
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 2003 – 2008

HOUSE OF ASSEMBLY

Tuesday April 1, 2003

Pursuant to the adjournment, the House of Assembly met at 11.20 a.m. on Tuesday April 1, 2003.

PRESENT

His Honour I. A. ROETT, B.A., Dip. Ed. (Speaker)
His Honour J. M. EDGHILL, J.P. (Deputy Speaker)
Hon. Sir HENRY FORDE, K.A., Q.C., M.A., LL.B.
Rt. Hon. O. S. ARTHUR, M.Sc. (Econ.) (Prime Minister, Minister of Finance and Minister of the Civil Service)
Mr. D. J. H. THOMPSON, LL.B. (Hons.) (Leader of the Opposition)
Hon. Sir HAROLD St. JOHN, K.A., Q.C., LL.B.
Mr. L. R. TULL, Q.C., M.A. (Oxon.)
Hon. Miss B. A. MILLER, (Deputy Prime Minister, Minister of Foreign Affairs and Foreign Trade)
Dr. the Hon. R. L. CHELTENHAM, Q.C., M.A., M.Sc. (Econ.)
Hon. G. W. PAYNE
Hon. R. C. EASTMOND, J.P., B.A. (Hons.), Dip. Ed., LL.B. (Hons.), LEC (Minister of Labour and Social Security)
Mr. D. CARTER (Chairman of Committees)
Hon. R. N. GREENIDGE, B.A., LL.B. (Minister of Education, Youth Affairs and Sports)
Hon. G. A. CLARKE, B.Sc., Dip. Ed. (Ministry of Housing and Lands)
Hon. R. D. MARSHALL (Minister of Public Works and Transport)
Hon. H. F. LASHLEY (Minister of Social Transformation)
Hon. R. St. C. TOPPIN, LL.B. (Minister of Commerce, Consumer Affairs and Business Development)

Mr. D. St. E. KELLMAN
Hon. Miss H. E. THOMPSON, LL.B. (Minister of Physical Development and the Environment)
Hon. Miss M. A. MOTTLEY, LL.B. (Attorney-General and Minister of Home Affairs) (Leader of the House)
Mr. M. Z. WILLIAMS
Mr. T. A. PRESCOD, B.A.
Rev. J. J. S. ATHERLEY, B.A., B.Sc., J.P. (Parliamentary Secretary to the Attorney-General and Minister of Home Affairs)
Mr. D. T. GILL, B.Sc.
Hon. N. A. LYNCH, B.Sc., M.B.A. (Minister of Tourism and International Transport)
Hon. A. P. Wood, B.Sc., M.Sc., M.Phil., J.P. (Minister of Agriculture and Rural Development)
Hon. R. R. FARLEY, B.Sc., J.P. (Minister of Economic Development)
Hon. Miss C. Y. FORDE, J.P. (Minister of State, Ministry of Education, Youth Affairs and Sports)

Prayers were led by Rev. Canon Ivan Harewood.

Mr. SPEAKER: This House is now in session.

MINUTES

Mr. SPEAKER: Minutes of Tuesday, March 17, 2003.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I beg to move that the Minutes of Tuesday March 17, 2003 be confirmed subject to any omissions, observations and/or corrections.

Hon. R. C. EASTMOND: I beg to second that, Sir.

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

PAPERS

Hon. R. C. EASTMOND: Mr. Speaker, on behalf of the Prime Minister and Minister of Finance I am commanded to lay the following:

The Value Added Tax Refund (Erskine Callender) Order, 2003.

SUSPENSION OF STANDING ORDERS

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I beg to move the suspension of Standing Orders Nos. 6, 16, 18, 20, 42(5), 43 and 44 for the remainder of today's Sitting.

Hon. R. C. EASTMOND: I beg to second that, Sir.

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

GOVERNMENT BUSINESS

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

ORDER NO. 9 – THE SUPREME COURT OF
JUDICATURE (AMENDMENT)
BILL, 2003

Hon. Miss M. A. MOTTLEY: Mr. Speaker, the Bill which is before the House today, is one that speaks to the issue of the increase of the number of judges within our Supreme Court of Judicature and our Court of Appeal.

It is perhaps a little known fact in this country that the administration of a court system, however imperfect it might have been in its early origins, in fact predated the existence of a Parliament in the modern history of Barbados.

The records of the first Constitutional Meeting go back to 1639 and I believe, Sir, you are well familiar with that date as the date of origin of this House which we have the Honour to be Members.

In truth and in fact, Sir, the records of the administration of justice go back to sometime in 1631 and it is perhaps, even though imperfect, salutary to remember that wherever persons gather in the context of a settlement or a society, it is necessary to have some mechanism which can, in fact, resolve disputes or regulate order between the citizens of that settlement or society.

Barbados has a history, however, of a judicial system which, in the first two centuries after settlement, in fact a little more than the first two centuries after settlement, easily

into the late 19th Century, early 20th Century – that was marked perhaps more by its control and by its inequity than by fairness and transparency and independence – characteristics which we now associate with a modern judiciary and democratic societies.

Sir, this is nothing that should cause us great surprise because much of the legislation passed by this great assembly of ours too, was also legislation that sought to deepen the divisions between many of our countrymen and to preserve the power of those few who, in fact, constituted the membership of this assembly, particularly as it related not only to those within their property, namely those who were slaves or after emancipation, apprentice labourers, but also those in the Colonial dispensation, constituted either the Government or the Executive Council, recognising that the Government derives its authority, initially on settlement from royal prerogative and, in fact, reflected the bidding of the colonial office and the British Government, as opposed to that necessarily of the planters in existence in this country.

Sir, it does not appear that in spite of the fact that the first court existed in 1631, that there was any serious attempt to have any form of appropriate regulation by legislative process, until on or about 1652 and, Mr. Speaker, it meant therefore, even though there was a determination that there should be some form of Resolution of disputes that this Assembly did not in fact intervene with the passage of legislation, until on or about 1652 when it was felt that it was necessary to be able to have a greater level of transparency, in the administration of that court system.

There a multiplicity of courts, Mr. Speaker, people have often referred or read in history about the Court of Common Pleas, the Court of Grand Sessions, the Court of Exchequer and the Admiralty Court. The Court Merchant which was established because the Admiralty Court, invariably did not sit often enough to reconcile the issue of merchants trading and since that was the primary concern of the Colonial Government, it was therefore necessary to establish a Court Merchant to be able to treat to those issues with expedition.

Sir, what is perhaps also little known is that the Governor himself, sat as the Vice-Chancellor and sat in respect of the Court of Chancery and indeed, even in the Court of Common Pleas, until it was realised that the volume of work in the Court of Common Pleas compromised the Governor's capacity to be able to do administrative duties. It then led to a decision for the Court of Common Pleas, in 1652, to be established in respect of five judicial districts in Barbados.

Sir, this consisted the precincts of Christ Church and St. Philip as one, St. George, St. John and St. Michael as one, St. James as one on its own, St. Peter and St. Lucy as one and St. Andrew as one. Sir, given our current population distribution it might seem strange to us, in this early part of the 21st Century.

Sir, what was also confronting the early settlers, just before the end of the 17th Century, the introduction of slave labour presented a dichotomy. Separate courts were established for the slaves because it was felt that slaves had no ability to sue or be sued or could only be the subject of actions, particularly in civil courts and, in so doing, it was simply confirming the belief that was common in that time, and a reflection of the law that a slave was property and, therefore, property could not initiate an action or be sued against in civil courts.

There was also established, Mr. Speaker, consonant with the draconian legislative regime that existed at the time, a slave court. Sir, perhaps the best exposition on the functioning of that slave court comes from Dr. Goveia historical work? Dr. Elsa Goveia was a noted Caribbean historian and Professor Hilary Beckles, now, Principal of UWI, Cave Hill, in his book as well, dealing with the slave rebellions, slave laws and the struggle against slavery, 1627-1838 also speaks to some of the matters pertaining to the slave court. Now, I have taken the time to refer to this. 11.30 a.m.

There was also an attempt to establish a Court of Protection which was in principle supposed to be able to deal with matters brought for the treatment of slaves, but it only functioned once because it was anathema to the current feelings of the day. Therefore, in effect, what you had was a separate system for those who were slaves and those who were planters and free men.

Even with the Emancipation Act, there was not a regularising of the system of justice as it related to those who first became apprentices and then free men. There was an attempt by the British Parliament to interpose throughout the colonies a system of stipendiary magistrates to be able to treat to issues between employers and apprentices, but that was watered down within Barbados by this Assembly by ensuring that no stipendiary magistrate could sit alone but would have to sit with two Justices of the Peace who, in effect, could outvote the stipendiary magistrate in any event.

Perhaps the best reflection of the seriousness that was taken to the issue of whether former slaves were to have access to a decent system of justice or not, is the level of expenditure invested by the British Parliament in such a system. Bearing in mind that the British Parliament would have guaranteed the payment of almost £20 million to be able to compensate the former slave owners, while they

invested only £120 000 throughout the entire set of colonies as they were at the time to be able to deal with the system of stipendiary magistrates.

That system did not last long beyond the period of apprenticeship and little by little there were attempts to be able to try other transitional mechanisms in order to deal with the fact that you had two distinct categories of people living within the society. At one point there was an attempt by this Assembly to establish a Court of Arbitration and Reconciliation modelled on an experiment in Norway of a Peasant Court which did not last very long.

The fundamental point is that Barbados continued throughout the majority of its history with a multiplicity of courts, not marked by their commitment to transparency, independence and justice, but simply being able to resolve and regulate issues among distinct categories of people. There was in fact a clear hierarchical structure in the society which gave and afforded certain types of people more rights than others.

It is significant though that even as all of this continued to be the norm until the early 20th century where there was a Commission of Inquiry from as early as 1825. Sir Fortunatus Dwaris was appointed as Commissioner to investigate into the reform that was necessary for the administration of civil and criminal justice in the West Indian islands of Barbados, Grenada and Tobago. We would all remember that at that time in 1825 England herself was caught up generally in a reformation zeal, and as we know, the Emancipation Act was to follow thereafter within less than a decade.

The Report gave a detailed exposé of how they viewed the courts in the colonies. In fact, the Commissioner opined that the colonies investigated by him – and these are his words: “Lacked fixed principles of colonial jurisprudence.” So here was a British Commissioner who investigated the administration of civil and criminal justice in Barbados, Grenada and Tobago and indicating that it lacked fixed principles of colonial jurisprudence.

There was an attempt to be able to act on some elements of this court and the Attorney-General at the time, Henry Sharpe, tried to suggest that we should have established a Court of King’s Bench, which would have a single court rather than the multiplicity of courts I referred to earlier. Further that it should be set up under the auspices of a Royal prerogative and that this court if manned by a single competent judge with practices and procedures based on the Westminster model, could ensure that simple, cheap and regular justice would be administered and that it would attract the common law business that there was, thereby causing the Court of Common Pleas to become obsolete.

The Colonial Office indicated that they felt that there were flaws in the then Attorney-General's proposal and that the existing courts, many as they were, exercise a comprehensive civil and criminal jurisdiction that was founded on the basis of a statute. Therefore, to use the Royal prerogative as a means of setting up a new King's Bench Court would be unconstitutional. It was also felt that the new court would have had little work to do.

This is significant because this was, in a wider political sense, a telling admission on the part of the Colonial Office because it conceded that the constitutional development of Barbados as early as that early part of the 19th Century, had reached a point where the Crown, the Head of the Executive, accepted that a Royal prerogative which comes from the Crown could not override colonial legislation of this Assembly concerning the courts even though this Assembly was a subordinate legislature to that of the House of Commons and the House of Lords at Westminster.

I said that for those who have an interest in the wider political governance of this country, because it is significant that this Assembly could be viewed to have that power as far back as then.

I said all of this to make the point as well that, in spite of that Commission of Inquiry, it was more than 125 years later that the Right Excellent Sir Grantley Adams had the honour to introduce the first major reform of Barbados' court system led by this Barbados Labour Party in the form of the Supreme Court of Judicature Bill of 1956, the Magistrates' Jurisdiction and Procedure Bill of 1956 and the Registration Bill of 1956.

You can see clearly that this is a Government that within five years of taking totally internal self-control found it necessary to bring to an end almost three centuries of ineffective and unsatisfactory arrangements for the justice system.

I say so because it has been the contention of this Barbados Labour Party Government that issues of governance have always been fundamental to us in the settlement of our policies for the people of this country because we believe that a bulwark or democracy is a transparent, fair and efficient system of justice that guarantees the rights of citizens in every possible way without compromising the right of the State to protect the State itself.

It is also interesting to note that Barbados was perhaps the last of the colonies to establish a Supreme Court of Judicature. That perhaps reflects the extent to which this Assembly was constituted by persons who did not feel that they had an interest in bringing about reform to the administration of justice such that they could truly be equality of treatment and transparency for all persons living

in this country irrespective of colour, class or property ownership.
11.40 a.m.

It perhaps, in my view, focuses more on the leadership of the Right Excellent Sir Grantley Adams and his Cabinet of the time. The fact that we were the last to have established a Supreme Court of Judicature, reflected on the extent to which there was political domination to resist the introduction of such a system. I also believe that it is useful for Members to read that Debate of Tuesday, 12th June, 1956, that was led by Sir Grantley, to get a perspective as to how fundamental was the change that we would be facing.

It is instructive that the United Kingdom would have introduced their Supreme Court of Judicature Bill in 1873. When we were introducing ours in 1956, there had already been a series of amendments in the United Kingdom, between 1873 and 1925 which were based on their experience with the establishment of that single Supreme Court of Judicature with civil and criminal jurisdiction.

Mr. Speaker, I note as well that Sir E. A. Collymore, Chief Justice of Barbados, would have had an instrumental role in the establishment of the Supreme Court of Judicature as far back as 1947. It is significant that even in spite of his influence, it was only in 1956, almost a decade later, that Bill came to be passed and the legislation established.

Sir, in Part 7 of the Constitution on Independence, that there shall be a high court and a court of appeal, reinforces the jurisdiction of these courts and as currently stands, provides for a right of appeal on constitutional matters and on appeal with leave, among a number of other matters, to Her Majesty's Council, commonly known as the Judicial Committee of the Privy Council.

Suffice it to say that at this stage, I trust this House would soon have before it within a matter of two weeks, a Bill which would seek to give effect to the Government's signature of the Agreement signed in Barbados, establishing the Caribbean Court of Justice, so that we can give legal authority for the jurisdiction, for the Caribbean Court of Justice, as Barbados' final court of appeal, once inaugurated, as well as to be a court of original jurisdiction in the interpretation of matters relating to the Revised Treaty of Chaguaramus. Sir, with the conferring of such legal jurisdiction as Barbados' final court of appeal, would also come the abolition of the Judicial Committee of the Privy Council.

Government intends to have the legislation passed before both Houses but would hold the promulgation until the actual inauguration of the Caribbean Court of Justice, which is scheduled to be later this year.

We, therefore, feel that we must do that, as well as the incorporation of the Revised Treaty of Chaguaramus. The Prime Minister, the Right Honourable Member for St. Peter, has the lead responsibility among Heads for the establishment of a Caribbean Single Market and Economy, which is the output of the Revised Treaty of Chaguaramus. I have the responsibility as Chairman of the Propriety Committee for the establishment of the Caribbean Court of Justice, succeeding my predecessor, the late Honourable Member for St. Thomas, the current Chief Justice, who would have done great work in bringing us to the point at which we were, when I had then to treat with the financing of the court and the administrative issues for the actual inauguration of the court.

Mr. Speaker, I hope that this historical perspective would better allow us to understand what we are confronting in this country today and that the existence of a Supreme Court of Judicature has worked for us far better than its predecessors had worked for our foreparents in respect of the delivery of justice. I say this, conscious that in any democratic society, there would always be people who do not feel that their interest have been sufficiently met but given the evidence, it is clear that Barbados continues to be a well-regulated and law-abiding society, primarily as a result of a relatively well-functioning court system, in addition to other things.

Mr. Speaker, like everything else, it becomes a victim of the environment within which it functions. For example, if I were to deal with the Magistrates Jurisdiction and Procedure Act. In 1956, we established eight Magistrates Courts. The jurisdictions as we know them are: District "A" for the parish of St. Michael, parts of Christ Church and parts of St. James; District "B" for the parish of Christ Church and parts of St. George; District "C" for the parish of St. Philip and St. John; District "D" for the parish of St. Thomas; District "E" for the parish of St. James, St. Peter and St. Lucy; District "F" for the parish of St. Joseph and St. Andrew. These jurisdictions have all remained the same.

The same eight posts of magistrate that there were in 1956, with that distribution of jurisdiction, have remained in spite of population shifts; in spite of our multiplicity of legislation that is now justiciable before the courts; in spite of population growth; in spite of the existence of new types of offences that in some instances did not exist until 1970; in spite of the fact that we also have four times our population now visiting and transiting Barbados as tourists every year, some of whom find themselves before the court, either as accused or as victims and, therefore, there is now a completely different environment.

All that we are saying as a Government is that in the same way it was necessary for the Right Excellent Sir Grantley Adams to lead a reform effort in relation to magisterial jurisdiction, to replace a complex system that had

before existed, we believe it is our duty to respond to the fact that the existing system has outlived its usefulness in terms of the number of magistrates and their ability to effectively service the volume and complexity of work that is before it today.

Mr. Speaker, I will come shortly to the Supreme Court of Judicature because there was an amendment since 1956, increasing the complement of judges but once again, insufficient to meet the current demands of the administration of justice. It is significant that on average, there are over 20 000 cases being lodged annually in the magistrates' courts within recent years. It is significant that approximately 20 per cent of those cases are drug related. It is significant that virtually up to 1970, there were no incidences of drug cases in Barbados. Therefore, one-fifth of the magistrates' work load today relates to drug offence, an offence which would not have been seen in our system within the first 15 years of the existence of the Magistrates' Jurisdiction and Procedure Act.

It is significant that we continue to have almost an annual backlog of almost 4 000 cases moving forward every year, in spite of the fact that there are additional issues beyond that of criminal and civil in the form of domestic, responding to the legislative framework for maintenance and in the last decade, protection orders which did not exist before 1991 and the significant number of traffic cases, given the explosion in the number of cars now on our roads. 11.50 a.m.

Hence, the potential for traffic offences have increased exponentially and they still have to be dealt with by the courts. I am reminded by the Honourable Member for St. James North that the existence of mini-buses, ZR vans and other forms of public service transport have also placed a disproportionate burden on the judicial system and that we have to be cognisant of these matters.

These amendments in no way represent the totality of this Government's efforts in relation to the reform of the administration of justice. It is our judgement that the time is right for such reform. It is also our judgement that there will be a series of things necessary which will be done over a period of time because we are also cognisant that if there is one thing we must not do in the development and implementation of policy in this area is to create any uncertainty in the administration of justice.

There must always be certainty because the Judiciary is one of the three arms of Government. Even though until the earlier 20th Century, there was no respect for the principle of the separation of powers, that is, those who constitute the Executive and the Legislature should not

interfere with those who constitute the Judiciary and *vice versa*. We have a firm and healthy respect for such a precept as part of our modern development as a democratic State. We believe that this is one of the early steps in this reform.

The number of magistrates we are proposing to increase at this stage is by two. We will review and determine whether it is adequate but recognising that if it is our judgement that it is not, we will come back before this Parliament to deal with that issue on another occasion. Equally, we are proposing to increase the number of High Court judges by two and the number of Court of Appeal judges by one. There are currently six High Court judges and the increase will carry us to a complement of eight. There are currently four Court of Appeal judges and this one will carry us to a complement of five. If we look at the work of the High Court we will understand why this increase is justified because the High Court sits in different divisions, for the civil jurisdiction, the family law jurisdiction and the other common criminal Assizes.

It is our judgement that the time is upon us when we must seek to bring an end to the system of criminal Assizes and have a continuous criminal High Court recognising that even now Assizes start in January and goes to mid-March. It then starts in April and goes to mid-June. The shortest Assizes is in July which goes to August because of vacation for the High Court. It starts again in October at the beginning of the legal years and goes into the middle of December and the average number of traversals range from between 40 to 90 depending on the length of the particular Assizes.

Mr. Speaker, it is not an overwhelming number of traversals but, in my judgement, in the context of the size of Barbados' society, it is still unacceptable. We believe that there must be a minimum of two continuous criminal courts sitting every day that the courts sit in this country and if necessary the occasional sitting of a third one at times of the year to ensure that no serious criminal case should take longer than two years for a judgement at first instance to be delivered. It should only take six months in the magistrates court and no more than 18 months but preferably 12 months for the reason that some times may be beyond the control of the prosecutors of the courts because sometimes they may be witnesses from overseas who cannot get here on time. Sir, from the point of arrest to the point of dismissal or sentence should be no more than two years and in most instances we hope 18 months.

Mr. Speaker, it is critical that if people are to have a sense of confidence in the judicial system as well as to increase their relative sense of security and safety that we have an administration of justice that is swift. The instances where people believe they can commit a crime, that the matter will not be heard in court, that there will be many

adjournments and that eventually the case is dismissed or discontinued must become a thing of the past.

Mr. Speaker, we believe that we have responsibility as a Government to provide the framework by which the establishment of these continuous criminal courts can happen. I will say that the common perception is that the number of criminal cases have more than doubled in the last twenty years. The truth is that in 1981 we had 105 cases before the criminal Assizes and by 2002 it was only 134. I will admit that in 1992, 1993, 1994 and 1995, the number of matters before the Assizes went as high as 400.

Mr. Speaker, I know first hand because up to 1994, I practised before the Bar and I handled many of these cases at the preliminary inquiry stage and it was not unknown for a case to take in excess of one year to eighteen months to have the preliminary inquiry completed and then have one, two or three traversals before the court.

I share a distinction with my colleague, Mr. Tyrone Estwick, as representing persons who have had cases dismissed at the Assizes without evidence being heard because of the length of time and failure of the prosecution to bring forward the evidence in sufficient time. I refer specifically to the Dover Beach murder retrial where those two gentlemen, having been convicted, won the appeal, and went back before the court and the case was dismissed on the date of the traversal when an application was made by the prosecution to traverse the case yet again for failure of the Crown to act with expedition in respect of the prosecution of those gentlemen. Sir, the fundamental point is this, we are less than 30 per cent now, in 2003, as compared to 1991 and we want to be able to deal with them. I believe that the Government has a responsibility to make sure that those cases can be disposed of within two years and we do not ever want to see the day again when the number of cases before the Assizes reach the 381 high of 1995. Sir, that is what we found when we came into office. However, it is down to 104.

12.00 noon

Sir, the real increase in the Supreme Court system has come in the instance of civil cases and family law cases. Anyone knowing the law will know that when I cite these figures and we see the tremendous increase, this does not reflect the extent of the increase or the burden upon the court system. In every divorce petition or civil case there may be a number of interlocking procedures that have to go before a judge in Chambers, therefore, it is a charge upon the court's time and resources.

Sir, they may have a case that before it gets to trial, has to go before the judge in Chambers three or five times. Some of the work is done by the Registrar but some of the

work can only be done by a judge in Chambers, settlement of property arrangement, custody arrangement *et cetera* before you get to the *Decree Nisi* or *Decree Absolute* in family law matters. Sir, I quote these figures with the caveat that it does not reflect the full burden upon the court system.

In 1991, there were 372 divorce petitions before the court. In the year 2001, ten years later, there were 453 divorce petitions before the Divorce Court. Interestingly enough, there has also been an increase in cases at the Magistrates Court level. We are seeing that in the increased demand on community legal services because we provide state-funded attorneys for persons who require maintenance or matters pertaining to the Minors Act in the Magistrates Court.

I believe that this is an issue that the family law council, the Government of Barbados and the society will have to come to grips with because the inability to resolve conflict within families very often leads to detrimental consequences at the level of the society.

I do not know if the Honourable Member for St. John, Leader of the Opposition, who has had the opportunity to advocate something called 'Family First', is now so disinterested that he does not want to listen to what I am saying. The truth is, there can be no division on this issue that if we do not seek to be able to treat domestic issues with a level of seriousness and with a comprehensive framework that minimises the impact of breakups, dislocation, violence and abuse of all forms, physical and mental, we are going to see the consequences within the criminal jurisdiction and generally within the social well-being of this society's social capital.

Sir, we treat this issue seriously and we are currently engaging in discussion as to whether there is merit in the establishment of a family law court. The current family division of the High Court only sits twice a week. It sits one day dealing with divorces and the other day dealing with other family law matters.

We have to have extensive discussions with all of the stakeholders to see whether the issue of a family law court is the solution in this matter but I will not pronounce on this issue, as a Member of this Government responsible for this portfolio, without the appropriate consultation with the Bar Association, judiciary and the non-governmental organisations who work daily in the management of disputes within the family or the upliftment of families, including the Leader of the Opposition's organisation 'Family First'.

Asides.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, in 1991, the civil cases have increased from 1 023 to 2 706 in 2001

having reached a high of 2 769 in 2000. I should tell you that the family law cases had a high in 2000 of 504 over the 453 in 2001. Sir, the civil case 1 023 to 2 796, an increase of 1 700 (almost 170 per cent) as compared to the 30 per cent in criminal matters and the increase just short of 100 per cent in family law matters.

Mr. Speaker, this is the workload of the courts before us. There are those who would speak in this debate, no doubt, to the need for speedy judicial decisions and this Government feels that should always be the hallmark of an efficient system of justice.

One can better appreciate the pressure that is placed on the limited number of judges to resolve the multiplicity of issues before them, not just in terms of quantity but in terms of complexity. The existence of offshore legislation in this country is rooted in the late 1970s/1980s. The existence of complex commercial legislation is a thing of more recent vintage and copy rights and other intellectual property legislation.

There was a time when judges, in the 20th Century for the most part, would have only had to decide on contractual matters of basic torts, not even the new torts that the law is recognising in terms of economic torts such as basic negligence, issues pertaining to contract, misrepresentation and land law.

We now have a domestic jurisdiction that has as its second most important industry an international financial services centre, which can only effectively exist if there is an appropriate commitment to efficient and speedy justice for the resolution of disputes within that international financial services sector.
12.10 p.m.

We recognise that the issue of judicial training has to be paramount and certainly in the two months that I have been in here, the Chief Justice has requested funds for the training of judges because the mere fact that a person becomes a judge, does not confer automatically upon them, an abundance of knowledge that equips them to treat to all issues of the law.

While they may read and prepare themselves, the truth is that our judges do not yet have the benefit of clerical research assistants, nor do they have the benefit of as regular a training programme as we would like. We have been instituting it annually and we hope also to increase the opportunities for available training, domestically, regionally and internationally because we recognise that many of the issues confronting them are evolving as fast as we speak.

There are judges from the House of Lords who have opined that commercial transactions do not need the existence of consideration to be enforceable. These are things that are so fundamental a variation from the law as we were taught as law students that requires an ongoing set of training and reading, if we are to have and maintain the legacy of our modern latter part of the 20th Century, I dare say, reputation of having a well-functioning, transparent and well-educated judiciary.

We have been lucky, particularly in the years leading up to and since independence with the quality of persons who chose to go on our judiciary. I want to say that it must always be one of the things by which we will continue to judge ourselves in terms of that.

Yes, there has been a few problems with lateness of decisions and I know that the current Chief Justice has been leading by example, because there has been a number of judgements already within his first year there, that have been delivered in quick, quick time, indicating that it is not a waste of one's time to go to the Court of Appeal, for you can have back an answer in short order, determining the issues between the parties.

Mr. Speaker, I indicated to you that this is not the sum total of the Government's reform efforts in this area. I would have announced late last year, the establishment of a national commission on law and order, granted it will have a purview more on the criminal side on issues of justice, peace and security both in terms of the legislative framework, the enforcement framework, the general society's response and indeed, elements of the administration of justice.

Sir, that Commission has the fortune, I dare say fortune, of being Chaired by one of Barbados' most eminent legal scholars, Sir Roy Marshall, who has distinguished himself both as an academic and an administrator and who is responsible for setting up the law school at UWI, Cave Hill in Barbados. Many people forget that because that law school was established when he was Vice Chancellor of the UWI.

Sir, on that Commission, we have a range of skills from ex-judges, in the form of Justice Belgrave; an ex-DDP, a former Commissioner of Police, Orville Durant; the former Chief of Staff of the Barbados Defence Force, Brigadier Rudyard Lewis; the Managing Editor of the *Nation Newspaper*, Mr. Harold Hoyte; Canon Andrew Hatch, distinguished Cleric of the Anglican Church; distinguished Principal in the form of Mrs. Dorian Pile, who distinguished herself at The Combermere School; current Principal in the form of Mrs. Catherine Jordan, Principal of the Alma Parris School; the Deputy Principal of the UWI, at

Cave Hill, Christine Barrow, distinguished Sociologist; Adrian B. Husbands, a banker and a musician of class; Mr. Rodney Grant of Pinelands who has done distinguished work as a person advancing the causes of non-governmental organisations; and Ms. Tracey Richards from the Rock Hall community, a passionate and strong grassroots worker.

Mr. Speaker, the Government has made a broad determination for the establishment of this national commission on law and order:

We believe that with only such a broad based commission, we can have the effective levels of consultation both among them and through them to the rest of the society, recognising that the administration of justice in its broadest sense is a far more complex issue in a Barbados of the early 21st Century than it was in previous times.

It reflects a full commitment on our part to participatory democracy and to the building of consensus, recognising that only when people accept the common basis upon which we will act, as a people, that you have true and genuine movement on their part.

It is also a commitment which we gave at the CARICOM Heads of Governments level, because the Heads of Governments recognise the complexity of the issues facing the region in terms of justice, peace and security, recognise that the fight to maintain effective control of our societies without these challenges, undermining our society, was one which needed to be fought by a broad based entity such as this and I believe that we have been fortunate in Barbados to pull together a wonderful group of people with considerable experience, knowledge and wisdom and I can report to the public that they have been meeting regularly and we have placed before them, a draft National Plan on Justice, Peace and Security for their comments.

This draft National Plan will be released to the public within two weeks. It will be the basis upon which the Commission will be consulting with members of the Barbadian public because the Government is saying that we believe there are several platforms upon which we must seek to treat to these issues.

We must first deal with the issue of our culture and our values. We must then deal with the question of strategic intervention with young people at risk. We must then deal with the issue of how can we effectively strengthen law enforcement in its widest form in this country. How can we modernise the criminal justice system. How can we continue the process of effective penal reform as the fifth platform. How can we use this Parliament to create the

appropriate legislative framework to give effect to how we want to treat to many of these issues and even what can the individual, the employer, the church, the community do themselves to reduce opportunities for crime. Our research is showing more and more that while Barbados has a high incidence of burglary, in many instances there is a contribution at the individual level, from the point of view of leaving themselves vulnerable for crime, such as burglary to be committed, in circumstances, where, had they taken certain precautionary steps, it would not have happened.

Now, nobody wants us to reach completely to that stage because we all grew up in a society where you could leave your doors and windows open until you come back. Unfortunately, that is not the way of the world in which we live today. Not just Barbados, but I dare say, almost every country and every community in the world has changed, other than those that are completely insulated from the process of modern development, and who disavow any notion of valuing property within their societal framework.

Mr. Speaker, this draft National Plan on Justice, Peace and Security will be released in its entirety to the Barbadian public, as a discussion piece. It sets out many of the things that this Government would wish to do over the course of the next seven or eight years, to effectively deal with the issue of the Criminal Justice System.
12.20 p.m.

It has a number of new notions and it improves on existing structures. In fact, it speaks in part to this Bill that is before us today because it speaks to a number of other things, like the establishment of a Drug Court.

A Drug Court is simply a court that, instead of conferring an exclusive criminal jurisdiction upon a drug user, speaks to the health issues as well and once the accused is willing and agreeing, suspends the criminal jurisdiction of the court to allow the accused person who is a drug user to participate in a rehabilitative programme such that they can come off the drugs. If that is successful over a period of time, the court then will not treat to the issue of a criminal conviction in the same way that it would have if the person had pleaded guilty straight off or had been found guilty.

Because of the pernicious nature of drugs, it infuses in the court system a consideration for the health, welfare and well-being of the individual as the paramount issue before the court. It requires the complete coordination and assistance of the Ministry of Health, its institutions and those institutions within civil society that have a desire and that work toward the reduction of illicit drug usage in this country.

The draft plan also speaks to the question of breaches of the peace and what should be the appropriate response of the criminal justice system to those breaches.

We believe that we have reached a point where there must be a clear distinction between those things which destroy the peace and those things which are serious criminal offences. If that distinction can be appropriately made, the majority of the State's resources in terms of law enforcement and administration of justice should be focussed on serious crimes and not be blocked by the resolution of matters of the peace that constitutes breaches. That is not to say that breaches of the peace will not be dealt with. In fact, they will be dealt with in a comprehensive way.

We believe that we should find swifter and new ways of dealing with breaches of the peace. For example, in traffic offences, there are already some offences which can be ticketed, so if you receive a ticket and you know you did the wrong, you can pay the fine automatically and send it back in. If you disagree with the charge which the summons reflects, then you can choose to go to court and have the matter heard.

We are going to be expanding the range of offences which can be ticketed in traffic cases because we recognise that it not only clogs the judicial system, but it also affects the overall productivity of the country because very often people have to go and spend hours in a Traffic Court just to be able to say they plea guilty and to receive the same tariff of fine that they would have received had they used the ticketing system. So we are going to change the Road Traffic Act to be able to allow for more offences to be ticketed in traffic cases.

We also believe – this is what we will put out there for discussion with the Barbadian public to the national commission – that there are other types of offences like dumping garbage, littering, cursing and behaving in ways that destroy the peace that are not, strictly speaking, hardcore criminal offences that can also benefit from a ticketing system. So if you know you did the crime, you can be ticketed.

We feel that instead of only being able to confer a monetary fine on persons that we should also have a system that requires those who are prepared to breach the peace to build back the social capital of this country, it could be 20 hours or 30 hours of community service depending on the seriousness of the offence that constitutes the breach of the peace with a schedule of approved activities for you to choose from.

We believe that the deployment of law enforcement resources should see island constables and special constables, as well as the development of a new role for

Justices of the Peace, assisting and dealing with breaches of the peace leaving police officers and the court system to spend the greater part of their time treating to issues of criminal offences in this country such that they can be an increase in the detection rate and an increase number of those matters that come swiftly before the court system and that they should be a shorter period of time for the disposal of them once they are before the court system.

This Report therefore speaks to that system of fixed community penalties. It also speaks to whether we should not investigate and introduce a new system for juvenile justice. We have, I am sad to say, a Juvenile Offenders Act that dates back to the 19th Century in terms of its philosophy and to the early 20th Century in terms of its passage through this Parliament. We believe that Act is inappropriate for modern Barbados.

The policy papers which will be available for discussion with the public are being completed. The Principal of Dodds and Summervale, Mr. Erwin Leacock, has been meeting and doing research with assistance from the Canadian government to be able to put us in a position to change the philosophy for the delivery of juvenile justice in this country recognising that the one objective we must have in terms of juvenile justice is to be able to reintegrate those persons into society after an appropriate punishment so that they are not scared for life. People make mistakes, particularly before they reach the age of maturity, but those mistakes should not prevent them from leading a normal life.

I trust, Mr. Speaker, that we will be able to introduce in this Parliament at some point within a calendar year, God willing and the electorate willing, legislation that would treat to our young people becoming involved in the justice system in a different way than the current archaic Victorian approach that is punitive only in nature and does not speak appropriately to their development, psychologically, educationally or emotionally, such as to allow for their reintegration into society.

I have given this Parliament the word that I would not treat to reform as a flippant or fly-by-night issue. While I condemn the current system, I give you the assurance, Sir, that any reform measure will have the widest possible consultation because it will affect too many of our citizens for it not to have the benefit of that. We believe that the system of restorative justice, which is practised now in New Zealand, interestingly enough coming out of the Maoris's tradition, practised among some indigenous tribes in Africa and Latin America, practised in Canada and which was introduced a few years ago in Hawaii, in effect represents a model that we may wish to adjust to our needs.

Restorative justice is really a legal term for what your parents do when they have a number of children in a family, that is, if you do somebody wrong, you must confront the

person and fully understand how that wrong has affected that person so that you can come to terms with the whole action and the thought process behind that action that led to that hurt without any violence and without any adversarial system of justice.

12.30 p.m.

Our system of justice is adversarial. The prosecution defends but if there is a system that does not treat to the issue of innocence or guilt as the primary objectives but to the issue of resolution of conflict and rehabilitation of both victim and accused as part of that same process... I believe particularly in areas of juvenile justice and with some limited offences for adults, that we could seek to be able to bring about less fallouts as a result of the commission of criminal offences within our boundaries.

It has a role for the community because it recognises that the community, at the parish level, should facilitate that meeting between the victim and the accused and should seek to help bring about ways in which there are opportunities to treat to these issues in the broadest holistic form, rather than through an adversarial system that treats only to the innocence or guilt of the accused. This should be done, especially in a small society where they are likely to come into contact with each other on a daily basis, either socially or at sports.

There is no doubt that we believe the issue of the victims' rights have also to be treated with a greater degree of seriousness. We have looked and would be looking at how we could establish an appropriate compensations scheme to victims of violence as part of the plan for consultation.

Mr. Speaker, today I started off with a discursive review of our early history of our courts. I spoke of the lack of transparency and independence to the lack of accountability. Those courts also had, at the same time, legislation which spoke to inequality and oppression. I have had an occasion within the last week to say that it is a fact that the law was used as an instrument of oppression and as a tool of inequity in this country for almost 300 years. It is only within the last 80 years that we have seen a concerted attempt to use the law as a tool of empowerment and to provide equality of opportunity and treatment in this country.

Mr. Speaker, while we have removed most of the legislative vestiges that have led to this inequality and oppression, there are a few strands still within our 13 volumes of legislation.

I have a doctrinal disposition which will require me to bring those strands before this Parliament for their removal

from our law books, to complete that process that has led to forebearers of our suffering as a result of iniquitous and oppressive laws.

Mr. Speaker, while we have effectively abolished most of the Vagrancy Act, I do not feel, for example, that there should be anything called loitering on a public place. I do not know how someone could be loitering on a public place. I do not know how that could be an offence. The law might be able to deal with bad behaviour or littering because they are positive acts which negatively offend members of the society, or one can trespass on private property but I do not know how loitering in a public place such as Bridgetown could be an offense. It must go.

Mr. Speaker, there are strands throughout the law... For this year, we will be commissioning a study between the History Department of the University of the West Indies and the Law Department, to help us because I am understaffed. I do not want to have had the opportunity to have served in this job and not to have brought before this Parliament a piece of legislation that we can remove those elements that are no longer necessary to modern efficient government in a democratic society. I give this House that assurance that part of the expenditure of my Ministry is to commission such a study so that we can bring in one Bill, the repeal of those vestiges.

Mr. Speaker, one of the things that we have spoken to is the offence of unlawful possession that shifts the burden of proof. That was an offence that was introduced after emancipation which was premised on the view that certain persons in this society should not have property and when they had, they would have had to explain how they came by it because there was a preponderance of view that people would steal. They had to go before the courts to explain how this came into their possession. If it could not be legally accounted for by receipt or by evidence, then that person would have trouble in determining ownership of that property. Those things must be removed from a modern Barbados.

We will not, in any way, offend the rights of citizens in this country to protect their property but we will remove things that speak unreasonably and that were instruments of social and economic control for a class that once occupied these hallowed walls of this Assembly.

Mr. Speaker, I have indicated that the draft National Plan will go. I am instructed by the Chairman of the Commission, Sir Roy Marshall, that he will do an abridged copy of the plan because we recognise that not everyone might want to read the full 62 pages of the draft. Therefore, there will be an abridged copy which sets out the role and function of the Commission.

They are also hoping to meet with the private sector, the general public, boys on the 'blocks', communities, churches and various groupings of people. What we want is an entire consultative process because this Government feels that it is not beyond us as a Government or a country to devise a common plan to which we all commit. We would then give the undertaking that once that draft plan has been approved, hopefully before the end of this calendar year, we will set out another book that defines for people, their roles and responsibilities under the plan as individuals, families, communities, community groups, churches, church leaders, employers, so that every one could say where they fit into the plan.

Mr. Speaker, I have already repeated that the issue of crime and reducing crime in this country, is not an issue for the police, or for the law enforcement agencies alone but one to which all right-thinking members of this society must commit. This is the framework which we believe is possible for that level of commitment to these things.

Mr. Speaker, the reforms of this Government do not stop there. We have had a committee chaired by the Honourable the Chief Justice of Barbados. This committee has been meeting quietly every Saturday morning for almost a year, treating to the issues of the new draft Rules of the Supreme Court, which are rules by which all action in civil jurisdiction is conducted and determined. I want, like the Organisation of Eastern Caribbean States (OECS), to be able to modernise how civil matters move through the system. I believe there was a lecture at the University of the West Indies within the last month on the effectiveness of the Organisation of Eastern Caribbean States (OECS) jurisdiction.

12.40 p.m.

We have applied to the Ministry of Civil Service for the establishment of a 'Master'. Sir, a master is someone located between the Registrar and the judge who deals with the administration of the court system. He deals with a lot of the preliminary matters such that when they get to the judge he can treat to the core of his function as an arbitrator of law and fact. It is time that we have a master in our system and the new rules will speak to it.

We hope that issues of going through the draft rules, the question of consultation with the Bar and training will allow us to be able to establish these rules during the course of 2004, as a means by which the Supreme Court would be administered in its civil jurisdiction. This will be a major departure from the system we currently have.

Sir, we have been quietly treating to the reform of the Registry. My predecessor has seen to the computerisation

of the probate division and the registration and recording of vital statistics was done as phase one and two of the computerisation of the Registry. We are hoping that phase three will treat to the issue of the Family Law matters. We believe that the time is upon us to start the planning towards the development of a complete electronic platform for the registry for the civil and criminal jurisdiction and for the court system.

I announced last year that we have already commissioned someone to develop the software which will allow us to be able to record fines and orders of the Magistrates Court electronically and to automatically bring up warrants when the default date for the payment has passed. Right now, it is still recorded daily in a ledger about four inches thick and a study done on the police in 1994, showed that only 40 per cent of the fines issued by the court were collected.

Sir, this is not good enough and we hope that when the software is finally introduced and when we establish a virtual private network between all the Magistrates Courts that we can effectively have an appropriate and efficient system for the recording of fines and orders, for the collection and monitoring of same and for the default orders to 'kick in' when there has been a failure to pay the fine or follow the order. The software which is being developed by a Barbadian will treat to the issue of maintenance payment for parents of children from the Magistrates Court system.

I have said before in this House that Government is committed to removing the presence of women standing up in the sun to collect money weekly because we believe it is an undignified thing. I am happy that the first version of the software has been shown to the registry staff and they have indicated that a few things should be simplified in the software rather than having to go through so many different windows. The developer of the software is removing the kinks and I trust that within three months it will be operational and the appropriate training will take place within the Registry and the Magistrates Court system so that we can achieve those two very simple objectives.

Sir, the rest of the building up of the information platform for the civil and criminal jurisdiction to be controlled by the Registry and courts will continue. This Government is committed to that because we believe it will increase the efficiency of the administration of justice and of criminal matters.

Mr. Speaker, my office has commissioned a study by Professor Fiadjoe from the University of the West Indies into the reform of the processes and procedures of the Registry because we believe that we cannot continue to do things blindly because there were done a particular way all along. We believe there must be a time when you stop,

access the environment within which you are functioning, determine the rational for every process and procedure to which you are committed so as to ensure that you are meeting the stated necessary objectives. I look forward to the final draft of that report being delivered to me during the course of this month by Professor Fiadjoe.

It may well be that we may have to examine the separation of the vital statistics department from the Registry which also has responsibility for the Supreme Court, the Magistrates Court, the Court Process Office and the Court Marshals so as to allow the Registry to focus on its core functions effectively and allow vital statistics to be done which are not necessarily managed by the registration department.

Mr. Speaker, we have not had an increase in the establishment of the Registration Department for most of its modern day. I have spoken to 200 per cent increase in civil cases which must all go through the registry and 100 per cent in family law cases which must also go through the registry. I have also spoken to the number of matters which the court marshals and the Magistrates Court must deal with, the existence of the child maintenance payments and all of these also fall under the registration department.

We feel that the time has come for us to quicken the pace of reform of this department because it is the linchpin in respect of efficiency in the administration of justice. We also provided training for the Registrar in respect to issues of taxation of cost because this Government has real concerns as to the extent to which cost if being taxed at a high level especially in relation to the level of judgements which are being issued. We should never allow the cost of access to justice to reach to such a point that it is outside of the hands of the average man and woman in this country because it is a dangerous thing. If we agree that a modern efficient judiciary that is transparent, accountable and independent, is the bedrock of democracy then access to justice is also the bedrock of democracy. To that extent, Mr. Speaker, we are committed to building on what is already a commendable system of the Community Legal Services Commission which speaks to be able to provide a public attorney of choice funded by the State.

There are those who tried to suggest to the Government over the years that we should have a system of public attorneys as you see in the United States of America but I do not agree with that. I feel that our system which allows the litigant to choose his attorney for a certain range of services and that the State then pays a certain tariff level is the best system. Sir, where else in the world do you know persons being represented for murder cases by the best lawyers existing within the country?

I do not know of a time when a person accused of murder would not have benefitted from the state-funded system. We guarantee it as right on every constitutional motion as well and in matters of high legal complexity. We also guarantee it as right in any matter to do with the Minors Act on maintenance for children.

I believe that the time has come for us to broaden the base for those things which you can benefit from and we have to think seriously about the issue of the Landlord and Tenants Act because there are too many cases of exploitation in this country between landlords and tenants. In circumstances where the law confers rights upon people, many of them are not able to access the law courts because they cannot afford to pay a lawyer to do so. These are the reforms that this Government wants to put on the front burner.

We believe that in the same way we can confer the benefit for persons where children are concerned that the issue of resolution of conflict when it relates to property is fundamental to those things which are importance to us as a society and a Government and instances should be available for State funding relating to the landlord and tenant relationship and matters of property.

Mr. Speaker, I have said enough to indicate to you that this Government has a rich programme of reform and we have come to the judgement that the time is right for such reform within the court system. In the same way that the Right Excellent Sir Grantley Adams in 1956 brought an aggressive programme of reform to the justice sector, this Government believes that we are in a position to ensure that the structures we have in our justice system are appropriate to the other developments taking place in our environment, economy and society on the part of our individuals and we are committed to being able to reform elements of it.

Mr. Speaker, there is a lot more to say but I am cognisant of the time. Suffice it to say, I trust I will have many more occasions in the near future to speak to the public of Barbados on these issues. I will be able to say to them at that time, as I say to you now that the issue of reform of the law and arrangements pertaining to the judiciary is one on which the Barbados Labour Party is competent to speak, since in the modern history of this country, it is only the Barbados Labour Party that has brought serious consolidated reforms pertaining to the administration of justice.

I believe I have said enough and I say to you that this Bill before us is worthy of the support of this Parliament. It has its origins in the Budget Speech of the Right Honourable Member for St. Peter who, in the face of other economic reforms and measures, recognises that the existence of a well-functioning and effective judiciary is critical to the

economic and social well-being of this country and has provided in the context of six judges at the High Court, four at the Court of Appeal and eight magistrates that there should be a further increase of two more High Court judges, one Court of Appeal judge and two magistrates.

We have committed ourselves to the fact that there will be some increase in fees because they have not been increased since 1981 and can bear a slight increase without affecting access to judges because we want to broaden access in other areas.

Mr. Speaker, this is worthy of the support of all Honourable Members of this House without division and I comment it to you and say to you that it is a distinct pleasure to treat to what I call part one of the serious legislative reform that will take place during the month of April 2003 that relates to the justice sector.

Part two will come with the Caribbean Court of Justice Bill and the consequential amendments to the Constitution. I look forward to that debate as I have looked forward to no other thing in public life to date.

Sir, I thank you.

SUSPENSION

Hon. Miss M. A. MOTTLEY: Mr. Speaker, Sir, I beg to move that this House be suspended until 2.00 p.m.

Hon. R. C. EASTMOND: I beg to second that.

The question that the House be suspended until 2.00 p.m. was put and resolved in the affirmative without division and Mr. Speaker suspended the House accordingly.
12.55 p.m.

RESUMPTION

Mr. SPEAKER: This Sitting is resumed.

Mr. D. J. H. THOMPSON: Mr. Speaker, I have had the opportunity in this Chamber on several occasions to speak on matters of this sort and I do not intend to detain the Honourable House in repeating what I previously said relative to the Constitution of our High Court, Court of Appeal and administration of justice in Barbados.

This would not be the occasion for me to deliver my own verdict on the relative success of law and order on justice policies. It would be too late in the day for me to

deliver that judgement. I am sure that the Minister is acutely aware that public will, based on what is being said on that side, deliver those judgements shortly. Therefore, I am not going to detain the House to be converted on matters which really would have no relevance.

I have always been concerned about the failure of the court system in Barbados to keep pace with the trend both announced in here by successive Attorneys-General, by what commonsense dictates, by what the public wants and by what is happening in the rest of the world. Even though we may make excuses for the performance of our Bar judicial officers and even though the Standing Orders would not permit me to express my own views, the point is, at the end of the day, I do not think that the level of productivity that our court system needs as well as the humane caring response that litigants require in Barbados is delivered effectively in our court system.

While there may be legitimate constraints on quick and swift justice, I do not think that our courts function in a businesslike manner. I do not think that the system is as helpful to a person who wishes to access it, either starting from the basic approach to an attorney as well as having to function within the courts in Barbados. I do not think that enough has been done to expand the legal aid service in Barbados to assist persons who require it. We have been talking about this for a very long time and very little has been done about it.

In this Chamber, on previous occasions we have talked about how to assist judges in reaching quicker decisions. It was recognised that some of the problems may relate to the need for judges to have better clerical assistance or research assistance.

We spoke about the need for continuous training of judges because they are only human beings and they may have had a limited professional career and then they go onto the Bench in which they are required to deal with a wide range of matters which affect almost every facet of human life. Very often they may have no experience whatsoever. Sir, because there is a pecking order in the judicial system which says that you need to do certain kinds of cases when you first become a judge and then graduate into other cases, it does not mean that your early time spent there is spent expanding your knowledge of the vast range of matters which may come before you as a judge.

The third area of concern is the need for the administrative support in the judicial system in Barbados. I am speaking in very general terms. I am not only speaking about the High Court or the Court of Appeal but I am speaking about the entire system.

It is a pity that before we get rid of the Privy Council, perhaps, we have not been able to learn enough from the way in which the highest court in the United Kingdom functions. The judges have long dispensed with gowns and wigs. They have a Registrar of the court who is very mindful of people's commitments and seeks to organise the time of the court in a sensible way, like the Privy Council of London. I do not think that the rest of the British judicial system has learnt enough from the highest court.

Sir, we are still hidebound by tradition and by old methods of operating, which to many lawyers are wonderful things because they add to the mystique of the legal profession and cloak the profession in a certain seriousness which make people think that it is much more difficult than it really is. The traditions tend to help that misunderstanding by making people believe that the courts are not about business but they are more about tradition, formality and more inclined to deal with the form rather than the substance of the justice litigants are requiring.

I think that is something that we need to be conscious of and we need to strip the judicial system of some of the unnecessary tradition, break down the system a little more, move into serious areas of reform and to undertake that reform with a commitment and zeal that would help those persons who have to use the system in Barbados to get their business done swiftly.

Sir, instead of that we tend to add tiers or more kinds of bureaucracy to the system. We add that bureaucracy in a culture that is very resistant to helping people get through what they need done and is always seeking to find reasons why things cannot be done. We are to ease the process of judicial reform in Barbados.

Sir, we also have that culture in public service where people can identify ten reasons why things cannot be done before they even advance one reason why it could be done. When you add those layers of bureaucracy, which I hope the reform is about, you end up alienating people more and more from the system rather than helping them along the way.

I can support the existence of a family court or family division but as long as the procedures are dramatically simplified so that people can access justice and the real concerns that they have can be heard; they can get their day in court swiftly and they can get justice including important interim orders that would assist people in receiving their rights under the law.

Sir, there have been reforms in other jurisdictions in the Commonwealth where they have introduced specialised areas of jurisdiction that have been able to speed up the

process considerably, as long as they have been a strong commitment to reform. It is not just a matter of moving a judge to function in the same manner in which the court system is currently functioning, simply to hear family matters.

Sir, there would have to be more thoroughgoing reform that would see those matters dealt with quickly and efficiently. On that basis it is not just a question of family law. There may be other areas in which you may need to have specialised attention being paid to expediting matters. Obviously, there are going to be more and more opportunities for that kind of reform to take place and I think that reform would be extremely desirable.

I also think that it is important to find a way to try to deal with the perception and the reality of the level of professionalism of those persons who litigants first approach, namely the lawyers in Barbados. There are a lot of complaints which have been made about lawyers, many of them may be unjustified, many of them may arise because of a lack of communication and 1001 other reasons why people complain.
2.10 p.m.

Anybody who has been in private practice for even the shortest period, would have encounter clients who are frustrated and who think that their matter is the only matter that is being dealt with and it needs to be dealt with quickly and swiftly.

Beyond that, there is also a sense in which the conduct and approach of Attorneys in Barbados also help alienate people and confuse them about our system of justice. To my mind, there is not enough being done by way of the work, both of the Bar Association and some intermediate body, relating to the manner in which our justice system works that can counsel clients on problems that arise in relation to the professional work being done by their Attorneys-at-Law. I think this is something that needs attention because, even more than going in court itself, it is that process along the way that often creates the biggest problems for litigants.

Sir, I think that the need for reform in Barbados has never been denied. The problem has always been the allocation of resources. I suspect this is going to continue to be the problem because whenever matters of this sort come up, there is always a diversion of resources to other matters that are more visible, are more urgent and that are seen by people as priorities over the question of the improvement of the judicial system in Barbados.

I frankly think that a lot more can be done and I believe that the Attorney-General has identified some of the concerns that exist in this area but at the end of the day, our

focus has to be on how Barbadians generally feel about whether they are getting justice when they go before the law courts in Barbados, whether they are getting it swiftly, whether it is too costly or whether they are getting value for money and whether essentially, the results that they get are compatible with what our view as Barbadians is or may be of the way in which our justice system fits into our overall constitutional arrangements.

As I say, I am not against reform but I believe that the reform has to be extremely systemic and the objective of it must be to simplify the system to make it more user-friendly for litigants and even for the professionals who have to function within to speed it up to ensure that along the way, there is accountability by all of the persons involved and to perhaps provide even more opportunities in the system for persons who need to have justice to be assisted through the extension of the legal aid and other assistance which is currently provided.

Sir, on that basis, as I said, I am not going to delay the House with any lengthy discussion of other areas that could be dealt with. I assume, under this Head, because I believe that opportunity will come in due course.

I thank you.

Hon. Miss B. A. MILLER: Mr. Speaker, I wish to give my support to the Bill before the House. I hope that this Amendment would be the first of several which will come before the House. I have good reason to believe that is so because the Attorney-General has assured us that this is only part of an ongoing process which has to do with very deep-seated and far-reaching reform. I wish to congratulate the Attorney-General for bringing this matter before us and for the very comprehensive way in which she has framed out for our benefit that reform process which of necessity must get underway in this House.

Mr. Speaker, the development process in Barbados over the past 50 years or so, has brought much by way of what we call progress. We built a new port, the Deep Water Harbour as we like to call it, the Bridgetown Port, in the early 1960s. We built a state-of-the-art acute care general hospital, we built roads, contrary to public myth in Barbados, we built many secondary schools and we build primary schools. Even in the last 50 years, Sir, this House of Assembly, certainly this Chamber, underwent significant refurbishment and rehabilitation and, indeed, the West Wing is in progress now and I hope that at a soon date that will come to completion.

We built a new post office. Markets are going up, even as we speak. There is also EduTech. The list is long because many of these institutions have long outlived their original role and usefulness and so they had to undergo quite

significant upgrading, change and re-invention in some cases.

The changing demographics of Barbados, the new technology which has come upon us in the late 20th Century and, certainly, is driving almost everything in this new 21st Century, will require modernisation of other institutions which are still outstanding. In order to face the globalised world in which we now live, and in which world we have to be competitive, the process of reform has to be ongoing.

The Queen Elizabeth Hospital is almost 40 years old and we are now in the process of major, major overhaul and upgrade of that institution.

The same thing is happening at the Bridgetown Port. The same thing is happening at the Airport. The roads in Barbados are undergoing refurbishing, to the discomfort and inconvenience of us, but we know that this is the price of what we call progress but, Sir, there is more than one price we pay.

We have to be mindful of the reputation that we have in this Barbados for the quality of our good governance, our adherence to the rule of law and the protection of human rights, how the rule of law is exercised, and the way in which human rights are protected. It is obvious to all of us, both Honourable Members in this Chamber and Barbadians, generally speaking, that the time has come for infrastructural and institutional reform which is deep and wide in the judicial system. I do not think anybody would want to argue against this.

We know that we are very close now in the process, for a new Hall of Justice to be put in place on the site of the old Central Foundry on White Park Road. The magistracy and the judiciary, as we have been hearing, must also be strengthened, in order for justice, not only to be seen to be done, but to be done and to be done in a timely and a fair manner in Barbados. If there is one thing that Barbadians are sure about, is that irrespective of class, colour, creed, we all stand equally before the law.

Mr. Speaker, this rapid development of our society, as I said, comes with a price. We have seen in these intervening 40 to 50 years, the social mores, family relationships, in particular, suffering greatly. Conflict resolution within families needs to be now accorded a much higher priority. This is, as I said, irrespective of social status.

Cultural penetration from the large developed countries is all part and parcel of this but a lot of it we have the power here at home to say, no to. We have the power to do so. We are in the process of uplifting our own traditions and our own culture for the better.

We have, Mr. Speaker, to learn to be more tolerant. We have to be less judgmental. We have to be more giving and compassionate. Parents in Barbados must be prepared to assume their responsibility as parents, it concerns me greatly, not only biological parents but there are many in this Barbados who raise other people's children. I am one of them. In almost every family, you will find an example and more and more, I am seeing a situation where parents are too willing to abdicate their parental responsibility to somebody else, especially during early childhood.
2.20 p.m.

They do not care sometimes who it is. They abdicate it to teachers; to other relatives; to day care providers; to the church; to non-governmental organisations; to the resident beat cop; to the liaison officer; to the Child Care Board officers and even to some Members of Parliament.

I am of the view that there has long been a need for a full and separate family court in Barbados. When I first came to practice law in Barbados I started on the first Monday morning of 1969 and in those days there was very little specialisation. We had Barristers and Solicitors then. There were professional feuds in the early 1970s. I was a Bar Association's Secretary-treasurer for many years particularly during those years of fusion, but still you did not see the specialities evolving.

I like to think that I had some little influence on the beginning of family law as a specialty in Barbados which is evolving to the point now where – this is far from the situation when I was the only woman in those first eight years when I practised at the private Bar – today there are virtually more women than men at the private Bar which is a very pleasing thing and family law has now come to a place where there is a great need for a family court.

The whole question of conflict resolution in families needs to be accorded much higher priority not only in the court system but in a lot of the support services that satellite around the court system and some that are separate from it. This is a system which would stop young people from coming before the court at all, a system which, as the Attorney-General says, needs to be less punitive and more compassionate and more caring and developmental in its attitude because these young people are the ones who are going to be doing what we are doing just a few years from now. So whatever corrective measures we have to take, we have to start to take them at the earliest possible juncture in their lives.

The formative years of a child they say are the most critical. I believe that in respect of that inculcation of good values and respect for others and all of God's creation because we not only abuse ourselves but we abuse the earth, the environment and so much over which we have not got the power of creation.

Mr. Speaker, I am one who is very much in favour of a full family court with a number of support services because there are many steps a young person or even an adult will get before that court as indeed is the case with other areas in the laws. That is true in crime and it is true in civil law. Some of us despair over what we are seeing now in the breakdown of the old extended family unit as we knew it; I do not despair. I read and I listen but I do not despair. Life is about choice and change and that too is changing but we need to have more informed change. We need to help more the process of change and the way in which we manage our legal system is very much a part of that. It is integral to our daily lives and I think that the average Barbadian recognises this. Barbadians are said to be some of the most litigious people in the world.

The administration of justice is very critical to the fundamental element in our legal system and our adherence to the rule of law. The quality of life for all of our people is very much touched in every way, sometimes you do not feel it but it is there. It is part of the supportive system and it is part of this magnificent institution of justice. That is one of the important legs upon which democracy stands.

Democracy is not a tangible thing that you can lift up and put down like a chair around a table. We are much envied in the developing and indeed in the developed world for the quality of the democracy that we have here. Only this morning in a courtesy call with the Vice President of Panama that point was being made. There is a little comparative analysis going on that our democracy – this is the point that was being made by him – stands on a certain kind of foundation.

There are institutions which inform democracy such as the stable participatory parliamentary system that we have; the judicial system that we have; the educational system that we have; the labour movement that we have and the social partnership that we have. All of these come together to underpin the democracy which is so highly-prized in Barbados. If you look around only in this hemisphere, we do not even have to go across the ocean, you would see that in those countries where those institutions, particularly the judicial component, is weak or is lacking by definition, always unfailingly democracy is weak or is lacking. So that reform should come now at this time to this element of our democracy and of our good governance is a good thing.
2.30 p.m.

Mr. Speaker, some of it is long overdue. More of it has to come in a systematic fashion but there has to be a beginning to the process. Mr. Speaker, I do believe that the judiciary, the magistracy, ourselves as Parliamentarians and Barbadians, generally speaking, would want to welcome what is before the House today. I have no doubt that other

Honourable Members will speak but this process now has to be accelerated and becomes continuous. I would wish to recommend to Honourable Members that we give our support to this Bill.

Mr. Speaker, I do not believe there is any body of opinion which could suggest that there is any part of our legal system which is corrupt or which falls below a minimum standard, or even which works unfairness. In every case, somebody has to win while somebody loses.

The leader of the Opposition has made a point that people need to understand that their case is not the only one on the judge's docket or in their attorney's chambers but generally speaking, there is a large respect for the quality of justice which is to be found in Barbados. Whatever we can do to improve that to prepare Barbados better, to dispense justice in this time of rapid and enormous change, in my judgement we are duty bound to do it. Justice cannot be running behind the rest of development. Justice has its own developmental role which it plays in our society and often, if one looks at the history of Barbados, it has been ahead rather than trailing behind. There is a lot of catching up to do now, particularly in these administrative aspects which are essentially what is before the House today.

Sir, I want to congratulate the Attorney-General for bringing this to the fore. There are a number of issues which she has raised which need ample public discussion. I am especially pleased to hear that in her view some of those very sensitive and emotive issues would be available for wide public discussion before decisions are taken. These things are important because they touch people's everyday lives. It is the kind of thing which can overtake someone at a moment's notice. One does not have to be other than a God-fearing, law-abiding citizen for the law to touch us in so many different aspects of one's daily living. Therefore, as much public information as can be put out so that people have a clear understanding and not jump to conclusions, should be done, even at the levels of the schools.

The schools, like so many other institutions, are beginning to become the victims of some element of indiscipline. Therefore, at that level, whether in the civic courses or else, it could be made known in the secondary school system and some of the post-secondary institutions as well. It is important that we must be very careful in these matters which affect our lives and will affect the lives of generations to come – the very vital matter of how justice is dispensed in Barbados.

Sir, having listened to the Attorney-General, I believe we have the assurance that that kind of wide-ranging and informed discussion which would allow opinions other than

local opinions, to come in as well so that there can be comparative analysis. Let us hear what is happening in other neighbouring jurisdictions. Let us hear what is happening in like jurisdictions which are not our neighbours. It would be interesting to know what is happening in jurisdictions with like societies such as ours, so that the judgments to which we come and the decisions would be well-informed, well-founded and well-made.

Mr. Speaker, I want to give my support to the Bill. I am grateful for the opportunity to have spoken.

Hon. R. N. GREENIDGE: Mr. Speaker, I want to lend my full support to this amendment to the Supreme Court of Judicature Act, 2003, and in particular to the provision which it makes for the creation of two further magistrates, two further judges and one appeal court judge.

Mr. Speaker, I would want to begin by saying that six High Court Judges, three Court of Appeal Judges and one Chief Justice, are, to my mind, insufficient for the work load of our Supreme Court. I admit first because I do want to say later that we still need to do quite a number of things besides the creation of extra manpower.

Today there are more litigations in our society. There are more inter-family as well as intra-family disputes. Years ago, we had a number of disputes among families and also within respective to families. Now one can find that what used to be a simple falling out is now taken to court, resulting in much more litigation. Therefore, people are asking our courts, almost on a daily basis, to make a determination on much more matters than before. People are asking for arbitration in some very untried and untested areas. I believe we are coming to the point where we have to insist that we have two or three family court judges to deal only with family matters.

2.40 p.m.

The time is coming when we will have to see if it is right for us to have a judge steeped in labour issues who is a judicial expert in that particular area, one steeped in immigration matters and issues, one steeped in international business, one steeped in legislative drafting and one steeped in interpretation of legal statute.

Mr. Speaker, I say this because the volume of work that exists in our courts today insists that there must be some kind of specialisation where judges are concerned. Traditionally we have appointed judges who are experienced lawyers, who have a sound knowledge of the law and up to now that has served us well. I can also say that our judges make relatively good decisions.

I would want to see young people who see the judiciary

as their career earlier in their lives and not be lawyers until they get to pre-retirement and then sit on the Bench. I want to see someone whose focus very early in life is on a judicial career. I want to see young bright judicial officers appointed in their 30s to the Bench because at that age they are in touch with the law and who, after a while, will be able to boldly create law.

Mr. Speaker, at that early age, they will not simply follow the law but will create law. I do not think that a judge should be someone put in that position in the twilight of his years who simply follows the laws. I believe that judges should create law as well.

Mr. Speaker, I agree that it is important for us to have this increase in judges and, as the Honourable Attorney-General said, this has to be part one, the beginning. Sir, we should not only increase the number of judges but we must find ways to allow them to move quickly through the particular area on which they are called upon to adjudicate. They must be familiar with their area because a more informed judge is what the system needs now. Manpower alone cannot be the answer. We want to have judges who know the system so well that they can 'fast-track' the system. This should not be a debate where we are simply speaking about numbers but about how we can allow our judiciary to grow in confidence.

2.50 p.m.

The Honourable Member for St. John made the point that we should also think seriously about having special training for our judges and their focus should be on the type of judiciary which we want to create. Sir, we have a backlog of cases but creating more judges would not be the answer.

I am of the view, and I know that it is shared by many Members in this Honourable House, that our judges need the support of Clerks of the Court. They need this assistance to help them prepare their briefs.

Asides.

Hon. R. N. GREENIDGE: The Honourable Attorney-General is informing us that through the IADB project, this will be a reality.

Mr. Speaker they need these Clerks to supply them with the relevant case law and to write decisions. The judges need a lot of support and for the judicial system to move forward the entire system has to move together.

Sir, it was mentioned earlier this morning that this is part of a wider reformed effort. For our system to work and for our people to think that justice is being done, there has to be a multi-pronged attack on this system.

Sir, we cannot allow judicial research to be a burden borne by the judge alone. This is too time consuming and it is now an absolute necessity.

Mr. Speaker, even at the level of the Registry, in order for the judiciary to function, it is necessary for the Clerks at the Registry, who file the documents, to do so in a timely manner. There should also be ongoing training for those who work in the Registry in the court system and this is necessary if the court system is to improve. Otherwise, we are still going to have delays.

Sir, it may surprise you to learn that cases are being placed in the Court's diary for December 2003 and January 2004. The Registration Department is already using the year 2004 diaries to set dates for cases and we are only in the fourth month of the year. This shows the enormity of the backlog problems which exist in the courts.

Mr. Speaker, cases should not have to take three years to come to trial. A lot of it is not the judges' fault. I know that over the years persons have been calling for judges to work a full day. They say that the judges leave work early and that they should work until 4.30 p.m.

Mr. Speaker, I have my problems with that. I believe that judges work a full day. If a judge has to go to court to do a civil case on Friday morning that judge gets that file from the Registry by midday on the Thursday, the day before. No judge is going to walk into court on the Friday morning without knowing what is on that file.

Asides.

Hon. R. N. GREENIDGE: Sir, the judge has to prepare for the next day. I think that it is unreasonable to ask a judge to work until 5.30 p.m. to prepare his case for the following day. This is why I am going to make the point that the only way that we can reasonably ask the judges to work a full day is if we give them the judicial support that they require to do a lot of the research to allow them to work a full day.

Asides.

Hon. R. N. GREENIDGE: Mr. Speaker, the judges may not be responsible for the clogging up of the system. When cases are being adjourned from time to time, it could very well be the fault of the lawyers who are asking for the adjournment for one reason or the other.

Asides.

Hon. R. N. GREENIDGE: Therefore, you get cases on the court's diary which take up space and time when you could have had another case to deal with instead of putting a particular case and then the lawyer asks for an adjournment

and nothing happens in the court.

I also want to make the point that Barbadians must have confidence in our judicial system. The judiciary is one of the most crucial parts of our society. This perception should not be allowed to diminish. The judiciary is very important to us and it should not be short changed.

The Honourable Attorney-General has also listed other changes which are in the making. We have to realise that when people bring cases to court, very often they are already annoyed about something, this is why they came to the court in the first place, then, when they do not get a timely hearing, they are annoyed, frustrated and angry.

Sir, for example, you may have a tenant on your property and the matter is in the court but the system, as far as the landlord is concerned, is not helping. The matter is not moving and you cannot, while the case is in the court, do anything at all with your property. In the meantime you become very annoyed and frustrated. That is why I make the point that people become very annoyed when these things happen.

Sir, I would hope that within days we would be in a position to commence work on our new judicial centre because this is part of the entire reform process for the judiciary. To have the two extra judges for the High Court and the extra Court of Appeal judge is going to mean an additional expense. We will now have to spend money on our old court building to accommodate two extra courts for the judges. If only we had our judicial centre at this time, I think that everything would be ideal.

I hope that when such a building is constructed, that it is constructed with a view that there would be further expansion in terms of the judiciary.

We have a situation where we do not have any place to put two additional judges. I know that the time is going to come where we will have to move from eight judges to perhaps ten judges.

I am obliged to you, Sir.

Mr. D. St. E. KELLMAN: Mr. President, listening to the Honourable Member for St. Michael North East, one would have thought that this speech was a speech related to social transformation as brought in the Estimates.

Asides.

Mr. D. St. E. KELLMAN: Sir, even though I can see the Honourable Member on the Other Side putting a strong case for increasing the number of judges and magistrates, I

would have preferred if we had come to this Parliament and recognise that because of the economic climate and the increase in revenue as was reported in the Estimates, social conditions in Barbados have reached such a stage that we should not be worrying about the increase in crime.

Sir, it is not easy for a developing country and a country that brags about the level of foreign reserves and liquidity within the system, to be talking about increasing the magistrates by two, the High Court judges by two and the Appeal Court judges by one. This tells me that we have a society that is not social anymore and that we have a society that is very top-heavy and the goodies have not been fairly allocated across the board, therefore, creating problems in our society.
3.00 p.m.

Sir, we need to look to see where outside influence could have caused this because it is clear to me and I have made this comment in this Parliament on many occasions that this society has allowed itself to be guided by values that are not community based but are external and have now been inculcated into our people and not leading down to the betterment of our youngsters.

Sir, when one looks at the number of people going into the court system, and being part of the court system one has to lament the fact that we have a generation of young people that we would have spent millions of dollars on and we are not doing anything to help them, except to increase the capacity at the prison and the number of people to sentence those people to the prison.

I am saying that any enlightened Government would not be here looking to increase the number of judges or magistrates, or even to extend the jail, but would be looking to put social policies in place...

Mr. SPEAKER: Honourable Member, please, I would not allow you to say that, because extending the jail has not been mentioned by the leader of the motion.

No. We are debating a motion. The parameters have been made very clear by the Leader of the House and the Leader of the House did not mention anything about extending jails, please.

Mr. D. St. E. KELLMAN: Mr. Speaker, I like this place but the wicket is batting in a way...

I am saying that I have to leave the assumption to be made by the public of Barbados that when you increase the number of judges, magistrates what will be the outcome. I would prefer to close on that particular matter. I will have to deal with it elsewhere.

Sir, there is a connection between the two statements

and I have no intention of going against your ruling. But when one looks at the statistics that the criminal cases have doubled, and these statistics were provided in here, one can only come to the conclusion, that since the criminal cases have double, you will have to look for double capacity to put the criminals, surely, we will not be putting them in Parliament.

Asides.

Mr. D. St. E. KELLMAN: I was saying, Sir, that we have to understand that we need to get back to the communities and we need to find out where we have failed at the community level.

One of the social engineers will tell you, Sir, that when the economic climate is good, unemployment reduces and the crime level is also expected to do likewise. Once you see those parameters, Sir, one would expect a reverse of what we are seeing today, instead of an increase.

Sir, it is amazing but I need to know what social programmes will be put in place to make sure that we do not achieve what we are clearly setting about to predict.

This is a bold prediction, Sir, and it is one that really worries me because I would have preferred to see arguments to the reverse in this Parliament, even though I understand the particular reasons why it might be done at this particular time but I would have preferred to see the reverse.

Sir, even though I have said in this Parliament that the system we have, allowed external forces to put on us in Barbados, it is impacting on the number of young people in Barbados and that it is also impacting to such a stage, that sooner rather than later, we may not know the Barbados we are living in. Sir, even though I have mentioned these things, I would not have thought that I would be faced with evidence to recognise that my prediction is coming through.

One thing about me I do not believe in negativity. I might have foresight but even though I have foresight I do not like to see my foresight being played out right before me and today it has done exactly that. It is now being played out in front of me where we are now recognising, because of these allocations, we have a generation of young people which we have spent millions of dollars on and we are providing the wrong solutions to the problem.

I am saying that we have to do something quickly and it goes back to the point I have been making. We need to understand that we need to have a serious social policy and programme in Barbados to correct this particular problem.

This is serious because this is an island that I have to live in and other young people who would like to grow up and do certain things, have to live in and we cannot find solutions to the problems, except to increase the number of judges and magistrates.

I want to see the young people that I have to relate to afforded programmes that will help them alleviate their problems. This is exactly what I am asking this Government to do. I do not believe that these same young men and women know that in the next couple of days, weeks or months that I have to be out there in a more vigorous way. Sir, sooner, rather than later, I have to be wondering how is it I was good enough to go among them to get what I want to put me where I want to be and yet still, I could not find the social programme to correct their lives.

3.10 p.m.

Let us go back to the 'drawing-board' to see how we have failed the communities because when I look in my papers, I am seeing a complexion I can identify with, but a situation which I cannot handle. We need to stop the slide. We need to make sure that we make communities, communities again.

I have said already that we need to go back under the Manchineel tree because there is nothing wrong with being under the Manchineel tree. The roof of a church in Checker Hall blew off a couple weeks ago and the services were kept under the same Manchineel tree that people told me that you could not go under.

We need to understand what is going on in the communities that we are supposed to be a part of. The 'oldsters' need to go back and blend with the 'youngsters' because that is what this society is lacking. The young people are now left alone even though when we were growing up we were not left alone. We feel we must be three or four steps away from the 'youngsters', we do not give them any guidance but yet still we want to pass judgment. We have to recognise that the youngsters have not failed us, it is we who have failed the youngsters and we need to put programmes in place to correct that.

I was very happy to hear that there is no need for a court in St. Lucy. I was privileged to be in here to hear a former Attorney-General making the point that there was no need for the substation at Crab Hill even though I corrected him and told him to keep it there because even though certain crime levels were low, we are fortunate to have three coastlines which allow St. Lucy to be washed, but sometimes in the wrong things. So we need to make sure that even though certain criminal activity does not occur in St. Lucy, like they occur elsewhere, that that protection must remain there to make sure that St. Lucy is fortunate to keep its pride.

We also want to be sure that people understand that

there is a cost to the products that come into the country along the coastline and that cost takes out a substantial amount of revenue that could be spent on developing programmes to uplift the lives of the same young people throughout the communities.

It is clear to me that a lot of the young people in Barbados are now focussed on sports. Anybody who has Direct television or Multi-Choice television would tell you that they are very caught up in football. Now that we have all the lighting at the pavilions, why cannot we allocate some of the money we are going to build the court with to develop a programme for the youngsters to train them. All of them are not going to become professionals but clearly if you have a good stretched sports programme within the communities surely some of those youngsters, it does not matter what people think about them, we will be able to achieve what we want from them and then we can use those youngsters as role models to show other youngsters that once they work hard, put in the training, be dedicated and get involved in those structured programmes, they too could become successful and be able to change their lives. If you allow them to be out there without anything positive to do, then we would expect to have an increase in the number of High Court judges, the Appeal Court judges and magistrates.

The day we start to see a magistrate as another step to a judge and we do not have a system where there is division, because when one looks at the workload now of the two, clearly something cannot be right... We need to recognise the role magistrates are playing and we need to compensate them for the job they are doing. The division in pay between a judge and a magistrate is too wide but the demand is the same. When you look at the purse of the judges, one would recognise that everybody should strive to be a judge instead of a magistrate. We are fortunate that we get people to serve on the Bench as a magistrate.

Asides.

Mr. D. St. E. KELLMAN: When one looks at what a good lawyer can make out there and look at the compensation for a magistrate, sometimes one would have to wonder why they do it.

Asides.

Mr. D. St. E. KELLMAN: Whether or not it is for security of tenure, we have to understand that they are playing a very important role in the legal system and we need to compensate them. We need not create a situation where it appears that one set is so good and they deserve something and the other deserves nothing. That can create certain problems within the system and that might be the cause of our productivity problem.

I am also hoping that we get back to the programme. I agree with the Honourable Member for St. Michael North East that we have to be very careful how we set about to lock up people because when people go to prison, it leaves a stain on them and we cannot continue to do that to our young people. In fact, when you send them to prison now, it seems to me that you are sending them to higher education and when they come out, they are educating people how to be criminologists, so we need to look at that very quickly. The criminologist is supposed to solve the crimes for you, but it seems to me that the teaching up there is such that instead of the criminologists up there solving the crimes, they have another group up there who tell them they are the criminologists but they do not teach them how to solve crime but they teach them how to be better at crime.

Asides.

Mr. D. St. E. KELLMAN: I understand that a criminologist is supposed to be attached to the Prisons to solve the particular crime, but it seems like we are not solving the crime, it seems to me that we are bettering the crime. It seems to be a new interpretation to criminology up there and we need to deal with that particular problem quickly.

Barbados is a very small society and we have to understand that there is nothing that occurs within one parish that is not reflected within the other. We have to be very careful and we have to find a balancing solution to what is going on in Barbados now.
3.20 p.m.

We have to understand that one cannot ask the judges to work without the resources. We have to make sure they get the necessary ancillary staff to aid them so that they can deliver their judgments at the speed at which we expect. If we are going to have a system where the work is going to be continuous – because the judges might leave the Bench early and persons might complain – the question is, when would they have time to make judgments or to go through the evidence to give their decisions. We have to be very careful. We cannot have it in the bottle and in the glass too. We must be prepared to give some leeway so that judges would be able to leave early to go home to finish the work.

Mr. Speaker, I would say that I can understand the reason why there would be increases but I would have loved to see some other solutions and approaches before we come to this final decision. To me, this should be the last approach. The approach that we should have first started with should have been that of prevention but we seem now to be dealing with the cure and I am not too sure whether or not the type of medicine we want to administer at this time is the right one.

We need to have a society that is productive and in

order for us to increase the capacity of this country, we need to have every citizen on board to help. We are in a globalised world so that every input counts. If we are going to be as competitive as we should be, we cannot afford to have any downtime. Whenever someone is singled out, that is exactly what we are doing. We are wasting our productive capacity and are putting it where we cannot afford to have it at this point in time. We need to develop Barbados and to understand that the social engineering, of which I constantly speak, needs to play a role in developing this country. I thank you.

Hon. Sir HAROLD ST. JOHN: Mr. Speaker, I rise to make my contribution to this subject. I want to say that it is quite obvious from listening to the debate today, that there are many and varied opinion among Honourable Members on this matter.

Mr. Speaker, it is a pity, in a way, that this major change in the structure and in the number of the judiciary has not been preceded by a comprehensive White Paper which would contain the varied views, not only of Members of this House but of other important members of the legal process, particularly the members of the Barbados Bar Association.

I, myself, am not convinced that a mere increase in numbers, some of which I wholeheartedly support, particularly an increase in the number of magistrates, would result in the changes that we all would like to see. I have had the privilege, over the course of the last 45 years, of witnessing a major reform in the 1950s, especially the 1956 reform in particular which created a Supreme Court, which itself replaced 8 or 9 courts that were in existence at that particular period of time. Since then, there has been a reform in the 1980s where the present Supreme Court of Judicature Act, Cap. 117 (A) which was a consolidated statute, was brought into force.

From my own experience, we need a more radical change in the system than we have here in Barbados. If one looks at the High Court level, one sees that there are a number of judges of the High Court, who are not supported in anyway by what one would call an additional tier in the level of the administration of justice. There is a Registrar and a Deputy Registrar for 6 High Court Judges and we are now going to have, I am being told, 8 High Court Judges. I am not certain as to what we are going to do at the level of that area of support which is now being carried out by the Registrar and the Deputy Registrar.

It is important for us to understand that, in other countries, in addition to judges, one has associates to judges, masters, or other functionaries who, to a large

extent, do what High Court judges now do, particularly on Tuesdays, Thursdays and Fridays throughout the system.

Sir, I believe there has to be a change in the support level, quite apart from hiring of people to help the judge to take notes, to do rudimentary research, *et cetera*. Note-taking in the manner or fashion that takes place today is definitely out of date.

This institution, I am told, has now decided that for the purpose of recording what we say in here, that new machinery is being brought into place to replace the old one. One cannot get the skills of shorthand and note-taking that previously were in existence, so that it is a given fact that has to take place and that, in itself, would help to relieve the tedium of some of the work of judges.

I also believe we have to be very careful in the selection of our judges. I happen to be of the view that we regressed in the Caribbean as a whole, when we decided that we would give vent to our feelings of insular nationalism, consequent upon islands' independence having occurred. We have deprived our communities, to a large extent, of some of the benefits that were in existence prior to Independence, whereby, for judicial selection, the pool from which judges were selected, was the wider Caribbean. I hope we could get back to that. There is no doubt about it that there are different approaches that are taken within the diversity of our countries, different work ethics, which are in existence in different parts of the Caribbean, from which we could benefit. Therefore, I hope we would have wider pool of judges from which to choose.

In addition to that, I think we must look at the overall machinery for transparency and accountability, to which the Honourable Attorney-General has spoken.
3.30 p.m.

I am sure in my mind that the constitutional provision we have at the present moment for accountability particularly in relation to productivity are the best we should have in the judicial service. I remember reading in one of the Commonwealth Parliamentary Journals that in Australia and USA the legislative and other bodies had to look at the machinery they had for disciplining judges because when they needed to do so the machinery became so cumbersome that at the end it promoted a sense of dissatisfaction among the community.

Sir, we have a Judicial Legal Services Commission and a Judicial Council which is a new institution that replaces a previous body which was functioning for a long period of time. Most of these instruments were created at the time of independence in order to ensure that when these colonies became independent that there would be a feeling of

confidence in the integrity of the judiciary which we all believe is desirable.

There can be no doubt about it now and it is a matter of open secret all over Barbados that there is a level of dissatisfaction in the community in respect of certain areas of the administration of justice in Barbados. This dissatisfaction arises from the experience of a number of people with the judicial process, some people get frustrated by the delays, not only the hearing dates but in the process of hearing, and worse of all, in the process of decision-making after the hearing.

We cannot sweep under the carpet the fact that there is a level of dissatisfaction with the period of time it takes judges to make their decision after hearing the case although in other countries of the world one would not look to the machinery that is set up for relief from that. The Press itself would play a major role in ensuring that the impact of public opinion would be brought to bear upon the offenders. The Appeal Courts themselves, would by their judgements, have a say about the importance of speedy resolution of matters after commencement, during hearing and at decision-making time. In a small community such as ours there is a fear and it is not good nor right but upsets the apple cart when these matters are raised. I have never believed that justice is to be carried out in circumstances in which there should not be free, frank and honest discussion on any problems that arrive. I have made speeches in here over the course of the last 30 years that will reveal that.

Sir, something must be done about it, that is, one must understand that if you are to be a judge you must not only know the law, be fair, tolerant and a good listener but you must have the capacity to make up your mind. If you do not have those qualities you should be disqualified from being a judge because to make up your mind is an indispensable quality that is necessary. If you are a dodderer, you should stay away from the profession because it is not for you.

Sir, it is time we start analysing the characteristics necessary to be a good judge because the essence of this society is to strive for excellence. That excellence must relate not only to business, agriculture or music but to the quality of what is delivered in Coleridge Street. We must discuss this matter because it is a sore point and I hope the criteria used to select these additional judges will take into account these indispensable qualities that are necessary for the delivery of justice.

It is true that this is a matter as far as appointments are concerned for other bodies. It is also a matter for this body to ensure that the views of the community and their feelings in this important area must be made known as they are in other democratic countries.

There was a judge in the Court of Appeal in England who was so tardy in the delivery of his judgements that the Press took him on when he delivered the judgement 18 months late. He was forced to demit office because of the strength of the articles and public opinion stimulated by the articles. Sir, if that was the criteria used here in Barbados, we would have few judges but I only mention this to illustrate that there is a problem in this regard.

I hope that consequent upon this increase in the judges that greater scope will be given to specialisation because I believe that the job of a judge today requires full specialisation or at least some specialisation and that broad categories of work are easily identifiable. By now the Judicial Council should be producing statistics to show the regularity with which some cases are brought before the court.

Of the 2076 cases filed we ought to know what is the cause of action in respect of them so that we can categorised how many are debt cases, negligence, family law, company law or offshore so that we can see what are the areas of repetition. Sir, we must have a more sophisticated analysis.

Asides.

Hon. Sir HAROLD ST. JOHN: I know it is being done but it should have been done a long time ago. I have spoken in here on many occasions for the need for a bit more sophistication on our analysis on what is the problem and I am not sure that putting more manpower behind the problem will solve the problem. I like to analyse the problem first because a good amount of these cases are debt cases that should have been dealt with on the preliminary but the people who administer take the view that when someone put in an Affidavit they are entitled to defend because they do not want to exercise the mental energy necessary to analyse whether it is a good defence or not. Debt cases are matters which say that unless you prove a specific thing that you are not entitled to defend.

3.40 p.m.

The Honourable Attorney-General took us back to 1825 and said that there was a Commission in 1825. I am not sure if we have not reached that stage, where in 2003, that we have a better look at it. We do not want to have a Commission because it implies to some people that we are inquiring into what goes on. Let us have a sophisticated truthful debate as to what is the true position and I would like to know the figures, then we will deal with it.

Asides.

Hon. Sir HAROLD ST. JOHN: Sir, by bringing this alone is not relieving the public of some of the frustrations. We are going to end up in the position in which people are going to say that we are not really tackling the basic problems. Sir, that is what I want to see happen in the court system.

I am one of those who believe that unless something is done about how those law courts function, we are going to end up with a society in which we are going to have few people who are going to follow the calling of advocates in this country. If they cannot get their case heard or if they cannot get decisions they will not be able to live. It is a bad thing in a society in which your legal practitioners have reached the point where they feel that they are wasting their time if they specialise in the important area of advocacy.

Sir, I am glad to hear that the justice improvement project and a new judicial centre are coming, both of which I believe are necessary, but new buildings and equipment will not solve our problems. We have some human problems which we have to deal with.

Sir, with respect to the magistrates, they are the work horses of the judicial system. I am very glad to see that there is going to be an increase in magistrates. I do believe that we need another one because the Coroner's work which used to be taken seriously in the past was totally neglected for many years, to the extent that we, at long last, had to recognise that we needed a special Coroner's court to be able to do the backlog. I welcome the publicity especially when they publish the dates so that the public would know how long these cases have been outstanding. It is illustrative of the fact that the community is beginning to see and understand the importance of that. It is a good thing to have these matters exposed.

Sir, when the Honourable Member for St. Lucy said that there is no court in St. Lucy, jogged my mind towards a point. The point is, are our magisterial districts, as they were defined previously, relevant today? Sir, there has been a great population shift in St. Michael, Christ Church, St. James and St. Philip. These parishes are very important centres of population.

The Honourable Member said that he does not need a court in St. Lucy. However, St. Lucy is soon going to be absorbed by St. Peter which in turn will be absorbed by St. James.

Asides.

Hon. Sir HAROLD ST. JOHN: The southern, western and central corridors are very important. The increase of the jurisdictions of the magistrates is a good thing. However, there are some problems there and I have drawn them to the attention of the Honourable Attorney-General.

Sir, this morning I was in a discussion with a senior lawyer and fellow politician. I asked him why he does not go into the magistrate courts regarding the collection of debts. He said that the way the magistrate courts are structured, magistrates cannot award interest on debts. He said that his clients have contracts which bear interest and if he cannot get interest on these contracts, he is not going there.

Asides.

Hon. Sir HAROLD ST. JOHN: I know that in cases of landlords and tenants a lot of these cases do not reach the magistrate courts because the jurisdiction of the magistrate courts, I am told, still has the old provisions that you have to serve, not only the Notice to Quit but a Notice of Intention before they reach the magistrate courts. These are obvious matters that need to be looked at.

Asides.

In addition to the increase in numbers, we also have to look at some of the fundamental reasons why the magistrate courts civil jurisdiction, will impact upon the load at the High Court level.

I agree with the area of family law. This is a specialist area and you have to have a special type of mind to be able to tolerate the cases daily.

Asides.

Hon. Sir HAROLD ST. JOHN: I think that is a good area for a separate judge, sitting every day of the week.

Asides.

Hon. Sir HAROLD ST. JOHN: I believe that judge would not be able to do that job for no longer than six or nine months in a year. There may be some rotation in that area.

Finally, I want to comment on the suggestion by the Honourable Member for St. Philip North that there should be special judges specialising in different areas of law. One of the things that we should remember is that, parallel with our traditional judicial system, in many countries in the world, specialised tribunals are appointed, which relieve the traditional judicial system of some of their work but increases the work in the appellant process because we

removed from them to either the division of the High Court or the Court of Appeal.
3.50 p.m.

Sir, a classic example of that in employer/employee relationship in Barbados is the Severance Payment Tribunal which has been operating here since the 1960s. It is a specialised tribunal and no doubt, Barbados will follow other countries in another area too, with employment, if they want that or industrial courts generally, if they want that but those are areas that we must remember. When we look at the judicial system as a whole, we must look at it in the context of the developments which have taken place here which parallel developments in other countries.

Mr. Speaker, I am going to support this Bill. I made my comments, I have my caveat, and I say that I hope that it leads to a fulsome debate in the sense that a wide ranging debate takes place and that it is looked at in the context of other changes which are necessary in the new rules.

I do not think that we should deprive ourselves of the fact that these new rules of code that followed a major reform in England and in other countries, of the world, we have not got them yet. The OECS countries were supposed to be behind us in many respect... I am told that for the 1st January this year, they were enforcing them in Jamaica.

I believe that ours are in draft and I look forward – not me, I will not be using them because I do not intend to practise law under those new rules – and hope that they are introduced very soon because they do contain provisions to stop some of the time wasting tactics which were notorious in the legal profession, and which, long ago, have been changing.

I do not have much hope for what they call the Alternate Dispute Resolution and that kind of thing because my own view is that if matters reach the stage where you have to go to the judicial process that inevitably is going to be adversarial. This is my own view and I know this community, and to tell this community that it has to go through an additional step before it can vent its feelings, I am not so sure how that is going to go down in many matters in this community or if there is a scope for it in commercial matters.

I want to say, Sir, that there are new developments that are taking place, particularly in the construction area in Barbados and I believe that there are some improvements that can be made where judges can be aided by experts, like it used to be between 1965 and 1985 where the court could appoint experts to sit along in assizes with the judges and for

some reason, that went out of practice but I have seen that operate and it is a good thing. So that this is but a step and I hope that we have the other parallel steps come into operation.

The last and most important step, this is an assume matter, do not appoint judges who do not have the capacity to have the most important criteria of being a judge, that is the capacity to make up their mind.

Sir, I thank you.

Mr. L. R. TULL: Mr. Speaker, I agree with the need for increases at the High Court level, and at the level of the magistracy. There is no doubt at all that there a heavy backlog of cases before the courts and the backlog is increasing all the time because of the shortage of personnel. I may also say at this state that it is not only the shortage of personnel of judicial offices but the shortage of personnel in many areas of the legal process.

Sir, cases take long to get before the court on the criminal side because of a shortage of investigative aids. For example, cases take long because there is a smaller percentage of the practising Attorneys-at-law who are involved in certain parts of advocacy.

There is a suggestion, for instance, I heard about having court in the evenings and at night and so on, every time I hear it, it relates to criminal matters, not civil or family matters.

Mr. Speaker, there are very few lawyers who practise family law. Very few as a percentage of the total numbers of Attorneys-at-law on the list and this is for several reasons. One is because of a lack of confidence among many Attorneys-at-law to be involved in advocacy, to stand up and argue in court. It does not come easy to many.

It is also the question of client choice. Clients choose a handful of lawyers to do their criminal work. You cannot impose on a man the need to go to somebody he does not want, so there is a shortage of resources and we have to do something about the backlog and to meet the new and increasing demand on both the lower court and the supreme court so I have no difficulty in supporting the matter before the House in that area.

Sir, they say that the more things change, the more they remain the same. Over a long period in this Parliament, I have heard the same arguments and the same needs, expressed over and over again. If you look through Hansard in the last 25 years, you will see much of what was said in this debate, was said many times over.

I am not saying this as a criticism, but only to point out the dynamic nature of the law and the legal process. Things do not remain the same. Things change all the time. It is dynamic and therefore, you have to be continually adjusting your thinking to meet those demands.

We talked for instance, for quite a few years now, about the need for reform in the Supreme Court of Judicature Act and also, the Magistrates Jurisdiction and Procedure Act, both of which are now getting on into longevity and with the passage of time, and with a blinding pace of change in our communities, a lot of the measures in those pieces of legislation are inappropriate to today's needs.

Sir, we must have this reform. There is no doubt about it that the process of handling matters in the Civil Court and the Supreme Court are tedious and labyrinthine and difficult for comprehension by people who are not well versed in it. Young and new lawyers find great difficulty in being able to meander their way through all the difficulties before you could get a hearing, all through the pleadings and the new rules being introduced both through arrangements with the Bar and the judges or through the judicial and legal council. A lot of change is coming about and it is difficult for lawyers to be able to walk easily through these processes.

Sir, we need a lot of reform. There is no doubt at all about that and I am glad to hear that the Government is going a further step along the way in making these things a little easier to take.

We must now, however, believe that it is something so radical and fundamental to changes in legal procedures because the justice system in this country has been continuing, all through the years. There are changes for the better.
4.00 p.m.

One of the things that we have had difficulty with is the history of the law not being in the vanguard of change but quite often being very reactive. The times are changing. I heard in this debate that law is a tool for development. We are hearing that a lot, that is all the 'lingo' now in the international community.

Asides.

Mr. L. R. TULL: All of that is true but the law historically in Barbados has travelled behind other changes in the society and has not been effective in a way to bring about positive change without taking the steps recommended by the Honourable Member for St. Philip North which is to give the judges the power to legislate from the bench to create law. I am not at all...

Asides.

Mr. L. R. TULL: This business about giving judges the power to create law is what the Honourable Member for St. Philip North said. Worst of all, to give power to people who are politicians who then become judges and who find it very difficult to change their skin, would be a very dangerous undertaking and I would not support it.

We passed laws in here that do not have mandatory sentences, but by judicial creation mandatory sentences are imposed. Some may take issue with what I say but it all depends on how you define it. The only offences I am aware of, and I could be put right, that requires mandatory sentences in this country are murders, treason and piracy. Those are the only three I know of. To ordain after the legislation from Parliament that certain offences must have mandatory prison sentences is something I find very difficult to accept.

I do not want to hear about what happened in Britain and who gave these directives and bringing them over a period of time because everything that we are doing now is to establish our own identity particularly our own jurisprudence. What does not fit well in our system must be discarded. So I do not want to hear any more arguments about what happens in somebody else's jurisdiction particularly the United Kingdom jurisdiction since we are discovering more and more that they are out of step with the realities of places like Barbados.

Mr. Speaker, I think that was too long a preamble because I wanted to make an intervention in this debate in one particular area only to say that there is no problem with the increase of judges and magistrates to do the work. What is of paramount importance now is the need for judges to be trained and to be prepared for the voluminous amount of law that is being made. Not only domestically but internationally, there is a plethora of law in the criminal area. If you take legislation that has passed this Parliament in recent years, there is terrorism, money laundering, the others slip my mind, but they are several areas of law that are new. They are not only in the criminal area, there are areas in commercial law and intellectual property and judges must be given the opportunity to acquaint themselves and to be conversant in this wide range of new legislation that is before us. That is why I may make a slight swerve from those who recommend that judges spend longer hours sitting on the Bench because they need a lot of time to get themselves conversant with these bits of legislation.

One of the new developments in this country in relation to our law is that of the ceding of our jurisdiction in the international clause. The jurisdiction was wrapped up historically in the question of sovereignty. There are sovereign states and they have jurisdiction over everything that happens in your 'neck of the woods'. More and more in the new international reality that is being changed.

Individual countries have to agree to cede part of their sovereignty as it relates to this jurisdiction in criminal matters. These are things that we have to study. Judges have to understand them and they must make themselves knowledgeable in these areas.

It is important for the Government to turn on the kinds of training opportunities for judges and for senior practitioners in the private sector to make sure that we are not left behind in these areas.

We have also to deal with the question of judicial integrity. People do not like to talk about these things. Even in this debate one Honourable Member said we do not have any history of judicial corruption in this country and that we have good personnel, all of which is true, I accept that.

However, one only has to look around the world in which we live and see that in many of the new developments, particularly in the area of illegal trafficking of drugs, the movement of money and that kind of thing, more and more judges are being put in vulnerable positions and if we are to preserve our integrity which we have long held and still cherish, certain things must be put in order.

I know that there has been talk about establishing the judicial code of conduct which the judges themselves will drum out and articulate after they agree to it. If they do that, perhaps it will make things easier if it is their own catechism which they will probably hold on to strongly. We must not bury our heads in the sand. A lot is happening and the judges today cannot be like the judges of yesterday. The world is more complex. The issues are more difficult. Mankind has changed and values are changing. All of these things are happening.

I heard talk about a family court. The family has changed and whoever sits in a family court must be sensitive to the changes in the family in Barbados. The bonds are not so strong. The allegiance in families is not so strong. The motivations for being in a family is not what they used to be. Therefore, these are the things that we have to consider for the future in respect of the integrity of our judicial system. A few more positions created will help but in my submission these will not go fundamentally to the heart of what we should be concerned about at this stage.

We need to have more scholarships in law. I think it was the Honourable Member for Christ Church South who said that the judge learnt the law, knows the law and understands the law. But even if you know the law and you do not understand it, which is two different concepts, you really cannot deal with this business of judges.

4.10 p.m.

We need more scholarships, not that there should be scholarships without other things. As part of the scholarships, there must have judges who are knowledgeable in the ways of the world and in the understanding of the society in which they live, including its changing values. That is part of the new dispensation as far as our judiciary is concerned.

Sir, there is a view that there should be specialisation in ways of the judiciary. We have heard a number of them, family law specialists, labour law specialists, intellectual property specialists, *et cetera*. I do not agree with that. This is a small jurisdiction and if one is looking for over-specialisation among the judiciary, one is going to create some of the problems that we would want to avoid.

There is not enough work in Barbados for a judge simply to deal with labour matters on a daily basis. If there is a specialist in intellectual property laws and one appoints a judge to deal with that, that judge can turn up for work one afternoon per week, if that much. Therefore, specialisation is more suitable to bigger jurisdictions. In small jurisdictions like this Parliament, we only have 28 constituencies and we have to specialise on a multitude of things. Equally, in a small legal system, one cannot have too much specialisation.

I do not support the question of judicial creation. In the United States it is called judicial activity where judges pronounce on law and usurp the powers of Congress and say what is going to be law. In Britain, the Master of the Rolls, Lord Justice Denning, was very good at it. He would sit on a Bench and create law. I do not think we need that in Barbados. We have Parliament to do that. Parliament has the mandate to be the one who is going to make laws in this country.

Sir, I want to deal with the increasing social problems in this country that manifest themselves into law-breaking, by having harsher legislation and sentences. When I look at the figures, the harsher the penalties, the more offences seem to be committed. I am not putting any dialectical links between the two things. For example, in the trafficking of drugs, one is being sent to prison for over 20 years. There is nowhere else, apart from a number of Arab States, where the penalties are as brutal as in Barbados. Even in countries that are usually referred to, such as the United States, Canada and the United Kingdom, the penalties are nowhere as hard for any of the offences as they are in Barbados.

Mr. Speaker, the magistrates know the people who go before the criminal courts better than any of the judges. They see them constantly. In my view, the magistrates are in a better position to determine who, coming before them, should be given bail for possession of firearms. At the moment, we are clogging up an already High Court system where judges have to hear arguments by Attorneys as to

whether their clients should be granted bail or not for possession of a gun. We now have decided that having an illegal firearm, one must go to prison. Mr. Speaker, I am dead against it. If I were not a voice crying in the wilderness then, I should be now because it does not work right. I had occasion, a few months ago, to see someone who was found guilty of having an unlicensed firearm. The idiocy of the policy came up when it was said that the person would have been dealt with lightly instead of incarceration, and the circumstances merited that. It was a wise and solid decision.

Mr. Speaker, there is the issue of young men who were foolish enough, not criminal enough, to be in possession of a firearm and are found with possession. Does this mean that person must go to prison for five years? I do not understand it. I do not believe it. I know that I have not even convinced my Colleagues of it but I want my voice to be recorded that it is not how I understand these things should be done.

Sir, I also believe that judges and magistrates should not have their discretion tampered with. They should be able to listen to each case and, based on the peculiar circumstances of that case, decide on the merit of the case and what the sentence should be. I do not accept the new practice of jailing people for being inexperienced or for folly.

Asides.

Mr. L. R. TULL: The law did not mandate it. We passed legislation that did not mandate it. Parliament did not pass legislation mandating that one should go to prison for a firearm offence. That was left in the discretion of the judicial officer, from the circumstances of the case, to determine what should be the penalty.

Sir, I mention these things because we sometimes sit and remain silent when a number of things that are making the society uncomfortable happen. There are persons who are comfortable in their homes, who think that when things happen with persons caught with guns, *et cetera*, that they should be locked up, except that a number of them who are so comfortable in their homes, call me during the night to represent their relatives. In other words, Sir, it matters only when it touches us.

Sir, we have a good system. It needs more fine-tuning, as it must constantly be because it is a living organism but one that is fundamentally sound. Therefore, we have to be careful that we do not, out of pressure from certain special interest in this community, make a lot of ill-considered decisions about what we do in respect of the way in which we treat the indisciplined and wrong-doers in the community.

Mr. Speaker, I know there are a number of things that we have to do to appease a society that is becoming upset, worry and uncomfortable about some of the wrongs that exist in this society.
4.20 p.m.

I agree with the Honourable Member for St. Lucy when he said that a number of the initiatives that must be taken by the Government in respect of these things must be done at the preventative stage. We have to create a society that would require fewer prisons, courts and policemen.

Sir, we need more social investment. We need more social workers, more psychologists, community workers and people who can deal with the problem. We do not necessarily need more prison officers, policemen, judges and lawyers. I am not knocking these professions because they are all part of the system but there must be a two-dimensional approach to these problems.

Sir, I am not saying that we should allow people to misbehave in the society and not punish them because we want a society where people can feel secure in their homes and on the streets but at the same time let us make sure we are safe and secure by doing something positive to prevent the people who get into the anti-social conduct from doing so. Let us put more money into education and more people in the community who can make a difference.

Sir, several times at certain parts in the island, I stop gun play.

Asides.

Mr. L. R. TULL: Although I am not recommending that anyone should put their lives at risk, there are a lot of people in this community who can make a difference. We say that young people commit crime but none of the white collar criminals are young people. Sir, these young people are not necessarily as bad as we say they are and a little guidance would go a long way.

Mr. Speaker, I am grateful to you.

Mr. M. Z. WILLIAMS: Mr. Speaker, I would like to lend a voice to this debate. I have listened to other speakers and I realise that this debate is from a legal aspect but one of the things that concern me is that there is a bit of injustice in the system.

Sir, criminals are committing crimes in this country because they feel that after the crime is committed that they can find a lawyer to get them off. The public is beginning to feel that the criminal has rights and that injured persons have no rights before the courts.

There are cases where persons have been injured, simple cases like bodily harm and it takes ten to fourteen months for these cases to come before the court. I hope this Bill discussed in this Chamber today would quicken up the process of justice in Barbados because people are concerned that the process toward justice is a long one.

There are also situations where people have committed crimes and are given sentences to run concurrently although they have committed 15 or 16 crimes, they spend only two or three years in prison although the crime has inconvenienced many people in Barbados like house breaking.

Sir, several persons are at the receiving end but when the criminal comes before the court, after the hard work that the police have done, he is given the right to bail, goes back into the community and commits a series of offences again. Sir, the average Barbadian is concerned about these things because it appears as though the criminal is getting the better of the justice system more so than the person at the receiving end of the crime.

Sir, people then ask themselves if there is some secret passage within the law that allows attorneys to research the law and make it possible for persons to go 'scotch free'. Many Barbadians are hoping that the required stop gaps to deal with these instances would be put in place.

I am also concerned about women who received child maintenance from the courts. Last week I picked up a young lady at the bus stop in Harts Gap who was almost in tears. She told me that she went to the Magistrates Court for the last four months only to be told there is no money for her. I am wondering what could be the problem and how is it that months after the person went before the courts the mother still cannot collect that money for the children even though one or two years have passed.

Sir, this situation cannot continue and we have to make sure that the court system is brought up-to-date to deal with these situations since the accused persons can be seen daily going to work but yet he does not pay the maintenance for the children.

The attorneys would have had their say on these matters but for me at a community level, I am faced with these situations daily where mothers are crying and are paying the price because fathers refuse to accept the responsibility. Sir, is there a system in place where these delinquent fathers can be found by the courts? I am not talking about persons who have left the island. I am talking about fathers who are seen daily going to and from work but as far as executing warrants to these fathers, it is impossible to find them.
4.30 p.m.

Matters such as these need to be looked into. I am faced with these kinds of situations where mothers have great difficulty in collecting maintenance for their children. However, it seems as though the mothers are the ones who have committed the crime and are not accepting their responsibility because of the current system that we have in place.

Sir, the assizes are held every three months and at the end of each assize several cases are traversed. Why can we not have the assizes sit throughout the year, similar to the magistrate courts, where cases can be heard and avoid the backlog of cases?

Recently a case came before the court that was pending for seven years and this person was sentenced to seven years. However, the appeal was thrown out about four months ago. This person was free to walk around for seven years before his case was called. I believe that the assizes should meet throughout the year instead of the four times a year that they do sit.

I am very happy that there is a Coroner's court which is dealing with cases that have been outstanding for many years. As a result of this, families can now bring closure to the cause of death of their loved ones.

Mr. Speaker, I think that the establishment of a night court could be put in place to facilitate persons who find it difficult to attend court during the day because of their work situation. Some persons are called as witnesses and they spend a whole day in the court and the cases are adjourned. This means that they will have to come back another day to court and lose a day's pay from work. I think that because of the backlog of cases that we have, we could look at introducing the night court.

Mr. President, I want to comment on weapons. I believe that if a person is found with an unlicensed gun, they have broken the law and they will have to pay the price. Sir, they are some people who go to fetes with licensed guns. The law states that you should not enter a place of entertainment with a licensed gun or other weapon. If a person with a licensed firearm is caught in a place of entertainment with the firearm, then that person should be fined. However, there are situations where persons get away with this type of behaviour.

I must compliment the police for enforcing the law when deployed at places of entertainment.

Mr. Speaker, there are situations where persons brought matters to the court and because of the long delays, they refuse to go to court when the cases are called and as a result, we have cases coming to an end and justice has not been served. I believe that as long as justice is carried out the

society will feel safe.

I thank you.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I want to thank all Honourable Members who have spoken in this debate. A number of issues have been raised in relation to the wider administration of the judicial system. I will repeat what I said in my opening statement. This is one of the many reforms which we are committed to bring and undertake with respect to the administration of justice in Barbados.

I set out with care at the beginning, a historical perspective to show that reform is not something which has been associated generally with the judicial system of Barbados since settlement in the 17th Century and that the first major reform took place in 1956 when Sir Grantley Adams would have brought the Supreme Court of Judicature Act, replacing nine courts with one, and equally with the passage of the Magistrates Jurisdiction of Procedure Act, which sets out the magisterial jurisdictions and the establishment of a complement of magistrates.

I repeat it only to give the House the assurance that there are many other reforms which will come. The point has been made in relation to the conduct of attorneys by the Honourable Leader of the Opposition and I will say for his benefit something which I have said public already. I had the honour to commission a Committee Chaired by Mr. Leslie Haynes, Q.C., Deputy Chairman Mr. Adrian Cummings, Managing Partner of Carrington and Sealy, to review the practice of law and the legal profession of Barbados, generally, such that we can develop a new framework to replace the Legal Profession Act.
4.40 p.m.

Sir, I have hired, through my Ministry, Sir Roy Marshall as the Consultant to that Committee because we want the work of the Committee to be informed and to have sufficient material and research before it, such that appropriate decisions can be made on the basis of the best possible information, not just locally, but regionally and also I may say from other jurisdictions.

There are many issues confronting the profession today, and we would wish to have clear research before that kind of policy decision is made and a new framework to replace the Legal Profession Act is brought.

Equally, Mr. Speaker, I spoke about the need for clerical and research assistants for judges. I do not know of many other regions in the world in which judges do not have access to that kind of clerical and research assistance. It is something to which this Ministry is committed and I can

give you the assurance that in the Inter-American Development Bank's Modernisation of Justice project, there is provision for the hiring of clerical assistants from the University of the West Indies' students to run a pilot project to see how we can best frame that kind of clerical and research assistance and those funds are available in the Estimates of Expenditure and Revenue, which in fact, commence from this day, the financial year of 2003 to 2004. During the course of this financial year, it is anticipated that we will be able to put that in place.

Equally, Mr. Speaker, I have no difficulty with ensuring that we reform the administrative support. I spoke about my Ministry making a submission to the Ministry of the Civil Service for the creation of post of Master, because we recognise that we need to be able to do that. I also spoke of the need to reform the registry in the fullest possible manner and I indicated that I had directed and my office had hired Professor Fiadjoe to do a full study on the Registry and I am awaiting that report this month.

Mr. Speaker, in respect of the scheduling of cases, I share the concern and I have sympathy because I believe that a better job can be done with the scheduling of cases such that we can minimise the loss of kind by attorneys-at-law and litigants, in respect of waiting for matters to come up, both in the criminal and civil jurisdiction, rather than having everybody turning up at the same time and have to wait in order to be able to get into a court.

We can do better with the technology and the tools of productivity available to us and I hope that this would become a priority for the Registry and the courts and the administration of the court system.

We are also going to be looking at full plea and direction hearings to be able to improve that in the context of the criminal system. I hope that this could be done during the course of this year.

Mr. Speaker, many of the things that we have heard in today's debate as concerns, predate even my birth. Indeed, a reading of the debates from the 1950s would reflect those concerns. I can only say that it has been said that this is a country where change, particularly change in matters of justice is one which is slow in coming.

The mere fact that a Commission of Inquiry could have been established in 1825 and its decisions never implemented, is indicative of that. The mere fact that even before the passage of the Supreme Court of Judicature Act in 1956, the Bill and the arrangements were drafted in 1947 and led by Sir Allen Collymore, then Chief Justice, is also indicative of that.

It is therefore not surprising that Honourable Members in this debate have chosen to speak about matters that they continually refer to but I dare say that I listened carefully because they have had an abundance of experience both in terms of practice before the courts as well as legislators as well as the Executive of this country. I watched carefully because there must have been reasons why some of these reforms were not implemented before by them.

Sir, I give the House the assurance that I have noted them and will do my utmost to ensure that I can determine what may have been the stumbling blocks that might have prevented some of these reforms moving forward before when they had an opportunity to do so.

I also want to say, Mr. Speaker, that while there is some merit in the development of specialised knowledge, one of the reasons why we are going to be debating the issue of a family court more fully, and other specialty matters, is that, like the Honourable Member for St. George South, while I recognise that judicial training is needed in a broader range of subjects, I do not feel that specialisation at the exclusion of all else is something that will serve a small jurisdiction such as ours, well.

Sir, I do recognise that in the same way that there was a need in the 17th Century to create the Court Merchant when the Admiralty Court was not being effective, that we may well have to look at creating a commercial division, in the same way that we have a family law division, and making available when required, additional time for the hearing of those cases, such that they do not negatively affect Barbados' reputation for competitiveness, particularly within the commercial sector and the international financial services sector.

I trust that these will be issues that we can engage with the Bar and the judiciary in a constructive manner but, Mr. Speaker, we have developed and I support it, a healthy division, in respect of the separation of powers. As I said, it is something that has been present really only for the last 100 years in our system but it is one to which we are committed.

Sir, having said that, comments coming from the Executive or the Legislature, in relation to the performance of the judiciary, tends sometimes to be construed as political interference. This is in no way the intention of this Government or I believe, any Member of this Honourable House but simply reflections on the performance of persons and the needs within the system. I hope and trust that those comments made in this debate by other Members would be taken in that constructive light.

Suffice it to say, Sir, that the issue of accountability is one that is obviously greater within those who are members of the Legislature than it is within those of the Judiciary. The Constitution of Barbados sets out a framework for how to handle accountability on the part of judges. It is a complex framework which requires the establishment of a tribunal by the Governor-General to investigate the matters, recommendations from the Tribunal to the Governor-General and with an appeal process to the Judicial Committee of the Privy Council.

We will have shortly, in the context of the CCJ Bill to treat to those amendments again, because of the proposed abolition of the Judicial Committee of the Privy Council, as the final appeal court of this country. I do say, that for the very reason there is a more direct level of accountability between those who sit as Legislators in this Parliament and the public than with the Judiciary, I am loathe to support the concept of judicial activism which will allow judges to be able to have wide leverage in the making of laws because I believe that is a function for Parliament.

I am one of those who support the precept of Parliament sovereignty and I believe that Parliament sovereignty has, as its underpinnings, the accountability of its members by reason of the democratic system of governance to which we adhere and the process of elections, within a five-year period.

Judges have no such accountability and therefore the ability for the sovereign will of the people to be reflected in the making of laws, is best exhibited, in my view, through this Assembly and not through precepts of judicial activism.

I want to also say that to the extent that there are to be constraints on Parliament sovereignty, then in my view, it must be related to a Constitution which reflects fundamental rights and freedoms, which reflect a consensus on the part of the society.

Sir, to that extent, judges will have an interpretive role in some instances relating to legislation passed by this Parliament, recognising however, that Parliament can never bind itself into the future and it will always be available to a Parliament, to treat to the issue of constitutional reform but hopefully in a way that reflects the widest possible consensus.

As to the question of a full day of work and vacations and whether judges ought to take their vacations, consistent with the court vacation, rather than taking time before and after, and thereby reducing the effectiveness of the deployment of persons in court, these are matters that we need to discuss. But we will discuss them and treat to them in the serious way in which they merit, rather than simply hailing allegations against persons, without understanding

the full dynamics.
5.50 p.m.

There is a case for them having time to be able to adequately prepare, based on their receipt of the files, for the cases they would hear on the following day and we need to treat to this in a serious matter rather than simply saying that they do not work long enough.

Members of the public do not realise that they do not even take a lunch hour. They do not break at 12 o'clock, and if they are going on until 1 o'clock or 2 o'clock, they work straight through. In many instances they may actually put in five straight hours of work without a break, therefore, when you add that to their other preparations and the writing of the judgments, that this should be done...

There can be no denying that judgment should be delivered swiftly. It is an essential hallmark of an efficient system of justice that judgments and cases in terms of their management should move through the system swiftly. I trust that the general views of the Honourable Members of this House would be heard by all and sundry who have followed this debate. We recognise that this is the general will of this Legislature as it is, I believe, the general will of the society within which we are functioning.

Before I close, I just want to credit the thesis of Dr. Sonia Richards on the development of the Judiciary in Barbados because it is one of the few places in which it is set down in one place the history of our judicial system since settlement in the 17th Century. I do believe that there is a case for the publication of that thesis and other such materials that speak more appropriately and in a fuller way to the history of our judicial system and how we have got to where we are.

I have also given a commitment off the Floor, and I will give it now publicly, for the analysis of the cases before the civil law jurisdiction and the family law jurisdiction because I agree as we have done through the task force on crime and through other studies being undertaken by my Ministry that the best policy decisions come on the basis of full information that is available and that very often that requires thorough research and analysis before those policy decisions can be made.

While I do not agree that specialisation at the exclusion of all else would benefit a small jurisdiction like Barbados, I do feel that there may be merit in ensuring that some judges have additional training in certain specialty areas and that there may well be a position that can justify the establishment, for example, of a commercial division as opposed to a commercial court which would sit and do nothing else, in the same way that we have a family law

division that clearly has now to meet beyond the two days that it does if we are to remove the backlog in family law cases.

There is no justification for anybody going for custody of any child and not getting into the court in under three months because the inability to have access to a child can provoke the most extreme of emotions which may cause the court to exercise a criminal jurisdiction in relation to custody battles that have gone amok. We believe that we have responsibilities in these areas and we will treat to them. This is but one step in the process.

I believe that when one looks at the reforms that have taken place in relation to the judicial system, one will see a strong record on the part of the Barbados Labour Party as being responsible for those major reforms to which we are committed. I hope and trust we could engage the society on these reforms because I do not believe that it is something that should fall within the exclusive purview of lawyers only but should fall to all citizens since it is a bulwark of our democracy functioning in the court system that is independent, transparent and accountable. Access to justice that is affordable and fair must be the premise upon which all of these reforms are based. I hope and trust that there would be support in and outside of this Chamber for those precepts and the reforms working to that objective.

Mr. Speaker, I am indeed obliged to all Honourable Members who have spoken. As I said, I would treat shortly to the other issues that are engaging us as we continue the process of reform within the administration of justice.

I am obliged to you and beg to move that this Bill be read a second time.

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

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

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. Miss B. A. MILLER, the House resolved itself into Committee of Supply, Mr. D. CARTER in the Chair.

COMMITTEE OF SUPPLY

Mr. CHAIRMAN: The House is in Committee of Supply.

Clauses 1 – 3 inclusive, were called and passed.

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. R. N. GREENIDGE, Mr. CHAIRMAN reported to His Honour the SPEAKER, the passing of one

Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. Miss M. A. MOTTLEY, seconded by Hon. Miss B. A. MILLER, the Bill was read a third time and passed and cited as the Supreme Court of Judicature (Amendment) Act, 2003.
5.00 p.m.

ORDER NO. 5 – RESOLUTION UNDER SECTION 5 OF THE CROWN LANDS (VESTING AND DISPOSAL) ACT, CAP. 225 OF THE VESTING IN THE NATIONAL HOUSING CORPORATION OF THE PARCELS OF LAND SITUATE AT COTTAGE IN THE PARISH OF SAINT GEORGE IN THIS ISLAND FOR THE PURPOSE OF HOUSING DEVELOPMENT

Hon. G. A. CLARKE: Mr. Speaker, the Resolution before this House seeks to vest three small parcels of land at Cottage, St. George. This is phase one of the project which was completed and purchased sometime ago by Government. The second phase is a small piece of land to the west of the development. It is necessary to vest these parcels of land in the National Housing Corporation so as to allow the Corporation to complete part of the development and to sell these lots.

In the first phase, over 120 lots were developed. In the second phase, these parcels of lands were being developed and would produce a further 26 lots. I must say that in the first phase which was completed, 60 houses were constructed and sold. It is believed that within the next year, persons would be able to complete their own houses after acquiring mortgages from the Barbados Mortgage Finance Company or some other financial institution.

I want to say that it must be explained that the National Housing Corporation cannot proceed to sell lots unless the land is vested, a process which is very important. Sir, we have also looked at other areas earmarked for development. For example, Cottage, St. Lucy, which is separate and distinct from this one. It has been surveyed. It also adjoins a tenantry. The Town Planning Department has agreed that the process can continue and therefore, we are awaiting the formal approval.

However, these developments have taken a long time because of the nature of the land. Though the land might appear to be rab land, the Town and Country Planning Department, along with the Ministry of Agriculture, must be convinced that these lots are good for housing development.

Mr. Speaker, I also want to take the opportunity to notify the House that the Cabinet has agreed to and approved

the divesting of a number of terrace units from the National Housing Corporation.

Mr. Speaker, I will bring the House up to date about the various units that would be sold and the concessions that would be offered. With those remarks, I beg that this Resolution do now pass.

Mr. D. St. E. KELLMAN: Mr. Speaker, as was discussed, it is recognised that more land in St. George North will be vested. It is also recognised that this land would not be placed in a land bank and for that, I want to congratulate the Minister.

As he said, the first 120 lots have already been allocated, 60 going to home construction and 60 being sold, while there is a further 26 lots to be allocated. Mr. Speaker, I have been saying to this Parliament that we cannot seriously think about passing legislation where landlords would be forced, by this Parliament, to build homes, then to be told what rents could be charged.

I have already said in this House and already written, that the landlords of Barbados are playing a major role in providing housing for the people of Barbados and that if Government had used the amount of land they had in their land bank and allocated that land where people could buy it at a reasonable price...

I have already said to this Parliament that what Government should do is to take that land and allow the Ministry of Works or the Rural Development Commission to put in the amenities. When Government install electricity, water and road improvement in the normal tenancies in Barbados, the people living in these areas are not charged for such amenities. Therefore, I believe if Government is going to have a housing plan, there is nothing wrong with taking the new land, putting in those amenities and selling the land back to the people at the price for the land.

If we are serious about looking after the needs of the masses of Barbados, we cannot be doing one thing with our left hand and another with our right. Therefore, I am calling on this Government to recognise what I have been calling for over eight years. The records of Parliament will reflect this particular call. In the same way that they have acknowledged that land in the tenancies must be given to the people at a reasonable price, the same must occur when Government buys land and then sells it to others. Government cannot have a policy for itself and then want to dictate to others that another policy must be carried out. Government must lead by example.

I am also saying to the Minister of Housing and Lands that the 100 per cent record that he has, where no land can be found in a land bank, must be carried out throughout every constituency. In all other constituencies, one can find land in a land bank. Sir, even in Mount Poyer, St. Lucy, though the lots were acquired since 1994, they are still in a land bank, while those in St. George North can always find owners.

Sir, a Minister is supposed to act on behalf of all constituencies and not on one alone. That is why I am very happy to hear the Minister acknowledging that there are two Cottages, one in St. George and the other in St. Lucy but I want to remind the Minister that land at Cottage, St. Lucy is for house lots, with land wherever possible where persons could continue farming.

Asides.

Mr. D. St. E. KELLMAN: When I took the Minister to that area, the understanding was that the people would have been able to continue having enough agricultural land on which to do farming.
5.10 p.m.

Sir, if the Minister cannot understand the material point made at that time he must understand that we are now at the time of war and that during war enough land should remain for people to plant food to look after their own interest.

Asides.

Mr. D. St. E. KELLMAN: Mr. Speaker, this Parliament must make sure that the land in the land bank is allocated to the masses of people in Barbados. Sir, in Barbados no lands belonging to the rich and famous is in the land bank but all the lands belonging to poor people is in that land bank and it is creating social problems for Barbados. There are too many chattel houses next to stone structures and they are creating termite problems and this could easily be solved if the Ministry of Lands had allocated those lots, allow people to purchase them and put houses on them at a reasonable price.

I am hoping that the Ministry of Housing would understand the effect this problem is having on the masses of people of Barbados and that the Ministry of Housing is wasting a lot of foreign exchange in the country by allowing good houses to be left next to stone structures when they could easily be allocated to people and by so doing decrease the demand for houses.

Sir, this Parliament cannot continue to dictate to private landlords what to do with their properties when Government has a lot of land in the land bank and cannot

dictate to themselves what it should do in the interest of the masses. It must be recognised that private landlords are playing a major role in this country and we must allow market forces to continue to dictate the pace. We cannot tell people who own villas, cottages or bay houses what rent to charge so we cannot tell poor people how much rent to charge. If the Minister has a problem with the rates being charged then he needs to put the lots on the market and allow demand and supply to play its role.

Sir, I thank you.

Hon. G. A. CLARKE: Mr. Speaker, I want to clarify one point made by the Honourable Member for St. Lucy. Although we have land throughout Barbados, it is not really a land bank but these lands are earmarked for development and we are waiting for final permission from Town & Country Planning Department...

Mr. D. St. E. KELLMAN: Mr. Speaker, on a point of order. The Ministry of Housing is misleading the House. The Honourable Member for St. Andrew came to this House every Tuesday and compulsorily acquired lands for many years and I find it strange that we can have a document prepared by Town & Country Planning Department which says that by November any application in this department for a certain number of years would have been complete, yet the Minister tells this House that the Town & Country Planning Department is responsible for the delay of these lots. The Minister needs to tell me what is happening at Deane Town, Baywoods, Lancaster, Orange Hill and other areas. Sir, I am not accepting that excuse.

Hon. G. A. CLARKE: Mr. Speaker, the lands which were acquired by Government and are awaiting Town & Country Planning Department permission, are being developed in a systematical way. For example, the 35 lots at Spring Hall in St. Lucy went out to tender, a tender was

agreed but we then realised that part of the land was under the Ministry of Agriculture and we are now awaiting final permission. We have permission for the land at Baywoods and these will be developed within the near future. Sir, Town & Country Planning Department is not holding up the process but everybody including Government must go through the planning permission process.

Mr. Speaker, we will see development coming to fruition shortly of the land bank which the Honourable Member speaks about so frequently.

I thank you.

I beg to move that this Resolution do now pass.

Hon. R. N. GREENIDGE: I beg to second that.

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

ADJOURNMENT

Hon. Miss M.A. MOTTLEY: Mr. Speaker, Sir, I beg to move that this House be adjourned until April 8, 2003, at 11.00 a.m.

Hon. R. C. EASTMOND: I beg to second that.

The question that the House be adjourned until April 8, 2003 at 11.00 a.m. was put and resolved in the affirmative without division and Mr. Speaker adjourned the House accordingly.
5.20 p.m.

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