultivation Scheme which had not been performing, and which despite a type of sentimental attachment that some Barbadians have about it, which operated at a substantial cost became a variable cost centre and never a profit centre. The Motor Tractor Cultivation Scheme has been finished and Mr. Speaker, I can say that from the Motor Tractor Cultivation Scheme the amount of people going from there should come to no more than 18 and these 18 employees have received the amount of \$49 587.14 for vacation and pay in lieu of notice and severance in the order of \$176 491.70 will be paid hopefully in the week beginning December 16th.

Asides.

Hon. R. C. EASTMOND: Mr. Speaker, the Minister of Finance a couple days ago approved and transferred money to cover that.

Asides.

Hon. R. C. EASTMOND: Mr. Speaker, of note too is that 25 persons have voluntarily decided to terminate of their own volition their relationship with the BADMC, these are persons that have voluntarily left. I want to say that the National Union of Public Workers, having been **taken** into the confidence of the BADMC has been very understanding, very emphatic and so far what has transpired has so transpired without any massive industrial dislocation or lay offs or any massive industrial relations fallout.

Mr. Speaker, I would want to say in regards to the actual financial resolution before this Honourable House that its purpose is to raise money to clear debts in the amount of \$19.5 million and even though the loan that we are seeking come to \$22.6 million, we are hopeful that the

surplus \$3.1 million will go as a capital injection. In actual fact we are going to take \$19.5 million to pay our debt and the balance would go towards capital injection, we are going to have a leaner and smaller corporation and I would want to say, Mr. Speaker, trying to be as brief **as** possible, Honourable Members who have been here. for some considerable time, I would want to say that even before our administration **the** BADMC was not paying the Insurance Corporation of Barbados any money for insurance cover on its vehicles. Even before our administration, Mr. Speaker, the BADMC was not paying National Insurance, even before our administration the BADMC was not paying PAYE, and in fact, had chalked up a reputation in the financial community as having been a corporation of considerable dishonour, it had no credit rating whatsoever, no credit worthiness and this Government has decided to do something by way of seeking to restructure it and to give it a new lease on life.

Mr. Speaker, nobody on this Side is happy that we had to sever workers, but what we are saying is that what we are doing is setting out, Mr. Speaker, to see if we can bring a new style of governance to the BADMC. A new management structure has been proposed for it, it is to go to the Board of Management of the BADMC shortly and we are looking at ways and means by which we can redirect and re-focus it in a way where the history it has had for the last 6 or 7 years will not be repeated. We think that since the cost centre of the estates are not now with us, that we have an opportunity, where on the commercial side of various commercial undertakings will show some profitability.

I take it that in Barbados there is some doubt as to what this corporation is really all about. One of the critical things about this, even before the merger, is that the small farmer in Barbados was often disadvantaged in the market place for **years**. The small farmer, a specialist producer producing root crops, vegetables and live stock, often found that he did not have the time or the expertise to undertake his own marketing and for sure the BMC side was able to set up various departments to permit small people who would not have been able to do their own marketing, for one reason or the other, to be able to have a system in place run by the State by which they could market their produce. A lot of them are of the view that to that extent the marketing side of things as they are designed to assist the small farmer would play an important part.

We are hopeful, Mr. Speaker, that in the restructuring, a process that has started but which is not yet complete, that in the restructuring we are going to have a situation where we can pay more attention to exports, we can pay more attention to serious economies, we can pay more attention to having a management culture evolve that would allow for the objectives of the BADMC to be achieved.

Mr. Speaker at this point I will just simply ask that this Resolution do now pass and that if any Honourable Members have any queries or questions I shall gladly respond to them in my sum up speech later on.

I thank you.

Mr. D. St. E. KELLMAN: Mr. Speaker, I have listened to what the Honourable Member for St. James North had to say about this loan and I was hoping that he would have been able to tell us how they were hoping to finance this \$22.6 million. After one listened to the statistics given by the Honourable Member of St. James North, it is clear that Government could have done without guaranteeing this loan and they could have taken on this loan as a loan from the Consolidated Fund. It is clear in my opinion that the BADMC would not be able to finance this loan.

Asides.

Mr. D. St. E. KELLMAN: In less than a year this \$23.1 million will be used up to service loans and also overhead expenses because he has not shown me in any way that they would be generating enough revenue to run the BADMC as it stands. I think that it is regrettable, Sir, that these workers would be just tossed out of the BADMC without negotiating with the BADMC because, Sir, when the BADMC took over they negotiated with the plantation owners, who were the managers, and they made sure that the plantation workers, the supervisors and managers got jobs. I want to know what will happen to the poor workers that were working for the BADMC. What guarantee do they have? Am I to believe they have to wait on you, Sir, the Honourable Member for St. James North and his board, Sir, to find out whether they are going to be getting severance or not, because as it stands now there is a promise that they will get severance in the week of the 16th which has already started and they have not received that money as yet.

8.35 p.m.

I want to know, Sir, whether they are still planning to sell those tractors to the workers who worked with the tractor unit, the ploughing scheme. I want to say from the Floor of the House now that I want those workers to see those tractors and leave them alone because if the BADMC, with all the finance they had, could not make it profitable I cannot see how those workers should be saddled and made to take their severance to buy those tractors that are useless. Some of them have not been licensed for years and some of them have been starved of parts and now we are asking poor people to take their severance and invest in tractors that are useless.

I think it is shameful and disgraceful when you get a Government that claims to represent the interest of the poor

man in this country asking those workers to buy those tractors. I would hate to believe that the Honourable Minister who happens to be the Honourable Member for St. James North is party to this. He cannot be party to this. What is also most disgraceful is that some of the people they are offering them to come from the beautiful constituency of St. Lucy. You really expect those workers to take your advice when they could come and get advice from their representative on financial matters.

Mr. Chairman, it even goes a step further. We have calculated how to destroy the small farmers in this country and it is not only that but a move like this will make sure that all the land they have would be idle. I want to find out from the Minister what alternative has been put in place to make sure that those small farmers can get their land cultivated. The scheme has been closed down and it has been offered to the workers who will not accept it because any worker accepting will have to be from other constituencies because I say anybody who accepts this proposal would need their head examined after listening to what the Minister said.

As you know, Sir, Spring Hall happens to be in that airport belt so I want to tell the Minister to tread cautiously as to how he utilises the land in the Spring Hall/Spring Garden area because as I have said Spring Hall is very level and anybody who knows about the flight path of Barbados would tell you that Spring Hall is in the perfect flight path of Barbados.

I do not want to argue with anybody that the airport that we have right now is in the wrong location but anybody who knows about airports would easily argue with anybody in Barbados that the airport that is in Christ Church should really have been in St. Lucy because if one looks at the path of all flights coming into Barbados one would realise that the airport that was built in Christ Church was really built in the wrong place. I believe that I have the support of the Honourable Member for Christ Church South. He would not admit it on the Floor of the House but he knows that St. Lucy was the right place for the airport. And to show you that the Government is convinced that the airport should have been in St. Lucy on the land at Spring Hall, they have already moved the fire engines to St. Lucy, even before the airport is built. They moved those fire engines to get away from the FAA but it did not work out. The Grade 1 still moved to Grade 3 but they dumped them in St. Lucy. So I do not know if there is a plan that somebody has finally realised that there is a need for an airport, whether it be a small one or a large one.

Sir, that will not stop me from saying that the BADMC has been blessed by many good leaders. We were even fortunate that one of the people that ran the

ADC happens to be a Prime Minister. The Right Honourable Member for St. Peter was on the Board of the ADC.

Aside.

Mr. D. St. E. **KELLMAN**: I am not prepared to say that but if you want to say he ran it into the ground that is left to you. You know I would not say that. You see, Mr. Speaker, when one looks at their proposal one must ask where **are** we going. It is clear to me, Sir, that we are just throwing away money by pumping more money into the BADMC without a plan. There is no plan for the BADMC and the report that was done on the BADMC, Sir, they have not followed that Report. It is true that the right thing they have done so far is to transfer the land to the BAMC and they would not admit that that was not their recommendation. That was the recommendation of the Honourable Member for St. Lucy who happens to be now speaking.

Mr. Speaker, I have witnesses to this because when the Honourable Member for Christ Church East was given 6 months to put in place the supposed management plan and we had to discuss the Resolution this Assembly, Sir, I said to the Prime Minister and Honourable Member for St. Peter at the time that it does not make sense to ask the Honourable Member to make sure that the BADMC is reorganised in 6 months, that what he needed to do was to transfer the land to the BAMC. I even asked for something else. I asked that the sugar that is imported should go to the BAMC, also the chicken wings and the onions. People lambasted me for it and I will still stand by it and I will tell you why. The BAMC is today still servicing the bond that the BSIL borrowed and I feel that if there is **any** entity that should have been visited for any profitable produce, it should be the BAMC because the same way they have to service the bond they should get the onions, the sugar and the chicken wings. But if they are saying now, Sir, that they are going to keep them and they are going to turn everything around and it is going to be profitable I have no problem with that but I want to see you servicing this loan because I do not want the Minister to come 2 years from now and tell me that the deficit is \$22.6 million. He said before that he started with a deficit of over \$12 million and now when this loan is given to the BADMC he will have equity of **\$3.1**. You said those words. So BADMC finally has equity. They can now negotiate and pay their debts. So we expect that when we look at the total equity next year that it is not **\$3.1** but it will be probably **\$5** million going by what you have stated here today.

8.45 p.m.

We also will expect, Sir, that that severance payment will be paid shortly before Christmas and the workers will

be offered, as I said before, an opportunity to get employment with the BAMC, because I feel in the same way that other plantation workers were given an opportunity to be employed by the BAMC that those workers who worked on the Government estates in those trying times should be given an additional opportunity to get back their jobs. I am saying that in the same way the BAMC will have to employ new people to do their jobs, that those new people should really be the old ones that were working on the BADMC estates. Because also in the same way the people who worked at Andrews and Blackman's got back their jobs, the ones who worked at Spencers, Fairy Valley and Springhall should get back their workers. I feel also that in the same way they worked hard in cotton when some weeks they were not sure if they were going to be paid or not that they should be entitled now to get on a **payroll** so they will be guaranteed some payment. We know that whenever the BAMC needs money that they have this Parliament and it was a good restructuring.

Finally, Sir, as you know Springhall happens to be in St. Lucy and yesterday we had a lot of rain, and it is beyond Judge Gap. Yesterday, we had a lot of rain. You know that whenever there is rain in this country we have problems with roads and I am saying that, if this Government is not prepared to **repair** the roads in St. Lucy, the truck should not be allowed to come into St. Lucy to take out the canes. We cannot afford to encourage them to continue damaging the roads in St. Lucy when there seems to be no plan for repairing those roads. Everybody knows, Sir, that a truck will be coming in empty and it will be going out with a full load and there will be more pressure on the roads. We cannot continue to have a situation in St. Lucy where now we have roads in the potholes. We cannot afford that, Sir. We have roads in the potholes and it is easier now to see the potholes than to see the roads we have in St. Lucy. Do not blame it on my Government. We have been having rain since September 6th and you know that I do not like talking about rain because, whenever I talk about rain, it comes in floods. I am saying, Sir, that everybody knows wherever you get a lot of rain that the road automatically breaks out into potholes. But it seems to me that, even though St. Lucy has been getting the most of the rain, we have not been getting the most of road repairs. Sir, I would like to see the same attention that has been paid to the south of the Judge Gap paid to the north whether it is St. Peter or St. Andrew. I am very grateful that my friend from St. **Andrew** can finally get some roads done for himself, but I would like him to know that I am also from the north and not to leave all in St. Peter but to leave some in St. Lucy also. Thank you very much, Sir.

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

Mr. W. C. C. CALLENDER: Mr. Speaker, Sir, I rise to speak on this matter. I noticed that the intervention

has been expedited because my name has been called into this debate. I heard reference being made by the Honourable Member for St. Lucy to a business plan and I would not like to show him my business plan but I will deal with the business plan that I am hearing about now.

Sir, I am glad to see that this Government has decided that in moving into a new era with this corporation that is about to settle its debts of \$19 million and nothing has happened in the past when there were debts of nearly \$8 million of the BAMC and nearly \$5 million of the ADC which were not dealt with when the BADMC had been incorporated. The fact that the debts that have been allowed to remain on the books meant that the BADMC stands out as a saddled corporation with these excessive debts. This obviously shows that there was no clear planning for the corporation and I am rather surprised that the Honourable Member for St. Lucy should now be speaking in such a manner when debts are being cleared.

Mr. D. St. E. KELLMAN: Mr. Speaker, on a point of order. I cannot honestly see how someone could get up in this Assembly today to claim that debts are being cleared when you are borrowing to clear debts.

Mr. W. C. C. CALLENDER: Mr. Speaker, Sir, a number of these debts have been long outstanding debts which should be cleared and this is a consolidation of that debt to a number of the people who are still crying out to be paid and who should have been paid by now. So at least it is an improvement on a previous situation where those debts were allowed to accrue. You had all of these debtors and it therefore meant that the corporation became very difficult to manage financially. Sir, it also brings to mind the fact that, even though this is an improvement on the previous situation, we need to look at whether this \$3. million would be adequate to deal with this new corporation in the future. I do not know what the name of the new corporation will be. I am hoping that it will not be the BADMC since the BADMC probably spells something that is bad.

I am particularly concerned because there are a number of grey areas in the plans for the new corporation. What I do know is that 200 people are going home and I want to be sure that these 200 people are going to be looked after. I know that they are going to get severance but I am hoping that the BAMC will find it possible to hire as many of these as possible. I am also hoping that some of these people who have been sent home will be given the opportunity to lease some of these lands. It is unfortunate that the Fairy Valley Estate which is one of the good areas of land that is owned by the BADMC cannot be leased to some of the workers. I understand that some of the workers at Fairy Valley would like to lease Fairy Valley but

arrangements have been made for it to go to the BAMC. I am hoping at this stage that it is not too late that those workers there cannot be given the chance to lease some of this land for vegetable production or whatever. Because I have been told that some of them want to lease the land at Fairy Valley.

Sir, I believe that the importation and distribution of poultry parts, which the Honourable Member for St. Lucy was referring to which he felt should have gone into the hands of the BAMC, should remain with the present corporation since this is a great source of finance. As he is aware, this is one of the revenue generating areas of the BADMC at the moment. I think it would be foolhardy to give away the revenue generation part of the BADMC to somebody else unless he himself wants to sink the BADMC and have more workers go home. This is what he is saying. I am for BADMC's retention of the importation and distribution of poultry parts. I know that in the past there was some difficulty with the poultry producers, especially as it relates to chicken wings, but it is a source of revenue generation and if it is going to keep people at the BADMC employed, poor black people as we talk about so much in here, then the importation and distribution of poultry parts should remain with that corporation.

8.55 p.m.

Sir, I also believe too that the airport shops should remain with that corporation and any private persons interested in those shops should be told that they will have to hold on because those shops will ensure that these same people will be allowed to maintain a job. This is one of the aspects of the BADMC that makes a profit. The duty free shops and the two shops in the courtyard of the airport, those three combined make a profit and there is no reason whatsoever why those should go to private enterprise if we are speaking about maintaining the jobs of people who now work there. I am happy to see that the airport shops are being retained.

I believe that the importation and distribution of raw and refined sugar will soon be phased out because as we produce more sugar that will phase out. As it stands at the moment...

Mr. D. St. E. KELLMAN: I want to remind the Honourable Member for Christ Church East that you cannot just talk about raw sugar. There is also something called granulated sugar and there will obviously be a need to import that.

Aside.

Mr. D. St. E. KELLMAN: The Honourable Member is saying that refined and granulated sugar is the same thing, and I take his point but, we do not make refined sugar in Barbados.

Mr. W. C. C. CALLENDER: I am happy to see that these are still being retained by the corporation because these are sources of revenue. I am making the point that the revenue generating aspects of those corporations need to be repaid by that corporation so that we can be sure that the poor people of which the Honourable Member for St. Lucy speaks about so much can retain their jobs, so that no more people will be sent home from that corporation.

I am concerned about another aspect. I am reading in a document about certain aspects of the corporation being cost effective in offering support services to farmers and so forth. We speak of cost effectiveness as it relates to the irrigation scheme. If cost effectiveness means that we are going to increase the cost of these services to these poor farmers, then I do not think that I can readily agree to that because the poor farmers find it difficult to pay for their water already. The poor farmers of Wilcox are finding it difficult as well. The poor farmers of Fairview are finding it difficult already and when we look at the support services, if the costs are going to increase it will also make it more difficult for these poor farmers. Therefore, what will happen is that it will reduce the employment level in that area.

I am watching this word "cost effectiveness" and I will be monitoring to see if this means an increase. In all parts of the world, and I think I have made this point before, agriculture is subsidised and is linked with rural development, linked with the port, linked with the peasantry and, therefore, I believe that if we have to subsidise these services then we have to subsidise them. I am hoping that this cost effectiveness does not mean a heavy imposition on the poor farmers of rural Barbados.

Aside.

Mr. W. C. C. CALLENDER: I am looking forward to seeing what this new corporation is named. I believe it should be run very efficiently in the sense that you have to look at new services, new crops, new markets and I would hope that this \$3 million will not run out so fast that we have to come back to Parliament or that we have to lay off any people. Neither one of the two I want to see. I hope that the plan that is in place has a vision which is directed towards the efficient running of the corporation without impacting on employment opportunities in a negative way.

Sir, it is late tonight and I do not want to detain the House much longer but before I conclude I also have to speak of the need to provide energy to that corporation. After a corporation has had 200 people sent home, has been in transition for nearly 2 years, a corporation which has been under heavy criticism, how does one expect the members of that corporation to energise themselves almost immediately? That is the question that has to be addressed and answered.

It will take a little bit more than a human resources development programme to do that, I believe that a lot of assurances will have to be given. Staff will have to be assured of their future and the future of the corporation itself. Staff will have to share the vision of the corporation and an appropriate public relations exercise will have to be carried out so that all persons involved will be headed in the same direction and will go forward in confidence. Once these things are put in place, I wish this new corporation nothing but the best and I am hoping that those who are presently employed will retain their employment.

I am hearing words about the export packaging unit being placed in the hands of the workers in a cooperative and I am hoping that when that is done, it is done in such a way that the workers will be able to make a profit and not lose their severance pay. With those few words, I do support the loan and hope that the monies will be used wisely.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, I hope to be brief. I am rather surprised at the way in which this particular Resolution has been introduced by the Minister of Agriculture and I have to charge him with the highest level of ministerial negligence in moving a Resolution of such significance in the manner in which he has moved it. 9.05 p.m.

When, Sir, the Estimates for 1996/97 and also the previous Estimates were presented to this House, provision was made in 1996/97 for the sum of \$400 000 for the grant to the BADMC. In the previous year it was \$1 million. All of that was done, and we on this Side accepted those Estimates on the basis that the House, not just the Government, was assured that it would be presented with a comprehensive statement and outline of the way forward for the BADMC. It took the short tenure of one Chairman, who today has the temerity to speak in this matter as if, like Rip Van Winkle, he awoke from his slumber to find something that he knew nothing about.

Aside.

Mr. D. J. H. THOMPSON: I said it appeared that way to me. I did not say you said you are a Rip Van Winkle.

Mr. W. C. C. CALLENDER: On a point of order, Sir. The Honourable Member is misleading the House. I said before and I am saying again, that at that time I felt there was someone who was even better than myself and that since this is somebody that likes excellence, that somebody who was better than myself should be allowed to do the job in agriculture. There is a gentleman now who is Chairman of the Board who is an expert in agriculture, so expert that other people have sought to use him in their private sector organisation.

Mr. SPEAKER: Okay. You have made your point, please.

Mr. J. O. TUDOR: On a point of order, Sir. The Chairman who replaced the Honourable Member is now on record of having done substantially worse because he has, in fact, shut down the entire operation.

Mr. SPEAKER: Please, no point of order.

Mr. J. O. TUDOR: Okay, Sir. Thank you.

Mr. D. J. H. THOMPSON: Mr. Speaker, I now lay another charge at the feet of the Minister of Agriculture for another area of ministerial negligence in making a flawed, faulty appointment to the chairmanship of the Board of the BADMC, its first Chairman. We have had a full acknowledgment that that was a flawed and faulty appointment so I lay another prong of the charge of ministerial negligence at the feet of the Minister. I cannot think that in the history of Barbados that any Minister has been so privileged to have the Chairman of one of his statutory corporations tell him that he was unfit for the job for which he was chosen.

Mr. W. C. C. CALLENDER: On a point of order, Sir. I felt I was speaking in the House in which we are all Honourable Members, and not only honourable men but intelligent men, men who could understand the English language and so forth.

The point is being made clear, Sir. I have made the point that I did not give up the post because I could not do the job but I felt there was someone better placed who could do it especially in view of the fact that a restructuring was eminent in which agriculture was central to that restructuring and which there were other people who were experts in agriculture who were available, willing and ready to do the job.

Mr. D. J. H. THOMPSON: And I lay now a third charge at the feet of the Minister of Agriculture for ministerial negligence in letting the Chairman of his Board resign and appoint his successor because before he resigned he knew who his successor would be.

Hon. R. C. EASTMOND: On a point of order, Sir. I would not ordinarily interrupt an Honourable Member who is making a sensible speech but if ever there is a species of nomenclature called ministerial negligence, certainly, it cannot be that there is ministerial negligence because a former Chairman working with a Minister decided to give up his tenure. There is no negligence in that. Negligence, Mr. Speaker, is either carelessness or recklessness. If you want to see examples of negligence, the examples are

coming from the person who just preceded me. That is negligence, Mr. Speaker.

Mr. SPEAKER: Okay. You have made your point.

Hon. R. C. EASTMOND: Nothing he is saying is either sensible, serious, accurate or truthful.

Mr. D. J. H. THOMPSON: So, Mr. Speaker, the 3rd prong was that the Chairman gave way to a successor who was not yet appointed and that must be another prong of ministerial negligence, in my view, Sir.

The 4th prong of it would be the very fanciful arguments deduced by the Minister of Agriculture in here today that what he is doing will give the BADMC a new lease on life. It would be an amazing feat of financial engineering, which nobody on that Side has the capacity to execute, that you could take the BADMC as it was with a debt of \$19 million, pare off a large number of the assets which it previously managed or owned, downsized its staff and leave a mere shell called the commercial operations for an entity which really was not a commercial entity, increase its debt burden by \$3 million and, at the same time, believe that you are producing for that entity a new lease on life.

There has to be a financial explanation for this nonsense which has been brought before the House today which goes beyond the Ministry of Agriculture clearly, Mr. Speaker, because I do not think the Minister understood what he was saying. Therefore, there must be some other influence which has been brought to bear on this issue, two years of provision for the BADMC, one of \$400 000 and in the following year \$1 million. We have waited two years for a financial plan. The first Chairman resigned because he alleges not that he is incompetent but there are other persons more competent than he is to undertake the task. The total sum of what we are hearing today is that the BADMC will now assume a debt of \$22.6 million, pay off \$19 million and will have \$3 million to make some contribution, I assume, to the capital of the Corporation and that the Minister describes this as a new lease on life.

There are other persons, not financial wizards, who have had the economic fortunes of this country in their hands from time to time. It is true they were functioning in antediluvian and even backward financial systems but none of them, faced with today's modern financial world, would make a decision like this, in my view.

The Government is not in a difficult fiscal position. It could come to some agreement with the BADMC for the orderly retirement of this debt. Unless the Minister can assure me that the debt which the BADMC presently has, has an interest rate which is higher than 11.75 per

cent which is 1 per cent above the current effective 10.75 per cent rate, which is nearly 12 per cent, unless you can tell me that the BADMC is paying an interest rate which is substantially more than that on all of the debt which it has, the \$90 million, this is financial nonsense.

While I would have preferred to hear the Minister tell me what is the core of the operations that will be left for the BADMC as a result of the asset shedding and the downsizing, this is financing the downsizing and the asset shedding of a statutory corporation and the assumption of \$22.6 million in debt by the Government of Barbados, the **Honourable** Member must have a valid explanation for it or seek guidance, as I say, on this financial nonsense. We are not talking about the past debt of the BADMC because somebody has to pay the money. We are not talking about thoughts of what the BADMC was when it was rationalised because the new Government has determined that it would not be that **anymore**. So it would be nonsense for somebody to bury their heads in the sand and to base an argument for increasing the indebtedness of the taxpayers of Barbados, the Government and the BADMC predicated on a BADMC that would no longer be. All of that falls to the wayside. What this has to speak to is to how the BADMC, what this debate should be, Sir, is going to be able to contribute to the repayment of this debt one way or the other.

9.15 p.m.

This Government has boasted about clearing a whole host of arrears and that it has been hampered in its operations because it had to clear a range of arrears which previous Governments of Barbados had to incur prior to demitting office, and that has been a major problem, the Government said. I cannot understand that this method of clearing those arrears, without also having the courtesy to present to the House of Assembly some solid basis for the future existence of the BADMC and some indication as to how it is going to pay this particular debt.

Asides.

Mr. D. J. H. THOMPSON: Sorry, how you can make that presentation without factoring in those issues.

I believe the Minister needs to reflect on the situation in which he has been placed unwittingly, maybe, and **try** to come to grips with the future of the BADMC carrying this burden of \$22.6 million even though the repayment of it is to come directly from the Consolidated Fund. As I say some economic wizard could explain to the Members on this Side, as the Honourable Member for St. Lucy pointed out, how at the end of the day this financial arrangement could produce a new lease on life for the BADMC.

What could \$3 million be invested in tomorrow which would produce the kind of returns for the BADMC that it could service a \$22.6 million debt? What could there be in the remaining operations of the BADMC and what kind of financial wizardry is this? If there is some way of wooing the people who own large businesses on Broad Street, some of whom are sitting in the Cabinet of Barbados as shareholders of those businesses, even though they may have them in a secret, trust that they have a right to do or should do as the rules which govern Ministerial Government. They would have to know what quick financial scenario could produce a result like this.

I think the Honourable Member for St. James North needs to reflect, because he may have been unwittingly misleading the House by suggesting that this arrangement is going to create a better, more effective, more profitable BADMC because sadly I cannot see, based on what **we** have been told, that the BADMC is in this position.

To say that the BADMC would be constrained to the point of bankruptcy....in the face of the wisdom which the Honourable Member should receive from his Leader, who on several occasions in debates if one could point out in this House, in relation to BDB and a whole range of other statutory corporations, has pointed out that his Government is the ultimate owner of these institutions, there cannot be a problem. There may appear on the face of it to be a problem but it cannot at the end of the day be a problem. So what is it that you consider to be constraints to the point of **bankruptcy**? The debts which the BADMC is carrying of \$19 million are no more than the debts which they have carried previously. I think there was a time when the BADMC was **carrying** a debt of \$30 million when previous Governments operated in a more constrained financial environment in which they could not turn easily to - when Citibank would **seem** very willing to finance many of this Government's initiatives, and quite rightly so, because the projections for the economy under the **Government** would be able to meet all of these obligations, the Transport Board, the sugar industry and all of the other debts that are being incurred to the Citicorp Merchant Bank or any of its affiliated banks. The BADMC with \$19 million in debt is in no worse a position than the other Ministers of Finance who found ways to finance repayment of that indebtedness or to liquidate it all.

So what is so unique about it? Is the interest cost lower, does the Government feel that it has a more leisurely time to pay off the debt? What is it about it that I can point to as being more beneficial to the taxpayers of Barbados? This is not money borrowed to pay severance. The severance does not even amount to \$1 million. So there is nothing in it for the workers of the BADMC, many of whom have not been re-absorbed anywhere else. All reports are that the Tractor Scheme was closed before

the arrangements were put in place as was promised to this House for this small business entity to be set up where the workers would own the Tractor Scheme and this could be a wonderful effort by the new Government at enfranchising small, black entrepreneurs and so on. The Tractor Scheme was closed about 3 or 4 weeks ago with 2 tractors operative, according to my information, and nothing has been put in place for the workers up to this time to purchase those tractors, and I doubt if they would purchase them anyway.

I hope the Minister will say something more positive about what is happening here which therefore is a matter, Mr. Speaker, Sir, that could have come by way of Estimates or Supplementary. Government has a much improved fiscal position which has been a very proud boast of the Minister of Finance, whereby he has been in the past few weeks, and therefore he should not be forced to go, not cap in hand, be forced to a Trinidadian incorporated bank to have to borrow \$22.6 million to finance debt which the BADMC had incurred, unless, of course, it is, and that is what precisely the Minister of Finance required because part of the problem in the scenario was that the Minister of Finance himself made it clear that he was only going to provide these amounts which I have quoted in the Estimates, which were totally inadequate to finance even the ongoing operations of the BADMC, and therefore exacerbated the situation and now has to come to the House for \$22.6 million.

The analogy which would be most apt in those circumstances would be one which the Minister of Finance likes to draw, that you set a house on fire and then you call fire service and tell them to put it out and then ask for the praise for putting out the house on fire. That analogy is more apt in these circumstances than in any other circumstances that I have encountered in my very short career in politics. The Minister of Finance set a house fire and then called the fire service and his Minister of Agriculture is seeking to attract praise for the Government for increasing the debt burden not only of the BADMC but notionally or effectively of the tax figures of Barbados, without showing us anyway of getting it out of that debt.

The Honourable Member for Christ Church East, although he started by appearing to criticise him, I want to congratulate him on his political brilliance because he obviously had knowledge or vision or maybe vivid imagination or creativity to see where this was going to lead and what it has led to, regrettably, and the Honourable Member must not feel that he is an outside child and not say what he feels. What it has led to is a BADMC in a worse position today than when the Honourable Member for Christ Church East left it. It would have increased its debt load, it may very well increase its interest cost. That is something the Minister will have to tell us. It has sent

home hundreds of workers and the core of operations that is left would not be able to sustain the new debt that is being incurred by the entity and he should be quick in fact to accept the accolade of being smart and astute and leaving before the house fire began so that the Minister who appointed him would be left to call the fire brigade and that is really what this is all about this evening. Thank you.

9.25 p.m.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, this is a very interesting debate on an institution which has had a very short, a very rich but colourful history and I believe, Sir, if we are to fully understand the implications of the Resolution before the House that we need to refer to history because there is history here, Mr. Speaker, that has to be told and it has nothing to do with the present Chairman who is doing yeomen public service. It has nothing to do with the Minister. The BADMC, Mr. Speaker, I have already described it has been above all other institutions, Sir, the cesspool of DLP financial and administrative corruption and I want to speak to that history, Sir.

The Barbados Agricultural Development Marketing Corporation we are going to strip it this evening, Sir. All the soft talk from the Member for St. John and all of the whispering...

Mr. SPEAKER: Please! Please! It is not going to happen in here again. Please!

Rt. Hon. O. S. ARTHUR: The Barbados Agricultural Development and Marketing Corporation was formed in 1993 as the result of the amalgamation of the BAMC and the Barbados Marketing Corporation. Sir, I am asking to be heard in silence. It started as an institution that was intended to be self-financing and the Minister of the day in introducing the Bill indicated that it was intended that it should be self-reliant and self-financing. It also started as an institution that had \$12 million in debt but on its amalgamation, although it had \$12 million in debt there was no capital injection on the part of the administration into the Corporation although even then, Mr. Speaker, the Corporation was not realising enough revenues to meet its operating expenses and to service its debt. So it started as an amalgamation of two institutions with \$12 million dollars in debt, intending to be self-reliant financially but no capital injection, nor any contribution of the Government of the day to give it a chance to even work down the debt and then what happens. An institution that started with \$12 million in debt, some 57 additional persons were imposed upon it, almost all were political appointees. Some, Sir, in circumstances where contracts were drawn that were not even, Sir, allowed to Ministers. Favoured employees given contracts that allowed them 24 hour chauffeurs and cars, something that I have heard

the Democratic Labour Party condemn if applied to Ministers, Sir, but an institution starting \$12 million in debt and then a large number of people were taken on, some with contracts that were startling and then a number of other things started to happen. It started to become involved in the importation of sugar and contracts were drawn to transport sugar from the Port to St. Philip to bring it back to Bridgetown so that certain people in Barbados could draw the sweets, a cesspool of financial administrative DLP corruption and they know who benefitted. The rental of forklifts at monthly rates that could allow forklifts to be bought by the BADMC, rented from DLP people had nothing to do with the Minister or the Chairman, Sir, a DLP financial cesspool and in every department of the corporation more and more people being brought on.

Mr. Speaker, you know in all of this what is the worst, that in the period the economic holocaust under the first Incomes Protocol when far from there being a wage freeze there was a wage cut and there was the undertaking that people's contracts on wages could **not** be varied. There were certain select privileged people at the BADMC whose contracts were increased and I did not hear a word at all in Barbados about the breach of the Incomes Protocol – **hardcore** DLP supporters and all of that, Mr. Speaker, explains why a corporation that started in 1993 with a debt of \$12 million found itself by 1995/96 with that debt increased to \$18 million because its operating expenses were added charges having to do with the payment for political patronage on a scale never before seen in the history of this country and all kinds of deals cut in relation to the supply of materials. In the Hope there was the beef project. Every aspect of the Corporation was riddled with financial corruption and political appointees and change of contracts to their benefit and this is part of the ugly and sordid record that has to be told. The poor Chairman of the Board is now trying to do a yeoman job in dragging back a terrible situation but he did not cause the problems of the BADMC, Sir. The Minister of Agriculture is trying to draw back the situation, Sir, but he inherited a situation of creating financial disorder in the corporation and there was no winking of eyes at it by the former DLP administration. There was an act of **complicity** in it and there are a large number of people who were just put on staff to draw a sinecure because they were DLP supporters and it has to be said. You all know who they are.

The BADMC has to be restructured because it was put in an unsustainable position in a manner in which it was established to begin with. If you establish a corporation that starts with a debt of \$12 million and you do not make an injection to clear the debt, how will its balance sheet look to begin with? If you do not make an injection to help it with working capital to make its commercial entities to be able to operate viably, Sir, what are you doing by that action? So the absence of an

injection up front to assist the corporation in clearing the debt or to provide working capital to allow it to change its ways, Sir, was part of its problem. Then there was added to that the increased expenditure arising from **its** overstaffing, Sir, and further to that, Sir, unusual commercial transactions intended to line the pockets of certain privileged politicians in this country. That is why the BADMC has come to find itself in the sad and sorry circumstances that require its restructuring.

Now, Mr. Speaker, Sir, it is clear that the Corporation as presently structured up to a year ago was not generating enough revenues to be able to meet its operating expenses, to service its debt and a way had to be found to help to retire the debt and also to restructure the corporation to bring it back within the limits of financial prudence and solvency and this is what this is about. It is seeking to retire the debt, the Government is guaranteeing the debt in the event that a restructured corporation cannot, then the Government's guarantee will have to be activated. But it has a long list of debt to a number of creditors who cannot be satisfied that their legitimate demands can be met from the revenues of the corporation and therefore it has to be met from some source. So all the financing nonsense coming from the Member for St. Lucy who was once the Financial Controller of the sugar industry and helped to bring it to its sad state...

9.35 p.m.

Mr. D. St. E. **KELLMAN**: Mr. **Speaker**, on a point of order. This is the 20th time that the Honourable **Member** for St. Peter has misled this House in referring to me **as** the Financial Controller of the sugar industry. He knows full well that I was not the Financial Controller of **the** sugar industry but he is also aware, Sir, that he was a director of the ADC.

Rt. Hon. O. S. **ARTHUR**: Mr. **Speaker**, Sir, **the** reality is that the corporation has to **be restructured** and we can all agree on that. **A** corporation that has a debt of \$18 million that cannot...

Aside.

Rt. Hon. O. S. **ARTHUR**: I will leave you to the tender mercies of Mr. Peter Walcott.

Mr. **SPEAKER**: All right. Let us proceed. We have been doing very well the last few minutes. Please, let us proceed.

Rt. Hon. O. S. **ARTHUR**: The corporation has to be restructured because the corporation cannot pay its debts and it cannot meet its ordinary recurring expenditures. The restructuring is taking the form of the commercial **estates** being put under the management of the Barbados Agricultural Management Company. Now

This debate challenges the DLP to say if they agree with that policy or not. I would think that to the same extent that the DLP created the BAMC to assist in the management of private estates that were not commercially viable that I challenge the DLP to say that they do not feel it is inappropriate for the BAMC to manage Government estates that are not commercially viable. Therefore, you cannot at one and the same time say you agree that the BAMC should manage the estates and, when the workers have to be severed so the lands can be passed over to the BAMC, you quarrelling about the severance.

Mr. D. St. E. KELLMAN: On a point of order, Sir. The Honourable Member is misleading the House. We have already said on the Floor of this House that the workers should be given the right to be employed by the BAMC. So I do not know what the Honourable Member is quarrelling about.

Rt. Hon. O. S. ARTHUR: But the workers moved from one employer to another. The first right that arises is the right to severance and they have been paid the severance. But that is the first right that arises, not the right to employment but the right to severance. As in all the other estates that have been taken over by the BAMC, one of the conditions is that the BAMC does not need to re-employ all of the staff that were on the estates to begin with because part of the restructuring is the rationalization of the labour force. It is foolishness that I am hearing here tonight.

Mr. D. St. E. KELLMAN: On a point of order, Sir. The Honourable Member is misleading the House once more. The Honourable Member is quite aware, Sir, as I mentioned in my speech if he was listening that the workers who were on the other plantations got their severance and they also got contracts from the BAMC.

Rt. Hon. O. S. ARTHUR: If the Member for St. Lucy was not so concerned about the airport for St. Lucy, he would let me finish my point. Now provision has been made for the BADMC workers who are being severed to get their severance as has been the case in everyone of the present estates that have been taken over by the BAMC that those workers that can be re-absorbed can also be re-absorbed. Why must we believe that what is good as a relationship between the BAMC and private estates should not obtain in relationship to the BAMC and the Government estates.

Mr. D. J. H. THOMPSON: On a point of order, Sir. The Honourable Member is misleading the House by trying to give the impression in this debate that it is only his Government's policy to put plantations which were either under the management or ownership of the BADMC under

the management of the BAMC. River Plantation, the Belle Plantation and Dodds were all placed under the management of the BAMC when previously they were under the management of the BADMC during the time when the Democratic Labour Party was in office. It is a natural consequence that the other estates over time should have been assumed under management of the BAMC. That is logical. It is not a point to fight over and make non-sensical and pejorative comments about.

Mr. SPEAKER: You have made your point.

Hon. R. C. EASTMOND: Mr. Speaker, on a point of order. I remember signing over Dodds and the Belle to BAMC.

Rt. Hon. O. S. ARTHUR: I am not even concerned when it was done, Sir. What I am concerned about is that we all agree...

Aside.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, I must request my right to be heard.

Mr. SPEAKER: Order, please.

Rt. Hon. O. S. ARTHUR: We are all agreed that it is a sound policy. The Member for St. Lucy said that it is a logical policy that commercial estates whether private or public that are not commercially viable should be put under the system of management that has been instituted where the BAMC is concerned. Right now in relation to the commercial estates under the BAMC those that are not commercially viable, they agree with the policy but criticize the fact that resulting from the policy workers have had to be severed. This is what part of this debate is about, because if they agree with the policy and if you accept that part of the restructuring has to do with labour rationalization, then you cannot agree with the policy, and then condemn severance and that is the point. Because I have heard talk about sending home so many hundreds of workers and the persons who have principally been affected to date 'by the restructuring of the BADMC are those persons who have been engaged as workers on the plantations. I am saying that provision has been made to pay the severance and also provision has been made that, as has been the case in all other arrangements surrounding BAMC and private estates, some of the workers will be absorbed. Why is it correct when it is done in relation to private estates, Sir, and incorrect when it is done by the Government? It is the same policy.

We are also saying, Mr. Speaker, that there has to be some restructuring of some of the commercial operations of the corporation if they are to continue to operate

as commercial operations. It is a matter of fact, Mr. Speaker, that the Hope **Dairy** is the only dairy of its size in Barbados that has consistently been making a loss. We cannot just rationalize it making a loss purely because it happens to be in the public sector. It is a dairy. Therefore, its restructuring requires it to be run as a commercially viable enterprise. In the similar way, Mr. Speaker, where the airport shops are concerned, there is no reason why shops located at the airport selling produce and other things should make a loss merely because they happen to be owned by the Government. The plan for the restructuring of the corporation is saying that the corporation must retain a core of developmental functions because it cannot be given up, but **that** those developmental functions must be supported by the commercial function of the corporation being operated in a commercial way and being able to subsidize them and that is the point. That is what the restructuring of the business plan is about given that you have shown off from the corporation the largest component of the contribution to its loss, namely the sugar estates which were always marginal estates to begin with.

The point about this, Mr. Speaker, is simply this that rather than provide financial resources to retire the existing debt of the corporation we are also providing an amount that will allow the commercial enterprises of the corporation to start with some working capital in this instance as compared to the last instance such as they would have a chance to be so commercially viable as to help with the developmental functions of the corporation. It is also true, Mr. Speaker, that some things that are classed as developmental also have to be better operated and I speak for example of the motor tractor cultivation scheme. I was a chairman of the corporation who once had to fire the man in charge because by his own acknowledgment he was collecting money from people but he was not paying it into the corporation. I want to say that the beef project is a good project but too much of the beef has to be dumped at the sea and people have to accept responsibility that if the Government starts a programme that is intended to be developmental, merely because you call it developmental does not mean that it has to be inefficient. That is the point that too many things that are developmental are allowed merely because the symbol is attached not to justify themselves with reference to commercial process. The point in this business plan is that we want to tighten the operation surrounding the developmental functions of the corporation.

There are people who say that we should close down the corporation and I do not agree with that. The House should understand that what we are involved in here, Sir, is the exercise of the option that is the alternative to those who would like to see the corporation closed down. I will go further, Sir. I would like to see the corporation further restructured. I feel that there are a number of developmental functions that the Ministry of Agriculture

itself undertake that are of benefit to the farming community that would be best carried out as developmental functions if we allow the BADMC to be responsible for them rather than the Central Government and provide the support that is now provided in the budget for those functions rather than to the Central Ministry to the BADMC and let it carry out those functions in collaboration with the farming community of Barbados. A lot of the research, extension and all of the so-called developmental functions of the Ministry of Agriculture that are designed to provide developmental assistance to the farming community ought in my view to be exercised rather than by a Central Ministry by the development institution that is supposed to be the developmental **arm** of the Ministry of Agriculture. My concept of a Ministry of Agriculture is that it should be a Ministry that is concerned with policy and regulations and it should allow the development of commercial functions that are now sometimes very badly carried out in the Ministry to be put into an efficient, development institution with the possibility for joint ventures and collaboration between that development institution and the farming community of Barbados.

9.45 p.m.

So this is not going to be the end of the restructuring. There will be additional restructuring, but this exercise, as the Minister of Agriculture has said, is intended to make sure that we **don't** have in fact to exercise the option of pulling out of the corporation to begin with, because that would be like throwing out the baby with the bath water. There are some things that the corporations are doing that we ought to send the signal from this Parliament, must be done better. Export packaging, who can quarrel with that. But do it properly!

The airport shops must be run properly and must offer an **attractive** range of products such that people would be proud to go to them rather than the present situation as has obtained in the past. I do not subscribe to the view that the Government or any government should not be associated with commercial activity. I do not associate with the view that merely because it is commercial activity of the Government that it has to be badly run. In a sense, this is a classic case of what has happened with a non-commercial activity that could be profitable becoming run down purely because there is a state function involved.

Sir, nobody in this House should be quarrelling about the restructuring of the corporation. How do you continue to keep a corporation on the books that has \$80 million in debt? The corporation's operating expenses were less than its revenue so it cannot meet its recurring expenses, it cannot service its debt so it must be restructured. If the Other Side, Sir, are faced with that situation and they cannot understand the need for restructuring, I say that they understand nothing whatsoever.

What we have sought to do, as I said, is provide it with funds not just enough to retire the existing debt but with an amount that would allow it at least to have some elbow room of cash flow to proceed with the restructuring of the commercial enterprise. This is what this is all about. I don't understand why you have to call in any financial geniuses to explain a simple situation that if you replace the \$18 million with another form of debt you leave it in the same position with no scope to go forward. That is why it is \$22 million rather than \$18 million.

On the first occasion, Sir, when the corporation was set up to begin with and you found the corporation with \$12 million in debt you should have dealt with the debt and you should have also have made an injection into the corporation to give it scope to be able to be successful.

Mr. D. St. E. KELLMAN: On a point of order, Sir. The Honourable Member for St. Peter is giving the impression that we started the corporation with \$12.6 million in debt and what he is about to do today is to clear off that debt and make them debt free and give them capital.

Aside.

Mr. D. St. E. KELLMAN Then you cannot criticise us. You are doing exactly what you are accusing us of doing in 1993 because all you are doing is increasing the debt to the BADMC.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, we are seeking to provide the BMC also with working capital so as to get its commercial enterprises going, so as to be able to service the debt that is being incurred. I also give the House the assurance, Sir, that we are going into this with our eyes open and that there might be a possibility for Government to have to provide on budget financing to help service some of this debt. At some stage, Mr. Speaker, there has to be an injection from the shareholders. That is the point.

In 1992, when you faced this issue, you could have retired the existing debt and provided the BADMC with some funds or you could have provided some shareholding injection. I am saying to the House that if the BADMC commercial enterprises do not yield a sufficiently robust stream of revenue to be able effectively to service the debt, that is why you have a Government guarantee. It will fall to the responsibility of the shareholder in this instance, namely, the Government, to do what shareholders have to do when there is a deficiency. So this is no issue where that is concerned. Our eyes are clear on this matter. I would be surprised if in future estimates there is not some element of on-budget financing to help support the debt service of the BADMC.

In a way, Mr. Speaker, Sir...

Mr. D. St. E. KELLMAN: On a point of elucidation, if we are going to continue with this debate on this line, then the Right Honourable Prime Minister will have to do exactly what I said before. We need not continue talking about providing a loan to the BADMC. What he needs to do is to give a grant to the BADMC so that that grant when it is given will wipe off the debts of the BADMC and they will have what we would call the real cash flow. He cannot provide working capital by exchanging debt for debt. What he needs to do is come to this House and if he is admitting that the BADMC would not be able to pay this and that he will be providing finance from the Consolidated Fund then he needs to say that and we might agree with him.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, I sometimes don't know if I have the wisdom to try to unravel what the Member for St. Lucy says or to respond to him. If we had to put the full \$22 million into the BADMC by way of capital injection the probability is that the Government would have to go to the market and raise it by Treasury Bills so you would in fact be putting money into the BADMC by way of an increase in the Government debt and all we are doing now is doing it by way of a Government guaranteed debt on the understanding that the Government guaranteed debt could become a Government liability rather than Government continue a liability.

Mr. SPEAKER: The Right Honourable Member has 2 minutes.

Rt. Hon. O. S. ARTHUR: Sir, I was interrupted on a number of occasions.

Mr. SPEAKER: That is why you have 2 minutes.

Rt. Hon. O. S. ARTHUR: Sir, there are a number of people who would like to see the BADMC come out of onions immediately, sugar imports, chicken backs and so on, but we have taken a decision deliberately so that the BADMC must be allowed to maintain those commercial operations. But if it is going to carry a development function in which it subsidises services to the farmers, it has to be paid for from somewhere and those commercial operations will allow the corporation to meet its needs.

It is not our view, Sir, and on principle I am not particularly happy with a government department being involved in the importation of chicken wings. I want to say on behalf of all Members of this House that I want the BADMC to so organise its commercial affairs that politicians don't have to be called at the wee hours of the morning to beg them to see if they can get somebody from the BADMC to get a few pounds of chicken wings for them to sell.

9.55 p.m.

I want the commercial operations to be done in a cost-effective and fair way but with reference to good business practice. All I am saying, Sir, is that a large part of the problem with the BADMC is that what could have been a successful State commercial enterprise has been badly run. We have to restructure it. We are resolved to restructure it and we are asking for the support of good people in this exercise which we think is going to be an investment in the future of the country.

I am truly obliged to you, Sir.

Hon. R. C. EASTMOND: If there are no other speakers, just let me briefly make a few comments. The thrust of the debate suggested quite clearly that the divide between the two parties in here is the manner of financing. It seems as though, based on the inferences I drew from the Honourable Members on that Side, that they want finances direct from the Consolidated Fund. That is essentially what they are saying, but we do not approve of that.

Mr. Speaker, I want to make the point that in the last four years or so the total revenue generated by the BADMC was in excess of \$20 million but the loss and cost centres were so enormous that the revenue of \$20 million over a four-year period was just not enough to cover the various costs. It did, in fact, have revenue centres but the cost centres that were there before were burdensome. Now, with the estates going away, we do have elbow room now.

The Honourable Member for Christ Church East, Mr. Speaker, raised the question as to the irrigation programme. The irrigation programme is part of the developmental programme of the BADMC. That has never really chalked up unmanageable debts and I do not see any reason why we should shut it now because that and other developmental functions will close,

Finally, Mr. Speaker, I want to say that a business plan is indeed on the way. It has a mission statement. It has objectives and we are going to try to do our utmost. This debate, Mr. Speaker, must seriously record the fact that this was an entity created in 1993 that was said by the Minister of the day to have a bright future and was supposedly set up to be entirely self-financing. It is now a matter of concern that Honourable Members on that Side could come and say that we should be financing it straight from the Consolidated Fund. I just do not understand, Mr. Speaker.

With these few remarks, I beg to move that this Resolution do now pass.

Hon. D. A. C. SIMMONS: I beg to second that.

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

ORDER NO. 3 – THE INSURANCE BILL, 1996

His Honour R. D. MARSHALL: Mr. Speaker, this Bill was introduced on February 20 by the Right Honourable Prime Minister and further consideration of the Bill was postponed. The Bill was referred to a Joint Select Committee. On February 20, 1996, as I said, the House referred this Insurance Bill to a Joint Select Committee of both Houses of Parliament. The Committee met twice, firstly on June 7 and then June 14, 1996. Mr. Speaker, the debate on the Insurance Bill was done in Parts.

The Insurance industry contributes to the economic life of Barbados. In 1993 statistics showed where the gross premiums of Barbados – \$283 million was collected by the insurance companies and had an investment and cash of \$720 million. The total mortgages were \$145.5 million of which, \$111.6 million was residential mortgages and \$32.9 million in commercial mortgages.

The Act that regulates the insurance industry was an Act of 1972 and we have brought this legislation because between 1942 and 1996, some 24 years, a lot has happened in the insurance industry. Companies have become more competitive. Companies have become more developed with their products. They have been able to produce better sales people with more knowledge and well equipped to offer this service to the public. At the same time we have a more knowledgeable buying public. Hence, we believe that it is time for a new Act to be brought to Parliament

Sir, the industry is a great generator of employment in this country. It is an industry that employs not only clerical staff but professional people, lawyers, doctors and actuaries, who after being trained here go overseas to Scotland and Canada. They come back and offer their expertise to the insurance industry.

Mr. Speaker, life insurance companies do not only offer the life insurance product, they offer pension plans, health insurance and general insurance which covers marine insurance. When we look at the life insurance industry in Barbados, right away at the stroke of a pen, an estate can be created where on death a sum of money is there ready to be paid to the estate of the deceased. Many children in this country have been able to acquire an education through life insurance proceeds. Many a mortgage in this country has been paid off because of the proceeds insurance. A lot of investment is done in this country through the insurance companies.

There are many living benefits to be derived from insurance companies. People can use their

insurance policies for mortgage loans. They can use the policies for ordinary loans on their policies, so there is a lot to be derived from the insurance industry. Pension plans for sunset years, when one gets too old to work one needs an income to retire on, so there is a lot to be derived from the insurance companies. Mr. Speaker, that is just a part of what the whole insurance industry has been doing in this country and this report went to a joint Select Committee of both Houses, Sir, and a lot has been done about it. At this time I would like to ask that the Report, Sir, be adopted and the motion moved by the Right Honourable Prime Minister be adopted, Sir.

10.05 p.m.

I will like to second the motion moved by the Prime Minister, Sir.

Mr. D. St. E. KELLMAN: Mr. Speaker, I want to say from the outset that I am not going to be too long, but I also want to point out that section 102, Sir, that deals with commitment, Sir, I just want to point out that I have objected to this section, Sir, and I strongly believe where you have 2 classes of policies, Sir, the endowment policy and a life policy that the person purchasing those policies should know whether their interest is being represented by the person selling it to them, and that the endowment and the life policies carry rates of **commission** that are different, Sir. We must ensure that insurance agents do not sell insurance to people, Sir, that does not represent the interest of the client. I just want to register that particular objection to this Clause, Sir.

Also on page 70, Sir, I believe the heading should have been Group Life Insurance and not just Group Insurance. We do not want a situation, Sir, where you have poor working class people selling policies where it is said that a particular policy is not in their interest and when you check you find that policy is more in the interest of the person selling the policy to the poor working class person and that at the end of the day that person believes that they have bought an endowment policy when in fact they have been given a life policy or **vice versa**, Sir.

Thank you.

Mr. B. M. TAITT: I just want to put on the record a matter about insurance which concerns me. I have noticed for some considerable time the tendency on the part of insurance companies in Barbados to insist on a form of trading which is not accepted and which is not to be acceptable. Mr. Speaker, you might be aware of those situations in which a person who is seeking to get a mortgage has to do so by way of a life insurance policy, which is well and good. There are some companies in Barbados that insist that property must be insured with a particular general insurance company.

Now, Mr. Speaker, Sir, there is a relationship in the law to the restraint of trade and somehow it is not sufficiently known, and I have had on more than one occasion, quite recently, to draw to the attention of a particular company that it is against the law to insist that any individual must buy general insurance from a particular company. I just wish to put on the record that that is an unacceptable practice in restraint of trade and I think that people who are in the insurance business should be aware that you cannot direct that the basis on which a person receives a mortgage, that person must take an insurance policy with a general insurance company that is tied to the company with which you have the mortgage.

Mr. Speaker, I do not wish to be invidious. I just want to put it on the record so that those persons in the public who might not be aware that it is a restraint of trade, might become aware of it. No one can insist that must have a general insurance policy with anybody.

Asides.

Mr. B. M. TAITT: If you do not, therefore, take the general insurance with the company designated you will not get the mortgage, but when you have the mortgage they are not in any position, and ought not to be in any position to bully anybody that they must take insurance with a general insurance company.

Asides.

His Honour R. D. MARSHALL: On a point of order. What happens there, Sir, is that we find that nowadays a lot of life insurance companies are affiliated to general insurance companies. For instance take Life of Barbados, Sir, owns Barbados Fire and General Insurance Company. It makes sense, Sir, for the company to know that they are getting the business. I do not see anything wrong with that.

Mr. B. M. TAITT: When the company reaches the point when it feels that it can threaten a person who has life insurance with them in order to get a mortgage. Many people take insurance in order to get the mortgage. Many insurance brokers **and/or** agents help people to get their mortgage, and as security they insist that they should have life insurance policies. That is sufficient. There is no reason why they should then insist that person must insure with Barbados Fire and General or whatever it is called or whatever the company is attached to them. Especially when the Insurance Corporation of Barbados offers better rates. The other thing that I hope that life insurance agents will do is to assist people in recognising that they can bargain with insurance companies about proper rates.

In this country there has been too much monopoly by a few people directing other people into areas of trade which constitutes restraint on trade. I do not wish to

be invidious and name companies, but I just want to put it on the record so that those companies, one or **two** which I have to had speak to very firmly, would be aware that the people of this country have no obligation.

Asides.

Mr. B. M. TAITT: I believe that I have made the point. I do not wish to be invidious and I will not put any particular company in the House of Assembly's records, but I think it should be recognised that those who advise companies should let them know that they cannot go around bullying people and threatening people that if they do not take insurance with their particular general insurance company they will withdraw their mortgage. I think some lawyer should take somebody to court. That is what should happen.

Asides.

Mr. B. M. TAITT: We cannot go through life in this country allowing people to constantly bully us into a position where we cannot get the money, and mutual companies at that. I hope the Honourable Member for Christ Church West in his capacity, and I am not being abusive to him, as a Senior Director should be assisting in directing people that mutual companies belong to them. Mutual companies should spend some time educating the population that getting a mortgage is not a favour, it is doing business. When somebody gets a mortgage the person is not begging anybody for a favour and too many of the people who are supposed to be consultants for ordinary people in Barbados do not advise them appropriately. Insurance in the country continues to be something that is esoteric and reserved for certain kind of people and you have to be in contact with a certain kind of person. A mortgage in this country ought to be something.. 10.15 p.m.

His Honour R. D. MARSHALL: On a point of order, Mr Speaker, the Member cannot stand there and say that in this country insurance is for a certain kind of people. Insurance is a product, Sir. First you have to be able to qualify health wise to get a policy. You must be able to pay your premium for your policy. So you cannot say certain people get insurance. Insurance is sold to needs.

Mr. B. M. TAITT: My colleague is reminding me that I must not spend so much time explaining fundamentals.

The fact is that there are some charlatans masquerading as insurance agents who go around bullying people in doing foolishness. You wish me to be specific, I can spend some time and be specific, but my intention is not to deal with anybody in particular. My point, Sir, is

very simple. Insurance ought not to be any mystery for anybody in Barbados **anymore** and I think companies like the Barbados Mutual have the responsibility to move beyond the stage where people were 10 or 15 years ago and you should allow people to understand that insurance is an investment which everybody can make and if they make an investment in life insurance it must not be tied in any monopolistic way to a general insurance company that is attached piggy-back on to a life insurance company and making people believe that they must buy general insurance from a particular company. If you are able to persuade an individual that the general insurance companies' attitude and prospects and all of the things relating to it are such that they should buy from them that is different from insisting that you must take the general insurance policy from some company that is attached to a life insurance company. That is the only point I want to make and I will stop at that.

Hon. D. A. C. SIMMONS: Sir, I beg to move that this Bill be now read a second time.

Hon. Miss B. A. MILLER: I beg to second that.

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

On the motion of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. W. C. C. CALLENDER in the Chair.

Mr. CHAIRMAN: This Honourable Chamber is now in Committee.

Hon. D. A. C. SIMMONS: Mr. Chairman, I am advised by the Clerk that the proper thing we should do is that I move that we adopt the Bill as amended. Insofar as the report has already been adopted and forms part of the Bill now. I beg to move, Sir, that the whole Bill be adopted as amended.

Hon. Miss B. A. MILLER: I beg to second that.

The question that the Insurance Bill be adopted as amended was put and resolved in the affirmative without division.

On the motion of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER, Mr. CHAIRMAN reported the passing of one Bill in Committee with amendments to His Honour the SPEAKER and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motion of Hon. D. A. C. SIMMONS, seconded by the Hon. Miss B. A. MILLER

the Bill was read a third time and passed and cited as the Insurance Act, 1996.

Hon. Miss B. A. MILLER: Mr. Speaker, I beg, with your indulgence to have the item on the Order Paper, Government Notices re-committed.

Mr. SPEAKER: If this be the will of the House, so be it.

GOVERNMENT NOTICES

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to give notice of a Resolution to approve the guarantee by the Minister **responsible** for Finance of the payment of principal and interest **thereon** in respect of a bond issue for the amount of \$12 million it owes by the Barbados Investment Development Corporation for the purpose of financing its capital works programme.
10.25 p.m.

ADJOURNMENT

Hon. Miss B. A. MILLER: **Mr.** Speaker, Sir, I beg to move that this House be adjourned to Friday, 20th December, 1996 at 11 o'clock in the morning. Speaking on the adjournment, Mr. Speaker, on Friday morning I propose that we would do as many of the matters that are on the Order Paper as we can, particularly the matter to do with the Transport Board, the Excise Tax and the Income Tax Amendment. Mr. Speaker, as you are aware, both sides of the House have asked permission for the televising of the debate of the Excise Tax Bill and we await Your Honour's pleasure in that connection. It is hoped, Mr. Speaker, that on Friday we should be able to finish as much of the Order Paper as will allow us to go into Christmas recess.

Mr. SPEAKER: Honourable Members, before I put the question, I did receive a letter today from the Leader of the Opposition seeking permission to debate the Excise Tax Bill. This letter is dated December 16th and today I also had an oral request from the Leader of Government Business to televise this debate. Fortunately, at this time, I did not give permission for this debate to be televised. Permission is not given at this time for the debate to be televised. I do not necessarily have to give you an explanation. In all fairness to Members, let me say...

Aside.

Mr. SPEAKER: Please, please. Let me say that among the reasons for not giving permission at this time is this. The request did come a bit late and, considering the problems of course that CBC will be having relating to financial matters and so on, I felt that it would be a little unfair at this time and therefore I did not consider the request.

The question is...

Mr. D. J. H. THOMPSON: Can I speak for one second on the adjournment? With reference to your ruling, we will abide by your ruling and in these matters you had requested that we follow your policy that the request for the broadcast of these debates should be an internal matter which we should settle subject to your ruling. I am disappointed however that CBC would be unable to do it and that the Government would not seek to use its influence to ensure that our public broadcasting station would afford the citizens of Barbados the opportunity to have a publicly broadcast debate on a matter as important as the Excise Tax Bill. Since we did not have the debate on the VAT Bill. I am heartened that the Government also requested the broadcast of that debate and I make the assumption that there could be another day that the debate could be done between now and the end of the year because I believe that it is vital.

Members of this House were very sharply criticized when the VAT legislation was introduced and matters which members of the public consider of less importance were broadcast. I am not reflecting on your ruling, Sir. Our problem is that we only get the papers on a Friday. The parliamentary group meets on a Monday and therefore we can only write to you and I did write to you right away as soon as the parliamentary group agreed and faxed it to yourself and the Clerk and the Leader of the House's Office. On one occasion I even tried to fax it to the Barbados Labour Party Headquarters because I realized your parliamentary party was meeting so that we would all have adequate notice. But that is the best that can be done in the circumstances. So that a late notification in some circumstances is totally unavoidable. However, I am saying that I think that the Government should therefore see if it can reflect on setting another time between now and January 1st which would be suitable to Your Honour, the Speaker, and to CBC for the live broadcast of the debate. If it is not CBC, then a time suitable to the exigencies of the parliamentary timetable which would find more favour **with** the Speaker in terms of a choice. But as I said, I think that it is vital and I think that Government's commitment to the broadcast of parliamentary debates would suffer a major blow if this particular matter was not given broadcast. I think this is one occasion when both sides agree and I am not calling on you to explain your ruling. Therefore, I assume that it is an external factor because if both sides agree and there is another factor that influences it, that means that we have to amend the Standing Orders quickly because the understanding that I always had was that once we agreed that it is to be broadcast that there should be no other entity that should disagree. I believe that the House is in agreement and I assume that your ruling reflects the position of the House. So if you can reflect on the ruling and we can find another time we would like the matter broadcast.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, speaking on the adjournment, I would just like to say that I am anxious also to have a full debate on the VAT and related matters emanate from this House and I am disappointed that it is not feasible at this time. I should say for the record however that the decision has nothing to do with any action of the CBC. CBC has not been involved in the decision in this matter and not me either.

Aside.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, I understand the considerations that are involved that underpin the decision that this is a time of the year when the CBC realizes most of its revenues and enters contracts. But, Sir, I want to propose that perhaps the debate can still be recorded and televised at a later date. If our intention is to inform the public, it does not have to be by way of a live debate that undermines the financial position. But I just want the House to be aware that CBC did not raise an objection and that it was not put to CBC.

Aside.

Rt. Hon. O. S. ARTHUR: Can I be heard, Mr. Speaker? I am suggesting to the House, Sir, that if it is at all possible that I would like to have the debate recorded for being televised at a later time since the interest is a public education.

Mr. SPEAKER: Honourable Members, please. I hope you all do realize that all debates that are broadcast, of course, there is the question of privilege that always arises. A proposal has been made by the Prime Minister and, as Speaker, I am not so sure at this point and I would suggest that until we are able to make some very clear arrangements about recording and broadcasting that I will give permission for that to take place. The explanation that I had given does not have anything to do with CBC. Permission has been sought of me to broadcast and I have denied the permission based on previous representations that were made to me. Of course, I would like Honourable Members to be aware at this time of the year especially of some of the constraint, under which the CBC operate and so on. I took this under consideration and I have come to my conclusion.

The question is...

Mr. D. J. H. THOMPSON: I do not want to question your ruling. I am speaking on the adjournment. The Opposition has to function under a constraint. That constraint is that we do not receive papers until very late on a Friday evening. There is an understanding between the Leader of the House and the Leader of the Opposition and Your Honour with respect to the broadcast of parliamentary

debates. That understanding is in writing and my understanding of it is that, as long as the House agrees, the ruling of the Chair would be that the debate be broadcast. If we have to revisit our understanding, and obviously we have to because of this ruling, I will have to make it very clear that I am totally surprised at the circumstances which have led to this.

10.35 p.m.

On previous occasions, we met, discussed it and came up with a formula. I am surprised that there has been no discussion on it and I only want to say it means therefore that the arrangement that we have in place has to come to an end and it is as simple as that, because I once felt that there would be unilateral positions that the Opposition could have taken and I adopted what I would consider to be an ameliorative stance in which some members of the Opposition as individuals ceded their privileges for me to indicate whether it should be broadcast.

Mr. SPEAKER: In response to the Honourable Member for St. John, I think that we did have a very good arrangement where we all did meet and until we have come up with something that is final and concrete relating to the broadcast this arrangement, I hope, will continue. The request I saw on my desk this morning was a bit late and I did have some oral discussion with the Leader of Government Business. I did not get the impression that I was hearing anything concrete from the Government side on whether they were supporting or they were for it and...

Asides.

Mr. SPEAKER: ...I didn't say that.

Asides.

Mr. SPEAKER: Order!

Members of the Opposition left the Chamber.

Mr. H. deB. FORDE: Mr. Speaker, I am speaking on the motion for adjournment. Sir, when I was Leader of the Opposition on that Side I had great difficulty in convincing the then Government, including the Rt. Honourable Member for St. Michael South to agree to a debate on a No-confidence motion. I am not surprised that they would walk out under these circumstances because they are not genuine about these matters.

Mr. Speaker, I respect your ruling. The public at large would be very annoyed if at this time we find that we are affecting their listening and their contracts. I accept your ruling no matter how much we want to debate important issues. In keeping with their policies they have always

not been able to agree on a set policy for the debates of Parliament and I think the time has come when this House should find time and where we must find the money so that we have a dedicated channel, that we stop affecting the rights of people's contracts by debates and that we stop grandstanding as the Opposition has grandstanded on this issue when they genuinely know that there are difficulties ahead as you Mr. Speaker, have found.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, I would like to say for the record that I certainly asked

the Leader of the House to request permission of you for this debate to be televised. I want to enter that formally into the records of Parliament so that it must not go from this Parliament that in this particular matter the Government was afraid of a debate. The request **was** made on behalf of the Government.

The question that the House be adjourned until Friday, December 20, 1996 at 11 a.m. was put and agreed to and Mr. SPEAKER, adjourned the House accordingly.
10.40 p.m.

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