
THE

House of Assembly Debates

(UNOFFICIAL REPORT)

PARLIAMENT 2008 – 2013

HOUSE OF ASSEMBLY

Tuesday, March 8, 2011

Pursuant to the adjournment, the House of Assembly met at 10.00 a.m. on Tuesday, March 08, 2011.

PRESENT

His Honour M. A. CARRINGTON, B.A., LL.B. (Speaker)
His Honour K. St.C. BEST, LL.B.(Hons.), L.E.C. (Deputy Speaker)
Rt. Hon. O. S. ARTHUR, M.Sc. (Econ.) (Leader of the Opposition)
Mr. G. W. PAYNE, Q.C.
Mr. R. C. EASTMOND, J.P., B.A. (Hons.), Dip. Ed., LL.B. (Hons.) (Lond.), LL.M (Leic.)
Mr. G. A. CLARKE, J.P., B.Sc., Dip. Ed.
Mr. H. F. LASHLEY
Mr. R. St.C. TOPPIN, LL.B. (Hons.)
Hon. D. St.E. KELLMAN: (Minister of Environment, Water Resource Management and Drainage)
Hon. Miss M. A. MOTTLEY, Q.C., LL.B.
Miss C. Y. FORDE, J.P., L.C.P.
Hon. R. D. JONES, J.P., B.A. (Hons.), M.A. (Ed.) (Minister of Education and Human Resource Development)
Dr. the Hon. D. C. ESTWICK, B.Sc., M.B.B.S. (Minister of Agriculture, food, Fisheries, Industry and Small Business Development)
Mr. D. D. MARSHALL, Q.C., LL.B. (Hons.), L.E.C.
Hon. M. A. LASHLEY, LL.B. (Hons.) (Minister of Housing and Lands, Urban and Rural Development)
Hon. R. L. SEALY, B.Sc., M.B.A. (Minister of Tourism)
Hon. F. J. STUART, B.A., LL.M. (Prime Minister and Minister of National Security)

Hon. J. D. E. BOYCE, B.C.H., MRAC (Minister of Transport and Works) (Leader of the House)

Hon. E. G. HUTSON, F.C.C.A., C.A. (Minister of International Business and International Transport)

Hon. S. D. BLACKETT, (Minister of Social Care, Constituency Empowerment and Community Development)

Mr. J. D. PAUL, B.Sc. (Chairman of Committees)

Mr. A. D. BRATHWAITE, LL.B. (Hons.) (Attorney-General and Minister of Home Affairs)

Mr. S. A. LASHLEY, B.Sc., LL.B. (Hons.), L.E.C. (Minister of Youth, Culture, Sports and Family)

Hon. P. M. T. TODD, B.Sc., (Minister of State, Ministry of Housing and Lands, Urban and Rural Development)

Hon. C. P. SINCKLER, B.A., M.Sc. (Minister Finance and Economic Affairs)

Dr. the Hon. E. R. BYER-SUCKOO, M.B.B.S. (Minister of Labour)

Mrs. M-J. M. THOMPSON, B.A., M.Sc. (Ph.Ed.)

Prayers were taken by Canon Father Ivan Harewood.

Mr. SPEAKER: Good morning Honourable Members, this House is now in session.

MINUTES

Mr. SPEAKER: The Minutes of the Meeting held on Tuesday, February 22, 2011.

Hon. J. D. E. BOYCE: Mr. Speaker, I beg to move that the Minutes for the Honourable the House of Assembly for its Meeting of Tuesday, February 22, 2011, be confirmed subject to any omissions, corrections and/or observations.

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

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

ANNOUNCEMENT BY HIS HONOUR THE SPEAKER

Mr. SPEAKER: Honourable Members, by way of announcements, let me take the opportunity to welcome here today the students of Class 3A5 of the Alexandra School and their teacher Mrs. Clarke. Of course, we are always happy to have students visit us here. This school now has a soft spot for me as I have a precious one who goes there, so we welcome you today.

PAPERS

Hon. J. D. E. BOYCE: Mr. Speaker, Sir, I am commanded to lay the Estimates of Revenue and Expenditure, 2011-2012.

FIRST READING OF BILLS

Hon. A. D. BRATHWAITE: Mr. Speaker, I beg to move that the Land (Title Proceedings) Bill, 2011 be read a first time.

Hon. J. D. E. BOYCE: I beg to second that, Sir.

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

ORDERS OF THE DAY

SUSPENSION OF STANDING ORDERS

Hon. J. D. E. BOYCE: I beg to move that Standing Orders Nos. 6, 16, 18, 20, 42(5), 43 and 44 be suspended for the remainder of the day's Sitting.

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

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

ORDER No. 6

LAND (TITLE PROCEEDINGS) BILL, 2011

Mr. SPEAKER: Yes, Mr. Attorney-General.

Hon. A. D. BRATHWAITE: Thank you, Mr. Speaker. Mr. Speaker, for many years, all around Barbados, even before you and I were born, there were families who for generations have lived on lands without being able to provide legal title, if required, in the eyes of the law.

Mr. SPEAKER: Mr. Attorney-General, I think I need to correct you, you should not give the impression that we are in the same age group, please.

Hon. A. D. BRATHWAITE: I believe, Sir, that you are slightly older than I am.

Mr. SPEAKER: I was cautioning the Honourable Member about giving the impression that we are in the same age group. Continue please.

Hon. A. D. BRATHWAITE: Mr. Speaker, this was seen when landowners went to banks or other lending institutions and were called upon to produce or to provide evidence of title. Sir, there are many persons around Barbados who actually believe that once they pay land taxes and have the land tax bill in their names that they need not have done anything else to prove that they own the land for which they were paying land taxes. Indeed, Sir, I am sure that from time to time you would have heard in your practice, and maybe even at your office when you do meet constituents who come to you, people saying that they have been paying the land taxes, the land tax bill comes out in their name, what more evidence do they need to produce as ownership of the land when in fact that land has been in their family for many generations.

The only procedure that legal title could be deduced was a procedure, I believe under Order 31 of the previous Rules of the Supreme Court, which are a 1982 Rules. These Rules have created a fixture which I will simplify, not for you, Sir, but for the listening public.

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Mr. Speaker, what was required was that the owner of the land entered into a relationship, usually with the law clerk of the law firm that was retained, pursuant to which a debt was owed to the law clerk and there was a default on this debt, to which the law clerk started an action, as a result of the fault of this debt. Mr. Speaker, pursuant to this action the matter was then taken to the Supreme Court before a judge in Chamber and a default against the land owner was entered.

Mr. Speaker, there were other consequences to that and let me explain more thoroughly. Sir, what was required was that you needed to produce some evidence of ownership of the land, ownership for a period of no less than ten years. That was by way of an affidavit which is filed with the court, which shows ownership of the land for that period. In the action brought by the plaintiff, one of the first things one needed to do with respect to that action was that one needed to pay into the court, by way of stamp duty, one per cent of the value of the property. That one per cent sometimes cause undue hardship to the land owner

because that one per cent of \$60 000 is \$6 000; one per cent of \$6 million is

\$60 000. Therefore, sometimes land owners found it very difficult to come up with the stamp duty. That is one of the first hurdles they face, that is coming up with the stamp duty which was required for them as part of this fictitious suit I am describing.

Mr. Speaker, the second hurdle with which they were faced was because they was an actual fictitious sale of the land, that is, because there was a default pursuant to the agreement and there was a foreclosure, there is actually a fictitious sale of the property. Sir, using the illustration I used, assuming the property was worth \$60 000, the land owner had to come up with \$60 000 which would have been paid into the Registrar. Of course, as you very well know with regard to many of our constituents, the only real property that they have is the same property they were trying to title and quite often coming up with the value of the land, which is linked to the land tax value. Sir, quite often, for those persons to find the 1 per cent value of that land was also problematic. As I said, this also caused significant problems to the land owners and quite often they had to rely on family friends and even they own attorneys to assist them in being able to come up with this money to be paid into the Registrar for the sale of the land.

Mr. Speaker, as part of the process, once the property is sold, these funds are returned to the land owner but in reality there was always a period between which the funds were advanced from wherever the land owner was able to obtain these funds and when the funds were returned to the land owner. This as I said not only in terms of the amount of money the land owner had to come up with, there is also the issue of how long that land owner was out of funds, sometimes because of the slowness of the Registrar, sometimes because attorneys did not act with the type of alacrity that you do in your own practice.

Mr. Speaker, those are two hurdles, in addition to which I am advised that there was usually one clerk at the Registry dealing with foreclosure suits and that given the number of foreclosure suits from time to time, this clerk would have been significantly challenged. Indeed, as part of the process, the Registrar was required to advertise the suits in the both the local newspaper and the Official Gazette. This process also had to be done by that one individual at the Registration Department. What that clerk would do from time to time was that rather than having to advertise one suit every day, would wait until there were ten or twelve suits to advertise them. I am sure you would have seen in the local newspapers, from time to time, a number of notices appearing there. Mr. Speaker, that, in itself, sometimes cause a delay, the number of suits that were filed and the fact that regrettably there was only one clerk whose responsibility it was to file these notices. As I

said, there were times when the clerk was not at work, either through illness or otherwise. I am further advised that usually, regrettably, that meant further delay because no one else would take up the baton and try to ensure that the process continues.

Mr. Speaker, all in all, if you speak to most practitioners, they will tell you that this process regrettably, took some two to three years on average and that even though the process itself seems like a simple one, there were considerable delays as a result of the filing of the notices and at the end of the process, having to get into court, not only in terms of the suit itself but even after you have received judgment, then one needed to go back to court to have the issue of the property transfer adjudicated. Mr. Speaker, therefore, we ended up going to court, at minimum, three times. Sir, as you very well know, all of this takes time as you have to try to obtain a date, in circumstances where the court itself is also filled with other cases.

Mr. Speaker, as a result of this process, you would end up, quite often or not in a situation where the clients were unhappy because of the fact that the process took a significant amount of time and too the attorneys themselves were also unhappy, not only because of the length of time it took because as I said you usually end up with an unhappy client. Again, I am sure you have had the experience where, from time to time, a client would call asking what is the status and you can only say you are waiting on the process to take its turn but the client who is anxious to have his mortgage or sell his property is not as tolerant or patient as you and I are in these proceedings, because we understand the process involved.

Mr. Speaker, I should also say that one of the issues with respect to the foreclosure suit before this Bill was that there was a feeling it was open to abuse, that is, it was quite possible that someone who had no real interest in the land could, in fact, approach the court claiming interest in that land, to the extent where in 1997, the then Chief Justice, Sir Denys Williams, issued a practice direction to ensure that the possibility of fraud was eliminated as much as possible. Sir, there were two issues that most practitioners were concerned about, they were concerned about the length of time, the delay in getting this process done, which takes sometimes better two to three years. Secondly, there was also the issue of the potential fraud because of the fictitious nature of the transaction. Mr. Speaker, in 2002 a committee was formed, which examined this process and I believe we had members of the Bar and members of the Judicial Council who examined the issue of foreclosure suits then, which led to the drafting of the present Bill which is before us.

10.27 a.m.

Mr. Speaker, a few weeks ago there was an issue raised because I believe that in 2009, with the advent of the new Supreme Court Rules, the Registrar of the Supreme Court took the decision that there was no basis for accepting foreclosure suits given the change of the present Rules in 2009. Sir, there is some issue as to whether or not that decision was taken as a result of a practice direction by the former Chief Justice of Barbados in 2009. Sir, whether or not there was a practice direction by the Chief Justice in 2009 the fact is that the new Rules did not provide an avenue for the continuation of previous rules so that there was no basis, in law, for the continuation of the foreclosure suits as were done before 2009 and, therefore, for the last two years, we have had a situation where foreclosure suits have been in abeyance and, Sir, in that regard, we have been working feverishly to ensure that this piece of legislation is brought before you this morning.

Mr. Speaker, as you very well know, one of the things that I would like to say about Barbados is that we enjoy Committees. We enjoy having as wide a cross section of participation and consultation as possible and this Bill was no exception. The Bar had several comments and, in fact, the Bar has commented for years on various aspects of it. I am very well sure that there would be parts of this Bill that even after we have passed it here today that members of the Bar will agree, and not agree on and, Sir, such is the nature of any piece of legislation.

Mr. Speaker, what we are seeking to do with this Bill, however, is to simplify the process. Sir, bringing the Bill for the first time in the history of Barbados, is actually providing a clear legislative framework pursuant to which persons can acquire title to property where they are unable to provide their legal title deeds for various reasons and, similarly, Sir, we are trying to ensure that avenues for fraud are eliminated as much as possible.

Mr. Speaker, I will look at a few sections of the Bill just to demonstrate to you how we have addressed the various issues that have made the process before this morning such a different, cumbersome and suspicious process. Sir, Clause 3 of the Bill clearly state that the application process that obtains in this Bill. It says:

“A person who claims ownership of a legal estate or legal interest in land within the meaning of Section 3 of the Property Act and who, in respect of that land, (a) is in possession of documents of title that do not establish a good and marketable title; or (b) is not in possession of documents of title but claims ownership of the estate or interest by virtue of inheritance, devise, purchase, adverse possession, prescription or otherwise, may apply to the court for a declaration in respect of the ownership of the estate or interest and a certificate of title in respect of the same.

Sir, Clause 3 of the Bill clearly establishes who can apply for relief under this Bill. (5:10)

Mr. Speaker, the Bill then set what evidence of title is required for a claimant to satisfy the court that they have good title to the land.

Mr. Speaker, the Bill also provided that such a claimant must advertise and that advertising must be done in the local newspapers and also must be done in the Official Gazette.

The Bill also provides that if possible, if required, that court might actually ask a claimant to advertise outside of Barbados so that if the court for any reason believes that there may another claimant who resides outside of Barbados, and the court may actually, to ensure that such a claimant is given notice may actually ask a claimant to advertise also outside of Barbados.

Mr. Speaker, as I have mentioned previously, one of the issues was delay and the delay, as I have said, was because we relied on the Registrar to advertise the suit but, Sir, in the new Bill, we have removed that. We are now providing that the claimant can advertise and, therefore, takes ownership of the process. Sir, in that regard there will not longer be the requirement that you sit and wait and review the newspaper from time to time to see whether or not the Registrar has gotten around to advertising your matter because you, yourself, have ownership of the process. Sir, we believe that because you will have ownership of the process that should significantly contribute to the reduction of time waiting to see whether or not your matter has been advertised.

Mr. Speaker, as I have said, one of the issues that we were concerned about in this process was the issue of potential fraud and, in that regard the Bill provides an avenue and a process through which anyone who has a claim to the land can also file an adverse claim before the courts in Barbados. We want to ensure that when title is given to anyone who proceeds under this Bill that title, in fact, is given to the correct individual, so the Bill does provide an apparatus for anyone who has an advance claim of any nature to the land in question that they can, in fact, also approach the court.

Mr. Speaker, we have taken quite some time when we look at this Bill because we wanted to send a signal to anyone approaching the court under this Act, once it is proclaimed, that we take very seriously the issue of fraud. Sir, in that regard, you will see that at Clause 16 of the Bill that a provision is made there to ensure that anyone who misrepresents any fact under a claim that, in fact, they can be subjected to imprisonment for four year or to a fine of \$25 000.

Mr. Speaker, we have also recognised that even after you have followed that there is quite possible that someone other than the claimant may, in fact, also have had an interest in the land, that is, that even after the process is completed and a certificate has been granted by the Registrar that it is quite possible that, maybe someone, whether in Barbados or otherwise who, in fact, may have had an interest in the land and who were party to the proceedings because either they did not read the newspaper or they did not read the Official Gazette, like the average Barbadian, who does not review publication in the Official Gazette.

Mr. Speaker, what Clause 21 does is, in fact, recognises that and provides an avenue that even after a Certificate of Title has been granted

that within three years that subject claimant does not have any opportunity to approach the court, and in that regard I know that such a claimant can bring an action naming the Attorney General as part of the action and, in fact, seek compensation pursuant to Clause 21 of the Bill. Sir, as I said, such an action must however be brought within three years of the granting of the certificate.

sequence 3

Sir, there is some issue, as I said, with respect to proceedings since the new rules in 2009. There were, I am advised, still a few title suits that were done since the new rules. We wanted to ensure that the issue of the validity of any Certificates of Title issued since 2009 is addressed. In that regard, Clause 31 of the Bill, which I shall read to you, because I want to make two points with respect to this clause.

Sir, Clause 31 says:

“31. (1) Notwithstanding anything to the contrary in the Act and Part 73.3 of the Supreme Court (Civil Procedure) Rules, 2008, any proceedings that were filed; (a) Under Order 31 of the Rules of the

Supreme Court, 1982; or

(b) On or after the 1st of October 2009, purportedly under Order 31 of the Rules of the Supreme Court, 1982, but before the commencement of this Act, may (i) Be continued under that Order as if that Order were still in force; or (ii) May be treated as an application under section 3 of this Act and this Act shall apply thereto. 31.(2) The proceeds referred to in subsection (1), and any conveyances issued by the Registrar on or after the 1st of October, 2009, in respect thereof and before the commencement of this Act, shall not be regarded as invalid by reason only the fact that no statutory authority existed during that period to give effect thereto.”

Sir, this addresses the question of title suits that have been filed since 1st of October, 2009. We are trying to ensure that any Certificates of Title granted post that period are captured here once this Act is proclaimed, to ensure that these pieces of land for which Certificate of Title have been granted, will indeed be construed to have been given valid between 1st of October, 2009 and the date of proclamation of this Act.

Mr. Speaker, secondly, you may recall that one of the issues I alluded to was the fact that many claimants had trouble providing the Property Transfer Tax, which was 1 per cent, had issues in terms of providing the fictitious cost of the land, whether it is to be \$60 000, \$100 000, or otherwise. Now I am saying given this Bill before us, any suits that are now in process, in fact, any wise attorney would bring that suit under this Bill and therefore try to make the lives of other clients as simple as possible, because they would no longer have to provide that fictitious amount, since there would no longer be a purchase and sale of the property.

Sir, it is our hope, therefore, that this Bill will bring significant relief to many Barbadians who have been waiting over the last two years to have their properties titled. As I said, I can attest, and I am sure that you can, to the fact that there are hundreds, if not thousands, of Barbadians who have been living on land for many years and who are unable to provide clear legal title until they approach a lending institution, hoping and pleasantly waiting for this Bill to be enacted.

I believe, only a couple of weeks ago, the former President of the Bar Association was reported as asking if we can bring this Bill before the House, with speed. At the time I said the Government of Barbados would have ensured that it would have been brought to this House with speed, as we recognised it was important to have this done because we wanted to bring relief to many ordinary Barbadians. As in keeping with this administration we have kept our word and we have brought this Bill here this morning.

Sir, with those few words, I beg that this Bill be read a second time.

Mr. SPEAKER: The Honourable Member for St. Andrew.

Mr. G.W. PAYNE: Mr. Speaker, I would like to commend the Attorney General for acceding to the request of this side in bringing this legislation in a speedy manner, or rather in recognising the urgency of this legislation. The fact that there are certain issues pertaining to this legislation, that there are certain concerns at the Bar Association, that there are certain concerns of attorneys, that clients have been disadvantaged as a result of what is

going on at the Registry in terms of the suspension of the Foreclosure Suit does not necessarily mean that we must accept a watered down version of what should come out of this House in terms of improving the law as it relates to land.

Sir, the Attorney General made certain observations in his opening remarks and I will get to them in time, but I want to look at the Explanatory Memorandum or this Bill. Seeing that the Attorney General relied on this Explanatory Memorandum and did not take issue with anything in the Memorandum, I do feel that it is only fair, for the benefit of Members of this House and the public, because this is a matter that concerns us all. This has nothing to do with Barbados Labour Party, the Democratic Labour Party, this Attorney General or that Attorney General. This concerns us all. Like educators we are all lawyers, whether we are street lawyers or real lawyers. When I speak to real lawyers and street lawyers, this legislation before the House and the legislation that preceded it, showed us the importance of trying to help persons who were disadvantaged in terms of not being able to obtain title. As a result of what we call the Foreclosure suits, it is a worthy piece of legislation in this country that informed this legislature to appoint persons as Attorneys-at-Law, who never sat an exam anywhere, and that shows the importance of this legislation.

Mr. Speaker, as I said, I take strong issue with the Explanatory Memorandum to this legislation. You are speaking about a fiction. I would have expected the Attorney General to comment on this Memorandum because I am not so sure that he read it. I am not so sure that he saw it, and I would hope that he has not seen it, because it spoke to an observation by many attorneys that this system of foreclosure suits often led to abuse where persons were said to have obtained title to land dishonestly.

Sequence 4

Mr. Speaker, I am somewhat embarrassed but I have been practicing in these courts of Barbados for 37 years and I have done about 1 000 foreclosure suits in my time, directly or indirectly but I have never come across a situation where persons were abused or said to have obtained title dishonestly. Now I am not saying that there were not cases. I see the Attorney General in waiting smiling, but it is a fact. What we are doing is that we are reacting to one or two cases.

In the last 40 years, I say in the last 40 years but since this Legislation was introduced, one can count on one hand the numbers of cases of fraud that have been brought before the court and the Attorneys who are practicing on that side could verify this. I would venture to say, Mr. Speaker, that in 99 per cent of the cases where these foreclosure suits were brought, the persons who brought them honestly believed that they owned the land. It is only

that one per cent or that fraction of one per cent that we are dealing with and in 99 per cent of those occasions, they were proven right.

On the other hand, Mr. Speaker, the persons who claimed title of the lands when those foreclosure suits were issued, I would say 99 per cent of those persons who tried literally to unseat the real owner, honestly believed that they owned the land and in 99 per cent of those cases they were proven wrong so it is not fair for us to come in here and talk about clients stealing land.

Hon. A.D. BRATHWAITE: Mr. Speaker, on a point of order. The Honourable Member is misleading this House. In my presentation, I never said anything about clients stealing land. If his clients were guilty of stealing land, I certainly do not have any clients and never had any clients who stole land so I do not understand where that comment came from.

Mr. SPEAKER: Honourable Member, please continue.

Mr. G.W. PAYNE: The Honourable Member obviously has not read the Memorandums. It was observed by many attorneys.

Asides.

Mr. G.W. PAYNE: I am reading from the explanatory memorandum. I do not know what he is talking about. I never said anything about what he said because I recognised the fact from his presentation that he had to present this Bill and he does not know what he was suppose to present. If he wants to get up and make, I almost used his language because he used language like unscrupulous in this House.

Mr. Speaker, this Memorandum is part of what we have and I read it for his benefit because he has not read it before. It was observed by many attorneys that this system often led to abuse where persons were said to have obtained to land dishonestly. This is not an indictment on the Attorney General. I would like to apologise on his behalf for not defending the fact that this was not correct.

Asides.

Mr. G.W. PAYNE: Maybe he should take issue with this by whoever prepared it for his benefit because it does not represent anything at all that I have seen in the law courts in the 37 years that I have been practicing at the bar. I believe that I have done as many or more title suits than any other attorney in Barbados so I am fully aware of what I speak. Mr. Speaker, I do not fault the Attorney General because he has not done any because we all have different areas of practise.

This brings me also to the question of the specialisation of attorneys at the bar. It is also relevant when you try to indict persons who cannot defend themselves because you are indicting persons who are not lawyers who come to lawyers who can investigate to get their title and what has happened is that you have lawyers who choose to practice in areas with which they have not been accustomed and they have brought severe hardship on a number of clients in this country. It is something that the University of the West Indies must look at in terms of qualification. We are moving in a different age now and there is no system for lawyers to do refresher courses on an annual basis, as happens in other countries.

If you want to do medicine and you do medicine and you want to do a brain operation, a client wants a brain operation, you have to specialise in that particular area but law is the only area that a brain surgeon could go and do a heart operation. Mr. Speaker, as an attorney you would know what I am talking about and I am glad that the Member for St. Philip West knows his speciality and he is not included in that group because he does not thread in these areas. I have never seen him thread in these areas but there are some lawyers who do it.

Sir, as a result of this, you have attorneys advising clients and I mean some of the things that happen in the profession is shocking. It is so shocking that these clients have to resort, and I do not like to use the word, affliction, I will come back to that, but these clients have to resort to some means in order to show that they have good title. Sir, somebody makes a will and you go to a lawyer and you want to make sure that the property that is left to by an Executor is done and what you have is that you have an assent by the Executor before Letters of Administration is being taken out and that is one of the reasons why people have had to go to the court to get the Title perfected. These are the things that the Attorney General is not aware of but I think that he should have been briefed and properly briefed.

Sir, you have lawyers who do not understand. They like to see everything in black and white so they are not concerned with the law. They are not concerned with reading books like Emmert on Title or Williams Title and go through the relevant details on the conveyancing. They feel that it is easy. It is easy money. I have seen some conveyances, Mr. Speaker, that I mean I do not know what to say then, the types of requisitions that you get from some lawyers on occasions. Some lawyers do not understand what is a good route of title. Some lawyers so not understand that you could accept a title shorter than the route of title under the Property Act which is 20 years. Some lawyers do not understand that you could complete a transaction and the transaction would be good even though there might be an encroachment, as long as you did not hide that from the particular individual.

Mr. Speaker, some lawyers do not even understand that there is a culture that has built up around lawyers and it is a culture that has permeated the practice, in that those people who do the right thing, like the Honourable Member for St. Philip North, even though he does not agree with it, he has to conform with the culture. So that you have a good title. You have lost your title deeds. The title deeds are recorded. The law is there. The purchaser's attorney has no reason to refuse him a certified copy of those documents and an affidavit.

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The irony of it is that they accepted an affidavit from the lawyers who have created the confusion but they would not accept an affidavit from the clients who have genuinely lost the deeds. Sir, as a result of this, these clients are then forced to go and do a title suit, spend two years and sometimes as much as \$20 000 to get their land titled by the same lawyers who have created the problem in the first place.

Mr. Speaker, there is no fiction about the title suits as it relates to poor people. One has to look at the historical basis of these foreclosure suits. It is all rooted in our whole way of living not only from the early part of this century but from as far back as you would be able to chronicle the ownership of lands by Barbadians. Mr. Speaker, it is centred around the sugar plantations and our colonial masters. In the days when sugar was not doing well, the planters had to ensure that they find other means of shoring up the sugar industry. Of course, in order to shore up the sugar industry they had to borrow money and when the Government of the day, which would have been our colonial masters in England, denied them financial assistance, these landowners, when they borrow money, had to make sure that there is an indefeasible title. They had to make sure that there was created in their mortgage a power of sale so that when things go awry they would be able to sell the property. They wanted to make sure that there was adequate security. Mr. Speaker, in those days when the rich and wealthy landowners who did not look like anybody in this room were borrowing money and using the facilities of the foreclosure suits they were called genuine foreclosure suits.

Asides.

Mr. G. W. PAYNE: I do not know if they had people looking like the Attorney-General, I see him smiling but I know they certainly did not look like me.

Asides.

Mr. G. W. PAYNE: Mr. Speaker, when they exhausted their creditors and they had to resort to selling

off the lands in lots, that is where people like the Honourable Attorney-General came in.

Mr. Speaker, it is fictitious for you to create a mortgage in order to find an avenue to assist a poor person in order to get a title which rightfully belongs to them. Mr. Speaker, they did not just borrowed money to shore up the sugar industry, they borrowed money to educate their children overseas and sometimes they borrowed even more money than was the worth of the estate.

Asides.

Mr. G. W. PAYNE: There are situations, only to show you the fiction, where they actually borrowed money sometimes not in their name because when you are dealing with a small minority and you do not have any opportunity of looking at them, everybody looked alike, sometimes they would send down their sons and their uncles... Sir, let us assume that your name is Adriel Brathwaite and you have a son overseas and this guy name might be Ronald Jones, you send down Ronald Jones with a picture looking like Adriel Brathwaite because when you look at the two of them the two of them look alike to get a mortgage, not even by your agent and there was everything fraudulent in that system, but those mortgages were not called fictional or fictitious mortgages because you were dealing with a different group but now when you start to help the poor fellows who have been given a lot...

Sir, some of the colonial masters were very wicked in those days. They would give a receipt, and there is evidence that it is documented, and sometimes it is signed in a way that does not look like how they sign and when something happened to them and that particular individual goes and use that receipt, they found that they do not own that land.

Mr. Speaker, I do not think that we recognise the importance of the Tenancies Freehold Purchase Act. I mean we are very political about it. If I have one problem with the Tenancies Freehold Purchase Act, it is that I cannot understand how it took us so long in order to put this legislation on the statute books because it was not only a great feat of social engineering because when you look at the revolutionary nature of the Tenancies Freehold Purchase Act, it went beyond that. Even today, it is a practitioner's dream because you do not have to worry about the subdivision of land, Town Planning or about a landlord not wanting to sell you the land. It is really a practitioner's dream.

Mr. Speaker, the other regret I have about the Tenancies Freehold Purchase Act is that we did not continue the process, even if you forget the social engineering aspect of that legislation, that practitioner's dream. The strange thing about it is that when you realise

the importance of the Tenancies Freehold Purchase Act from a practitioner's point of view the example that I gave you just now with the Executor who would have been given a conveyance that is no use to him by an attorney-at-law...

Mr. Speaker, you could have a situation where you have land on two sides of the road. You have one parcel of land that is subject to the Tenancies Freehold Purchase Act where a landlord has six or more tenants and they might only be landlords for about five years and you have another parcel of land on the other side of the road where you have land - in those days people had 20 and 25 children - where one of the fortunate emerging middle class might have given land to his children and there was no mechanism whatsoever for that person to obtain title. Up to this day, if that land is not demarcated properly, there is still no mechanism because even sometimes the foreclosure suits might put you in trouble with the type of questions you are asked at the Registry these days. You probably could have gotten away with it before.

Sir, you have a genuine development on one side of the road where a man has died and has left land for his ten children, they all own houses on that land but because of the way how the houses are placed or sited, they cannot get title for any of those lots. However, on the other side, you have a landlord where the land has been subdivided for six years and you could call him into your office and you could sit and actually do a conveyance in a day subject of course to doing the tenant's notice.

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Sir, the only recourse that the guy on the other side would have... the thing about is that the fellow on the left pays ten cents per square foot. If it is not ten cents per square foot then he has a right to have the land appraise. Mr. Speaker, on the other hand, you have a situation where a man has genuinely left land to his children. Are you telling me those children have to resort to a title suit to claim that land?. Are telling me in this day that there is something wrong in a system which has served us this far? It is a system that has served us well. Sir, there is a saying if it is working do not fix it.

Mr. Speaker, I believe that while we have to deal with a situation at the Registry, which has been created, I do not know for whatever reason... Sir, one of the things about law and the dispensing of justice is that there must be no hiatus in the administration of justice. Sir, this is the first time in the history of the legal system of this country that there has been that hiatus and it is wrong. It is an injustice to those persons who want to put up a structure on their land, who want to borrow money from the bank, who have been told they would receive title after two years, who

have now been waiting for four to six years and cannot get title.

Mr. Speaker, I regret that the Attorney-General has been misinformed because in the early days these title suits used to take six months. I was having a discussion with a Queen's Counsel only yesterday, who has been dealing with this particular area, who reminded me and showed me files about titled deeds that used to be completed in six months, which means that there is nothing wrong with the system.

Mr. Speaker, we are hearing this talk about fraud, about attorneys stealing land. That is not true. There is nothing imaginary not only about bad conveyance but about the courts trying to find a solution to help poor people obtain titles. There is nothing imaginary about the courts helping poor people when their title deeds have been lost or destroyed. There is nothing concocted when a person buys land with his hard-earned money from a vendor in a plantation tenantry, is given a receipt and then the courts try to help him by getting the title to that land. There is no concoction.

Asides.

Mr. G. W. PAYNE: There is nothing unreal about a client who wants to sell his land to effect a quick sale and simply because he has a title less than the statutory period, the court is called upon to help him. There is nothing imaginary about that. There is nothing fabricated by the courts being called upon to help a client where property has been vested and accent where the letter of administration has not even been done.

Mr. Speaker, there is nothing fabricated about a document which shows the route of title. There are situations where a client is given a document by a power-of-attorney. The route of title is supposed to be a power-of-attorney, yet there is no power-of-attorney. Sir, there is nothing fictional or fabricated about a foreclosure suit to assist poor people in those circumstances.

Mr. Speaker, the Attorney-General should understand that when he talks about one clerk at the Registry who deals with claims, that is not true. I do not know where the Attorney-General got that information but I believe him, I believe he is an honest man. I do not believe the Attorney-General was unscrupulous in the language in which he referred to his friends on this side. It is not true. Sir, what happened is that we are trying to bend the system in a way to accommodate attitudes, indiscipline, inefficiencies and the evils in other areas. We as legislators have to ensure that the legal system in this country is never under threat. In this regard, we have to be careful that we are not used as the vehicle to transform or to reshape the

rule of law in order to accommodate the selfish egos of a few.

Mr. Speaker, this is very serious because as legislator and we allow this to continue, there will come a time when the judiciary will be under siege. There will come a time when this very Attorney-General, when he starts practising law, because of his relationship with a particular judge, because of his relationship with people in the political directorate, he would want us to enact legislation which will allow ...

Hon. D. St.E. KELLMAN: On a point of order. Mr. Speaker, the Honourable Member is misleading this Honourable House by giving this Honourable House the impression that the Attorney-General can practise law while being the Attorney-General.

Mr. G. W. PAYNE: Mr. Speaker, I hope the Attorney-General has not taken that personally. I am not saying an attorney like the Attorney-General, meaning it could be an attorney like any of us on this side. Sir, any of us on this side, when we are practising law we have to be careful. I believe that all Honourable Members on that side, including the Attorney-General, agree with me but that we have to be very careful that the time will not now come when we pander to the egos of certain people in the system by making changes to laws that somebody does not come here with legislation to allow us to file a document by handing it to a particular judge. This is serious.

Mr. Speaker, there was a time when I started to practice, where whatever the relationship among people in the legal profession, they would do their work. Sir, nowadays production or progress is being measured in a particular area by the relationship of one person in the legal system with another, so that when the Honourable Member for St. Philip North files a document and the Honourable Member for St. Philip West files a document too, the Honourable Member for St. Philip North would get through a lot faster. Sir, we have to be very careful. That did not happen in the past.

Mr. Speaker, I am glad this legislation has come but I do not accept the reasons which have been given. Sir, I would hope, that notwithstanding the fact the legislation is here before us, that a little surgery would be done to this legislation.

11.17 a.m.

Mr. Speaker, I do not believe that this legislation could be passed in this present form. I am optimistic with respect to the Attorney-General using his good offices in ensuring this. I do not think it would take very long and I was hoping that the people in the drafting department would be here to hear our concerns because the concerns

are not my concerns. Sir, these are the concerns of the members of the Bar. Sir, I received calls between yesterday and last week since this matter was publicised. Sir, sometimes I know that the Honourable Member for St. Philip North says that I sort of emphasise too much but I received call from about 50 lawyers.

Asides.

Mr. G.W. PAYNE: Sir, the Honourable Member for St. Lucy knows that I am correct on these matters. Sir, I have received calls telling me that I have to make these points. Sir, when you talk about people taking three years to complete a title suit, it is not the lawyers. Sir, it is the system because there can be no reason why a title suit can be completed in six months three years ago with the same rules and the same title suit but now it is taking three years. Sir, in those days you had about five marshals and now you have about 100 marshals and you are not getting your matter done in six months.

Mr. Speaker, I do not blame the Attorney-General for that because I think he is in the hot seat today and I believe if I were on the other side that I would be in that hot seat too, and that he is under some pressure to bring this legislation. Sir, I believe that a proper investigation needs to be done about what is happening over there. It might be a little too soon, seeing the urgency of this legislation to have it done before these laws are passed but, Sir, it is something that needs to be done.

Mr. Speaker, looking at this legislation there is a need for it. Sir, we spend a lot of money on the University of the West Indies and the last time a Supplementary came here, it was for \$60 million but we are not utilising the services at the University of the West Indies. Sir, as a matter of fact, I am saying they are not working and that we have to make that institution work for this country, whatever system we may have in place in terms of law revision. We can have a committee at the University of the West Indies with about five persons and we do not necessarily have to include any of the lawyers at the private Bar nor we do not necessarily have to include the lawyers in the Attorney-General Department but those people have a knack for research and they can tell us the areas of law that we need to look at so that when legislation comes to this House, and I know that before the election is called in a few months time other controversial legislation will come to this House pertaining to this same matter, pertaining to the administration of justice. Sir, I am saying that if an independent body coming from the intellectuals at University of the West Indies feeding information both to the policymakers and to the people in the Attorney-General Department to areas where we need to make some changes. I believe that you would not have a problem of anybody saying that this particular move is a political move.

Asides.

Mr. SPEAKER: Please members. Give the Honourable Member a chance to make his contribution.

Mr. G.W. PAYNE: Sir, it is in their interest and I think that they have an excellent opportunity. It is an opportunity what when we were in Government we did not utilise but make them work. You are giving them \$60 million and they should not even necessarily be paid but, if you have to, pay them, so that they would be able (5:00) to make proper recommendations and when legislation comes here it would not even have to go to a Select Committee. Sir, I know how the people in the Attorney-General Department, the people that did the drafting might feel but the people at the University of the West Indies would not necessarily have to do the drafting. They could point the likely areas of reform.

Mr. Speaker, I do not know about the instances of fraud that the Honourable Member is talking about. I would like the Attorney-General when he gets up to give us the details because he should come with numbers. Mr. Speaker, he should not just come here, talk about fraud and present an explanatory Memorandum dealing with property being stolen and not give actual figures. (6:10) Sir, he speaks about property transfer tax...

Asides.

Mr. G.W. PAYNE: I have touched the areas that you have spoken on but I have not spoken on the Bill yet.

Sir, the property transfer tax. It is fairly obvious to me that the Attorney-General is telling us that this provision will not attract property transfer tax because unless it specifically states that the property transfer tax is 2.5 per cent but it is going to attract stamp duty, which means the Attorney-General is telling us that this Bill is not complete. Sir, he is telling us that because he is telling us because he is telling us that you would not have to pay the property transfer tax. Sir, that is what I heard, so if you do not have to pay property transfer tax it means you have to come back, unless you did not mean it.

Mr. Speaker, I want to comment on the fact that you say that property transfer tax is one per cent, and I do not believe that is ignorance on your part. I believe that you probably plan to reduce the property transfer tax to one per cent and, Sir, this would be welcomed. It is 2.5 per cent now and it would be welcomed but you need to say so.

Mr. Speaker, our position on this Bill is not going to make things much easier. We did a dry-run - maybe that is not good language in this case - but this looks to me as if it is three years. Sir, if the present system of files being kept in the Registry, sometimes for as long as ...

Asides.

Mr. G.W. PAYNE: You only have to spend a coin continuously. Sir, you cannot change attitudes by this Bill and you cannot change egos by this Bill. Sir, if you tell me that this Bill, in nine months, everything will be over and you will be able to get it done, I wish you luck, and I would hope that you are correct. Sir, maybe this is what the framers of the original Bill or the original legislation under what you call the fictional foreclosure suits thought and, Sir, they were correct but you have to make sure that when you organise seminars for the people who are dealing with the administration of justice in this particular area, or when you make the necessary changes in the right places, you have to make sure that the poor people of this country are not disadvantaged.

Mr. Deputy Speaker, let us look at the Bill itself.

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Mr. Deputy Speaker, let us look at the Bill itself. The Attorney General dealt with matters which I believe should have been dealt with in the second reading in Committee, but I guess as that is his prerogative, I will have to respond.

Sir, the first thing that is wrong with this Bill, I would say that all of the matters I have found, and these are matters which have been pointed out to me by other attorneys and which I found on my examination of the Bill, and there are not unsurmountable. I believe that with a quick brushing up of the relevant provisions we could be back in here in the shortest possible time in order to make sure that the Bill is passed. I would hope, and I urge the Attorney General not to proceed with the approval of this Bill today for those reasons, because we need to do some surgery on this Bill.

Sir, the first matter that I think is wrong with the Bill, Paragraph 2, where it deals with the terms. "Registrar" means the Registrar of the Supreme Court. Mr. Deputy Speaker, I would urge that you retain "Registrar means the Registrar of the Supreme Court", but I would think that we should insert "except where the Registrar of Titles is mentioned specifically", because in this Bill, in one of the major sections, you have the Supreme Court making a Declaratory Order, that is fine, nothing is wrong with that. Then you have also the Certificates of Title being made. Now the Certificates of Title, you do not want to confuse the Land Registration Act and the whole process of title again by having one Registrar issuing a Certificate of Title and another Registrar issuing a Certificate of Title, because it would cause bear confusion. Next thing you will have the Corporate Registrar issuing Certificates of Title too. In the interest of uniformity so that it would not cause any confusion. Sir, as I go along, we will see where it is necessary to have the Registrar of Titles inserted in this

Bill. Sir, Registrar, in my view, expect where the Registrar of Titles is mentioned specifically means the Registrar of the Supreme Court. That would correct the deficiency a little further down.

Sir, seeing that this is an application which deals with affidavits and forms, as I go along, those areas, in case I forget to mention, where information is required but there is no form. We believe that in every case where you ask for information there should be a specific form as is happened in legislation of this nature, like in the Tenancies Freehold Purchase Act.

I would like to commend the framers of the legislation though I must say for that provision which, I think it is Clause 3(2), subsection 1 does not apply to a person whose title deeds were destroyed within the meaning of Section 2(2) of the Land Title Deeds of Restoration Act. Now the Land Title Deeds of Restoration Act is referred to in the Third Schedule at Page 48. I think that there is a new column in the Land Title, delete the words "destroyed by disaster" and substitute the words "destroyed or damaged by disaster or otherwise, lost or stolen." This would save a lot of time. This has a lot of clients and it would affect situations where people have genuinely lost deeds.

Sir, a lady came to me the other day and told me that she was moving house and was just throwing up and throwing out things, and in doing so she put title deeds in the garbage. I asked, "How could you do that?" She said, "The things looked old and I did not realise there were title deeds."

Sir, there is no provision in the legislation to remedy her. The thing about this is that she wanted a quick sale and she needed some money urgently to send her son to university, but the title suit which took six months will take six to ten years under the present system. So I am glad that this provision is included in here. It means that a revised simplified process under the Land Title Deeds Restoration Act, Chapter 229 (c), it is a pity that this legislation did not simplify the process in the way that the Title Deeds Restoration Act has done it.

Section 4, this is the cumbersome nature of the Bill that I have difficulty with.

"Section 4 states that an application for a declaration in respect of ownership of an estate, or an interest in land and a certificate of title under section 3 shall be made in the Form 1 set out in the First Schedule."

Sir, it goes on to mention:

(2) The claimant shall file with an application under subsection (1), the following:

(a) An affidavit in support of the application in the Form 2 set out in the First Schedule;

(c) a plan in accordance with section 6;

(d) An affidavit by the claimant in respect of any adverse claims...”

Sir, I believe what has happened here is that the framers of this legislation were looking at two different pieces of legislation from two different jurisdictions, because an affidavit is supposed to be an application in Form 2 (a) is all you need. What you can do, you can make sure that the form includes evidence of title. If you look at the Form 2, the Form 2 does include the evidence of title. So you do not need (b), (b) could be deleted. Sir, (d) could also be deleted because (d) could be included in the form as well and this would make it less cumbersome. Sir, the reason for this is that some person in the Registry will tell us, if this is left in this form, even though the framers of the legislation might be thinking of one thing and the Honourable Attorney General and the Deputy Speaker would be thinking of one affidavit to include all of these things, somebody at the Registry would tell us we need to have three or four affidavits. So we have to be very clear. You do not need (b) and (d).

I am hopeful that these two clauses will be deleted.

Sir, in Clause 5, I had a question mark on going through this legislation with the ranking Queens Councils on this side. He drew to my attention ...

Asides.

Mr. DEPUTY SPEAKER: Honourable Member, I think you are discussing matters ...

Mr. G.W. PAYNE: Sir, I said ranking Queens Councils and abstracts of title.

Sequence 9

An Abstracts of Title, we have done away with Abstracts of Title ever since. I mean you are going forward and you are going back so I would take out 5(c) as well.

You also asked in (e) evidence by affidavit and then you go on to say where the claimant relies on possession or enjoyment under the Limitation of Actions Act or the Limitation and Prescription Act, as the case may be, affidavits by at least two persons.

Asides.

Mr. G.W. PAYNE: No. Anyhow the Honourable Member has to be clear. The Attorney General does not

understand what happens at the Registry when these things have to be interpreted.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Andrew, I think matters you are dealing with at this stage, I think should be dealt with, in the Committee and we should be dealing with the principal object of the Bill.

Mr. G.W. PAYNE: Mr. Deputy Speaker, there is no rule. I am replying and these matters have been dealt with by the Attorney General so I am just responding to the Attorney General. I am responding and as I said, if they were not raised, I would have raised them in Committee but they have been raised and I have a right to respond and I am responding to them.

(g) refers to affidavits as well, which would have been covered in (e). I think (g) should also be eliminated because it is covered in (e) the affidavits by at least two persons, you do not need (g).

Sir, No. 6. The plan referred to in paragraph (c) and 4(2) mentions a plan certified of not more than 10 years. I think that this should be consistent with the Property Act which speaks to 20 years. I think it should be 20 years rather than 10 years.

I believe that in 6(b) you do not want the client to be spending money going to the court all the time. I am suggesting that (b) be redrafted to include a plan if the plan is longer than 10 years where the line marks have been clearly pointed out and any missing line marks be replaced. As long as the land surveyor can so certify, I do not think that it is necessary for you to go to court because you are trying to save the clients money and the cumbersome nature of this provision, especially if these things are allowed to be left in here, it means that the document will not go forward to the courts in the absence of it being as specific as possible.

“7. The affidavit referred to in paragraph (d) of section 4(2) shall,

(a) be made or given

(i) by the claimant.

Here again, I would take out

(ii) with the leave of the court.

And to include;

“...by some person or by some person authorised by him in writing.”

Because here again if we go to court, it would mean that it would increase the cost to the client and all of these applications to the court are very expensive. Of course all of us would not charge the same money that the Honourable Member for St. Philip North would charge in situations like these but if you have to go to court about 10 times, in addition to the normal fee, a client may end up spending an additional \$10 000 as a result of these directions.

Clause 8 requires that the land be inspected and an enquiry made by a land surveyor. Now here again, you are looking at the cost.

Clause 8(1) you are asking a land surveyor to be involved in this whole exercise and I think this is a good provision but at the same time, if you look at clause 14(1) you are asking for a referee as well. They are all doing the same thing.

Asides.

Mr. G.W. PAYNE: No. I am not confused. If you read it, the land surveyor will examine the land and the referee will examine the land and the land surveyor could do the same thing that the referee is doing.

Here again, I know where these two different bits of Legislation are copied from and they are from two different jurisdictions. You do not need a land surveyor to inspect the land and a commissioner of titles, one or the other and I am saying that the land surveyor is the correct person to do it but it should be one or the other.

Hon. A.D. BRATHWAITE: Mr. Deputy Speaker, on a point of order. The Member for St. Andrew is misleading this Chamber. Sir, the purpose of the referee as he has mentioned, under Clause 14 is really as a dispute to facilitate the easy hearing of the dispute so that the court would appoint a referee which obviously, Sir, would not include someone like the Member for St. Andrew. The purpose of the surveyor under the other section is that the section (a) as he refers to, Sir, says:

“8. (1) At a date not earlier than 3 months prior to the hearing of the claim, the claimant shall cause to be conducted by a land surveyor or such other person as the court approves as qualified to conduct inspections and enquiries in respect of land for the purposes of this Act, including the boundaries thereof.”

In other words, Sir, this is just to ensure that the documents that come before the court accord with the plan that is before the court. That is all. There are two different functions, Sir.

Mr. G.W. PAYNE: Mr. Deputy Speaker, it is obvious that the Attorney General has not read this. I do not know what he was doing over the weekend but I think he should have been studying this because when you look at the form in section 7, I know he has not read it because the form in 7 does not refer to what you are referring to about where there are other claims and what not.

Sir, even when you look at the things which the referee will state, these are the same things which the land surveyor who has inspected the land and who will have to do it in any case. Look at paragraph 2 of the Affidavit on page 40:

“2. An affidavit has also been made and filed by or on behalf of the Claimant, in which he deposes that he has served the said notice or caused the same to be served on the following persons: (1) All households... (2) The person (if different from the Claimant) whose name appears in the records of the Land Tax Department as the owner of the property.

Sir, look at 3. Three contradicts what you are saying and I know you have not read it.

(3) No successful claims have been submitted to me pursuant to the said advertisements.

I know that you would want to ensure that everything is in order but you do not need both. It is an additional cost.

Asides.

Mr. G.W. PAYNE: All right, look at it. I am just saying that you should look at it.

Mr. Deputy Speaker, clause 9. I mean this is outrageous. You are trying to reduce cost. You have people with title to land who have left Barbados and have gone to Panama and those other placed for years. You know that this Legislation is telling us that you should have an advertisement in the newspapers in Panama and in Israel when some of our soldiers are in those places keeping peace.

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This is totally unnecessary especially when you look at Clause 10 because Clause 10 clearly gives the courts the right to ask for service in any other jurisdiction or anywhere else.

Sir, I might be trying to title a parcel of land. I might know that this land formerly belonged to my grandfather and that he is in Panama. I might not know whether or not my grandfather is alive or my grandfather might just be a

beneficiary. He might be one of the brothers or sisters who is entitled. This is asking us; where the claimant knows or has reasonable cause and it is not reasonable cause, he is searching...

There are a lot of Barbadians living in Panama and Cuba. To believe that an actual or potential adverse claim is or resides in a jurisdiction other than Barbados, we have to... Please, I am begging you Attorney-General, have a look at these. Even if you want to critique them now, I plea with you to have a look at them when we leave here because we cannot allow this to go forward just like that. I do not favour the Select Committee because the Select Committee might take ages, so I really would not recommend the Select Committee.

Clause 11, subject to subsection (2), the last date for filing, defeats the very purpose if you want to make sure that there is no fraud. You say 21 days after the date upon which the notice is served. I believe that a person should have the right to file up to the last minute before the date of the hearing. I would respectfully suggest that be amended to say that any time before the hearing of the action, a person should have the right to file a claim because this is also supported by another provision, I do not remember the particular paragraph, where the court, notwithstanding even if after the matter has started, has the right to adjourn.

Asides.

Mr. G. W. PAYNE: If you put time limits, a person might decide but I want to challenge it and if then when they realise it is 21 days, they look at it and stunes and some lawyer might tell him that the time is up and it does not make sense sending in an application. I urge you to do that. Subsection (2) should say that in lieu of the 21 days, the court may permit an adverse claim to be filed at any time. However, if you put at any time in Clause 11 (1), you do not have to come back to mention it here in subsection(2).

I have already commented on Clause 14 with respect to the referee. Clause 15 (1)(a) says that where the court makes a declaration of ownership in favour of the claimant in respect of that estate or interest; Clause 15 (b) should state: Order the Registrar of Titles to issue a Certificate of Title to the claimant in respect thereof in the prescribed form under the Land Registration Act on payment of the prescribed fee because this as I said brings uniformity to the Certificate of Title. Similarly, Clause 15 (1) (b) and (2) (b) should be amended accordingly.

We have no difficulty with Clauses 16 nor 17 but the whole of Clause 18 should be deleted. We would not need anything anymore because Clause 18 refers to the Certificate of Title in this form and you have already taken

care of it if that amendment to Clauses 15 (1) (b) and 15 (2) (b) is made, so you would then not need to refer to Certificate of Title under Clause 18, so you really do not need Clause 18, Certificate of Title. You would not need Clause 19 either because Clause 19 also refers to what is already included in the Land Registration Act. Similarly, Clause 21 could be deleted as well because this is already provided for under the Certificate of Title under the Land Registration Act.

Asides.

Mr. G. W. PAYNE: In Clause 22, in addition to guardian, I would insert parent to read: parent or guardian.

Asides.

Mr. G. W. PAYNE: The ranking attorney on my left is telling me that a person to whom Part IV of the Mental Health Act applies should be more specific and should say the receiver under the Mental Health Act. I think you should be more specific there.

I do not have any difficulty with Clause 23 but I do not know if 23 (1) is necessary because I know that the Companies Act already makes provision for that. I really do not think that is necessary because it does not add or take away anything so it could be deleted. Clause 23 (3) (a) which speaks about signing on beyond of himself, I would put and/or others because you do not want a situation whereby you are told by the persons dealing with this at the Registry that you must have the signature of both joint tenants. Either of them should be able to sign whether on their own behalf or on the behalf of the others.

Asides.

Mr. G. W. PAYNE: We have to be sure. You do not know the difficulty that you get with simple little things like people preferring Barbados to be mentioned. You put, in this island and somebody crossed it out and tell you, you have to put Barbados. We have a lot of problems in this area so we want to be very specific.

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Mr. Deputy Speaker, the reference under section Items I think there is an obvious mistake with respect to the numbering of the clauses in the Explanatory Memorandum. I think Clause 27 includes both 26 and 27; Clause 27 should read as Clause 28; Clause 28 should read as Clause 29; Clause 29 should read as Clause 30; Clause 30 should read as Clause 31. Sir, I am saying that under Clause 31, which should be Clause 30, the court should give directions with respect to Clause 31, which is actually Clause 30 in the Bill.

Mr. Deputy Speaker, under Clause 32, which reads:

“This Act does not apply to land that is registered land or land in a registration district within the meaning of Land Registration Act.”

Mr. Deputy Speaker, we must take our “or land in a registration district...” for the simple reason, as those members who practise conveyances would know, there are situations where there is land in registered districts and as a result of certain encroachments or other problems they cannot be registered, though persons may still want titles. These lands cannot be registered under the Land Registration Act but they will be accepted for title in the normal conveyances. Therefore, it is not a question of any option that you have with respect to the registration district, you must take out that. I think that takes care of all of the problems.

Mr. Deputy Speaker, I have already mentioned the need to have in addition to any revision committee which might be in existence, I feel it is important that Government has at its disposal a review committee, a law revision committee, in a different format to what you have now. Again I stress the importance of engaging the Law Faculty of the University of the West Indies to look at the various pieces of legislation from time to time, so that at least a lot of the problems we encounter as a result of matters like these, would be dealt with in an expeditious manner.

Mr. Deputy Speaker, I regret that I have not used up all of my time but I would hope that the Attorney-General would have listened to all the various points. As I said those views are not personal and have nothing to do with that side or this side, they are in the interest of ensuring that our constituents are assisted. Let us remember that we are dealing with poor People. If there are 100 title suits being dealt with, you hardly have 2 per cent of them referring to people who are in the higher echelons of the Barbadians society. In this way we would be able to satisfy the problems faced by our constituents. Mr. Deputy Speaker, I am obliged.

Mr. DEPUTY SPEAKER VACATED THE CHAIR.
Mr. SPEAKER ASSUMED THE CHAIR.

Mr. SPEAKER: The Honourable Member for St. Lucy.

Hon. D. St.E. KELLMAN: Mr. Speaker, I rise to speak on this Bill. Sir, if I had any doubt before today that this was a good Bill, after listening to the Honourable Member for St. Andrew, it is quite clear that I would have had to change my mind and recognised the importance of this Bill. Mr. Speaker, there is no doubt that after this Bill has been passed and becomes an Act of Parliament, those

poor people in Barbados who previously had land and had no title will now have a better opportunity of going to the court and getting proper titles.

Mr. Speaker, there is no doubt that they will not have to worry any more about the so-called mortgage that was placed. As you are aware, there are thousands of people in Barbados who have land and because of the mock mortgage that was placed on the land, they could not raise the money to put up that money to have proper title. I am saying today that after this Bill has been passed, we will not have to worry about persons having land and not being able to get someone to draw up a plan for them, to submit that plan to the Chief Town Planner to be able to get a house in Barbados. Sir, after the passing of this Bill, there is no doubt that poor people will be empowered and now have a proper title to take to the bank, to be used as leverage to borrow money. They will also be able to have someone drawn up a plan for them, to be able to build a house in Barbados.

Mr. Speaker, I find it rather strange that the Honourable Member who spoke on behalf of the Opposition would object to these things. I also find it rather strange that we would hear that this measure is to frustrate people when, in truth and fact, it is to enhance and to better the lives of poor people in Barbados. There is no doubt that we as politicians who are active, can tell you about the number of persons who have complained to us about this Bill. Mr. Speaker, what was even more surprising was that when this Bill was first touted, the Honourable Member for St. Andrew was begging the Attorney-General to make haste and bring it because of the problem that we were getting in Barbados because of the fact that we did not have this Bill.

Sir, what is strange is that this Bill was talked about, it was in committee, it was being discussed since 2003 and no action was taken by the Honourable Member for St. Andrew. Furthermore, the Honourable Member did not even open his mouth. Sir, now that this Government has brought this Bill before Parliament, before the Honourable Member for St. Andrew would come to this Honourable House and congratulate the Government for the speed with which this Bill was brought, so that they could solve the problems the attorneys were having, I am now hearing [and I want to pause at this point for emphasis] that the Bar of Barbados is against this. It seemed to me that the Bar Association is now against everything in Barbados. Sir, I want to know why is it that every time we seek to clean up the mess, according to the Honourable Member for St. Andrew, that the Bar of Barbados is against it. Whenever we try to correct problems in this country and to make life better for the people of Barbados, the Honourable Member for St. Andrew is telling me that the Bar Association is against it. Am I to believe that the Bar Association is now the stumbling block of progress, according to Honourable

Member for St. Andrew? Is it so, Sir? Am I to believe we cannot perform the legal system because whenever we seek to do something, the Honourable Member for St. Andrew would tell me that the Bar Association is against it.

Mr. G. W. PAYNE: On a point of order. Mr. Speaker, the Honourable Member is misleading this Honourable House. Sir, I am not so sure if the Honourable Member for St. Lucy is trying to say that I am adopting a position against the Bar Association. I am a member of the Bar Association and I am interpreting what the Honourable Member for St. Lucy as saying I am against what the Bar Association has proposed. Sir, if that is what the Honourable Member is trying to say, because sometimes it is extremely difficult, sometimes you have to listen the Honourable Member for St. Lucy for about five minutes to understand what he is saying. If that is what the Honourable Member for St. Lucy is saying, he is misleading this Honourable House and I would want to make my position for the record very clear. I am not asking the Honourable Member for St. Lucy to withdraw anything because I do not believe that anybody understands what the Honourable Member for St. Lucy is saying anyway.

Hon. D. St.E. KELLMAN: Mr. Speaker, I for one can now go to my constituents in Mount Gay, whom the Honourable Member would have sought to mislead on Sunday, and tell them that they need not worry about this Bill, that this Bill is in their interest and that they need not worry about missing not worry about their missing land title deeds.

12.07 p.m.

I can now tell them that we have brought a law to protect them against that visit because their land is now safe and that they need not worry about any lawyers leaving that area and believing that the land is not titled.

Mr. Speaker, I have been in Parliament now for over 16 years, going 17 years, and I have been representing the interest of the constituency of St. Lucy for that time, and even more because, as you know, my history goes back much further than before I was representing that constituency. Sir, as I traverse my constituency, there are a lot of people who wanted to get good title and could not because they had a problem finding the money to provide that payment for the so-called mortgage but now, today, after this Bill has been passed, after it has been proclaimed and everything, they do not now have to worry about that.

Sir, I am saying that even for that (1:20) one factor, there is enough for me to support the Bill because I know the number of persons who wanted to get their land title and to pass it to their children, who could not do it. Sir, I know that when I speak to those thousands of persons in

Barbados tomorrow, they will tell me how proud they are of the effectiveness of this Government in ensuring this.

Mr. Speaker, we are not talking about a motor car. We are speaking about a piece of legislation and when you speak about a piece of land in rural Barbados, you are speaking about a very serious matter. Furthermore, Sir, when you speak about a line-mark in rural Barbados, you are speaking about a very serious legal problem because one knows that if one touches a line-mark in rural Barbados that is not a matter that anybody would take lightly because, Sir, that is something that would encourage persons to be taken before the court, or may encourage people to take the law into their own hands. Sir, people do not make sport when it comes to land. Sir, that is why I am saying that what we have done here today, we have empowered poor people who, previously, that mock mortgage was used against them.

Mr. Speaker, I was very glad when the Honourable Member for St. Andrew mentioned that in the old time days that there was no conveyance. Sir, what people used to do was to walk, put up four line-marks and title land in the good old time way to people. Sir, there are a lot of persons who knew their line-marks, so they never sought to get good title. Sir, you would find across Barbados that people have purchased land and some of them never worried about getting title but now that their children want to get the piece of land to build a house or to get a mortgage that they suddenly realise that they cannot do it unless they have title. Sir, now what we are seeking to do is to ensure that they can have proper title without frustration.

Mr. Speaker, the Honourable Member also mentioned that a lot of people also sold land and then got back the land because, as you know, Sir, some people sought to get the land and after they were frustrated when they heard how much money they had to pay to the court, they stop paying the land taxes and they were people in Barbados who went to Land Tax Department to find out those persons who were not paying the land taxes and sought, and got title.

Mr. Speaker, I want to repeat that there were persons in Barbados who went to the Land Tax Department, found out who were not paying taxes, paid the taxes on the land and after years, unknowing to the person that owns the land, claimed the land and they got title. The Honourable Member said that is not stealing. The Honourable Member said that they did it in good faith. Mr. Speaker, that is what the Honourable Member for St. Andrew said but, Sir, I am saying that if you knowingly were to go to the Land Tax Department and you were to pay land taxes for someone and then seek to claim that person's land, I do not know what that is?

Mr. Speaker, I am saying today that we need not worry about that because after the passing of this Bill, title can be sought and will be received easily and that will correct this problem and the masses of people in Barbados will be happy. (5:31) Sir, I could imagine the number of people tomorrow, after they have recognised what we have done, how many people would create some work for the lawyers.

Mr. Speaker, a rather interesting thing was said by the Honourable Member for St. Andrew. He made reference to the special provision made by the Plantation Tenantry Act and he said what a wonderful Bill it was but I am also aware why the Honourable Member spoke for so long because he wanted to create. Sir, there is a section in here that the legal fees will not be calculated as a normal sale. Sir, the legal fees will not be calculated as a normal sale because of this Bill, which means that lawyers cannot now charge like how they used to charge on these properties.

Aside.

Hon. D. St.E. KELLMAN: Sir, it is true, they cannot now charge like how they used to charge on these property and this is now why it was raised. Sir, we are saying to the lawyers that the court will now make provision for the fees like how it was done with the Plantation Tenantry Act and those persons now seeking title did not have to pay large fees.

Mr. G.W. PAYNE: Mr. Speaker, on a point of order. The Honourable Member is misleading the House. I do not want people listening to the Honourable Member to believe that the fees which are mentioned in the Act will be all the fees that they will have to pay. Sir, it has a lot to do with the amount of consultation that takes place because there will work that would be done outside of what is here and some lawyers will charge for their time spent. Sir, notwithstanding the fact that the matter may be completed, as the Attorney-General said, in less time than the original provision, I do not agree with him there, but let us assume that he is correct. It is going to be much more expensive than the title suits, so there is a possibility that with these Affidavits and whatnot, a client might still end up paying about \$10 000 in fees.

Hon. D. St.E. KELLMAN: I will be guided by the person who has advised me and I will tell those clients out there to seek the lawyers that are prepared to give them a quoted fee and not a hidden fee. Sir, it can be done the same way it is done in the Plantation Tenantry Act, that was the example used by the Honourable Member for St. Andrew but now he is telling me that this is something quite different but, Sir, there is no difference. Sir, as you know, we are all in here to represent poor people and I expect the Honourable Member for St. Andrew to side with

me because when we went down to Mount Gay on Sunday, I thought that is what he went for, to help me to defend the people of St. Lucy. I did not know that he was in there trying to back-raise me. Sir, he can back-raise me in Mount Gay but I do not want him to back-raise my poor people when it comes to legal fees.

Asides.

Hon. D. St.E. KELLMAN: Mr. Speaker, it is no doubt that the Democratic Labour Party, once again, has done another piece of social engineering and that is what the Barbados Labour Party cannot understand.

Asides.

Hon. D. St.E. KELLMAN: Mr. Speaker, we have said and we will continue to say that after free secondary education that land would be the issue, and it has been demonstrated here today by empowering them to get back their own land and along with our land policy, we are ensuring that the masses of people of Barbados have a stake in their own country. Mr. Speaker, we are not here to ensure that their lands are sold to the highest bidder but we are here to ensure that they have title to their own lands and, Sir, that has already been, and will always be, the policy of the Democratic Labour Party and that is why this progressive legislation has been brought before this Parliament.

Mr. Speaker, I could understand why the Opposition is against this. We have heard talk about electioneering.

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Sir, as soon as you hear about electioneering, they tell you it is good policy, and he agreed with them that it is good policy, but it is not about electioneering, it is about employing the people of Barbados to have a stake in the country and to ensure that it is done at minimal cost to the people of Barbados.

I want to congratulate this Government once again for this piece of social engineering. Sir, as you know that is all we can do. Sir, to them it might be electioneering, but to us it is normal work. So to the masses of Barbados and all other persons in Barbados who could not title their land, we are saying that you have an opportunity to title your land. The next step will be to ensure that no more poor people's land would be land locked in this country. That will be the next step we will have to look at.

Sir, as we said previously, land is important not only for the investor, not only for the rich but we recognised that the people of Barbados have a right to own land also.

I thank you.

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

Hon. J.D.E. BOYCE: Mr. Speaker, I beg to move that we defer further consideration of this Bill.

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

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

Hon. J.D.E. BOYCE: Mr. Speaker, I beg to move that this House recommit to Papers.

PAPERS(Recommitted)

Hon. E.G. HUTSON: Mr. Speaker, I am commanded to lay the following.

1. Barbados Human Resource Development Strategy 2011 - 2016. 2. Schedule of Personal Emoluments 2011-2012.
3. Revised Estimates of Revenue and Expenditure (Dying Heads and Dead Heads)
4. Duties, Taxes and Other Payments (Exemption) (Barbados Rally Club) Order, 2011.

GOVERNMENT NOTICES

Hon. J.D.E. BOYCE: Mr. Speaker, I beg to give notice of the following:

1. The Clear Water Bay Limited (Guarantee of Loan) Bill, 2011. 2. The Appropriation Bill, 2011. 3. Resolution to approve the guarantee by the Minister responsible for Finance of the additional sum of \$12 850 000 in the currency of the United States of America and interest thereon to be borrowed by Caves of Barbados Limited from the Caribbean Development Bank.
4. Resolution to take note and approve the Human Resource Development Strategy 2011-2016.

FIRST READING OF BILLS (Recommitted)

Hon. C.P. SINCKLER: Mr. Speaker, I beg to move the

first reading of the Clear Water Limited Guarantee of Loan Bill 2011.

Hon. P.M.T. TODD: I beg to second that.

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

Hon. C.P. SINCKLER: Mr. Speaker, I beg to move the first reading of the Appropriation Bill, 2011.

Hon. P.M.T. TODD: I beg to second that.

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

SUSPENSION OF SITTING

Hon. J.D.E. BOYCE: Mr. Speaker, I beg to move that the Sitting be suspended until 1.45 p.m. today.

Hon.F.J. STUART: I beg to second that.

The question that the Sitting do now suspend until 1.45 p.m. today was put and resolved in the affirmative without division and Mr. SPEAKER suspended the Sitting accordingly.

12.22 p.m.

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RESUMPTION

Mr. SPEAKER: This Sitting is resumed.

The Honourable Member for Christ Church South.

Hon. J.D.E. BOYCE: Mr. Speaker, I beg to move that this House resumes consideration of Order No. 6.

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

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

Mr. SPEAKER: The Honourable Member for St. George North.

Mr. G.A. CLARKE: Mr. Speaker, I rise to lend some critical support to this important piece of Legislation. It is indeed necessary at this time to point out that the whole question of landownership has always evoked a lot of attention over the years, therefore it is necessary for us to spend some time looking at this Bill in particular.

Mr. Speaker, the Honourable Member for St. Lucy said that it is a revolutionary piece of Legislation and I do not understand what he means by Revolutionary because one cannot say with any clarity that this is a new piece of Legislation. It attempts to make a process that has been in existence for a long time, easier. This is what the Bill is purporting. It is to make it easier in terms of getting the title suit or foreclosure suit easier but we have pointed out,

Mr. Speaker, that for years title suits have been used in Barbados by lawyers.

In fact, it was stated here this morning that up to 2009 in particular, it was used to help persons who otherwise could not find their title to get their title. It is important for us therefore to look at any methods and to support the methods by which the Government is purporting to make it easier for persons in our society to obtain title.

When we look around our society, Mr. Speaker, we find a number of householders, a number of persons who claim land do not have the title. We have heard about cases where persons inherited land, in terms of passing it down from seed to seed without the relevant papers. We have heard cases where persons received only a receipt on paying the purchase price for land.

Mr. SPEAKER: The Honourable Member for St. Lucy.

Mr. D.St.C. KELLMAN: Mr. Speaker, on a point of order. The Honourable Member is misleading this House by giving the impression that land can be passed from seed to seed without papers. That procedure alone tells you it cannot be correct.

Mr. SPEAKER: Please continue, Honourable Member.

Mr. G.A. CLARKE: The whole question of from seed to seed suggests that land was in a particular family and it is passed on and sometimes those beneficiaries do not have the title for the land or cannot find the title for the land. Sir, to that extent, sometimes it is difficult for those persons who claim to be members of the family to inherit this land. We know that the case has been put several times, how we can help these people.

We have cases where the Government itself cannot find title for land. There are many cases where the Government itself having inherited, either through the time of the disestablishment of the church in 1976, or thereabout, when you could not find the title you did a title suit. This has been in existence for a long time so in my submission then, I do not think it is a revolutionary piece of Legislation. It is helping the process to move forward but in helping the process, Mr. Speaker, when one thinks about the whole motion of going to the High Court in order to provide title, it is expensive.

Mr. Speaker, it is an expensive piece of Legislation that people would now have to pay more in order for a title to be provided because you have, first of all to pay surveyors to point out the land. Land has to be pointed out at this stage. We know that in any case, you have to have

surveyors but it is my understanding that a number of Marshals are used in the process of identifying and carrying out the wishes of the court. Today, this Bill is saying that in order to get possession of the land, the process is that you have to now hire a surveyor in order to point out the land and also to help in the affidavit process so it is going to be more expensive.

It is going to be more expensive, Mr. Speaker, for all those persons who are trying to find title, not necessarily by the passing on from seed to seed but also by those persons who in some way cannot find their original titles. The original titles are important and this must be stated at this junction.

There are many of Attorneys-at-Law who for some reason either forget, some of them are not aware that a certified copy is not necessarily the best title or the best type of document for any person. There are many attorneys in this land who for some reason and I am not sure if they are misleading the clients but sometimes provide a certified copy and when that person is about to sell the land, then you have difficulties in obtaining the sale. That is a bad thing and we need to look at that very carefully.

I would also want to say, Mr. Speaker, that the whole question of ownership is fundamental to our democracy. I believe over the past 50 years or so, we have seen in this country, two important pieces of revolutionary Legislation. One in the case of the 1950 Act, the Adult Suffrage in which persons were able for the first time to vote and the other one that my colleague mentioned, the Tenancies Freehold Purchase Act, where persons for the very first time obtained the title to their land. I would want to see a case made for people who have landlocked parcels of land. There are a number of landlocked parcels, especially in the St. James' area, all around the coast from Black Rock to St. Lucy and I had mentioned this when I was on the other side that we need to look at that case where persons are landlocked and what is the process of unlocking these landlocked parcels.

Mr. Speaker, I think the Government must address this problem as a matter of urgency, those landlocked parcels, especially the coastal areas from Black Rock to St. Lucy. The process involves the Ministry of Public Works, the Chief Surveyor, the Town Planner and the Ministry of Housing and Lands.

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We need to see a case where we simplify the process because the Ministry of Public Works in the process will provide the roads through the Chief Technical Officer. Under the Highway Act, the Chief Technical Officer is empowered to use his good offices to ensure that those persons who are living with landlocked parcels get the title

to their land and to ensure that there is a road that the persons can now occupy the land.

There are several cases where persons cannot occupy the land because they are landlocked. We have cases in the Rock Hall, St. George area where persons cannot occupy the land because they cannot adequately get to it, they have to pass over somebody's land, they do not have an easement to the land. Even though we may see an easement on the original plan, over the years those plans have become obsolete because persons have changed hands, especially those persons on the front road, and have wiped out the easement and the original plans are not that easy to find, so there is a need to look at those persons who have inherited land and cannot now occupy those lands.

Mr. Speaker, within Barbados, we have a few large landowners. In fact, I must say that land as a factor of production is recognised as real wealth and those few persons who own the large land mass of this country through estates are recognised as the wealthy people. Those persons have large acreage of land whereas the majority of people in this country are still renters.

It is important to highlight the tenancies programme, whether it is in the urban area or the rural area because when we look at that legislation we see a case in which the price was fixed for the conveyancing and the tenant was given a small conveyance but it was very meaningful so that persons with large families across rural Barbados received land and was able to pass on this land to their families. In doing so, Mr. Speaker, these large number of people who receive the conveyances were able to go to the bank and borrow money and was able to pass on that land for the first time to their children.

Mr. Speaker, one can therefore say that was revolutionary. One cannot say that this is revolutionary today in the same breathe as that. For the first time, because the revolution is a new thought, new ideas coming to mind, this piece of legislation is really carrying a process further and hopefully it would simplify the process and that is what we want to do.

In time, one would recognise, it seems to me, that the cost of doing business may very well increase. Mr. Speaker, it is important for all of us to try to help those large number of persons who cannot obtain title and even those persons who have title to the land that are having some problems. Today, for the very first time I would think in 50 years, we see people out there who have only one piece of land having some difficulties keeping it and that is what makes a situation even worse.

There are a number of persons, Mr. Speaker, who have inherited land from their families through the tenancies programme who have conveyances and who are

now forced by somebody, either the banking institutions or somebody else, to sell the land because of some difficulties. I think we need to send a clear signal that persons who have difficulties in paying their mortgages must be given some time in order to pay off the bills. Some people are not working, some people are meeting difficulties and it is very hurtful. I know that some lawyers have no choice but to proceed with what their client wants. Sir, when you look at areas in the tenancies programme like Pool, St. John, Cottage, St. George, Harmony Cot, St. Philip and Parish Land, St. George, you have persons who bought land under the tenancies programme who are now forced to sell the very land because of some difficulties with the bank. They are not able to pass on this. Mr. Speaker, we are saying that some consideration must be given to those persons who owe the banking institutions. I believe that the Government needs to help protect some of those persons who would have inherited or have bought their only lot.

As I said before, land is wealth. Land is the gateway to wealth creation and the gateway for a landowning democracy not necessarily a democracy that is based on tenants and landlord. We want to see a democracy that is based on a landowning class. That is why I would urge the Government to proceed with pace to ensure that the large number of persons across St. Michael, especially in the urban areas, received their conveyance. There are many persons in the Airlie Heights area, I do not know whose constituency that is, who came to me recently to say that it is now six years they are trying to receive their titles and they cannot so I urge the Minister of Housing and Lands who is also the Minister responsible for rural and urban development to ensure that those persons in the tenantry areas like Airlie Heights and the Glebe who have paid their deposits and were promised the...

Under the urban tenancies programme the tenants pays \$2.50 a square foot and the landlord would pay the difference in price up to the market value, that is what the Government is supposed to do. I would be looking carefully in the Estimates to ensure that money is put in the Estimates to help those persons who would have paid their money, four to six years ago. Sir, the urban tenancies programme seems to have come to a halt. We need to look at that programme to ensure persons received their title because they cannot pass on title if they do not have it and people are worried. One lady came to me in tears, she is almost 70 years old. She went to the Urban Development Commission, paid her money but she cannot receive the title after four years. This is what the Minister and his Minister of State need to look at to ensure those persons get title after so many years. We need to simplify the process. All the tenant has to do if he or she is a qualified tenant is to submit the Form 2 Notice, pay his or her money and the Government pays the balance. It is a simple process. Do you want something more simple than that? We therefore

urge the Government to make a simple programme simpler, do not try to make it complex.

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Mr. Speaker, we have tried everything at the Glebe, the plan/conveyance was available. I understand that somebody in the Ministry of Housing and Lands has lost the plan. I am not saying it was the Minister, he does not work with those things but before his time. Sir, plans were made and they were again lost. Sir, for some reason, since 1985, the people at the Glebe have tried everything. Sir, I blame the church and the Government. The Anglican Church must take full responsibility. Sir, it is not necessarily the Church itself because the Church is only an arm of the trustees, they must ensure that after 20 years that people cannot obtain title. This is wrong and we need to speak out.

Sir, I hope now we are in the mood of providing title that all those persons in tenancies, including the Glebe, that those persons would be soon be provided with title deeds. Sir, there are people who have already begun to build but they cannot go any further, they cannot go past ring beam stage of building, because they want to borrow money and the banks are not accepting a letter from the Ministry.

Asides.

Mr. G. A. CLARKE: Mr. Speaker, the Minister is talking about a pavilion. Sir, a pavilion was placed there because that section was bought by the Crown. You cannot squat against the Crown, and the Minister must know this, neither can the Crown squat against itself. It is Crown's land.

Mr. Speaker, I want the Minister of Sports, since he knows very much about it... The Minister cannot say the Government knows nothing about it. He is heckling me, telling me that I put a pavilion at the Glebe, which is true. Sir, the Minister of Sports, when he gets up to speak, must tell us how soon he is going to continue with that pavilion at the Glebe. Of course, I know that the Minister of Education and Human Resource Development enjoys coming to the Glebe and watching good football. Mr. Speaker, we on this side understand full-well the need to provide title and the need to help Barbadians obtain title. We know it is a prerequisite not necessarily to wealth but to ensuring that you can pass on something to your children when you die. Sir, there are so many who want to do this in other Caribbean islands but they cannot. Sir, here in Barbados we have a golden opportunity to do so.

Sir, the court process, as I said before, is a long, cumbersome process, which takes a lot of time and thousands of dollars. Mr. Speaker, the Bill contains a

number of schedules, including a Form One for the affidavit. Once these are known, I believe even though they say it will take some time, we hope that it may take under a year. Sir, I am being guided by an experienced attorney that before, in some cases, the process of title suit took only six months but that now they take three to four years.

Asides.

Mr. G. A. CLARKE: Mr. Speaker, the Honourable Member for St. Lucy is saying it is revolutionary piece of legislation. It is a revolutionary piece of legislation to the people of St. Lucy because as I understand there have been a lot of problems in the St. Lucy area where persons cannot obtain title. We believe that to establish a good and marketable title, we must ensure that everything is done to help these people.

Mr. Speaker, I want to speak about the question of a referee referred to at Clause 41. I do not know if the referee should be an attorney-at-law or a surveyor. What is the qualification of a referee? I have not seen it here. Sir, the question of a referee should be explained. I believe that most referees usually are attorneys-at-law. It should be explained if the referee has to be paid by the client. I would want to say that it is important for us to work the process through. When we were the Government we were able to computerise the land registration process. Therefore, I would like to see the land registration and the complete adjudication process being updated. There are still a number of parcels of land that have not been adjudicated across Barbados and I think that since the 1980s, when the adjudication process started, that more parcels should have been declared by now. I am not sure if there is enough staff in that department. I am not sure what has happened but the Minister of Housing, who is Government's superior landlord, who is a very powerful Minister, who has acquired, will acquire and will continue to acquire without paying...

Hon. M. A. LASHLEY: On a point of order. Mr. Chairman, the Honourable Member for St. George North is misleading this Honourable House. Sir, as Minister of Housing and Lands, I have not bought any acquisition to this Honourable House in instances where the landlord or previous owner has not been compensated nor where moves have not been made by Minister of Housing and Land to compensate that owner. I can point to other parcels of land that were acquired by the Honourable Member for St. George North, for example Mr. Hamblin's land and Mr. Hamblin has not yet been compensated by the Honourable Member for St. George North.

MR. SPEAKER: The Honourable Member has four minutes in which to conclude.

Mr. G. A. CLARKE: Mr. Speaker, I was saying that Minister of Housing and Lands has acquired land, whoever is the Minister of Housing. I never said the Honourable Member for St. Philip North. I said the Minister of Housing and Lands has acquired land and has not paid for it. Sir, Government is a continuum and so the present Minister is sitting in the seat. The Minister has to pay the people, whether I have acquired them or not because he is the present Minister. Sir, the Honourable Member cannot now say that he is not the Minister of Housing, he has to pay because they were acquired by one Government and paid for by the next. Sir, there is nothing wrong in that, we have to continue, we have to provide title. We have to ensure that all those persons for whom land was acquired receive titles to their land.

Mr. Speaker, it is important that a number of those issues that we have spoken to are clarified in this Bill. There are a number of small issues that need to be looked at. It has been stated by this side that we need to be clear on the Land Registration Act, the Property Act, among others. There is also the Agricultural Small Holding Act that we need to look at, which speaks to persons in the agricultural belt who have worked the land but there are some landlords who have refused, maybe because the persons are getting old and the Agricultural Small Holdings Act is not widely used today but we cannot those persons worked in the agricultural belt, who deserve those lands, that those landlords must provide titles to these persons.

2.20 p.m.

Sir, some landlords have been going back, snatching up the land, resubmitting it to the Town and Country Department and selling it on the market, at market value.

Mr. SPEAKER: Honourable Member, please windup.

Mr. G.A. CLARKE: Mr. Speaker, I would want to say that we support this Bill but there is a need to look at it in its totality. We know that a number of housing and land Acts have been looked at and we are hope that we can tidy up as much as possible today, or in the very near future because it is the view of this side that to send it to a Select Committee may take too long but we have to speak to it in the Committee stage.

Mr. SPEAKER: Thank you Honourable Member. The Honourable Member for St. James North.

Mr. R.C. EASTMOND: Mr. Speaker, my ears permit me, from time to time, to hear and behold particular pronouncements and, it was interesting, the proclamation by the Honourable Member for St. Lucy that this is a landmark piece of revolutionary legislation. Sir, the hard fact of the situation is that work on this started in the year

2003 and because of the need to ensure certain checks and balance, it took sometime before it was properly tidied up. I want to compliment the draftsman because in reading the legislation, in almost every line, it is pellucidly clear, in my judgement...

Asides.

Mr. R.C. EASTMOND: Sir, the literal rule can be applied successfully to this legislation. I also want to take issue with the Honourable Member for St. Lucy on his bold assertion that it has transpired in the history of land ownership in Barbados that, where people owe land taxes, imposters have gone in, pay the land taxes and escape with title. I do not think that really is as widespread as was made out. What we do know is that when you do not pay your land taxes over a period of time, the Commissioner of Land Tax would ordinarily, through public notice, put up the property on which excessively high amounts of taxes are owed for sale and by the legal route.

Mr. Speaker, it is also true that in the context of landholdings and relations as among people over land is concerned that we have had too many controversies. One such controversy of was raised by the Honourable Member who just spoke about this question of seed to seed. I am satisfied in my heart that the context of entailed interest, which was the progenitor of seed to seed has been successfully abolished in Barbados and so, therefore, I would have to enlighten the Honourable Member for St. George North that when he goes on the street and hear people talking about seed to seed, perhaps, seed to seed has to put in a context outside of land ownership bearing in mind what seed has meant from biblical days.

Mr. Speaker, of what is this Parliament required to pay its interest this afternoon? We heard that this thing call foreclosure had its genesis in a fiction. Sir, an artificial mortgage by a man of straw, or sometimes a woman of straw and to prevent foreclosure by failure to pay the mortgage the land was ultimately put up for sale. Sir, in recent times though, in seeking to put foreclosure holdings in context most of us familiar with these matters have turned to Order 31 of the Rules of Supreme Court as they were before November last year as well as the Judicial Sale of Land Act. There are some mischiefs, Sir, that need to be corrected and I believe that with this legislation such mischief will, indeed, be corrected.

Mr. Speaker, permit me to share with my colleagues in this Honourable House a number of public concerns over the traditional foreclosure proceedings. The typical Barbadian who had permitted a lawyer to institute foreclosure proceedings on their behalf was always concerned about the excessive delay in the process. Sir, in that connection, because of the conduct of certain officers in the Registry, the process was as long as certain officers'

feet,(6:00) and the process was often delayed not by the lack of a will on the part of Government or a lack of the will on the part of the Registrar, himself or herself. The process was always defeated by which registration officer decided as to which lawyer should be accommodated and which lawyer ought not to be accommodated but there has always been a lot of delay. Sir, some foreclosure proceedings go between four years and seven years.

Mr. Speaker, the public is also very concerned over the extraordinarily high cost, so high as to be astronomical, when it comes to this question of foreclosure proceedings and these high costs are the ordinary administrative costs but, Mr. Speaker, but listen to this. I encountered several scenarios where, because of the fiction of the sale by the Registrar, before the person who will get title, can get title, the person has to pay into the Registrar's department the full value of the land before the conveyance is passed, and I know a poor woman, poor, poor, poor, who was required to find \$2 million on land in a scenario where procedurally, when she got the title, if she could find the \$2 million, she would have got back the \$2 million any way. Sir, imagine these strange curiosities?

You are going to benefit from a sale done judicially through the Registrar. You, as a citizen, will end up with what we call land papers issued lawfully by the Registrar but before you get your land paper at a final closing stage, you have to find the full purchase price to pay or there will be no movement. When you find that money, you get the conveyance and get back the said, same figure. Sir, it is interesting for many a lawyer was wondering if my client is to get land worth \$300 000 and if I am a newly admitted lawyer just call to the Bar not yet worth \$300 000, I cannot even contemplate lending my client that money on condition that after the sale is completed that I would get it back.

Mr. Speaker, I have had a young attorney, female of course, come to me in tears and say, "Oh, counsel, do offer me some counsel. I have come close to completing a foreclosure. The figure charged my client is this amount, I do not yet have enough money saved up to lend the client, how do I solve a problem like that." Sir, in the case of the multimillions dollar foreclosure that I mentioned earlier, they managed to secure the services of a lawyer worth that amount, not now a member of this Honourable House, although there are members would not shy into the streets and boast that they are substantial worth more than \$2.2 million.

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Asides.

R.C. EASTMOND: Mr. Speaker, it transpired that old lady was rescued by the fortuitous turn of events where

she had successfully engaged the services of a lawyer who was long in practice and who had earned substantially, and who himself has been a major property owner. Sir, in the public domain the whole question of foreclosure proceedings prior to this legislation had always evoked controversy and had left a bitter taste in the mouths of many people.

Sir, there are foreclosures in the system, eleven and twelve years old. Indeed, in the whole controversy and the mixup that have been happening, as everybody knows, that prior to this Bill the High Court itself and the Registry had determined to put an end to new applications for foreclosure, pending wisdom and reason coming to their rightful places in the system.

Sir, when I perused this legislation, which is 33 Clauses long, but which cannot be restricted in reading the 33 Clauses, for they follow significant forms and schedules that cannot be ignored in the interpretation of this significant Bill which has to be read as a whole, and which I would want to remind Honourable Members of this House, started in 2003 under the watch of the Honourable Member for St. Michael North East.

Asides.

R.C. EASTMOND: Sir, we do have instances where there has been debate on this question of the disappearance and the lost of title deeds. As you well know, and I really am going to be very sincere, you are the Honourable Speaker, and I have known you for an excess of two decades. I view you as a Statesman of law, because of your passion for the law. Sir, you do have a passion for the law. Sir, as you well know, the loss of title deeds, which was cleverly referred to by the Honourable Member for St. George North, the loss of title deeds, through Chapter 229 (c) does not apply, can present trouble to poor people.

Sir, Chapter 229 (c) is specific. It is to do with the Restoration of Title Deeds in the context of the loss of them by natural disaster or other disaster, but how about when a commercial institution holds deeds such as a multinational bank loses people's deeds in the absence of a fire or a hurricane, but in the presence of gross negligence and in the presence of a stubbornness not to want to compensate? Sir, what happens when there is a place of some injustice, when financial institutions that have lost people's title deeds and are reluctant, unwilling, and very strong-headed and bigheaded, by not wanting to offer reparation and make amends right away? They often tell people that they would search and search, and the search is never-ending.

Sir, so then, what do we need? We need effective legislation that treats to this whole issue of the proper conferral of title deeds where such is well grounded. The

Honourable Member for St. Lucy, one of the finest earth people in this side of the Hemisphere, and by earth man I am not being pejorative, everybody on earth goes to the Honourable Member for St. Lucy because he is deemed approachable. He is deemed lovable. He is all over the place like 'Punka'. At 4 O'clock he is President. At 6 O'clock he is not. The only other Honourable Member of this House whose ubiquitousness equals the Honourable Member for St. Lucy is the Honourable Member for St. James South, not present today. Everywhere you go you see him too.

Sir, the beauty with politicians intermingling with people is that you get feedback and you get information, and if you are a listener, and every good politician ought to be a listener, if you are a listener you can understand the concerns of persons.

Sir, there is a concern that where somebody has to have deeds, nothing should stand in the way of giving those deeds so long as they qualify and so long as the proper legal processes are involved, so long as the law is properly invoked. I was staggered to have heard in here and I do not doubt it, I do not doubt it, but I was like punch drunk when I heard that there has occurred in the history and annals of Barbados, instances of assets being granted in the absence of Letter Testamentary or Letters of Administration. I was rather horrified, but if I understand the literature and if I understand the information of some of the members of the legal profession, in the legal profession there are times when all things are possible, and not necessarily to those that believe but to those that find out, sometimes often *ex post facto*.

Sir, I am saying then that Chapter 229 (c) is not all. The legislation itself shows you where Chapter 229 (c) applies and does not trouble it. The Act, read as a whole, by its Clauses 3, 4, 7, 9, 15 and 18. Let me go through them. I think that at Committee stages if you go there, today, we should really focus on these particular clauses and have it recorded in this Parliament's record for the public domain. To me, the whole Act has to be read as a whole, but significant to understanding what the Bill is seeking to do, Clauses 3, 4, 7, 9, 15, 18 and every Schedule and every form must be fully appreciated by Honourable Members in this Parliament.

I was all but teased by the Second Schedule, Pages 6, the Second Schedule, which sets out some fees. A fee of \$3 500 here, a fee of \$3 500 there, a fee of \$1 500, a fee of \$1 500. Sir, check the fees. Sir, do you know that I made bold to mention these fees to certain practitioners of law who have not yet read the Bill, and who I did tell about these fees, and I had to escape because their wrath was so overwhelming and their feud so manifest that I had to take to my feet. Sir, these people said that these fees are ridiculously too low.

Sir, one thing that this Parliament ignored, the fact that some people would consider these fees to be too low, because today this Parliament itself said that there will be instances where these fees will not assume the \$3 500 but will cloak themselves in more like a \$10 000 package. I heard that. Sir, that is the attitude that I heard outside of this Honourable House, the attitude I heard from outside there.

Sir, this piece of legislation invites us to look at the whole question of land ownership, the whole question of land lock, where the Honourable Member for St. Lucy can come and claim revolutionary legislation beyond the claims he made today, is if he and his comrades can sit down quickly but at the same time intelligently and alertly, and look at all of our Landlord and Tenant legislation, all of it. It cries out for a reform. I repeat that, Mr. Speaker. Our current Landlord and Tenant legislation craves urgent reform.

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Sir, what redeems the situation somewhat is that some landlords and tenants are able to make their own agreement in a contractual type of framework and even then if the agreement is not comprehensive, in the range of 80 per cent to 90 per cent, not 100 per cent because he went down, having gone to Sunday School and having to be sent to epiphany and having studied the scripture, knowing terms like hard by in scripture, knowing terms like betroth and certainly knowing terms of what seed meant, he earned, Sir, in my judgment when he did not realise that entailed interest had been abolished in Barbados and the whole concept of seed to seed from a preparatory ownership, that ownership viewed as gone but we are free to use seed to seed in poetry, in prose and in our daily or rather nightly activities.

Asides.

Mr. R.E. EASTMOND: Sir, I conclude with two things. I think the principal criticism that can be made of this Legislation is that it is going to impose a supremely great burden on the normal High Court Registry in a situation where, perhaps the Land Registry could have been considered to be the focal point. In any event, it is going to happen, the Supreme Court Registry is still going to have to work with the Land Registry on a number of matters.

Sir, my concern as the Member for St. James North, a man, Sir, in his own privilege - I drop Honourable not because of any pressure or anything like that but because of a man, Sir, in his privilege - and the Member for St. James North, I would like the record to reflect my concern that the administration of this piece of Legislation ought not to be a 100 per cent, placed squarely in the hands of the Registry of the High Court because we have a specialist land

registry which is going to have to be dealt with by the supreme court registry and quite frankly, the High Court Registry is understaffed. A lot of the experienced officers to the High Court Registry have retired or have been transferred and I want to say that we have to strengthen the High Court Registry with personnel and, indeed, we have to sharpen up things at the Land Registry too, because even though there is evidence that the Land Registry is extraordinarily efficient, they too can do with some institutional strengthening.

The final point I want to make is this, Sir, and I want to thank you for having given me the opportunity in light of the fact that I have an urgent meeting to go to right now, Sir, and I hope that the meeting can finish in time so that I can get back to hear the contribution of the Honourable Member for Christ Church South but here is my final observation.

Sir, under the Townsend System, initiated by a journalist from Australia, they have evolved something called Registered Title. Sir, a journalist invented Registered Title. What is Registered Title? Registered Title is not going to the Land Registry to record documents. There is a distinction between recording documents and Registration of Title.

With Registration of Title, Mr. Speaker, fellow Barbadians, the State itself vouches to the sanctity of title. With Registered Title, Sir, as you will know, seized in the law that you are, the State itself, Sir, vouches for the sanctity of title, the State itself can vouch for any encumbrances or charges affecting the title, Sir, thereby meaning that old-fashioned searches, never-ending searches, even though in Barbados we search for 20 years as a general rule, meaning that search will not be necessary.

It is a grand thing for the State itself to say that a gentleman called Patrick Theodore Thomas is recognised in law as the lawful owner of land. The Register of Title where the papers go missing you can get a duplicate replacement without the need for foreclosure proceedings. Currently, Sir, if you have common law title and lose your papers, Sir, in a situation where the state is not vouching for title, you have to not only do searches, you have to go the route of foreclosure for the most part, incurring tremendous costs and tremendous frustration.

I would like to urge this Honourable Government, as a member of governance in this Honourable country I am free at my stage to say anything in this Honourable House so as it meets your approval, Sir. At my stage of the governance of this country - that is the Government and out here is the Opposition - I stand here through the will of the people. The will of the people decided that at this point I should stand here and not there. I am not telling the people that they ought to have put me there because the people

ultimately had the say, Sir. I would like it recorded, Sir, that this Honourable House through its Members would wish for the type of administration of landlord matters in Barbados where, rather than having tedious expensive and risky searches, the State can vouch for title and where title deeds is lost, even in a commercial bank, title can be restored at minimal fuss. I conclude, Sir, on the arrival of the goodly lady under whom this Revolutionary piece of Legislation started in the year 2003. I believe that a special counselling will keep it in the Bar Association and judges were on that Counsel. Sir, nothing shall stand in the way of the decent lawful administration of Title in Barbados and nothing should prevent our people, Sir, from making sure that not only do we do things in a way that confer rights and privileges but that in every case, justice must not only be done but be most dutifully and visibly seen to be done.

With those few modest remarks, Sir, and with your kind indulgence, I am greatly obliged to you. I thank you, Sir.

Asides.

Madam DEPUTY PRESIDENT: The Honourable Member for Christ Church West Central.

Hon. S.A. LASHLEY: Thank you very much, Mr. Deputy Speak. I rise to support this Bill before the House and speaking immediately after the Member for St. James North, my only regret in hearing his contribution is that he was not present in this Chamber when the lead spokesman for the Opposition spoke because I believe that had the Honourable Member for t. Andrew heard his presentation, he would have come to the conclusion that within the ranks of the Opposition, there is a clear divide on the support for this legislation. I heard nothing, Mr. Deputy Speaker, in the last contribution which connects remotely with everything that was stated by the Honourable Member for St. Andrew, therefore I come to the conclusion that there was no collaboration between one side of the Opposition and the other side of the Opposition.

What certainly, Mr. Deputy Speaker, encourages me is that from the last speaker, it is clear to me that he read the Bill, I would not say in its entirety but he certainly read more clauses than the Honourable Member for St. Andrew, who in his contribution disclosed complete ignorance of the full details of this Bill which is before the House.

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Mr. Deputy Speaker, this Bill before the House, in its long title, sets out very clearly what the Government purports to achieve. It says simply that the Bill would reform the law relating to the method of obtaining title to land through the procedure known as "title suit" or a "foreclosure suit". I believe that many Barbadians are

familiar with the concept of a title suit or indeed a foreclosure suit. Many of them would have either been involved in the arduous process of seeking to have their land title and it is to those Barbadians that I speak because those are the ones, many of whom still have applications within the Registry to get their lands title, who would appreciate the revolutionary nature of this legislation even if some Members of the Opposition do not themselves appreciate it.

I want to spend some time, Mr. Deputy Speaker, highlighting some of the features of the Bill because it is only in doing that, that I believe that the Honourable Member for St. Andrew would understand that the intent of this Bill is not only to abolish the legal fiction which was created many years ago to get around a legal problem but I believe that Barbadians hearing about this legislation, would better appreciate what would happen once this Bill is passed.

The first thing, Mr. Deputy Speaker, is that one of the worrying concerns in relation to the old process by which we sought to title land under foreclosure suits and indeed title suit was that the process took too long. It is interesting because the Honourable Member for St. Andrew in his contribution lamented on the one hand the length of time which the title suit process has taken but on the other hand he discarded all of the relevant provisions of this Bill, which are intended to ensure that those persons who make applications to the High Court to have their lands title, that they are governed and that they are guided by specific clauses which speak to time-lines.

Mr. Deputy Speaker, I want to refer to a few of them because it is important to do that. This Bill sets out to ensure that the process occurs within specify time-lines. There is a reason for that because we have clear experience that unless the Bill addresses this issue, we run the danger of repeating those old problems that we have had.

Mr. Deputy Speaker, Sections 8 (1), 8 (3), 11 (1), 18 (f) and 21 (3) all speak to time-lines to ensure that the process can proceed in a particular fashion. Section 8 (1) speaks to a period of three months prior to the hearing of the claim, in which the claimant is required to have the land inspected and that is by a qualified surveyor. It means that there is a time period which has to be reflected in terms of the application and that is the beginning of the process.

Mr. Deputy Speaker, I believe that it is the Honourable Member for St. George North who raised the issue also of the question of the referee, which I think is provided under Section 14. I believe that his counterpart, the Honourable Member for St. Andrew, made the cardinal error of seeking to confuse the House in relation to two alternate and optional procedures under the Bill, that in relation to the role of a surveyor in relation to an inspection

of the land for which title is being sought and that of the role of a referee under Section 14.

Mr. Deputy Speaker, the role of the referee is quite clear. Certainly, had the Honourable Member for St. George North gone through the Bill systematically, he would have seen that there is a definition for referee under the Bill and it is very specific. In the Interpretation Section of the Bill, it sets out quite clearly who is a referee. It says:

“A referee means the person who holds the Office of Commissioner of Titles or such person as the court may appoint for the purpose of the section”.

The role of the referee is quite clear and is clearly distinguishable from the role of the surveyor. That provision is one of those clauses available to the court in circumstances where the court believes that it has to ensure further investigation of an application. The referee is deployed to do just that, to not only visit the property but to have discussions with persons who may have knowledge or indeed have an interest in the property. Certainly, Mr. Deputy Speaker, I cannot fault that procedure. It is a provision which is available to the court acting in its own deliberate judgement as to whether it wants to adopt it or not. I think it is a wise procedure and one that does not in any way collide with the role of the surveyor.

I also want to say that this Act moves away from the old traditional process by for the first time setting out very clinical guidelines within the Act even for the court itself so while the parties before the court are constrained and confined to approach the court in a particular way, the court itself is given certain guidelines as to how it functions in the discharge of its statutory role within this Act, and that, Mr. Deputy Speaker, ought to be embraced. What it means, Mr. Deputy Speaker, is that everyone for the first time has before them in black in white a procedure which is clearly set out and delineated which adds clarity to the law.

Sir, Section 15 deals with the determination of the claim as it relates to Form 8 and sets out in subsection 3 some guidelines, as I said, before the court is able to make a declaration as to title under the Act. Before it can do that, Mr. Deputy Speaker, the court cannot, by hearing an application, simply look at that application and then determine that title should be conferred, it has to do it by a logical sequence of events. That subsection says that it has to give effect and have regard to any inspections and enquiries and any notices served and published pursuant to Section 8 (9) of the Act. What it means, and I clearly agree with the Honourable Member for St. James North in this respect, is that the Act is a comprehensive piece of legislation seeking to embrace a process and to give effect to a process that looks logically at the issues which arise in relation to the titling of land in circumstances where there are no title deeds or in circumstances where the actual title

is questionable or cannot be easily proved by clear documentation.

I also want, Mr. Deputy Speaker, to highlight another feature which I believe is important and adds to the certainty that this legislation brings. Section 19 speaks to the whole question of what is entailed in relation to the Certificate of Title, what does it have, what kind of effect does that Certificate of Title has once it is conferred which the court would have regard to.

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Hon. S. A. LASHLEY: Mr. Deputy Speaker, once the court has heard the evidence and has done its investigation and has gone through the process, then it confers on the applicant a certificate of title. Sir, this is important because in the past we have had situations where even after a conveyance is rendered, there are issues which arise from that title. There are issues which an attorney acting for either a mortgagee or acting on behalf of a mortgagor or a purchaser, would come up against some difficult issues as it relates to title that still causes some doubt in relation to whether title conferred was good and marketable title, as we would say in legal parlance. Mr. Deputy Speaker, under this Bill, once that certificate of title was granted, it is conclusive evidence as to the accuracy of the content of the certificate. Mr. Deputy Speaker, this means that there is no need to look beyond that certificate as it relates to the property which has been looked at by the court, and as to whether or not it accords and grants good and marketable title.

Mr. Deputy Speaker, I also want to refer to a number of other things because this legislation is not to be seen in a vacuum and it has not been drafted to be seen in a vacuum. We continue to have a number of applications before the Registrar and before the Supreme Court which have now been in a state of hiatus because of the uncertainty of the law, once the new Civil Rules were established in 2008. Those rules did not make provision for a similar provision as we would have had under Order 31. This Bill speaks to the question of continuity and certainly has built into it some very important transitional clauses which not only protect those applications currently before the court but creates the foundation by which the rules which currently exist can continue to apply on the basis and on the provisions of this Act. Mr. Deputy Speaker, so that the practice and procedure for example of the Supreme Court Act and the rules which were passed pursuant to that Act, continue to be applicable to ensure that the process, which we are seeking to legislate, continues to be one where it does not create any further issues or undue hardship for persons who have applications pending.

Mr. Deputy Speaker, I want also to say that not only does the Bill speak to time lines, which is crucial, but we

have had the concern over the years of the possibility of fraud, which the Honourable Member for St. Andrew dismissed as being an issue at all. I believe that is one of the provisions the Honourable Member said should be struck out of the Act. Sir, the Bill before this Honourable House does address the possibility of fraud and I think rightfully so because within the Practice Direction in relation to the foreclosure proceedings and the title suit, issues relating to potential fraud or actual fraud have caused concerns in applications which were brought before the court, hence it is proper and I think prudent that this particular Bill should address the question of fraud.

Mr. Deputy Speaker, I want to issue a word of warning because that provision which deals with fraud is, to my mind, very far-reaching. I think not only individual applicants but certainly attorneys-at-law acting for applicants in relation to this particular Bill should be forewarned and should be very cautious in how they proceed. Sir, I want to read Section 16(1) very quickly to underscore what I am saying in relation to the caution that needs to go beyond these Honourable Chambers.

16(1). "A person who, in the course of any proceedings, whether acting as principal or agent, fraudulently, knowingly and with intent to deceive

(a) makes or assists or joins in or is privy to the making of any material, false statement or representation; (b) suppresses, withholds or conceals or assists or joins in or is privy to the suppression, withholding or concealing from the court of any material document, fact, matter or information, with respect to any certificate of title obtained by means thereof, is guilty of an offence and is liable on conviction on indictment to a fine of \$25 000 or to imprisonment for four years or to both."

Mr. Deputy Speaker, certainly attorneys-at-law representing their clients in these matters ought to exercise real caution and concern in relation to the things they represent on behalf of their clients. Sir, within the Schedules of this Bill, this procedure has some very elaborate schedules and forms which speak to the kind of evidence which have to be put before the court to justify the court making a declaration as to title. Of course, that evidence, which is material, and in putting the evidence together, the applicant will be assisted by attorney-at-law.

Mr. Deputy Speaker, I want also to refer to a very important aspect of this Bill which I believe is important and necessary. In fact, the Bill has done this, the Bill has conferred extremely wide powers on the court in relation to the kind of work that is required under this Bill. Sir, those wide powers relate to the court acting in its capacity of gathering the kind of evidence to ensure that the conferral of title to land and that the process remains one of the highest repute.

Mr. Deputy Speaker, I want to refer to Clause 13(b), which deals with procedure and evidence. Sir, essentially it says that the court may give weight as it thinks fit to any evidence which it considers to have any probative value, notwithstanding that evidence would not otherwise be admissible in court. Mr. Deputy Speaker, when we are speaking in this Honourable Chamber of trying to protect two people... I heard the Honourable Member for St. Andrew talking about the fact that foreclosure suits and title suits have historically been designed for the benefit of poor people and so on. Sir, all we are doing in this Bill is to ensure that by legislative means, all interested parties will not necessarily be confronted by (1) legalism or (2) worthless procedure, and that a court is not constrained by very strict provisions in a statute in terms of dealing with what is in fact a very difficult issue of giving judgment in relation to title, where the parties approaching the court are themselves not sure, or because of the historical nature of that title, it is in doubt as to whether or not the title ought to be conferred. Mr. Deputy Speaker, in such a situation, particularly when dealing with poor people the court has to have wide powers in relation rules of evidence.

Mr. Deputy Speaker, I am happy to say that this provision is going to be very important in terms of arming the court with that discretion to listen to everybody and to taking into account any evidence of merit which will obviously assist them in coming to an informed decision in relation to this matter.

3.10 p.m.

Sir, the other provision I wish to speak to is the question of compensation. Sir, never before, as far as I am aware as an attorney-at-law, as it relates to the whole question of foreclosure proceedings, and at it relates to the whole question of title suits, has the law concern itself with compensation, and what this Bill is seeking to very simply, Mr. Deputy Speaker, is that in circumstances, for example, where title has been conferred through an application in this case and that the evidence which was used to invite the court to come to a conclusion has been tainted by fraud or other acts of dishonesty, or where, in fact, there were circumstances which ought to have been known by the applicant that would certainly show that there were not entitled to the land in question and where in cases, for example, where a bonafide purchaser, without notice, has acquired that land and that, in effect, means that obviously once that has happened, you cannot reverse the process, that an individual who has been affected by this particular situation provided again, under the Act, that they did not have knowledge of this state of affairs at the time of the application that there is provision under the...

Mr. DEPUTY SPEAKER: The Honourable Member has five more minutes.

Hon. S. A. LASHLEY: Sir, that there is provision under this Bill for that person to make an application for compensation and that, Mr. Deputy Speaker, I would say is very wise drafting. It is, to my mind, a very learned approach to adopt within an Act of this kind because we know that these particular things do happen.

Mr. Deputy Speaker, I also believe that this provision of compensation does not in any way leave the particular offender scotch free because, in fact, it allows the Attorney-General, under this Bill to pursue anyone who may have been at fault in either misleading the court or creating a situation by which the court would have proceeded on the basis of erroneous evidence intentionally given.

Mr. Deputy Speaker, as I approach the end of the time allotted to me, I just simply wanted to say that in every thing that I have said in terms of the content of this Bill, those diametrically opposed to each and every submission made in this House by the Honourable Member for St. Andrew, it does not tally with the facts once you extrapolate them from the details of this Bill. Sir, indeed, I am hoping by my contribution that Barbadians who are hearing what this Government is doing in this Bill would become convinced and informed that, indeed, this has to be considered, and we make no apology about it. Sir, of course, we know that much has been done by many persons to come to this stage, and I want to thank them publicly but it has to be that once you are seeking to clarify a very difficult area of the law and to inform legislation in an area impacting on the conferral of title to land that it must be seen to be a revolutionary piece of legislation. Sir, I think that we on this side should make no apology for that.

Mr. Deputy Speaker, I believe that it is clear to me that the Honourable Member for St. Andrew did not go through the legislation carefully and, obviously, came to a misinformed conclusion as it relates to this legislation. Sir, I know that once the scales have broken from his eyes that he will, tomorrow, once this Honourable House passes this Bill, recognise that, indeed, what has happened is that we would have moved very swiftly within a short space of time to give and to add clarity to an area of law that hither before would have been consumed by some doubt and would have created some hardship.

Mr. Deputy Speaker, the last point I wanted to make is that this legislation, for the first time, seeks to set some kinds of controls on the kind of fees attorneys can charge and it also, for the first time removes that impediment by which persons approaching the court would first have to be persons of immense wealth. Sir, in other words, they had to get the money in order to have that title conferred.

Mr. Deputy Speaker, I am convinced that this Bill is a step in the right direction and embraces the key areas that

need to be embraced and touched upon in giving clarity to this area of law.

Mr. Deputy Speaker, with those words, I am certainly in full support and I am obliged to you for the time given to me.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Michael North East. (5:59)

Miss M.A. MOTTLEY: Mr. Deputy Speaker, thank you very much. Sir, it is not often that one has the opportunity to speak on legislation that is truly impactful upon tens of thousands in our population. Sir, those who would have been in this Parliament during the passage of the Tenancies Freehold Purchase Act could have spoken in that way because they would have shepherded through this Chamber what I regard to be the most revolutionary piece of legislation in post-independence Barbados. Sir, while this is not necessarily on the same shelf as the Tenancies Freehold Purchase Act, this legislation seeks to modernise a practice that for a century allowed tens of thousands of Barbadians to be able to access ownership of land in a way that allowed them to take responsibility for the improvement of their own personal conditions and that of their families.

Mr. Deputy Speaker, I speak in this deliberate manner because those who track development policy across the world and those who have had the privilege of reading Hernando De Soto would recognise that in one of his key books he refers to the fact that the absence of the ability of those in Africa and Latin America to be able to title land and to transfer possession of land into ownership of land legally has led to the continuous impoverishment of millions, and tens of millions for that matter, of people on those two continents.

Mr. Deputy Speaker, therefore, when you step back and you look at what Barbados developed, fictitious though it was, in the context of a legal system, and in the context of a population who would have been deprived of ownership of land in a post-emancipation society because of the status of chattel prescribed to the majority of persons who occupied this fair land, then you begin to understand why that fictitious title suit made a fundamental difference in our development as a people and as a country.

Mr. Deputy Speaker, the ownership of land and the education of our people are perhaps the two most powerful instruments that have transformed this society over the last century. Sir, that it did good for so many thousands of people is to be applauded. Sir, that it can do so much more if reformed and modernised to meet the time-lines and conditions of a modern Barbados is an absolute imperative for us to go forward as a population.

Mr. Deputy Speaker, there are still thousands of Barbadians who today are seeking to have their lands titled. The Honourable Member for St. George North would have referred to the phrase, “seed to seed”, to which we are all familiar, that people were taken out by their parents, the parcel shown to them and told, “this is yours, this is yours, this is yours”, and, Sir, in that context, while they respected the will of the person who was granting the land they could do nothing unless it could be translated into legal ownership in a way that could be recognised as collateral or a basis for complete control and direction in our legal history. Sir, it is a matter that causes me concern, that we do not have enough written about the practices in the post emancipation Barbados that was undertaken to empower our people.

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Sir, she did a thesis, on this topic and in my view it should be compulsory reading not just for the law student at the University of the West Indies, but for all History and Economic students as well, because this was one of the primary mechanisms through which economic upliftment has come about in this country.

Sir, it is against that background therefore that when I had the honour of serving as Attorney General, that I asked the now deceased Mr. Justice Colin Williams to undertake the responsibility of preparing this piece of legislation to modernise the practice of title suits in Barbados. It was critical as has been said by many Members in this Chamber today, that we arrived at a point in the last decade where to title a piece of land was taking as long as three to four years, if you were lucky, and in circumstances where uninterrupted possession of land could not be translated into ownership particularly in the event of an emergency being faced by that particular family, or in the interest of wanting to educate a child in a subject that could not be done at University of the West Indies and you need to find funds to send them overseas, or there was a health challenge, or whatever reason. It should not be that citizens who could otherwise provide for themselves financially should have to confront a delay as long as that which was now being experienced in the context of the management of title suits in our system, that it was unacceptable for them to have to face that length of delay because the end result was that in some instances they would have to end up depending on the State to be able to help them out, when they were perfectly capable of helping themselves out on their own, should the legal framework and the procedural systems be in place to facilitate it.

Mr. Justice Williams, perhaps, knew more about this area of the law as a practitioner and then as a Judge than perhaps anyone else among his contemporaries. I was happy that just about one month before leaving the Office

of Attorney General that the report came in, and on the advice of the Chief Parliamentary Council was sent to the Registrar of Land Titles for his input in the framework that was presented to the Ministry at the time, the Chambers.

Sir, may I say that I would be less than honest if I did not express some regret that it has taken sixty-one months to reach this Chamber, and it is not reflective of anyone individual either in the public service or in the political class, but it is reflective of a system of governance that is in urgent need of reform in this country. I have said so in almost every speech in the last two years in this Honourable Chamber, and I continue to maintain that the implementation deficit disorder from which both Governments have suffered is a matter that will drag our development further down if we are not careful in Barbados.

Sir, in that context, I believe however that cognizant that it has reached here, even if concerned with the length of time, that a strong public education exercise ought to be undertaken by the Government Information Service that breaks down into simple language and that allows persons to know what they can do to take responsibility for making themselves landowners in this country under this reform of the title suit process that we are now debating today.

Mr. Speaker, with all of this, I still see this as an interim exercise because ultimately as is reflected in Clause 31 of the Bill, this does not apply to registered land. The truth is, this country has to set itself a goal of being able to ensure that all parcels of lands within the 166 square miles can come within a formal registered system, such that the transactional cost associated with the dealing with land whether by transfer, long lease, whatever, sale, or mortgage, can be significantly reduced, because it is one of those costs over which we as a people, and we as a Parliament have control, in circumstances where other nations have already shown the benefits of such a move to register land.

Sir, the technology affords us the opportunity to be able to capture digitally all of the plots with ease, and a dedicated project, funded, to relieve us of having to transfer unregistered land ought to be pursued within a definitive timetable of five or seven years, such that Barbados can remove one of the hindrances, one of the obstacles to it becoming more competitive both for its own citizens, primarily, and for those wishing to invest herein as persons coming to Barbados.

Sir, I believe that if we recognise as a Parliament the goal of a complete registered land system, can it in fact admit of persons other than attorneys-at-law being able to do simple transfers of land, then you can immediately begin to see the benefits to those persons in this society who are engaged in the purchase and sale of land.

Now, some of my legal colleagues may consider it heresy for me to say so publicly, but I believe that law is simply a tool of empowerment, having particularly in the context of artistry in an instrument of oppression, whether it is the Master and Servant Act, or other pieces of legislation that hitherto oppress too many of our population.

Sir, the ability for this Parliament to see the way forward and to create a framework where the transactional cost pertaining to land can be reduced significantly, in my view, is an essential platform to being able to make Barbados more competitive and more developed as a society. Surely, things have to be put in place and surely the mechanisms for registered land is the best way to do that. Surely, you may even have to have registered conveyances who are not necessarily lawyers, as in the British system, but who were entitled to convey land at a much reduced rate.

Mr. Speaker, my colleague, the Honourable Member for St. James North, who spoke exceptionally well today, would have addressed the issue...

Asides.

Hon. Miss M.A. MOTTLEY: I am coming to that. Do not worry.

Sir, ...would have addressed the issue in a manner that allowed the public to know that once you had a system of registered title, the State guarantees the title for everyone.

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The difficulties that are associated with the investigation of title, which is really where most of the problems come would be removed from the system. We are a big country now. We are 45 years old and it is something that we must treat to, as a matter of urgency because we tell everyone of our constituents that they must own a piece of the rock. Therefore we must do nothing to make it that much more difficult for them to own a piece of the rock and treating to the transactional costs relating to land, reducing it is an absolute imperative for those of us who occupy this particular Chamber in my view.

Sir, there may be some issues and some have been raised by the Member for St. Andrew that may perhaps be simplified and I trust and hope the fact that the Minister can, by order amend the forms that are here in the Schedule. This means that as we start to work it, we really do try, both in terms of the executive, the Government and the legislature to perfect what we have here, without waiting for the next century to deal with it again. As I said, those concerns expressed by the Honourable Member for

St. Andrew in some instances, as to some of the complexity with some of the forms can perhaps be treated on a custom fix basis recognising that a Minister by order not by full debate and amendment of the Act, but by order, can further simplify what has been proposed here and what was developed by the now deceased Mr. Justice Williams, primarily from his experience of decades at the Bar.

I would only expect that as we evolve, this will become the subject of commentary by the judicial, the legal service counsel, the Bar Association and by Barbadians as a whole, who will benefit from this piece of Legislation. I know of no less than about 40 people who are waiting for this Legislation to pass in order to be able to complete pledges for financing that have been made, either by banks or credit unions, in order for them to move forward with their lives.

I therefore will not stand in the way of the passage of this Legislation in any way, recognising that for me the commissioning of Mr. Justice Williams was born out of a desire to modernise that which was significant in our historical evolution of a people and in the post emancipation period of Barbados. Sir, too many ordinary Barbadians stand to benefit from this, in a way that this is their only option for access to capital in this country. I believe, Sir, that we who occupy this Chamber have a duty to continue the process. The Honourable Member for St. James North has spoken to the urgent need for reform in landlord and tenant Legislation that is without doubt.

Indeed, the Prime Minister and the Minister for Housing as long as two years ago, promised that we would see those reforms and we look forward to seeing them, except that I urge them, let it not take the 61 months that this particular Bill took to reach this Honourable Chamber. Equally, we have to recognise that there has to be a national debate on how we want to continue to use land in Barbados given the innovations that are being introduced by the Minister of Housing, both with the zero lot line which I have my reservations about. The Minister of Housing knows about it because of our cultural makeup and then the whole use of high density high-rise housing. It needs to be the subject of deliberate discussion by the population largely because, not that you cannot do it but that there may be compensatory mechanisms that have to be put in place, if you are going to go down that line in terms of increasing density in how we house our people, particularly in urban Barbados.

What do I mean by that? A large part of the reason why blocks have developed in communities has to do with the quality of housing and the lack thereof. I have never seen a block in the bright sunshine. Most blocks are under trees, if not sheds and it tells me that this is a community recreation area where people want to be able have the opportunity to relax in an area that is theirs, in

circumstances where their housing situation may not easily admit of it.

Now, in that context it means therefore that the planning and development of housing units particularly in the high-rise areas, which is not a part of our culture naturally, has to be examined by the perspective of how we live and what we value as a people. I am not talking hairy-fairy esoteric stuff. This is real stuff. The reality is that we have people who have been brought up to want a plot but the recognition that there may not be enough plots around to go for everybody has led to the innovation of apartments, condominiums, high-rise housing.

In those circumstances in the design of the very unit, also in terms of absolute size and in terms of ventilation, how do we ensure that we minimise the effective rejection of it as a place where people can enjoy and relax without feeling only that they can only do so on a block in a community and it is a serious point. How can we incorporate other considerations of community life within the planning that are not just the standard basketball court or the standard community Centre that close up from 10 o'clock or 8 o'clock at night until 8 o'clock in the morning? How can we recreate our housing to match our culture?

Sir, that is why the Tenancies Freehold Purchase Act as well as the motion of title suiting has been so successful and so commonly used in this country. It fell naturally within the context of what Barbadians value and what Barbadians expect in relation to landownership and housing, without changing the paradigm. You cannot change the paradigm unless you understand and appreciate what is required by our citizens in terms of their notion of a home or their notion of ownership of something that can constitute a home or a residence.

Sir, I appeal to the Minister of Housing. I know that he has gone out recently and he has shown these wonderful representations, wonderful to some. I am one who is being dragged along with it because I do not like high-rise but I accept that in some instances there may be a legitimate case to four or five storey but in a very limited and deliberately planned out environment that does not in anyway compromise from our island culture and our historical and cultural development as a people. I use the uniqueness of this Barbadian prescription which we are now reforming to remind this Chamber that we are best when we are unique and original in what we create to meet our needs.

This was a creation to meet the needs of tens of thousands of Barbadians in a post emancipation environment. It allowed us to pull away from the pack, in terms of development, in relation our other neighbours and other developing countries. Therefore in whatever else we do in this context of land and home ownership, I ask for

that uniqueness, originality and respect for our culture and our values to remain central to our policymaking.

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I end with one example which I think most people understand. After Hurricane Janet, I was not born then, but I am told that there was the emergence of these storm carpenters and that you saw the development of what we now see as the majority of roof tops in Barbados, almost flat roof tops for our houses. The extensive usage of gable roofs and hip roofs was abandoned in the interest of expediency and these roofs, which now makes us more vulnerable to storms and hurricanes today than we were with the gable roofs and the hip roofs, are now the order of the day for most houses in this country.

Sir, not only do they make us more vulnerable to hurricanes and storms but they do not provide the ventilation internally to the house that the gable roofs provided by having the fixed louvre windows in top of the gable ensuring that ventilation was available in the house at all times. When you combine that with the use of hoods and sash windows, you could drop the top sash if it was raining and still be guaranteed a flow into the house because the hood prevented the rain from coming in. These are things that have been central to our housing development for centuries but that from post 1955, went from the landscape because of the immediate need of satisfying the restoration of houses in the post Hurricane Janet environment.

When I was Minister responsible for urban, I believe that the subsequent Minister did not reverse it, I hope not, we insisted that there be a change in the architectural design of the house to move back to the gable roofs because they would be sturdier in the event of a storm and, equally as important for the purposes of this debate and what I am saying for the Minister of Housing and Lands, the issue of ventilation would be addressed. When therefore you see people come out on 'blocks', it is for genuine fraternal relationships rather than because there is no way to be inside, inside is too hot, the roof is too low and there is no ventilation in the house, all of the things that we know can attach itself to houses that are badly built. If you go in any chattel house in this country that is over 50 years old, you would see a complete difference in terms of ventilation from those built in the last 50 years in the post Janet environment. These are the things I think therefore that if we can reach a national consensus on them...

There is no reason for there to be a political divide on those aspects of broad developmental policy and the kinds of practices that we used to be able to empower Barbadians individually as landowners but equally to be true to our cultural mores and to be sensitive to our geographical and environmental realities. That simply

means designing and recognising the power of design in what we are trying to build at the same time as we recognise the power of the law in making every single Barbadian who wants to be an owner of a piece of this country, whether it through land itself or through condominiums or apartment units attached to the same land.

Mr. Deputy Speaker, I am happy that this Bill has eventually reached here. I thank the Attorney-General who indicated from about December that it would be here shortly recognising that it became all the more urgent after the new Supreme Court Rules came in and the Registry stopped accepting applications for title suits, which then made it more than urgent because of the inability for people to even get their issues resolved in a three/four year period.

I trust and hope that the Attorney-General would have a working committee along with the Bar and lay people that would review the workings of this legislation after 12 months such that if there is need for a refinement of the forms in the Schedule that it be done by order as the Act provides and even if there is a need for amendment to the legislation that it not be seen as a matter of failing but as an appreciation of how the system is working out on the ground such that it would remain sensitive to the fact that this legislation is designed to make owners of tens of thousands of Barbadians on a historical legacy that did us proud in a post-emancipation Barbados.

I am obliged to you, Sir.

Mr. Deputy Speaker vacated the Chair and Mr. Speaker, resumed the Chair.

Mr. SPEAKER: The Honourable Member for the City of Bridgetown.

Hon. P. M. T. TODD: Mr. Speaker, I rise to make a brief intervention in support of this Land (Title Proceedings) Bill before this Honourable Chamber today. In quickly alluding to what the last Speaker referred to, as Minister of State in the Ministry of Housing and Lands, Urban and Rural Development with specific responsibility for the Urban and Rural Development Commissions, I note that the Honourable Member for St. Michael North East mentioned that when that Honourable Member held responsibility for the Urban Development Commission that they changed to gable roofing, which was more hurricane resistant but I would wish to add a little more to that.

When this Administration assumed the reins of Government in 2008, I was in that Ministry with responsibility for the Urban Development Commission and as the Honourable Member for Christ Church East and the rest of us toured with the Urban Development Commission officials some of their works-in-progress, we would hear

the staff refer to the fandangle houses as they called them, which the Urban Development Commission under the Barbados Labour Party constructed. They had to abandon these houses because the infamous Harwood Housing company was responsible for constructing some of these houses.

Mr. SPEAKER: Yes, Honourable Member for St. Michael North East.

Hon. Miss M. A. MOTTLEY: On a point of order. I am not going to get into whose father got a house. The Honourable Member is misleading the House. The design changes at the Urban Development Commission had nothing at all to do with Hardwood Housing. There were designed changes approved by the Board and they were in fact undertaken by every contractor who built houses. Perhaps the Honourable Member is not walking in his constituency anymore if not I could take him to show him some.

Mr. SPEAKER: Yes, Honourable Member for the City of Bridgetown.

Hon. P. M. T. TODD: Mr. Speaker, I am not going to split hairs over this matter. This Honourable Member continues to walk through the length and breadth of the City of Bridgetown and could point to these so-called fandangle houses in 8th Avenue New Orleans, in Rock Gap and in 2nd Avenue Pickwick Gap, which were constructed by the Barbados Labour Party. I have no problems with the gable roofs but what the officials had problems with was the fact that in some instances when you enter the living room, you saw the kitchen right next to the living room. You could imagine that, Mr. Speaker? That is inappropriate. There is no privacy. People are cooking their food and their guests in the living room could see that, so the Urban Development Commission rightfully under this Administration abandoned those fandangle houses.

Mr. Speaker, these houses were built by Hardwood Housing Company as part of the Cricket World Cup upgrade and as a result the Barbados Labour Party's knee-jerk reaction to the criticisms that they were spending hundreds of millions of dollars to redevelop Kensington Oval and left out all of New Orleans and Chapman Lane in need of urgent housing solutions. As part of their response to that public criticism, Hardwood Housing got contracts to do some of those houses at exorbitant costs and the rest is history. Mr. Speaker, the public have spoken and that why is the Barbados Labour Party is now in Opposition.

I would add though, Mr. Speaker, that I am happy to report that the Urban Development Commission has gone further in terms of not constructing houses with treated pine because the termites eat even the treated pine after a few years, so they have now gone into the harder woods. I

congratulate the Commission for being forward-thinking in this regard for not being a penny wise and a pound foolish and therefore I look forward to the Rural Development Commission duplicating these initiatives.

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I know that in the response to the devastation of tropical storm Tomas, that in both cases of the Rural Development Commission and Urban Development Commission where houses were flat-roofed and were more susceptible to being blown off, the replacement roofs have been gabled shaped to make them more hurricane resistant, again very forward-thinking. This is commendable.

Mr. Speaker, I must admit having been trained in mathematics I intend to think very logically and it was very difficult to follow the line of argument of the Opposition Barbados Labour Party in this debate. Sir, clearly they were unprepared. There is no secret that on this side our Parliamentary Group meets weekly before the regular sittings of the Honourable House, so as to come up with a common strategy but clearly this is absent in a clearly divided Barbados Labour Party because you have their leading spokesman on this Bill saying one thing and then the other fraction of the Barbados Labour Party saying the opposite. I am saying in particular the issue of the time it takes to get this title finalized. Mr. Deputy Speaker, the Honourable Member for St. Andrew focused on this matter being finalized in six months. The Honourable Member wanted to give the impression that under the old system this title could be concluded in as short as six months. We then hear the Honourable Member for St. James North, as an experienced lawyer, saying that in the past the arrear of cases took well over 12 and 15 years.

Hon. Miss M. A. MOTTLEY: On a point of order. Mr. Speaker, the Honourable Member is misleading this Honourable House. Mr. Speaker, the selected choice of comments from persons does not make the basis for a speech. Mr. Speaker, the Honourable Member for St. Andrew indicated that 20 or so years ago, these matters could have been done in six months or so. The Honourable Member for St. James North indicated, as well as the former Attorney-General and I, that in recent times, in the last decade in particular, that these matter now take years to be completed. Sir, that is the reason why the Bill is here. Sir, if the Honourable Member has difficulty reading the Bill the Honourable Member should admit that and sit.

Hon. Patrick M. T. TODD: Mr. Speaker, I am not an attorney-at-law but I am sure that many average persons would have come to the same conclusion as I did. Sir, the bias of the Honourable Member for St. Andrew was clearly suggesting that the proposed legislation would make it longer for these matters to be concluded. The Honourable Member was pellucidly clear about that. Therefore, I do not

think the Honourable Member for St. Michael North-East need to try to defend him because that Honourable Member did not defend but rather helped to pull her from her position as Leader of the Opposition but the public is aware of that and so as the Barbados Labour Party seeks to close ranks for convenience, the public will not at all be fooled that there is any unity there.

Hon. Miss M. A. MOTTLEY: On a point of order. Mr. Speaker, the Honourable Member continues to rely on the misrepresentation that he made to this Parliament. The Honourable Member for St. Andrew indicated that 20 years ago these matters could have been done in six months or less. The Honourable Member for St. James North consistent with that, said that in recent decades, it has been a long process. The former Attorney-General said the same thing. I said the same thing. Sir, there can be disparity between what was said by any Honourable Member on this side and the Honourable Member could seek to find faults with what he calls as closing ranks, rather than facing the truth of what was said.

Mr. SPEAKER: Honourable Member, as I recall, the Honourable Member also seemed to have made the point that the present legislation will not necessarily make the process any shorter or as short as desirable. Is that what the Honourable Member is referring to?

Hon. Miss M. A. MOTTLEY: Mr. Speaker, perhaps that is what the Honourable Member should address, rather than seeking to rewrite what the Honourable Member for St. Andrew said.

Hon. Patrick M. T. TODD: Mr. Speaker, I will not prolong the matter because in my very last presentation, that is exactly what I said. Sir, luckily the public will judge the facts as they are. Mr. Speaker, let me say that the issue of owning land is very critical to the average Barbadian. I have just heard from the historians in recent years that the whole of Bush Hall, for example, we see it well populated with thousands of working-class Barbadians. Mr. Speaker, as I said, a lot of this land was bought people who went to help work with the Panama Canal, who sent back money to their relatives, who were able through friends, meeting-turns were able to accumulate funds to purchase these lands. In fact, the historians argue that Bush Hall development was so spontaneous that the sites and services were not put in place but the land was subdivided and much of this Panama dollars were able to purchase plots for these working-class people.

Mr. Speaker, many Barbadians will remember that it was only during the 1950s that adult suffrage came into being and that prior to that, in order to vote one had to have own land and that many feuds were created in family because of disputes regarding inheritance of land, land marks, paling encroaching on neighbouring lands. Mr.

Speaker, these are very important matters and this works will definitely go a long way in addressing these issues, to ensure that there is a smooth issue regarding transfer of titles and regarding demonstration of ownership of land.

Mr. Speaker, the Honourable Member for St. George North gave the public the impression in his presentation that this administration had abandoned the urban tenancies transfer of title programme. Sir, nothing could be further from the truth because this administration is committed to advancing this process. Mr. Speaker, I remember before this portfolio I now hold, I acted as Minister of Housing and Lands, Urban and Rural Development. Sir, I am the kind of persons that whenever I act, I do not simply stay away, I actually occupy the office and get to learn the system in that ministry and I remember doing the same in this regard and seeing that Honourable Member for St. Philip North was very assiduous in terms of signing all of those Form One's which have to be signed by the Minister of Housing and Lands, Urban and Rural Development, to facilitate the transfer of tenancies programme. Sir, the Barbados Labour Party should ask themselves if they were timely, in terms of ensuring that this aspect of the process was speedily undertaken by their Minister of Housing and Lands, Urban and Rural Development. Mr. Speaker, the current arrangements where the Urban Development Commission and Rural Development Commission lie within the Ministry of Housing and Lands, where the Permanent Secretary would sit on the Board, will definitely ensure that there are increased synergies between these agencies, so as to reduce duplications and to definitely speed up the process of this urban tenancies programme.

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I know that the Director of the Urban Development Commission and his team are very clinical in terms of ensuring that the funds set aside for paying the land surveyors and the vendors of the properties. Sir, the tenants would pay \$2.50 per square foot and the difference between the price offered for the land by the vendor and the \$2.50 would be paid by the Government through the Urban Development Commission. Sir, these funds are kept by the Urban Development Commission, not diverted to ensure that this process is not slowed down due to the lack of funds. Sir, this administration is definitely committed to this Urban Tenancies Programme.

Mr. Speaker, we have had some unavoidable challenges over the years. For example, in Bridgetown my late constituent Voilet Beckles, God rest her in her grave, from Kings Street would have had a number of lawyers over the years seeking to get title to several large plots throughout the urban corridor which she claimed were given to her by a relative and this would have affected the Urban Tenancies Programme.

Mr. Speaker, I remember Miss Margaret Talma, who was a senior urban planner from the Minister of Housing, who was seconded to the Urban Development Commission, who would have piloted that Urban Tenancies Programme and she would have reported to this administration the challenges which this Voilet Beckles' claim would have had because many of the plots in the urban corridor, in these urban tenancies were subjudice as Miss Beckles sought to fight to get claim for these plots, so that would have slowed this process.

Mr. Speaker, I know that the whole issue of the shortage of land surveying services within the island has some impact on this process. I remember the late Right Excellent Errol Walton Barrow publicly alluding to this fact of the lack of land surveyors in our country. I think back then, as a young lad, listening to the debates in the House, Mr. Barrow would have talked about, in those early days, Barbados having to get Guyanese land surveyors because land surveying is very technical, there is a lot of trigonometry, geometry and calculus involved, so it is a very technical area, and sometimes even land surveyors in the Government Service may have to be given special permission in the general Minister of Housing in terms of land acquisitions, developments and so on. Sir, this is a challenge and I would take this opportunity to encourage land surveyors in all sectors, public and private, to be fair to working-class districts and not succumb to the view of stereotyping and profiling districts to say that if you are from certain districts these areas are war zones filled with a lot of violence and so on because nothing could be further from the truth.

I live in a working-class district in the heart of the City, Mr. Speaker, and I know that many of these people are law-abiding citizens who are very much interested in playing their part in national development, so these land surveyors should not have this fear of actually going into these urban tenancies and doing the necessary land surveying work to ensure that the transfer of title to these various tenants in the urban corridor is not in anyway impeded.

Mr. Speaker, even in the Housing and Neighbourhood Upgrading Programme, the Inter-American Development funded programme, we have cases where there is not enough interest shown by land surveyors in terms of doing the necessary land surveying work but fortunately, we have been able to get a core that has been able to work unimpeded in doing the necessary plot demarcation in Cat's Castle and other parts of the urban corridor and, Sir, they must be congratulated. Mr. Speaker, I would not wish to delay the House much further because I know we have a packed agenda for today but I would really wish to congratulate the Urban Development Commission and the Rural Development Commission for really working assiduously to advance the interest of the vulnerable group

in Barbados who rely on these agencies by way of the provision of not just house repairs and house reconstruction but I close by alluding to the fact that the Honourable Member for St. George North talked about easement and access to plots, given that some of these plots on the coastal areas are landlocked and, Sir, I congratulate the Urban Development Commission. You would have seen in the media where Urban Development Commission would have initiated the construction of footpaths to enable access to some of these landlocked plots. I know that this Member of Parliament is aware that even within the City of Bridgetown there is still a number of alleys which would be in need of concrete pathways being constructed such as Bamboo Alley off Lightfoot Lane in the Baxters Road area as well as Mann's Gap, Browne's Gap, Passage Road, as well as avenues in the New Orleans. Sir, I would definitely give the public the assurance that the work of the Urban Development Commission and the Rural Development Commission in terms of the provision of these concrete footpaths would definitely continue full steam ahead.

Mr. Speaker, I thank you.

Mr. SPEAKER: The Honourable Member for St. Philip North.

Hon. M.A. LASHLEY: Mr. Speaker, Sir, I rise to enter this debate. Sir, first I want to compliment the Honourable Attorney-General for bringing this piece of legislation to this Chamber today and, indeed, it is a piece of legislation that is echoed by previous speakers. It is a piece of legislation to empower Barbadians particularly, as the Honourable Member for St. Lucy would say, the poor people of this country who, obviously, throughout time had a desire to obtain title to their land and, of course, in some instances to transfer their land, be it to their family or to their children. Sir, the Honourable Member for St. Andrew, I have respect for him as a Queens Counsel but I listen to his presentation and some of his comments I do not agree with. Sir, in this Chamber we have accepted that when it comes to the issue of land, or when it comes to a land use policy that partisan politics, basically, should take a back seat. Of course, he was well-intentioned but the Honourable Member for St. Andrew made some observations and I want to go through one or two of them and, of course, I want to speak to the issue of the Tenancies Freehold Purchase Act.

Mr. Speaker, Sir, the Honourable Member for St. Michael North East mentioned that there is a need for what we would call a public education exercise in terms of educating Barbadians of their rights under the law in relation to property. Of course, over time, we at the Minister of Housing and Lands have decided that we would go out to the communities through town-hall meetings and advise and offer solutions to tenants or to prospective land owners who are seeking to purchase their lands under the

Tenancies Freehold Purchase Act. Sir, I want to say to this Chamber that Sunday, March 13th, we will be going to St. John where we will be holding a town-hall meeting to advise and discuss issues relative to matters of title under the Tenancies Freehold Purchase Act.

Asides.

Hon. M.A. LASHLEY: Sir, we are starting there, we are going through Barbados and, Honourable Member for St. Andrew, we are coming to St. Andrew. Sir, it is a public education exercise that we are embarking on all over Barbados to really and truly to advise those persons in terms of accessing their rights under the Tenancies Freehold Purchase Act.

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Sir, of course, the Honourable Member for St. George North mentioned that it is time we made the amendment, and of course, the Honourable Member for St. Michael North East, that we should look at the whole issue of the reform of the law relating to the landlord and tenant in this country.

Mr. Speaker, the Ministry of Housing and Lands's legal team has presented a comprehensive Paper to the Governance Committee of Cabinet making recommendations in relation to amendments to the Act and, of course, offering solutions to any existing problems under the Act at this time.

Sir, hopefully within a matter of months or so we will have again a full-scale discussion on these amendments to the Landlord and Tenant legislation and also the Freehold Property Act. That is the way we are going.

Mr. Speaker, I also want to say that it is important, and this debate about land is also important. In fact when you read the report of the National Committee on Law and Order, June 2004, the whole issue of the land use policy came up, that there should be a national debate and a discussion on how we utilise our land in Barbados. In fact, it also made recommendations in relation to how best we can utilise our lands to empower Barbadians and those who are seeking to obtain title to their lands.

The Honourable Member for St. Andrew had difficulty with Section 4 of this Act. In fact, he said that Section 4 is too cumbersome. He said it was cumbersome and in relation to Section 5 of the Act that he would delete subsection 5 (g) of the Act. I totally disagree with the Honourable Member for St. Andrew. Sir, as I said, he is a noted Queens Council. I respect his views. I respect all Queens Council at the Bar, but I do not rank them. I do not rank them, Mr. Speaker.

Sir, I am surprised that the Honourable Member for St. Andrew is saying that where there is a provision in the Act that mentioned that an affidavit by some person other than the claimant who can swear positively to the facts verifying the claim, and all documents other than affidavits and exhibits thereto supporting the claim, he is saying that we should delete that clause.

Mr. G.W. PAYNE: On a point of order. The Honourable Member is misleading the House. When I was speaking, I saw him talking to the Attorney General, so he obviously did not listen to what I said. What I did say is, that affidavit could have been included in another category, not that you should exclude it, but instead of having those particular provisions, it could have been included in another section of the form and you have affidavit. There are four affidavits. I am saying that instead of those four affidavits, you could have one affidavit and include everything in the form. Sir, even certain things which are included in the form, like evidence of title represents a duplication because you are calling for another affidavit. I believe that in view of the type of problems and the type of interpretations that are being placed on these matters when they go to the Registry, I believe that we should simplify them and be very specific.

I am obliged to you.

Hon. M.A. LASHLEY: Mr. Speaker, the Honourable Member for St. Andrew said that the clause should be deleted. He said that. He said that he wants this clause deleted. I was taking my notes. Sir, I have not even a half page of notes, less than a half page of notes, but I was taking some notes.

Mr. SPEAKER: Honourable Member, there seem to be some stylistic differences. That is how I would place them. Just continue.

Hon. M.A. LASHLEY: Sir, the Honourable Member said that it should be deleted. He said that. Mr. Speaker, I am saying that Section 5 of the Act sets out a very high standard of proof of ownership. If you look at it, Section 5 (a) to (g) it indeed sets out a high standard to be met in terms of proof of ownership under this piece of legislation.

Sir, again, the Honourable Member for St. Andrew was uttering and saying in one instance that he does not think we need the legislation, we could have carried on. He said that, but I tend to go with what the Attorney General said in his opening. Also the fact that the Attorney General's statement can be substantiated by the Judicial Council of the Supreme Court. Sir, around 2003 that Council said that the system should be reformed to remove the fictitious element, to simplify the process, to eliminate opportunities for stealing land, and to reduce the cost and

time involved in the process of obtaining a good and marketable title to land.

Mr. Speaker, it was not somebody from off the street that said that we need this legislation. There was a team of legal luminaries who looked in to the procedure and who said and decided that the process before had some flaws and opportunities for stealing land.

So we welcome this piece of legislation, and I know that the Honourable Member for St. Andrew welcomes it too. We know that he welcomed this piece of legislation and indeed the whole issue of fraud came up. Sir, time and time again, issues relating to land ownership, or if there is a claim in relation to land ownership, the issue of fraud surfaces sometimes.

Mr. Speaker, I am pleased with this legislation and I am also attracted to the fact that we have introduced and included in this legislation a section that deals with fraud, Section 16 of the Act. Of course, Section 16 of the Act makes it a criminal offence in relation to any person who in the course or proceedings who knowingly, and not only that, it also makes a person who aids and abets, liable, with respect of obtaining any Certificate of Title liable to an offence under this Act, and of course, the fine acts as a deterrent. It is \$25 000 or to imprisonment of four years, or to both.

Mr. Speaker, I am saying again that this piece of legislation is revolutionary. The fact that under a specific piece of legislation we can now prosecute a person who decides to act fraudulently in terms of any title or any claim to land.

I am saying that even when the Honourable Member for St. Andrew spoke to the hiatus, I had mentioned to him that the High Court can invoke its highest jurisdiction and continue the actions. That is my view, Mr. Speaker.

Asides.

Hon. M.A. LASHLEY: I certainly believe that this issue is too fundamental to the average Barbadian because I have known instances where some clients I have known instances where some clients have come, in fact, even at the National Housing Corporation that the legal department asked when persons apply for loans up to about \$40 000 that there is a requirement to provide proof of ownership of the land, good and marketable title.

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Indeed, Mr. Speaker, in most occasions we have many instances where we have individuals living in rural Barbados they live on land and that is why it is very important to have this public education in relation to rights

to land and under ownership of land and understanding what documents they need to establish full and absolute title of lands.

Sometimes many people will go away disappointed having their dreams of owning a piece of this land, having a dream of building a house and hoping to secure that loan based on documentary evidence of title to their land. I can recall on one occasion that the person had to go through the foreclosing proceedings but the person decided the cost was too much and abandoned that, I will go and rent a house and hopefully sometime down the road, I would save my money and try to see if I can get a piece of land and build a house. The problem is that person was confronted with the fees and confronted with the process. I can say from experience, Mr. Speaker, that know that the Member for St. Andrew said that in his time, it actually took between six months and three months that foreclosure proceeding but I know, Sir, that when I came to the Bar that these proceedings took three to six years. That is why I am saying that some of the claimants abandon the process they said they were fed up and frustrated.

And so that is why this piece is Resolution is so revolutionary and the Attorney General must be complimented and all those persons who contributed to the process and who worked hard to make sur that this Bill and the Honourable Member for St. Michael North East, the former Attorney General initiated the process.

Asides.

Hon. M.A. LASHLEY: Sir, these matters will take some time and there is this perception that the wheels of justice move very slowing but I must say that we have good and careful judicial officers. So if they take their time in terms of accessing information and making sure that documents are correct, then we cannot fault them because some of them are very meticulous and you have to be meticulous in relation to the filing of documents and any matters relating to the title of land.

Mr. Speaker, I am saying that this Bill and I want to go to section 4 of the Bill. I said earlier that it is cumbersome and believe that what this section is seeking to do is to ensure by putting checks and balances in place in relation to the claimant and also, Mr. Speaker, it recognises the right of any person thereafter, who after the process has started, it also gives that person a right to claim under the Act or to make an application under the Act.

Again, this Legislation is not bias or one-sided. I am saying, Mr. Speaker, that the cost under foreclosure proceedings before fees were at the whims and fancy of the Attorney at Law but now we have scheduled fees under this Act and that person who is seeking to own a piece of land can now plan accordingly and plan properly based on the

scheduled fees in this Legislation the second schedule, page 46 of the Act.

Mr. Speaker, I am saying that I have no quarrels with the provisions of this Act. Again, we were so careful as a Government that we make sure that we included in this Act, I believe section 31 of the Act, a savings and basically a validating clause, thereby protecting that person who filed after the rules were abolished by the Supreme Court Rules of 2009. Again, Sir, this piece of Legislation respects the rights of Barbadians who are looking to own a piece of this rock and that is the Barbadian dream to own a piece of the rock.

Mr. Speaker, I have listened to the Member for St. James North. In fact other Members on this side and I had a discussion and that fact that they had some obstacles under the former proceedings. It was mentioned in here by every single Attorney on this side in relation to the fact that that person had to pay in the money into the Registrar. Find a way to get the money. That was a major obstacle and that is why I said before a lot of persons who had rights and who were seeking to get their title turned back but now, Sir, this piece of Legislation simplify the procedure.

I want again, Sir, to complement the Honourable Attorney General I believe that I touch on issues in relations to fraud. There are some other issues that the Honourable Member for St. George North raised that I will answer in the fullness of time but I do not believe, Sir, I should waste time on him this evening. I am saying that if there was a system before that was long, expensive, time consuming, not at the fault of the Attorney at Law, not at the fault of the system I am saying that you have now a piece of Legislation reforming the law and making it easier, Sir, I believe that is a wonder thing and every single Member of this House should support it and give compliments to the Attorney General for moving swiftly to put this matter to rest and to put this Legislation in place to ensure that we have no issues in relation to Title.

Sir, I have said time and time again that we have to look at the cost in relation to the land transaction. Mr. Speaker, as an Attorney at Law you recognise that during a land transaction process, that you pay property transfer tax, attorney fees, registration fees, recording fees, stamp duty, bank fees, real estate agent fees sometimes, Sir, you have to pay for the cost of the search, and, Sir, all of these fees you have to pay associated with the cost in relation a land transaction.

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I have said time and time again in relation to a mortgage transaction that financial institutions, be it a commercial bank or a credit union, should absorb their attorney's fees and that the client should not be paying for

the fees of the financial institutions attorney. Sir, I know that some attorneys might not like that but these financial institutions should absorb the fees.

Asides.

Hon. M. A. LASHLEY: I know that the Honourable Member for St. Andrew would not like that. Sir, what they should do then is to say to the client that they have an option to pay or not to pay the attorney for the financial institution.

Asides.

Hon. M. A. LASHLEY: Many Barbadians always question why is it that when they take out a loan they have to pay the company or the financial institution fees. Mr. Speaker, I even believe that financial institutions should also waive those commitment fees because we have to look at all of these costs. All of these costs place a burden on prospective landowners. This is my opinion, this is not the opinion of the Cabinet. I am saying that we look in that direction in terms of decreasing the cost relative to land transactions.

Mr. Speaker, I just wanted to make those few points. I said that come Sunday we would have a town hall meeting addressing those issues at Bath Land to advise and to give direction to those persons who are seeking to get their conveyance and ownership under the Tenancies Freehold Purchase Act. Sir, that is a continuing process. We would go throughout Barbados educating persons of their rights, how to access their title under the various pieces of legislation.

Mr. Speaker, with those brief remarks, I fully support this piece of legislation and again I want to compliment the Attorney-General for introducing this revolutionary piece of legislation to this Parliament. I thank you, Sir.

Mr. SPEAKER: I am obliged. Yes, the Honourable Member for St. Michael East.

His Honour K. St.C. BEST: Mr. Speaker, I rise at this juncture to put my full support behind this Bill. Sir, what can be gleaned from this Bill is that it brings certainty. Where persons operate in a vacuum and you have legislation which brings certainty, I believe that all Barbadians would be happy.

Sir, we are aware of the circumstances as far as titling of land in the past but this legislative process now have brought the perfect guidelines to outline to Barbadians... I believe that this Bill comes at the prime time and this Parliament should embark on an educational programme for all Barbadians. Sir, we know the history as

far as foreclosure suits are concerned. We are fully aware of the circumstances where person's grandfather or grandmother owns a piece of land and allow that person to erect a dwelling on it and when their grandfather or grandmother passed away they would tell you that their grandmother or grandfather gets this or it came down through heir. What you would find then is that difficulties arise where that person now wants to improve their lot by going to a financial institution to get a mortgage and the first thing the financial institution asked for are title deeds. That person comes to an attorney-at-law or ask questions and then they find that the title deeds cannot be found or do not exist, so you have the stumbling block and you have that person now almost in a situation of wanting to go forward but they cannot go forward anymore. The foreclosure suit was in existent. Today, we heard all sorts of complaints about fraud and delay.

Sir, I believe that this piece of legislation is revolutionary. It brings certainty. It sets out certain time frames. Sir, one of the important things that must be mentioned and repeatedly mention is that before there were no compensation for the aggrieved party.

Sir, one recognised the adverse possession of all of the different systems that relate to land. We are fully aware that persons who reside overseas come home and befriend their old mother or their old father with goodies and the old mother and old father will tell them to take charge and then you see the circumstances developed where the person who are given the opportunity to take charge decides that all of the siblings, blood that flow through everything, have to pay them for this, they have to pay for the plot that they are on when the true intention of mummy and daddy was to make sure that all of their offsprings had a piece of this rock in this country. By the stroke of luck, some people might live in harmony but greed might disadvantage a whole generation. Sir, I believe that this piece of legislation will help to solve this issue.

Sir, you also have another issue where there are old persons who are living by themselves and persons would come and decide that they are going to look after these old persons and then all of a sudden they go on a frolic and search and the original title deed disappears and then when the family of those persons appears on the scene, the title deeds cannot be found.

Sir, when the title deeds cannot be found and those persons who want to move on and to improve their lot on that same piece of land go to the Land Registry, which is the principal place for the recorder of all title deeds and all matters in relation to transactions in relation to land title, and obtain certified deeds, when they go to the financial institutions with these certified deeds, the financial institutions are saying they cannot accept the certified copy but when the financial institutions want to do their

searches, they go to the Land Registry, to the Corporate Registry and to the court to ensure that piece of property is free from encumbrances.

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Mr. Speaker, I am saying that this piece of legislation brings clarity and certainty and that it is revolutionary as far as the development of land in this country is concerned.

Mr. Speaker, the Honourable Member for St. James North spoke about looking at the whole question of the landlord and tenant and, Sir, I think we are getting there. Sir, patience is a virtue. I believe that in the next term, before the bell is rung by the person who has the ultimate power...

Asides.

HIS HONOUR K. St.C. BEST: Sir, do not mind the mouthings on the other side that election is going to be called just soon. They should hope that their election is not called too soon...

Asides.

HIS HONOUR K. St.C. BEST: Sir, I am saying that, today, in the history of this Parliament, that on the 8th day of March, this Parliament would have debated and, I am sure will pass a piece of legislation that is revolutionary, that is certain, that is sure and that is development for the masses in this country.

Mr. Speaker, with those brief remarks, I thank you, Sir.

Mr. SPEAKER: I am obliged. The Honourable Member for Christ Church South.

SUSPENSION

Hon. J.D.E. BOYCE: Speaker, Sir, I beg to move that this House be suspended for 15 minutes until 5.10 p.m.

Hon. A.D. BRATHWAITE: I beg to second that.

The question that the House be suspended until 5.10 p.m. was put and resolved in the affirmative without division and Mr. Speaker suspended the House accordingly.

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RESUMPTION

Mr. SPEAKER: This Honourable House is now resumed.

The Honourable Member for St. Michael North West.

Hon. C. P. SINCKLER: Mr. Speaker, I beg to give note of the following:

1. The Income Tax (Amendment) Bill, 2011. 2. The Supreme Court of Judicature (Amendment) Bill, 2011. 3. The Pensions Miscellaneous (Amendment) Bill, 2011. 4. The Ministers and Parliamentary Secretaries Remuneration and Allowances (Amendment) Bill, 2011. 5. Value Added Tax (Amendment) Bill, 2011.

Hon. J.D.E. BOYCE: Mr. Speaker, I beg to move the first reading of the Income Tax (Amendment) Bill, 2011.

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

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

Hon. A.D. BRATHWAITE: Mr. Speaker, I beg to move the first reading of the Supreme Court of Judicature (Amendment) Bill, 2011.

Hon. R.D. JONES: I beg to second that, Sir.

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

Hon. C. P. SINCKLER: Mr. Speaker, I beg to move the first reading of the Pension Miscellaneous Provisions Bill, 2011.

Hon. P.M.T. TODD: I beg to second that, Sir.

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

Hon. C. P. SINCKLER: Sir, I beg to move the first reading of the Ministers and Parliamentary Secretaries Remuneration and Allowances (Amendment) Bill, 2011.

Hon. P.M.T. TODD: I beg to second that, Sir.

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

Hon. C. P. SINCKLER: Mr. Speaker, I beg to move the first reading of the Value Added Tax (Amendment) Bill, 2011.

Hon. P.M.T. TODD: I beg to second that, Sir.

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

Mr. SPEAKER: The Honourable Member for St. Michael West Central.

J.D. PAUL: Mr. Speaker, I rise to participate in this debate and also to give support to the Attorney General in respect of this particular piece of legislation. One of the points I have heard in the Chamber portrayed in a very constant and deliberate way is the fact that we need to forge a national consensus. If it is agreed across the political spectrum that we need to forge a national consensus, those persons who are part of that political body need to speak and act in a manner which says that we are serious about forging that particular consensus of which they speak. Sometimes when you listen to what is being said by the Opposition in relation to some quarters, but when you listen to others you do not get the impression that there is a willingness to forge that national consensus. Sir, not only that, a national consensus must not only be forged in terms of talk but we must also seem to get into the thinking, into the conscience of Barbadians as to their responsibilities in respect of not only this generation, but future generations.

Mr. Speaker, when one considers the circumstances under which we had to oppose this particular piece of legislation, in a sense Barbadians have to, in terms of the future, wake up to a new reality. One of the things that, of course, always inflames the passion of Barbadians is land. Land is something that we have used as politicians over the years to try to incite passion to the point where we give Barbadians the feeling, we can deliver, and we have given them the feeling that it is a right and we will do everything possible to ensure that we have access to it.

Sir, the glaring fact is, we have 270 000 Barbadians in this country. We should seek to encourage present and future Barbadians to use the land in a manner that ensures that we safeguard the future of generations to come. Sir, one of the things certainly with this legislation, and it addresses very well, is the fact that sometimes the naivety of past Barbadians in terms of dealing with the question of land, when you look at the present piece of legislation that is being brought, is actually being addressed here.

Sir, even within the constituency that I represent, there are circumstances in which individuals have not been able to leverage the property that they own in order to advance their future development largely because of the fact that they do not have good title to the properties on which they live.

As a matter of fact, even the recent passing of Hurricane Tomas taught me something. On trying to get assistance for some of those persons who were impacted as a result of the passing of Hurricane Tomas, and in trying to find out when we had to look at the question of repairs and what assistance could be given. We started to look at what title they had to the property only to find that there was a problem. Sir, immediately you found out that in some cases, my grandmother owned the property, it was passed onto me but I can say that I lived in it, but the actual title to the property itself, there is nothing that you can work on.

I believe this piece of legislation that is being brought before the House today is just the beginning, because if we are to effectively deal with the question of title to property in this country, and if we are to effectively enable Barbadians to be able to leverage on the properties that they own, in order to assist in their further development we have to do some further work.

Sir, I also want to say that we need to examine the current practices as it relates to land transactions in this country. Government has a responsibility - Again, the present piece of legislation that is being brought is revolutionary. Government is accepting its responsibility to intervene at times in the market to ensure greater fairness. Sir, when you look at the practices not only of the private sector, but the public sector, there is a problem in this country. Sir, what we have is a situation where persons, and I am not saying that they have done it for valid reasons, but they use land transactions and property transactions in many cases to benefit themselves.

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Maybe we have gone so far, because what has happened is that the ordinary man and woman in the street who would wish to own property are intimidated by the process and the charges that are brought, Sir.

I heard the Member for St. Philip North talk about the kind of process for purchasing land, especially when it comes to financial institutions. There is a system in this country where the buyer of land basically has to pay an attorney twice that is what it comes down to, Sir. One of the things I think that generally we really need to look at in this country is how do we make the process of purchasing land more freely. Sir, in a period, Sir, of when we are concerned about rising prices and it seems to me that when we talk about rising prices, we look at one aspect. We do not look at the aspect that there are other things happening in this country, which have an impact on the level of prices, Sir, that we do not want to examine.

Sir, we do not want to examine the fact that for instance, the reason we have landlords in this country, whom we complain about and I think in many cases rightly

so, when you look at house rents in this country, it is really getting out of the reach of the average Barbadian but the point is, Sir, it did not reach that way by accident. We have to look at what is happening in our society that is causing it to be that way.

Again, Sir, I want to say that when we look at this piece of Legislation that is before the House, certainly the Government is showing in a very clear way that it understands its responsibility to the average man and woman who want to own property and who, because of the fact that in some cases their fore parents or parents might not have done what they were supposed to do so that they do not put them at a disadvantage. I think we need to compliment the Attorney General on that kind of foresight.

Sir, going back to that, one of the things that we do not like in this country is the whole question Wills. Very often you will hear that if I leave my land it is for the children. When you tell them they need to specify, they say no, no, this is family land but sometimes in that good intention that they have, they do not understand that what they are doing in some cases is that they are putting the ability of individual members of the family household or the extended family to actually hold on to the land because there is no specification.

This is what happens very often in this situation and that maybe accounts for the reason we have situations where people actually are living on these properties and sometimes the papers get lost because one member of the family has it and another member of the family does not and if one member of the family falls out with another member of the family and they are not speaking. These are the kinds of things but I think that we really need to examine how we handle the transfer of property from one generation to another. Barbadians need to change the way in which they did things and maybe that would avoid some of the problems that we are seeing today.

Sir, the impact of land transactions is generally the cost of doing things in this country. Again, I want to go back to the fact that I think financial institutions, banks, credit unions to a lesser extent need to look at their participation. I know that we have quite a number of Attorneys-at-Law in Parliament with us today but I think, Sir, that while we ask everybody in this society to examine ways of trying to reduce cost, we too need to look and see how we can reduce the cost of transactions to the ordinary person in this country.

Sir, what we have been doing over the years is that we have actually put in a process in which these fees are compulsory. They tell you in order to buy land, you must have an Attorney. I am hoping that what this particular piece of Legislation would do, is to allow other persons outside of Attorneys to be able to at least help the ordinary

person to participate in our system in completing the land transaction. I understand that sometimes you see some attorneys with their backs put up against a wall. The fact of the matter is that while we are generally looking of empowering people, enabling people to own more property, we have to face the fact that in many cases, the reason why a lot of ordinary people in this country do not pursue land transactions is because of the cost. It is prohibitive and in some cases, Sir, lengthy. I want to go to the length.

Sir, we seem to have a culture in this country that something must happen in a stipulated time. We see it and it is only endemic in some respects in the civil service. There is a process by which things have to happen. Sir, I really want to say that, again, I note that when we hear the comments that this particular piece of Legislation is supposed to look at expediting certain transactions, when it comes to land and I understand that and I appreciate it, I also think, Sir, that those persons within the civil service, and lawyers too, have a responsibility that when they are handling land transactions, they need to do it in an expeditious manner.

There are too many clear cases in this country where land transactions are taking an inordinate length of time. Sir, we do not understand sometimes the impact that this has on production because very often we do not understand that land, is a factor of production. We talk glibly, Sir, about trying to push our productive sectors, trying to get it to a higher level of efficiency but how can we do this when the very processes that are supposed to afford the transfer of land to the persons who might want to use it for productive purposes are being held up. I would want to say that generally we need to examine the length of time for which these land transactions are being undertaken and that is something that we have to examine in a very serious way.

I also want to say this about the whole question of land. Sir, we must not have a metropolitan view of what our landscape should look like because I believe, Sir, that very often when we refer to the boys-on-the-block, the boys-on-the-block, Sir, is a metropolitan aberration because what we do not understand is the reason why we have some of the situations that we have in our urban communities. This is because of the fact that we do not provide, in terms of urban planning, for adequate areas in which we can have appropriate recreation.

Sir, I think we have to compliment the Government on the fact that we are coming up with appropriate solutions to housing, especially in our urban areas. We also have to recognise too in terms of ownership that we have to give people in the urban areas some connection with the land on which they live. I believe, Sir, that one of the

things we are seeing a lot in the urban areas is the fact that people sometimes are feeling as if they are not connected.

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Sir, in a sense, this particular piece of legislation now gives to Barbadians, who would find it difficult under normal circumstances to say they own something, the opportunity to feel that they can actually own something. In that way, Sir, we have to regard this particular piece of legislation as being revolutionary. Sir, it is part of a process. It does not answer all the questions immediately but it points you in the direction that we need to go in terms of the future. It says to members of our public service that we need to wake up to the responsibilities or to the aspirations of Barbadians to be able to get things done in a more efficient manner.

Sir, we have recognised it. We have brought this legislation. Sir, we need to compliment the Attorney-General for his efforts in terms of recognising and bringing this matter here today so that Barbadians in particular socioeconomic categories can actually benefit from this. Sir, sometimes we have people in Barbados who are engaged in small micro businesses but a lot of these small micro businesses are unable sometimes to get capital from normal financial institutions to expand because of the fact that they might be in a family land situation.

Sir, there are situations where you have people who are doing trades for themselves who need assistance. I want to say that it is true that Government, through the enterprise schemes that they have, has given assistance to small businesses up to a certain amount.

Sir, people like to think that they can actually leverage the assets that they owned in order to get further assistance and that in itself brings out the spirit of entrepreneurship that we constantly seem to speak about but we do not sometimes understand that entrepreneurship does not happen by itself. We have to create the conditions in our country that facilitate people in thinking that way. Sir, if we have systems in place which prevent people from actually venturing down that road, it will not happen.

Sir, we talk about self-dependency and we talk about people taking charge of their own future and in a sense this Act facilitates those persons who before could not address the issue of ownership in the appropriate way. We should not underestimate, even in urban areas, the number of people who are there trying to do things but lack capital.

Sir, this particular piece of legislation would facilitate those Barbadians who might find themselves in this situation to access further capital, which otherwise would not be available to them. Sir, again that is one of the reasons why we have to compliment the Attorney-General

for the foresight in moving in that direction. Sir, it is not only from the point of view of promoting consumption that we have to introduce this, we have to understand the connection that it has in terms in stimulating productive enterprise.

Sir, in going back to the whole question of the process for registering land ownership, I want to make a special appeal to the civil servants in this country. Sir, I think that we have exceptionally good civil servants in this country but if we are going to progress as a country, all of us need to look at the way in which we do business. We need to understand that all of our individual actions impact on each other. We need to understand that if we hold up a process, it is not the fellow in front of you that it is impacting on alone but the person who is depending on him to do other activities.

Sir, not only that, in some cases, we are actually condemning groups of people to underdevelopment, that is what we do not understand too. We are preventing people from developing to their maximum potential. Sir, in that regard, we have to view this legislation differently in that it allows people to maximise their development potential in a way that they did not have the opportunity to do before.

Sir, when we say that this particular piece of legislation is revolutionary, we have to understand that it is revolutionary from the point of view of the social opportunities, the fact that it allows people to have title to the properties that they live on in a much more expeditious manner in a way that they would not frustrate their dreams and their aspirations whether or not it is a question of simple home ownership or from the point of view of using the property they have to develop the businesses or the small businesses that they own on that property and to get greater capital in order to help to develop it.

Sir, I would like to end there in terms of my contribution and encourage the Attorney-General to continue to move forward with such pieces of legislation which I believe would make a significant difference to the development of the people of Barbados.

I thank you very much, Sir.

Mr. SPEAKER: The Honourable Member for St. Joseph.

Mr. D. D. MARSHALL: Mr. Speaker, this debate certainly presents an important opportunity for us to look at aspects of land ownership in Barbados but perhaps to describe this Bill as being revolutionary might really detract from the truly revolutionary nature of what it is about to replace. Barbados is often cited as having the greatest percentage of individual land ownership anywhere in the Caribbean and that is no doubt a statistic that we

should all be proud of and we must certainly do everything in our power to ensure that we remain in such an enviable position. Sir, that could not have happened without the truly revolutionary development of what we call today a legal fiction of a foreclosure suit, that is where the revolution was.

What is presented to the Chamber today is a statutory attempt at removing some of the difficulties that attended or that attends the existing process. This Bill does bring a few new things with it. Sir, I think that in order to be fair to history, we would have to concede that the word revolution had to do with the emergence of the foreclosure suit, which was an instrument, not in the literal sense, of the Court of Equity in Barbados to give people title to land.

Sir, in 1973, Molly Reid, who later became one of Her Majesty's Counsel wrote her Master's Thesis, "The Growth of a Modern Fiction, a Foreclosure Suit in Barbados" which was published in the Journal of Social and Economic Studies. I believe that it was recommended reading for just about any student of equity at the University of the West Indies. It usefully recounts the history of foreclosure suits in Barbados as an academic piece of work. It has received fairly scathing criticisms over the years. There are some things that have been challenged by academics and practitioners but notwithstanding that, it does serve as a useful tool for people who really want to understand the intricacies of the foreclosure suits and the juridical basis for it.

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Mr. Speaker, perhaps those are things best left to academia. What the foreclosure suit became was an opportunity for poor people in this country to get title to land. That is the beginning and end of it, Sir. Sir, it is an instrument that we have been using for well over a century and it has served us well.

Mr. Speaker, I would like to quote from Molly Reeve's "Three Thieves" and I will happily make it a document of this Honourable House. She said:

"It is apparent that the main recipients of the benefits of the fiction during this period were not the plantation owner but the small, peasant farmer and residential property owner. The remarkable feature of these suits and the assistant Court of Appeal was the speed with which they were effected, the desire in the feasible title being acquired usually within ten weeks from the date of the institution of the suit."

Mr. Speaker, it is clear that this particular legal structure serve, to a large extent, the poor people and that it had a very quick operation time. Sir, in those days it took ten weeks. Sir, this gives credence to the undisputed

statement of the Honourable Member for St. Andrew that in years past foreclosure suits took an average of six months. Sir, one has to ask the question how it is that in circumstances where the rules remain unchanged, the length of time that it took to achieve the same end has moved from six months to what we commonly speak of running between three to six years. I have personal knowledge of foreclosure suits that go even beyond six years.

Asides.

Mr. D. D. MARSHALL: Mr. Speaker, I do not include it

has anything to do with cost. In fact, other than the modest retainer, when the foreclosure suit is filed, it is an identical process to start in any High Court action. It begins with the same Writ of Summons that is used if you were suing somebody who ran over your foot with a motorcar; if you were suing somebody who did not fix your plumbing correctly. It is the identical commencement procedure. Mr. Speaker, there was no special costs attached to foreclosure suits that were not attached to other pieces of litigation. In fact, it is quite arguable that because of the rigid use of forms in the foreclosure procedure not requiring any different things from claim to claim, except the name of the parties and description of properties, it represented a cheaper kind of litigation process than any other process. Therefore, to say it was to do with cost is an inaccuracy.

Mr. Speaker, there is a difficulty that attorneys-at-law have fought with over the years but we fought with it and managed to overcome the difficulty. It is true that because it is a foreclosure proceeding, at some point in time the property is notionally set up for auction. When that happens, the procedure set up by most of the attorneys-at-law and likely 99 per cent of the case, including Honourable Members on that side who did any of them, would have been to make the payment, being the purchase price of the property, on behalf of their client and obtain a refund from the Registry within a matter of days. In fact, Sir, a previous Registrar who later became a Judge of the High Court, had a very practical approach to it. You would write him your client account cheque and simultaneously he would give you back a cheque drawn on the Registry's account, so that what happens is a simple flowing-through of funds and there was no financial exposure to the average person in a foreclosure suit.

Mr. Speaker, of course there are exceptions to that. In recent times, where we have property values in Barbados skyrocketing, especially when it relates to proceedings involving properties on the west coast, because the value would be so high there were often difficulties in finding the money. Mr. Speaker, that does not address the issue of the time it took, because buying in the sale or auction process,

the length of time between the filing and the buying in the sale has stretched from a mere three or four months to five and six years. Therefore, to say it was a matter of cost, in my view, is incorrect.

Hon. D. St.E. KELLMAN: On a point of order. Mr. Speaker, the Honourable Member is misleading this Honourable House. Sir, the Honourable Member is double-talking the House because in one breath the Honourable is saying it has nothing to do with cost, while in the other he is saying it has to do with valuations on the west coast. Sir, the only thing that can affect evaluation on the west coast is cost.

Mr. D. D. MARSHALL: Mr. Speaker, perhaps it would be useful if I retreated a little bit and explain to the Honourable Member for St. Lucy. Sir, the issue at the Bar Association is the length of time the process of the foreclosure suit takes. The buying in of the sale takes place at the end of the process of the foreclosure suit, so until you come to the end of the process of the foreclosure suit, there is no financial exposure. Mr. Speaker, the Honourable Member for St. Lucy therefore has to find an explanation where there was no financial exposure between the filing and the buying into the sale, why is it that the process has stretched from mere weeks to years.

Mr. Speaker, let me address very quickly a few of our concerns about the Bill. Sir, there is no doubt that the time has come, in fact, the time has been here for quite a while, to try to remedy some of the difficulties with the process. The process work but eventually it almost ground to a halt and proved to be a disincentive for attorneys-at-law to foreclosure suits. In fact, at one point in time our firm took a decision not to accept any more foreclosure suits because when you take a brief to do a foreclosure suit and seven or eight years later, through no control of your own, the process is not completed, you will have clients who are calling the Bar Association and complaining and you really have no reasonable explanation to give those clients.

Mr. Speaker, I believe attorneys-at-law here who have been involved would admit that is what was happening. Therefore, it became a disincentive to do foreclosure suits. It was a situation where you found yourself, through no fault of your own, in conflict with your clients. Equally, because of the length of time it took, the fee quote that you gave six years ago, by the time you are finished, you could hardly find yourself in a position to be able to stick to the fee quote that you had made in the beginning, but you are bound by it. Therefore, what was happening was that people who had legitimate claims found it harder and harder to find people to work for them.

Mr. Speaker, there is no doubt that something had to be done and what had to be done received the input from

one of our finest legal minds and one of our finest solicitors ever, now deceased Court of Appeal Justice, Mr. Colin Williams. Mr. Speaker, what is here represents much of his input. Mr. Speaker, the other side seems to feel that as long as a criticism is preferred on any Bill that comes to this Honourable Chamber, that it represents a repudiation of the work that went into it; that a criticism represents a repudiation of anything that is good. Sir, somebody on that side has gone to far this afternoon as to suggest that we have no basis criticising any legislation. Those view, Sir, are short-sighted.

5.55 p.m.

The Honourable Member for St. Andrew has quite ably pointed to a number of specific issues with the Bill that he has concern with, and Honourable Members on the other side may pooh-pooh them all they wish but I am able to say that many of those criticisms do not represent simply the fertile mind of the Honourable Member for St. Andrew but represent discussions with other attorneys who are involved in the sector. What attorney would not find it objectionable to have to put an advertisement in the New York Times at a cost of US\$8 000 for a column inch in order to title land in Barbados? Sir, and we are talking about cost?...

Hon. A.D. BRATHWAITE: Mr. Speaker, on a point of order. The Honourable Member is misleading the House. The Bill as presently drafted does not require any publication of a notice in the New York Times.

Mr. D. D. MARSHALL: Sir, I did not say it requires specifically a publication of notice in the New York Times. It may well require a publication in the New York Times because the statute says, "in a newspaper where the individual is residing," and if he is residing in New York, he might well put it in the New York Times. Sir, the Honourable Member might have used the National Enquirer when he still in practice.

Mr. SPEAKER: The point is taken, please continue.

Mr. D. D. MARSHALL: Sir, I would refer him to Clause 9.1 (b) of the Bill. Sir, there are legitimate issues but there are a few broader issues that I think merit consideration. Mr. Speaker, this Bill does not apply to registered title. There is a separate piece of legislation passed in 1979, under the Barbados Labour Party then administration which sought to put provisions in place similar to what obtained under the foreclosure suit mechanism but because of the nature of a registration district, Sir, it was a process where title was adjudicated on by the Commissioner of Titles, so there is a process there already.

Mr. Speaker, there is also the Land Title Deeds Restoration Act, 1995, another Barbados Labour Party administration and, perhaps, the most salutary thing about this Bill...

Asides.

Mr. D. D. MARSHALL: Sir, one does not normally go to the Schedule first but in this case, Sir, it is an excellent thing that we find in the Schedule because for the first time our Parliament is passing a law which will allow a lost deed to be restored by the Registrar of Titles upon sufficient evidence being brought as to its lost, which would deal with the situation where, a bank as a mortgagee loses the deed. Sir, those are provisions that are supported and ancillary to the work of the foreclosure suit. Sir, we have to consider if we are truly achieving our end in relation to increasing cost.

Mr. Speaker, an examination of the Bill at Clause 6 provides that you must now provide a plan of the land for more than 10 years. Again, Sir, I appeal to the conveyancers in the Chamber, perhaps, the Clerk and others who have some significant practice. Mr. Speaker, it used to be that a surveyor's plan done in the 40s, 50s and even the 60s, when the metrology was not as accurate as in the last 30 years, because in those days they used chains, links and all kinds of things, and in the deeds it would say "containing by estimation", because there was a built-in acceptance of the fact that the plans were not precise but, Sir, those issues are now dead for the last 30 years, going on 40 years. Sir, to insist that except with the leave of the court that you must provide a ten-year-old plan is to put a person seeking to get title to the land to the trouble and horrible expense of having to survey the land again. Sir, you can only escape that provision by incurring the alternative cost of seeking the leave of the court through another application to use an older plan.

Mr. Speaker, I ask Honourable Members on the other side: Are we really achieving one of the stated goals of reducing the cost of getting title to land when we insist on the foreclosure of a new plan in circumstances where there is absolutely no need for it.

Mr. Speaker, from the 1970s, we were changing our conveyancing to containing by admeasurement, which was a precise statement, not containing by estimation, that went out over 30 years ago. The fact that the conveyancing practice and the plans over the last 30 years are of such a satisfactory state, it would behoove this Parliament and this administration to make a different provision and, therefore, relieve the person of the burden of getting a new surveyor's plan.

Mr. Speaker, cost also increased by one of the requirements. Sir, perhaps, they would argue it is not a

requirement but it is in here and we know how administrators react. Sir, an abstract of title. This is little better than anachronism (6:17) Sir, abstracts of title are not used in order to determine if title is good now. Sir, for the simple reason that abstracts of title was an integral part of conveying when you did not have photocopies of deeds where you had to go and write out everything that was in the deed itself. We now have, Mr. Speaker, a central repository which maintains statutory certified copies of all deeds and, therefore, the requirement of an abstract of title is really anachronism.

Mr. Speaker, the statutory inspection to be found in Clause 8 will also add a significant cost. This requires an individual, a land surveyor or other person to conduct an inspection of the premises. He has to observe the nature of the (7:12) land and the growth thereon, I assume they mean vegetation, examine the land for any notice boards, boundary posts, buildings, structures, footpaths, sign of cultivation and so on, make diligent enquiry of occupiers of the land or any part thereof, make diligent enquires of people appearing to be occupying adjoining lands, so you first have to find to make enquiry of them. Sir, what is a land surveyor or other property expert going to charge for this.

Mr. Speaker, I took the liberty of enquiring what would they charge for this services. Sir, three of the four land surveyors and real estate agents polled said that given the amount of time it would take and what they are required to do and then the fact that they have to file a report to the court said that they could not undertake the responsibility for less than \$2 000, three of the four and, Sir, the fourth said he could do it for \$1 500.

Mr. Speaker, we have gone now from a new plan to asking somebody to do this inspection and file a report with the court which will add another \$2 000 to the cost and then, of course, there is the referee. It is true that the referee is going to be the Commissioner of Titles or somebody else. Sir, that is the difficulty, if the Commissioner of Titles does it, he or she will do it in accordance with their day-to-day job but, of course, the Commissioner of Titles, with all of their hard work may well say, well, I cannot ...

Hon. S. A. LASHLEY: Mr. Speaker, on a point of order. The Honourable Member is misleading the House. There is no requirement in this Bill for the production of a new plan. Sir, that is misleading, it is not in accordance with this Bill and, therefore, to suggest that the requirement of a new plan is additional cost is to mislead the House.

Mr. SPEAKER: Honourable Member, please continue.

Mr. D. D. MARSHALL: Mr. Speaker, that took me back about eight minutes. Sir, the referee may be the Commissioner of Titles but it provides in the definition of a referee that it could be the Commissioner of Titles or anybody else who the court sees fit. Sir, it is a fact that a large number of private individuals, trained for the most part, offer services similar to this

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We see them in arbitration every day, but you know what, Sir, if you are going to refer the matter of conveyancing to somebody else you have to pay them, because they are not going to do it for free. The Commissioner of Title would do it as part of his job, but if it involves a reference to somebody else that individual has to be paid. So, once again, Sir, we find that there is another component of cost creeping up.

Sir, I could jump forward to the fees because of those three things, a new plan, increase cost of doing us things as abstracts, and statutory inspection. So if the plan cost \$1 500, the statutory inspection and its report cost another \$2 000, perhaps a referee in the form of a private member of the Bar, that might be another \$2 000 or \$3 000, and we have not gotten anyway yet.

Mr. SPEAKER: Yes, Honourable Member.

Hon. A.D. BRATHWAITE: On a point of order. The Honourable Member for St. Joseph is deliberately misleading this Chamber.

Mr. SPEAKER: Honourable Member, you cannot accuse an Honourable Member of deliberately misleading the Chamber. So please withdraw the comment.

Hon. A.D. BRATHWAITE: Sir, I withdraw that. I certainly withdraw it, Sir.

Mr. Speaker, there is only a requirement for a referee, which is an option of the court if there is an adverse claim. In the normal course of proceedings, unless there is an adverse claim, there is no requirement for a referee, and the Honourable Member knows that.

Mr. SPEAKER: Honourable Member please continue.

Mr. D.D. MARSHALL: Thank you very much, Mr. Speaker.

Sir, I will satisfy the Honourable Member by saying, if there is a need for a referee there is an additional couple of thousand dollars.

Asides.

Mr. D.D. MARSHALL: Therefore, if it happens that cost has to be included, but I was referring to the cost matter of the fees now. I do not know what air the Honourable Members on the other side have been breathing when they started to talk about attorneys' fees, but if they would look at the section, the section said that those fees may be charged. The section does not say that those fees shall be charged, which is as it should be. That is exactly as it should be.

Asides.

Mr. D.D. MARSHALL: Mr. Speaker, the Honourable Member could put it to shall, may, must, or whatever he likes. It is a matter for the Member. He and his Members can vote for it, Sir. The statute says may.

Mr. Speaker, when you look at the cost they recommend that the fee for a declaration and Certificate of Title to be \$3 500 plus 17.5 per cent VAT. The fee for filing an Adverse Claim is \$3 500, but of course you do not act for and against your client at the same time, but one might reasonably assume, if the fee for filing an Adverse Claim is \$3 500, then surely the fee for defending an Adverse Claim could reasonable also be \$3 500. I know the statute does not say it. The Honourable Member is going to jump up and say so, but by parity of reasoning it would make some sense. Then if you apply to the court for directions, another \$1 500 and another \$1 500. Sir, by the time an individual has filed and completed the foreclosure proceeding, his cost might actually be nearly up \$15 000. In circumstances where under the old proceedings, tax cost was \$315, including filing fees and stamp duty. You were dealing with a significantly lower set of fees, so the only fee that you could not be sure of was the fee that you would charge as an attorney-at-law. Mr. Speaker, the level of disbursements you would be required to make were not to this extent.

Sir, I am saying I worry that with the best intentions in the world, this legislation has actually ended up increasing, or will end up increasing...

Mr. SPEAKER: Please, let us here the Honourable Member.

Mr. D.D. MARSHALL: Sir, the Honourable Attorney General wants to respond while I am speaking and after I am speaking.

Mr. SPEAKER: Honourable Member you also have two minutes left. You started at a quarter to.

Mr. D.D. MARSHALL: Mr. Speaker, we are also concerned with the manner of compensation. Perhaps, laudably this Bill allows for compensation, but the difficulty is, the Bill says that the compensation is limited

to the value of the property at the time of the Certificate of Title. The difficulty is, Sir, and there have been a number of Barbadian cases, and I can cite them for you, the case of Butcher and Toppin, and the case of Griffith and Bailey, all Barbadian High Court decisions, where the order of the court actually caused the person claiming adverse title, the order of the court resulted in one of those entities, in the case of Butcher and Toppin, receiving proceeds of sale and also conveyances for developed land.

Sir, in this statute it says the only compensation you can give an old man is the value of the land, the date of the Certificate of Title. I argued that is wrong and under the existing common law situation the court is certainly able to award compensation of a more generous nature than this. This statute limits you to what the Attorney General will give you, and that is the value of the land.

Sir, to move swiftly on before my time runs out, is this Certificate of Title subject to property transfer tax. I would like to hear the Attorney General on this.

In a foreclosure proceeding where you get a Registrar's conveyance, title is conveyed from the Registrar of the Supreme Court to the claimant, but there is a conveyance of land. If you look at the Property Transfer Tax Act, the property transfer tax says that you pay property transfer tax on a transfer, and transfer of property is defined in Cap 84(a) "Means any transfer whether by sale, exchange, gift, disposition, inter vivos and so on, a transfer.

Sir, what is happening here is the Certificate of Title is a declaratory arrangement. Mr. Speaker, if you look at the provision which gives us the declaration, Section 15 :

(1)"Where the court is satisfied that a claimant has established title to a legal estate or legal interest in all or any part of the land that is the subject of the claim, the court shall, in the Form 8 set out in the First Schedule, (a) Make a declaration of ownership in favour of the claimant in respect of that estate or interest; and (b) Order that a certificate of title be granted to the claimant in respect thereof.

Sir, what is happening here is a declaration of an interest, and that certificate is then filed at the Land Registry, but in no wise could a certificate be considered to be a transfer. Therefore, I have to ask whether it is Government's intention to remove the incidence of not just property transfer tax, but stamp duty, because the Stamp Duty Act in the Schedule talks about conveyance, not declaration. So what is it that is intended?

Now the Property Transfer Tax Act allowed exemptions in certain cases, but there were many other cases where you could not get an exemption. So while it is

appropriate that you would not pay property transfer tax, PTT, in some instances, you always had to pay stamp duty. Therefore, I am asking the Government to say clearly whether it is their intention to avoid the incidents of property transfer tax and stamp duty.

Mr. Speaker, I suspect that my time is up. I am obliged to you for your accommodation.

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

Hon.F.J. STUART: Mr. Speaker, very briefly. I just want to say a few words on this Bill and to congratulate the Honourable Attorney General for getting this Bill to Parliament. I know that there was some anxiety in the public domain about the inability of the pension property owners to secure title through the Registry as a result of the fact that the Registry has stopped receiving applications for title suits. Therefore, I think that it is fortunate that we now have this legislation before Parliament and that it should go to the Other Place tomorrow, all of the things being equal, and be ready for the assent of His Excellency and for proclamation so that people can begin to get title to their land again.

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We had a long debate on this Bill and that is understandable because everybody in Barbados directly or indirectly is interested in land and property ownership therefore how to acquire title to property is a matter of interest to every citizen of this country. Sir, not surprisingly, of course, some of the interventions betrayed a lack of understanding of the

law of real property and that lack of understanding I say is to be expected.

As long ago as the 11th Century the English politician Oliver Cromwell described the law of real property as a tortuous and ungodly jumble. That leading text on the law of real property by Justice McGary carries the quotation and if it was a tortuous and ungodly jumble then, in many respects it become more tortuous and more ungodly within the passage of time. Today the law of real property still presents problems and challenges for those who have to deal with it.

In fact, there are many lawyers who steer very clear of it because of its complications but precisely because the tortuous and ungodly jumble is why lawyers have to be involved. It is really beyond the ken of laymen to deal with matters of real property especially since the law of real property has a vocabulary of its own, as your Honour well knows so there is no easy way out of this and we therefore

have to face the reality that in dealing with matters of this kind we do need the involvement of lawyers.

At the heart of this debate though, Mr. Speaker, is the fact that in order to say that you own land, you have to be able to produce something called a Title Deed, a Conveyance. Times were when A was buying land from B, all B had to do was to carry A to the land take the money and then B would dig up some of the soil and put it in A's hands and say, over to you and that would affect the transfer of land from B to A. Those were the days when land was transferred by delivery or by what the old English language called, by livery, the two letters being left off but with the passage of time.

The law evolved to the point where land stopped being transferred by livery and could only be transferred by deed so that you need a deed in order to be able to prove to anyone a potential purchaser or a potential mortgagee or lender that you own a piece of land. Sir what this piece of legislation is intended to deal with is the circumstance in which a person has been occupying land, paying taxes on it, working it if it is agricultural land or making other use of it but does not have a title deed. They may have a Land Tax Bill, they may have some forefather's Will but does not have a deed but unless you have a deed, you cannot say that you own the land.

Sir, up until the 30th September 2009, persons who did not have a deed could avail themselves of the foreclosure suit of which the House has heard so much today, and about which the late Molly Reid wrote in the 1970s I believe, where 1973 her Thesis has been widely used and has been regarded as the authoritative statement on the title suit in this part of the world but people were able to avail themselves of that process. It was tortuous. The proceedings were lengthy and sometime very frustrating as the House has heard Members on both sides say, sometimes these proceedings could go on for punishingly long periods of time.

Very often, the delays had nothing to do with the lawyer but the lawyer has to accept all the blame for the delays in circumstances for example where the Registration Department may be just waiting for an invoice from the Nation or Advocate Newspaper so the record could be completed for the bill of cost and those delays could lead to client frustration and so on.

Sir, but all of that said, the old procedure about which the late Molly Reid wrote came to an end the 30th September 2009 because from the 1st of October, a new set of Rules of the Supreme Court came into effect. That new set of rules repealed the old set of rules, the rules of 1982 and unfortunately by unfortunate oversight or otherwise, the new set of rules did not make provision for the title suit

as we had come to know it so that, Sir, there was what I call a hiatus.

Sir, there was a lacuna in the law in Barbados that whereas up to the 30th September 2009, you could institute proceedings to get a title suit done because the new rules repealed the old rules and therefore possible for the Registry to continue to accept application. Of course, indications are that applications were still being filed and that is why this Bill contains a validation section to validate any proceedings that would have been started, even though there was no legal basis for the commencement of those proceedings to get title.

It has been correctly stated, Mr. Speaker, that all classes in Barbados are affected by this legislation because -- and I have seen this myself -- large developers sometimes have come to ask why we cannot get title suits done, not because they had land that they wanted titled, but because there were persons from whom they wanted to buy land who had a no title and who could not get proceedings started because of the absence of the legal basis on which to start them.

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Sir, the rich and the poor, the well-off and the not so well-off have been affected by the law in this area. This Bill is intended to confront that issue and to bring back some certainty and some clarity to the law in that regard. The Bill sets out a clear procedure for the acquisition of title by persons who find themselves in a position where they do not have a deed.

Mr. Speaker, I am not going to traverse territory already traversed by Honourable Members who have spoken before me. Sir, I have heard the issue of cost raised. Now, I know that if people had to pay nothing at all for anything they had to do, that would be the best of all possible worlds, but it is really not reasonable to believe that you can be trying to title a piece of land that is valued at \$150 000 and that you should pay nothing at all to get that process through. It is even more absurd and more unfortunate to think that you can be titling land valued at \$400 000 and that somehow you should not be having to pay no more than \$150 or \$200 for that process.

Sir, the case is always being made in Barbados that lawyers' fees are too high but nobody ever says that the houses that people are building are too expensive or that the land that they own is valued at too much, it is always that the lawyers' fees are too high. I do not subscribe to that. I have been a lawyer for a good part of my life and I know that you come across all too often people who do not mind building a house for \$400 000, they do not mind having to pay the bank back that, but if they have to pay a legal fee of \$5 000, that is always too high. I do not

subscribe to that. I do not listen to it because I think it is wholly unreasonable.

Mr. Speaker, having said that, there are circumstances where I am certain lawyers exercise a very humane discretion where they are dealing with people who genuinely cannot afford to pay what would be the legal fees applicable to a particular transaction and the lawyers make the sacrifice. The Legal Profession Remuneration for Non-Contentious Business Rules of 1997 gave lawyers the power to waive a fee in appropriate circumstances and of course to charge a smaller fee in appropriate circumstances. Mr. Speaker, you really cannot expect that you can go to a lawyer and want him to work on a big transaction for you and the only issue with which you can find fault is the fee to be charged. Doctors do not have that problem. Presumably, it has to do with the fact that they have stethoscopes and they can administer injections. Dentists do not have that problem either. In fact, because they too can inflict a little pain is perhaps why whatever they charge, nobody quarrels about, but because lawyers talk, it seems to me that whatever a lawyer charges, is always too much. Sir, I do not belong to that school of thought. I know that fees can be abused but my experience in the legal profession has taught that generally speaking our lawyers charge reasonably and they make huge sacrifices when hard cases come before them.

Mr. Speaker, I think that once this legislation is passed, it will facilitate the resumption of land transactions, mortgages and sales, and business will begin to turn over in that area again. I am aware that there are many transactions that were held up because of issues of title. The passage of this legislation, I am sure, will solve that problem and reintroduce into the business environment so far as land transactions are concerned that degree of certainty which is desirable in a stable economic environment.

Mr. Speaker, again the issue of delay in property transactions was also raised. It seems to be forgotten that land transactions cannot be hurried, except in the most exceptional circumstances and those circumstances usually relate to where you are dealing with registered land and there is a clear certificate of title, because if you make a mistake the risk is the lawyer's risk. If there is a defect in the title which you have overlooked, the client gets the transaction finished quickly but when he or she wants to go and make the use of the deeds and discovers that you made a mistake and the title is not really marketable, then your reputation is gone.

Sir, I have had to deal with this with people who live in other jurisdictions who come and lecture you on how quickly you can get things done in the United Kingdom and so on. I had to let them know that the laws that we have here were left here by people from the United Kingdom, that we did not ourselves originate them and that

the whole process of law reform is very expensive and that it will take time for us to get our laws in the same state as the laws are in the United Kingdom.

Sir, Barbados is a country 44 years old in terms of its independence, its responsibility, for all of these things. When you are discussing the United Kingdom, you are discussing a country whose recorded history dates back, I believe, to 1066. They have been at these things for a very long time and the idea that we should be doing things as quickly and as efficiently as they do them, even though we are hobbled by laws that are desperately in need of modernisation, is a fact that is frequently overlooked and, I think, is something that we have to draw to the attention of persons who complain about these things over and over again.

Mr. Speaker, I hope that once this legislation is on the statute books that all the persons who are responsible for working it will understand the importance of meeting their time-lines so that these transactions will come to an end in a timely fashion and those persons who are trying to get title will get the title they need so that their business can flow more smoothly than has been the case in recent times.

Mr. Speaker, as far as I am concerned, it is not going to be possible to find a piece of legislation anywhere with which everybody is satisfied.

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Mr. Speaker, no piece of legislation is going to be perfectly drafted, unless drafted by the Almighty. Therefore, Honourable Members are entitled to point to this or that weakness but we have to start somewhere, we have to give this Bill a try and I think therefore that Government is comfortable with what it has brought to this Honourable House today and it has my full support.

Sir, I should like to congratulate the Honourable Attorney-General and his staff, the Office of Chief Parliamentary Council and her staff for the effort put into this legislation and for the energy displayed in readying it for introduction to this Honourable Chamber. Mr. Speaker, I am obliged.

Hon. A. D. BRATHWAITE: Mr. Speaker, the issue of land as you have heard and know throughout today is a very emotional one, given our attachment as Barbadians to owning a piece of this rock. I remember some time ago reading an article about the Honourable Member for St. Andrew, where there was a dispute about a piece of land in St. Andrew that he had fenced in and he and his neighbours came to "high words" about it. Sir, such is the extent of emotiveness that is attached to the issue of ownership of land.

Sir, it is no surprise that we have had this kind of discussion today and I want generally to thank all Honourable Members for their contributions. I want to say in particular to the Honourable Member for St. Michael North-East that as Attorney-General I have no problem in relooking at legislation, to see if it is not working, how we envisaged the legislation should work. It is my sincere hope that this piece of legislation makes the process speedier and cheaper for clients, without compromising the integrity of the end result which is to ensure that clear and clean title is given to anyone who comes under this legislation.

Mr. Speaker, I crave your indulgence because though the Honourable Member for St. Joseph alluded to making the treaties of the late Molly Reeves a document of this Honourable House, I do not remember if they were, in fact, made a document of this Honourable House. Sir, I would like to quote from a number of conclusions made in that document and also to make it a document of this Honourable House. Mr. Speaker, in particular I want to quote from her conclusions with respect to her study. This goes back to 1973. This shows me that it has taken us several decades for us to now reach where we are and although we are happy that we have reached this far, there is a history. Sir, I normally say you cannot know where are going unless you know where you are coming from.

Mr. Speaker, in her conclusion, Ms. Reeve said that a fictional foreclosure suit has been of great value in the past cannot be denied. Indeed, so long as a landlord in Barbados remained unchanged, it will continue to be seen as of great value to those who otherwise would be unable to deal effectively with their lands. But is a continuation of the present system at all desirable or necessary, she asked? It is submitted that an essential requirement for any means for the correcting of defective titles to land should be speed and cheapness, for quite often it is the poor members of the community whose titles are deemed defective and moreover these defects are not realised until it is necessary to deal with the land. For such persons desiring to sell or to raise money to be secured by mortgage against their lands, time and cost are usually matters of great concern. Any procedure which unnecessarily extends either cannot therefore be viewed with favour yet, as we have seen, the duration of a suit is long, sometimes six to eight months usually and the cost is relatively steep. As a consequence, great hardships sometimes result to those very persons who are most in need of the benefits to be derived from the suit but fiction is therefore undesirable in this respect.

Mr. Speaker, I dare say that one of the things that we are hoping to accomplish out of this Bill this afternoon is that indeed the process will be speedier and cheaper. Mr. Speaker, one of the things I want to comment on with respect to the contribution by the Honourable Member for St. Andrew, I believe what the Honourable Member for St. Andrew was saying was that there were some issues with

the Registration Department that we need to look at, to ensure that the process is as seamless as possible. Sir, if that is the case, then of course, I am sure that Madam Registrar will look at any clogs within her department and have them addressed.

Mr. Speaker, I am not going to be like the Honourable Member for St. Andrew and spend time deriding the members of the Registration Department, nor would I spend time castigating attorneys-at-law, like the Honourable Member for St. Andrew. Sir, like most Honourable Members here, I want to ensure that the process works for the benefit of persons who want to use it.

Mr. G. W. PAYNE: On a point of order. Mr. Speaker, the Honourable Member is misleading this Honourable House. Sir, nothing I said castigated any attorneys. I did not castigate any attorneys and I am asking that those remarks be withdrawn. I made remarks with respect to attorneys-at-law making errors in relation to conveyances, which would cause clients to apply for titles via foreclosure proceedings. That is all I mentioned.

Mr. SPEAKER: Honourable Member, castigated does sound like a rather strong word. That is what the Honourable Member is saying.

Hon. A. D. BRATHWAITE: Mr. Speaker, unless you instruct me to withdraw the word castigated, the Honourable Member for St. Andrew said many of them did not understand basic conveyances. The Honourable Member said that among other things about clients in this country. I am not the one who said it.

Asides.

Mr. SPEAKER: Please move on, Honourable Member.

Mr. G. W. PAYNE: Mr. Speaker, do I have your ruling on that?

Mr. SPEAKER: No point of order was found. Let us move on.

Mr. G. W. PAYNE: The withdrawal of castigating?

Asides.

Mr. SPEAKER: Honourable Member, please move on.

Hon. A. D. BRATHWAITE: Mr. Speaker, what Ms. Reeves in 1973 was saying was that foreclosure suits serve their purpose but that Barbados needed to move to a statutory regime.

Hon. D. St.E. KELLMAN: Mr. Speaker, the Attorney-General is misleading this Honourable House in the quote as it relates to the Honourable Member for St. Andrew. Sir, what he did not tell this Honourable House was that he even called for a specialization. He said that doctors that deal with hearts can only deal with hearts and that there were lawyers out there who were practicing areas that they were not qualified to practice.

Mr. SPEAKER: Please continue, Honourable Member.

Hon. A. D. BRATHWAITE: Mr. Speaker, I will accept that the Honourable Member for St. Andrew, in his passionate discourse this morning, may have said a few things that upon reflection he would like to withdraw but I am sure that attorneys-at-law will deal with him on a one-to-one basis.

Mr. Speaker, as was said by the Honourable Member for St. Michael North-East, in 2003 a committee of eminent members of the Bar Association and the Judiciary started looking at this issue. Therefore, there is a history going back from 2003 to present. Mr. Speaker, what I want to say is that every juncture there was consultation by the Bar Association, the Bar Association had opportunity to review the legislation in draft and to make comments. Mr. Speaker, if I remember correctly the last representative of the Bar Association was Andrew Brewster.

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Sir, the point I am making is that the Bar Association, which represents attorneys in Barbados, at all times was involved in the processes that led us to this Bill today so the 50 fictional lawyers who contacted the Honourable Member for St. Andrew...

Mr. SPEAKER: You need to withdraw that statement.

Hon. A.D. BRATHWAITE: Sir, I withdraw that but the alleged 50 lawyers that contacted the Honourable Member for St. Andrew, Sir, I am sure that their views were represented via the Bar Association. Sir, in that regard, I will then move very quickly to the whole issue of fees which has caused some problems in here today, which I do not understand because, Sir, I have no doubt based on my knowledge of this procedure, and based on the intervention of the Bar Association that the whole issue of fees, as arrived here today, received wide consultation.

Mr. Speaker, the Honourable Members on the other side, who spoke about the fees under the Second Schedule would suggest that the fees are cumulative but, indeed Sir, that is not the case because in the normal course of things, based on the fees in Second Schedule, if you are doing a

title suit, where there are no adverse claims or other claims, what the Second Schedule is saying is that to acquire your Certificate of Title, your fees should be \$3 500, which is considerably less than what obtains today for the average conveyance.

Asides.

Hon. A.D. BRATHWAITE: I am not going to spend lots of time on it but the reality is, Sir, that our intention is to make the process speedier and cheaper. Sir, as I have said before, if there are any clogs in the wheel that prevents it from being speedier...

Asides.

Hon. A.D. BRATHWAITE: In fact, it will fall under the purview of someone on this side and we will ensure that those clogs are removed.

Mr. Speaker, therefore, I just want to deal with a few other matters that were raised. I will not be able to touch on all of them but I just want to touch on a few of them.

Mr. Speaker, the whole issue of advertising under Clause 9. Sir, the process requires that you advertise in the local newspapers, that you advertise in the Official Gazette in Barbados and that you advertise in a jurisdiction outside of Barbados if there is notice to the court of a claimant, so in the normal court of things you would not have to advertise outside of Barbados...

Asides.

Hon. A.D. BRATHWAITE: Sir, the Section 9. (1)(b) (1)(B) says:

“Where the claimant knows or have reasonable cause to believe that an actual or potential adverse claimant is or resides in the jurisdiction other than Barbados, in that jurisdiction”;

Sir, only in circumstances where 9. (1)(b) (1) (B) applies, you will not have to advertise outside of Barbados. Sir, the Section is very clear.

Mr. Speaker, as I am being reminded, this is not the only piece of legislation where one might have to advertise out of Barbados. There is nothing new and revolutionary about this in that regard. If there is a claimant, Sir, we want to ensure that the claimant receives adequate notice to find his clear. Sir, what we want to do is to ensure that, at the end of the day, that the title is clean and clear and that the process is transparent. Sir, that is what we are trying to accomplish.

Mr. Speaker, the other issue that I want to address is the issue of when there is a referee. Sir, Section 14 (1) requires a referee if there is an adverse claimant. In fact, Section 14 (1) it says:

“At any time after a claim has been made, the court may refer to a referee.”

Sir, the reason why we have placed that in the legislation is because we recognise that if we allow it to remain within the purview of the court only the process may not be as speedy as we would like it to be and, therefore, we have given that (5:07) option to the court, so if it would enable the process to be quicker given what transpires now in terms of the number of matters before the court, we thought it wise and prudent to have that as an option. Mr. Speaker, again as I have said, that is not an automatic process and it will obtain where there is a situation of an adverse claim.

Mr. Speaker, as I have said before, we do not believe, like any piece of legislation that it would be perfect. Sir, as I have said also, when this legislation is effected and when we recognise that there are areas for improvements, we will be the first to come back to this Chamber if necessary and ensure that these improvements are done. However, we have within the legislation provided at Clause 9 of the Bill to allow the Rules Committee to amend the First Schedule and the Second Schedule as necessary. Sir, we recognise that there may be opportunities in practice where the day-to-day application could be improved and we have attempted to address that by Clause 9 of the Bill. We have given the Rules Committee of the Supreme Court power to amend the First Schedule and the Second Schedule of the Bill as it is, Sir.

Mr. Speaker, all in all, we believe that the Bill, as drafted, has captured what has been troubling us, as a country, in terms of foreclosure suits and in terms of all the relevant issues. We have, where necessary, tried to improve areas of the practice of law. Sir, as you know, we have included the issue of compensation, and even the issue of compensation, which did not apply under the previous regime, creates some issue for the other side but we must recognise the fact that there must be some apparatus so that if, indeed, there is a legitimate claimant, who after title has been passed, is disadvantaged, we have ensured under Clause 21 of the Bill that claimant has a method where he can approach the court and ensure that he is compensated.

Mr. Speaker, it our hope, as was said by the Prime Minister a few moments ago, that this Bill will go to the Other Place with speed and, indeed, that the people of Barbados will now be able to go about their business again with respect to their lands where title suits are required.

Mr. Speaker, as you very well know, all Barbadians wide and far are affected by title to land and, no doubt, you will agree with me that the bringing of Bill to this Chamber today has been timely. Sir, as has been said by one Honourable Member on the other side, it is regrettable that it has taken a bit longer than we would have hoped but, no doubt, we are all happy with what has been presented here today.

Mr. Speaker, therefore, I beg that this Bill be read a second time.

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

Sequence 43

COMMITTEE

Clauses 1 and 2 were called and passed.

Part 11, Clauses 3 to 20 were called and passed.

Part 111, Clause 21 was called and passed.

Part IV, Clauses 22 to 33 were called and passed.

The First, Second and Third Schedules became the Schedules to the Bill.

On the motion of Hon. A.D. BRATHWAITE, seconded by Hon. J.D.E. BOYCE, Mr. CHAIRMAN reported to His Honour, Mr. SPEAKER, the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motion of Hon. A.D. BRATHWAITE, seconded by Hon. J.D.E. BOYCE, the Bill was read a third time, passed and cited as the Land Title Proceedings Act, 2011.

SUSPENSION OF SITTINGS

Hon. J.D.E. BOYCE: Mr. Speaker, I beg to move that this Sitting be suspended until 7.45 p.m. this evening.

Rt. Hon. F.J. STUART: I beg to second that, Sir.

The question that the House be suspended until 7.45 p.m. was put and resolved in the affirmative without division and Mr. SPEAKER suspended the House accordingly.

7.00 p.m.

Sequence 44

RESUMPTION

Mr. SPEAKER: This Sitting is resumed.

ORDER NO. 8 – THE CLEARWATER BAY LIMITED (GUARANTEE OF LOAN) BILL, 2011

Mr. SPEAKER: The Honourable Member for St. Michael North West.

Hon. C.P. SINCKLER: Mr. Speaker, the Bill before this Honourable House is to bring closure to a specific aspect of the now much talked about and canvassed rescue plan for what has become known in popular folklore in Barbados as the Four Seasons Project. As you would recall, Mr. Speaker, as would other Honourable Members, back in the mid 2000s a sorry state of affairs that transpired following the old Cunard Paradise property was brought to a definitive close, with the institution of an arrangement to construct a luxury hotel at the Four Seasons Project.

The debacle to which I referred was the dispute between Mr. Buck Stewart and his operation and the previous owners of the Paradise property and that proposal and initiative to bring a luxury hotel at Paradise in Black Rock, which coincidentally falls within my constituency so I have some small affinity to the project but a little bit more affinity to the area, having grown up there, was proposed to bring to an end the confusion that surrounded that particular matter but to bring to Barbados, an outstanding property or what we call a brand-name property.

As you know we spent many years in this country discussing tourism and talking numbers and referring to all kinds of things pertaining to how Barbados needed to get a brand and the Four Seasons project as so-named offered to bring to Barbados, a branded hotel under the title, Four Seasons. As you know the traded name, Four Seasons is a popular hotel brand, a fairly exclusive up-market brand, Sir, accompanied by the construction of around 34 or 35 luxury villas, super or ultra-luxury villas, consonant to what we have come to expect on the west coast of Barbados.

Sir, that project being executed under the company Cinnamon 88, was executed and was going reasonably well. For all intents and purposed it reached a stage where it had more than 800 employees, many of whom unfortunately were not of our hue but it reached the stage under a Chinese construction management coordination of about 800 employees to execute what was then considered to be one of the largest tourism-related projects of its kind in the Caribbean and certainly for Barbados, at more than US\$350 million.

Sir, very soon after the initiation and full mobilisation of that project the vagaries of international

finance impacted on the successful execution of the project, as we were made to understand should have happened. Indeed, as the global recession deepened, due to the problems in the sub-prime mortgage market in the United States of America and the contagion effect across Europe and other parts of world, the impact caused serious financial reverberations across the globe and reached right here on our door steps in Barbados but not before it reached on the door steps of the persons who had undertaken a syndicated investment instrument to execute what, as I said, has become popularly known as the Four Seasons Project.

Sir, very shortly after arriving in Government being elected to run the affairs of this country, this project ran into significant financial difficulties to the extent that the principals of that company and of the syndicate put together to finance that operation, were indeed unable to continue to guarantee the flow of funds to the project. The project came to practically a screeching halt with much pain, anguish and anxiety by many persons, including from ordinary artisans in Barbados right up to some of our more established construction and service providing companies.

The reality is that Barbados for many years under the last Government and indeed under this Government has trumpeted tourism as the engine of growth in the Barbados economy, the bedrock upon which any advancement in terms of output in our GDP, in terms of the provision of jobs, in terms of the earning of foreign exchange is considered to be the critical sector. Sir, having a project such as Four Season, both then and of course now, would augur well for the Barbados economy because it builds out a certain level of capacity which, under normal circumstances, certainly at that level and with that size and with the target market considered, would not normally be easily obtained.

Therefore to the extent that project reached the level where it reached, to have been able to be contemplating the construction of 35 luxury villas, many of which anticipated to go for millions of dollars and also to have a substantial hotel property under a branded name, would have contributed immensely to building out the tourism product in Barbados. And so together, during the construction period phase of the project and the value added from the completed project with the villas and the hotel, it meant that in many ways Four Seasons became a project which was almost too large to be allowed to just fail, in the way in which it just simply collapsed.

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I think the point needs to be made very early, Mr. Speaker, that the collapse of the Four Seasons project, a private enterprise as it is, had nothing to do with Government, neither the previous Government nor the

current Government. That part of it was a private sector project wholly-owned by private sector interest, so therefore it was not a project that properly belonged to Government, however, given all that I have said before in terms of its impact, it is a project that really meant a considerable amount to the landscape of Barbados.

Sir, it also meant a lot because Barbados at the time, before and I believe after, has prided itself on being able to attract the highest quality of foreign direct investment in the country. Four Seasons, again as a project, demonstrated Barbados' capacity to attract top level projects and enterprises to the country and therefore the sheer size, impact and volume of what was taking place at Black Rock at the Paradise site virtually became almost too big, too serious and too ingrained within the tourism product of Barbados to have been allowed to collapse. All those appendages, whether through services contracts, the supply of goods to the project and employment, would have taken a tremendous hit had this project just been allowed to wallow, to fail, to collapse and to become a blotch not only on the tourism landscape but on the environmental landscape of Barbados.

I think that is another point that needs to be stressed in this debate because we know what has happened in many countries with projects of this type. Indeed, in the heart of the very financial crisis to which I referred, the Caribbean region, St. Lucia, the Bahamas, Grenada and other countries and I think we could even go beyond the Caribbean but we speak specially about this region, is replete with projects, which have run into financial difficulties when the crisis hit and have yet to be able to be restarted either through a Government/private sector collaboration or even on its own through their private investors who have invested. Sir, we therefore know what can happen when a project of this nature is just allowed to sit there as the Paradise property, after the Cunard people moved on. I am from down in that area and I can tell you of the derelict nature of what was left there and the unsightly environmental situation that remained there for many years while the property was in legal wrangle.

There were so many things attached to this project but perhaps none more so than the very name of Barbados. Sir, even though I have said that this project is not a Government project, if it were allowed to fail, it would have been all over the world that there was a Four Seasons project in Barbados that collapsed and failed. Sir, that in itself, even not due to any fault of our own, would have reverberated across the entire world and would have given Barbados an undeserved and unwarranted, and equally placed upon, negative name in the international investing world.

To be sure, Sir, I can even point to the fact, and I think few would challenge this, that many of the investors

who were waiting to put money in or just on the verge of putting money into projects on the West Coast, having seen the Four Seasons debacle, had themselves pulled back and were watching and waiting to see exactly what would happen to this project to come to a determination as to whether they would have gone ahead with their investment. Sir, when this matter was therefore taken up by this Democratic Labour Party Government, we were quite clear in our minds that this project was too critical, at too critical a time, at too sensitive a period and with too many intricate and pervasive connections within the Barbados economy, to be allowed to lie fallowed, collapsed and buried in failure. To that extent, the late Honourable Prime Minister and former Minister of Finance in his wisdom acting in concert with us in the Cabinet of Barbados, which he then led, sought to find solutions to ensure that this private sector project, I have to keep enforcing that, was not allowed to fail in the way in which it suggested it would fail and portend difficulties for the Barbados economy and society.

Sir, I can add, a lot of people do not know this, that there were three previous attempts to revive the Four Seasons project, all of them private sector efforts without any Government involvement and all three of those attempts failed miserably. It therefore could not be passing strange that a Minister of Finance interested in protecting jobs, interested in protecting investment and interested in growing an economy and returning an economy to growth, could have turned a blind eye to this situation.

Sir, the previous Minister of Finance did not. In considering how to move forward, the late Minister of Finance and the Government of Barbados were very clear. We felt, even though the Government had to get involved, that it had to get involved under very clear and certain circumstances precisely because, as I said, it is a private sector project but also because it would have been exposing the taxpayers of Barbados and the people of Barbados to a frontier hitherto never encroached upon in the sense of providing a backing covering the risk associated with a private sector project as large as this one. Mr. Speaker, we did not go in with our eyes close. We went in with our eyes open and our attention focussed on the potential risk associated for the Government and by extension for the people of Barbados and the taxpayers of this country.

Sir, the Minister of Finance wanted to have crafted, when all others had run away and when some others have failed to produce, a plan, a proposal, an initiative that would allow for the resuscitation of the Four Seasons project albeit under a new set of circumstances but will return this project as one of going concern within the economy of Barbados. The then Honourable Prime Minister having met with Professor Avanash Persaud, who is a Barbadian, and a proud Barbadian at that, discussed the possibilities of forging a framework, a financial solution,

that in essence would become a domestic solution to an internationally generated problem.

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Sir, I think that this has to be properly repeated. I am saying that we are here today. In fact, we would have been able to produce the amount of hard work by determination and certainly by stressing every sinew in our bodies to produce what indeed today is really a domestic solution to a major in international calamity.

Mr. Speaker, I think that people who are associated with this project should take a bow, even though there is a lot of criticism in the public about it - and we await to hear what the Opposition has to say in this particular regard. Sir, the point is that Professor Persaud and his team were asked to fashion a consortium of interest, not only financial but otherwise, to ensure that we can put together the appropriate framework for this project to go forward. I think that what we see here today in this Bill to provide a guarantee to the company that was created by the Government of Barbados to act on its behalf in relation to this project, is the culmination of that process that led from a collapsed project to an initiative that today is beginning to show the evidence of a restart on to a successful completion of the project.

Mr. Speaker, what was done? I have given you the why we had to do it. Sir, the first thing that the Cabinet of Barbados decided was that before we could move forward with any guarantee of anything or the backing of anything, was that we had to have a due diligence exercise carried out on the entire project. That due diligence was executed under a team which was established largely on the advice of the Government of Barbados, together with the new owners and developers in the project, to review the entire project and to report to the Cabinet of Barbados and the Government as to what was the current state of the project, who was involved, the extent of their exposure and liabilities, who was owed what, when, where and how that could be dispensed with, in an orderly fashion, to ensure that a new team could be put in place to get this project off the ground. That team, working together with the new proposed developers, produced a framework agreement that sets out very clearly how these parties would interface. It included what the Government would be asked to put up and why and how the project would be executed from the stage of buying it out literally from the people who previously were involved but who now could not provide the financing for this project, until bringing the project to the stage of completion, of course, through a new construction phrase.

Mr. Speaker, it was determined that since Four Seasons was not really insolvent but rather illiquid - and I think that point has to be made - the project was not

insolvent per se', the project had no money and had no way of getting money, those people who had invested in the villas, which were supposed to be sold under the previous arrangement in order for the returns to be brought in to facilitate the construction of the hotel but who now, because of the financial collapse of the project, were unwilling to allow their resources to be invested - and I assume with good reason because if you are proposing to buy a luxury villa and pay a lot of money for it and the project stops halfway through, you have not got your property, you still have money to put in and there is a whole set of people who are still owed on the project, the first thing that would logically come to your mind, if you were buying one of these properties, is that if you put your money in there, it is unlikely that your villa is going to be finished but that your money would be taken to pay the creditors. Therefore, any backing that would get the Four Seasons Project back on track had to ensure - to guarantee for want of a better term - those persons who were prepared to invest in the villas, indeed, those who were prepared to come in as investors and to support the construction of the hotel properties, confidence had to be returned to those people that this was a viable project and that their resources did not go towards settling liabilities and not producing what that money was supposed to produce. Mr. Speaker, the first thing that would have come to the Government from the framework team is that nothing would be able to proceed with Four Seasons, at all, unless

some serious backing was provided to the new developers to ensure that this work could continue.

Sir, that really is the trigger, that really is the long and short of what is required. Sir, I want to say in plain terms that the Four Seasons Project could not, cannot and will not restart unless some serious backing could be provided to ensure that the financing required could be made available to the new developers to execute the project, in other words, literally. Sir, I am saying this to you tonight, to all Honourable Members and to all Barbadians, there will be no Four Seasons Project without the intervention of the Government of Barbados in this process at this time. It is possible that some fairy godmother, since we are celebrating International Women's Day or some fairy godfather could come down from the sky or emerge from somewhere under the sea or some ghost and say look, here is \$120 million, go do what you have to do. Sir, we do not have any of those around. Certainly Barbados has never had access to any. We have had to basically claw our way, work our way through our development in our post-independence period. In fact, from the very beginning of the history of Barbados, Barbados has been known for working hard, punching above its class and doing all that it needs to do by merit and on merit to achieve what has to be achieved, and that this project was not going to go anywhere unless the Government intervenes.

Sir, the framework team put it together and made this abundantly clear and therefore the Cabinet, in October 2009, was very clear that this is what had to be done and so took the decision that it would go on frontier ground - where it had not gone before, certainly not to this extent. We would have done guarantee facilities for the Barbados Light and Power to do work on its plant, through a loan from the European Investment Bank.

H:No.A86 (47)

We would have done that before under previous administration but we would never have done this type of guarantee and would not encourage it. Sir, in fact, I think I should make this point as Minister of Finance that it is not the practice of the Government of Barbados to be issuing guarantees to private companies and, therefore, I do not want people who see this situation to believe that this is open season for guarantees. Sir, in fact, as Minister of Finance, I have said before that I would like to have a lot of these guarantees that we are doing even for State institutions, certainly, to be brought under some level of discipline and to come up with some new mechanism where such arrangements can really be done out of central Government rather than going on the contingent liability, as we would call it but, Sir, that is another point.

Mr. Speaker, the real point is that we decided to go on frontier ground, reduce and provide a guarantee for the Four Seasons project, as we call it but really, technically, to the Clearwater Limited, which was established to facilitate this arrangement because Clearwater Limited is a Government entity, in the technical sense of the word, to which the guarantee is being provided to be on sent to the parties enjoined as the developers (1:57) of this particular project. Sir, we decided at the Cabinet that, here is the reason why it collapsed, here is the reason why we could not allow it to fail and this is the framework we believe could work because this would allow the project to get back on track and, therefore, this is the instrument that we need, basically, to give insurance to all of that which would have been arranged.

Mr. Speaker, true to form, we signed the Letter of Comfort to allow for the recognised financial agents, agreed to with the developers in this process, in this case ANSA Merchant Bank, who put together the consortium financing for the syndicated loan to be provided to the project of BDS\$120 million or US\$60 million, and that facility in terms of Letter of the Comfort provided that facility that allowed for the developers to do precisely what the framers of the agreement thought would have happened, which was to pay all of those persons which this project owed and partially paid out all these people because, Sir, as I have said before, nobody was willing to deal with this project with this hanging over its head and,

therefore, that facility allowed for some of those people to get paid.

Mr. Speaker, Sir, we were not giving the money away to foreigners as we would call it in derogatory terms. Sir, it is really Barbadian firms, many of whom were holding strain and having cash flow problems and could not get their account receivables organised because they had a lot of outstanding payments from the very project so, therefore, we were really helping Barbadians technically, if you want to call it that while also helping the new developers to get the project off the ground.

Mr. Speaker, my understanding is that in November of last year that money was released to the developers. They were able to call in a lot of those persons who were owed and pay those persons off. Sir, that in itself has triggered a process that the developers could go to the distant parts of the world to negotiate with the villa owners who are key to the process and to get them to agree to begin to allow their resources to flow back into the project to the extent where only a few weeks ago the Four Season project had what we would prefer to term a soft relaunch and, Sir, we say soft relaunch and why? Sir, as you know, when the project closed it had 800 workers on site. Sir, it is a massive project and you do not remobilise a project of \$350 million in a day and some people were just waiting to say that Four Seasons is going to open, 800 people are going to start to work and everything is going to work at the same level which it left off at. Sir, that is impossible and it cannot happen because it takes about six months to mobilise a project of that size and, perhaps, even more. Sir, what has transpired is that the new developers quite rightly and quite wisely have begun the process of mobilising the project including appointing a full time project team to work on that process to the extent where I can say confidently and without fear of contradiction that tender documents were sent to 65 or so local contractors and service providers and that field has now been narrowed down to five and they are about to begin the process of awarding the contracts for the work.

Mr. Speaker, not only that, what has also happened is not only are villa owners now prepared to begin to reinvest in the project and have indicated as much, and those resources to the tune of about US\$60 million for those who already have villas are now preparing to have those resources sent into the country to have their villas finish. Sir, not only that but the institution ANSA McAl Merchant which provided the first facility on the Government guarantee of US\$60 million, has now indicated and has provided a term sheet for an additional \$100 million to allow for the beginning of the process to get that hotel property...

Asides.

MR. C. P. SINCKLER: Sir, this is absolutely critical because it says that this institution has confidence. This is not a regular bank down the road. This is a major financial institution in the regional and to the extent that they feel confident enough to make these resources available to the developers but say something to all of us, that while we try to pooh-pooh the Four Seasons Project, say that this body does not know what they are doing, they cannot develop this, they need to bring equity to the project and all these things, while they are saying this, the finance people are saying that it is a project that has viability, that it is a project that they are prepared to come into and that it is a project that they feel can provide value-added, not only the Barbados economy but the economy, generally, in the region and, more importantly, could give them a return on their investment and, Sir, I think that is important because (9:25) when you really look at it, Sir, none of this would have been possible without the involvement of the Government of Barbados.

Mr. Speaker, we might be asking, why is the Government exposing itself to this, and what caveats have the Government put in place? We have put a number of them in the framework. I cannot go through all of them, Sir, but what I would tell you, is that the extent of the guarantee which Government provides at \$60 million is fully covered by the value of the land.

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In fact more than the value of the land, US\$140 million, and we are putting in a guarantee of BDS\$120 million Barbados dollars. So it is far more than the guarantee. We cannot just see the guarantee only in financial terms. As I said before, there are a whole lot of guarantees in there for the public of Barbados to ensure that we have a project of this nature, not fail on our shores, and I think that is absolutely critical.

Sir, it is also in the framework agreement that the Government has asked that the developers bring equity to the project, up to, and their equity partners in the project, or close to 40 per cent of the project in terms of project financing. So they are not only relying on bank loans to build the project out. There are other things in there which we have asked for in order to provide this guarantee. Sir, I think that is critical for Barbadians to understand why we are doing this and what we are going to do to ensure we protect their interest.

Sir, we have also asked that representatives of the Government of Barbados sit on the Board of the company that would be overseeing the project and that we have an independent management team to deal with the particulars of the day to day management of this project that we have agreed is frankly too big, in the local context, to be allowed to fail.

Therefore, I think that in the circumstances, I was not here at the beginning of this project to this extent, I am now at the end of this phase, as Minister of Finance, but I think that given all we have seen and understood about this process, I feel reasonably comfortable, I feel even more confident that this project can in fact be successful, but will only be successful if the Government does today what we have come to this Honourable House with this Bill to do. Sir, to the extent that the project has come to the stage where we are now handing out tender documents, about to select contractors, have the financial institutions backing us, including, I might add, the Inter American Development Bank's private arm that has expressed an interest in investing in the project at Four Seasons and are now currently reviewing and doing their due diligence on the project and working with the project team of the new developers with the potential of investing in the project, not at the insistence of the Government of Barbados but simply because they feel it is a good project too, and to the extent that could happen and that other people have expressed interest from as far as France and also Canada in terms of private investors, some of whom I have met with in my office at the Ministry of Finance, I am saying, I think, that we have been able to strike a cord that will give this project a new lifeline to breathe and to be able to get off the ground to the eternal benefit of the economy of Barbados and the people of Barbados.

Therefore, let me say that I therefore, in every way possible, associate myself with the project and also with the Bill before the House and to say that all projects of this nature have their risks. So I am not going into this with any airy fairy views that the world is perfect. All projects have their risks and this is no different. We are guaranteeing a substantial part of the risks, quite a bit of the capital to come beyond what we are doing for the US\$60 million does not require a guarantee from the Government, but it has been able to attract that. Even all of those persons, Ansa Merchant Bank, the Government of Barbados, IDB, if they get involved, the developers, and the potential equity partners coming in on the project, they all understand this business of high finance and international capital. It is as risky as you could want. However, while we juxtapose the potential damage that could be cause from not acting, then the state of paralysis by analysis was not an option for this Government and certainly could not be a refuse for this Minister of Finance.

Mr. Speaker, therefore, we have before us the Clearwater Bay Limited guarantee, a Bill to provide for the Government of Barbados to guarantee in respect of the Clearwater Bay Limited, a company owned and controled by the Government of Barbados, the obligations of the company under deed of guarantee relating to the term loan facility to be made available for the recommencement of the project at Paradise so called the Four Seasons Project.

Sir, the Bill provides, as you would see, following the interpretation section, I think I need to make some amendments when the Bill goes to Committee, not major or of any great substantive thing, but still critical to ensure that we are very clear of what we are doing. On Page 2 of the interpretation, Clause 2 where it says: "Consolidate Finance" means Consolidated Finance Co. Limited, a company "continued" under the Companies Act as opposed to "incorporated". Sir, "Continued" under the Companies Act is a correction that we have to make, as we do as well on the succeeding page at the paragraph where it says "Lenders" means ANSA and Consolidated Finance and any other lender to whom the whole or any part of the commitments under the Agreements have been transferred or assigned, and include where context so permits or requires", after assigned and includes where the context so permits or require the holder of note certificates as defined in the agreement, but does not include a person to whom a lender has transferred any of the advances of the Facility without an assignment to transfer of novation of all or any its rights, benefits or obligations or both, as the lender under clause 19.1(1) of the Agreement."

So those two amendments, then of course at Clause 3, to indicate that we would make one correction. "The Government guarantees" but will look at that when it comes to Committee.

Sir, the Bill is set out over on the Schedule, well before we get to the Schedule, at Clause 3 (3) the Credit Facility Agreeemnt referred to in subsection (2) is that entered into 13th September, 2010, minus the Lenders agreed to make available to the Borrowers, a term facility in the maximum aggregate amount of US\$60 million to facilitate the recommencement.

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It is then divided up into the first and second schedule, the schedules to the Bill, Sir, which covered the terms and conditions of the facility as identified and you have the various Tranches there and the specific areas to which these Tranches have been applied. Tranche A \$36 million to be applied as Honourable Members would see there. Tranche B \$2 million to be applied as Members would see there. I would not propose to read out those. Tranche C \$7 million, Tranche D \$10 million, Tranche E \$5 million.

Of course, Sir, I should give you the main terms and conditions of the loan and as I indicated, Sir, that is US\$60 million made in five Tranches, as I have just identified. It is a term loan facility. The lenders being ANSA Merchant Bank Limited and Consolidated Finance Limited. The borrower of course is Paradise Beach LLP, et al, the arranger ANSA Merchant Bank Limited, the administrative agent is Consolidated, the security agent is Consolidated

and the purpose is, as I have identified. The interest rate is 6.75 per cent per annum accruing daily, calculated on the basis of actual accrual, of 365 or 366 days payable on the last day of each interest period and we may say, Sir, for a facility of this nature that the interest rate may be a little high but this really reflects the complexity of the arrangement which has been put in place and does not fall outside of what would be considered normal in these circumstances.

In the event that there is an extent of the original repayment date, then the interest due on the advances at the next interest period, shall be the greater of (1) the 6.75 per cent and two 6.75 plus one year LIBOR determined on the last business day immediately proceeding the interest period, minus one year LIBOR on the date of the advance. The interest period, each advance shall have an interest period of one quarter in duration commencing on its drawing date and each successive interest period applicable to the advance, shall commence on expiry of the immediately proceeding interest period for the advance, which means basically, consecutively.

Repayment, advances are due in full on or before September 12, 2011. This is the original payment date but of course, Sir, this does not mean, lest somebody takes it to mean that on September 12, the full facility will be drawn down or would be called in by the administrative agent. That, of course, will be the subject of extension. The condition precedent is that, of course, Clearwater Bay Limited and a Government Guarantee trough that Limited, in order to facilitate this particular facility.

Sir, I think with those few words, I hope few, but I think that given the nature of this guarantee, I had to take some time to explain this matter. I would like to beg that this Bill be read a second time.

Asides.

Mr. SPEAKER: The Honourable Member for St. Michael North.

Mr. R.St.C. TOPPIN: Thank you, Mr. Speaker, I first want to begin by expressing the Opposition's dissatisfaction with being notified only today that we were going to be doing a Bill of this importance. This is entirely unsatisfactory. There are a number of even technical documents that are attached to this Bill that really need time to analyse.

Mr. D.St.C. KELLMAN: Mr. Speaker, on a point of order. The Honourable Member is misleading this House by giving the impression that this is the first time a Bill as serious as this, has been debated under these conditions. I have been here more than 17 years, Sir, and we have been told on many occasions by the other side when in

Government, that we have to learn to debate the same time. Sir, on many occasions that has happened in this House and I am rather surprised that an Honourable Member who came to this House the same time as I would give the House the impression that this is the first time it has occurred and the precedent is now being set by us.

Mr. SPEAKER: Noted but no point.

The Honourable Member, please.

Mr. R.St.C. TOPPIN: Mr. Speaker, I would want to repeat for the record our dissatisfaction with this treatment. I said these are technical documents. I would also like to say that it is not good enough that where we have documents that a synopsis be given for that documentation. We are entitled to see the entire document, on this case, Sir, the two documents that are being referred to in the Bill. It is not good enough and we do not accept that a Government can select the portions of the document that they wish to include as attachments to the Bill and simply throw them at us and say that is what we should accept.

We have a guarantee document, Sir, which is reproduced here, Sir, in about two or three paragraphs. I am sure, Sir, this is a substantially lengthier document so it begs the question as to whether the Government is really trying to hide something from the Opposition so as to prevent us from being able to give full and frank comment in relation to the matter. Sir, being the patriotic and the loyal Opposition that we are, we will do the best that we can in the circumstances.

Sir, we in the Opposition want to see our tourism return to the glory days of 2007 and even before that. Sir, we recognise the importance of tourism to the development of this country and we have always believed that while we have always given tremendous support to the small hotel sector, we have always believed that brand-name hotels have to be an integral part of our tourism development. I think that we are on both sides ad diem with that, Sir.

Sir, the Four Seasons brand is globally renowned as a premium high-end brand. Sir, that is consistent with what we have in mind for our tourism development. Sir, that is why the last Barbados Labour Party administration sought to encourage high-end tourism development at a number of places around Barbados including the Paradise site. That site, as the Minister has said is ideally located and it has tremendous features and advantages. It has one of the best beaches in Barbados. It is at the beginning of the west coast and it lends itself clearly, Mr. Speaker, to luxury development.

In fact, as the Minister has said, Cunard had previously owned it and Royal Sandals was also to go there at one stage. Sir, when a private developer approached the

last Barbados Labour Party administration with a plan to develop that area with a premium brand like Four Seasons, obviously we were immediately interested in the project. Sir, the concept proposed was the mix used concept which we do not have a problem with, a hotel and in this case some 35 villas. There is the permanent residential ownership in the form of the villas and then you have the traditional hotel type of accommodation.

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You have the permanent residential ownership in the form of the villas and then you have the traditional hotel type accommodation, the mix use concept.

Sir, despite being pilloried over and over by the Democratic Labour Party when we were in Government about our role and recognition of the role that villas could play in the development of Barbados, we never put any obstacles in the way of villa development in Barbados. In fact, we recognise that the villa market could play a serious role in Barbados' economic development. You have the jobs generated by the construction phase and you have what is called the residential tourists, a tourist who owns property here who brings in foreign exchange and employs people in the villas clearly making a meaningful contribution to Barbados' economy.

Mr. SPEAKER: Yes, Honourable Member, what is your point of order?

Hon. D. St.E. KELLMAN: On a point of order. The Honourable Member is misleading the House by giving the Honourable House the impression that the Democratic Labour Party Government has opposed villas. We have always made the point in this House that we have a problem with condos but we never questioned villas. We have always made the point in here that villas created more work and more economic activity.

Mr. R. St.C. TOPPIN: Mr. Speaker, we in the last Administration also recognised that few brand name hotels were in the construction business. They were not putting money into bricks and mortar, they were putting their names on hotels if you built them to their specifications and standards. Sir, in recognising that, we used that approach at the Barbados Hilton and you can see the benefit that the Hilton continues to bring for Barbados. Sir, we also recognised that in the mix use concept, villa development helps to finance the traditional hotel developments in that the revenue from the sale of the villas is what is used to build the hotels.

Sir, we recognise all these things and as I said when we were approached by developers we were very receptive and we used the approach of the provisions of the Tourism Development Act to provide the necessary incentives to

facilitate the development that was requested at the Paradise site.

Sir, I said all of that to say that we do not oppose the project but like most of what the Democratic Labour Party has inherited from the Barbados Labour Party, this Government has messed up this project too. Sir, while we do not have a problem with the project per se, as I said, we do have a problem with what is before us today and the farcical way in which the Government is proceeding in relation to the project.

Sir, the guarantee before us today makes no sense. Sir, this is US\$60 million that is at stake here. Sir, what is before us is having the Government, through a special purpose vehicle, a company, guarantee the repayment to ANSA McAL of a loan which has already been advanced to Paradise and the proceeds of which have already been disbursed primarily to creditors and the like but at the same time there is nothing concrete in place or that has been announced to take this project forward. Sir, the Minister in a wonderful historical voyage elaborated but when he came to the way toward, he managed to get through it in about a minute and a half, very, very nebulous comments, nothing that we have not heard about before, about who is pledging what and who would do what but there is nothing in concrete terms or nothing announced to indicate the way forward for this project.

Sir, clearing a site is not the recommencement of a project. The only development that you can see at the site right now is in the form of the commencement of the construction of eight villas, which began in March 2007 and continued until February 2009 when the project was suspended. That is all in terms of physical development. Sir, what is before us today, this guarantee, does nothing to alter that position.

Sir, we have not been told a lot so we do not know up to this point if the redesign of the project that was supposed to have taken place has been done. We know that a very irate letter was written by the Four Seasons Company to the former Prime Minister in December 2009 expressing grave concerns about a number of things that were proceeding in the project in terms of how it was proceeding including the redesign that was then being proposed and the lack of consultation with the then Four Seasons, and it spoke of a number of things. We do not even know if at this stage those concerns have been satisfactorily addressed to the satisfaction of the Four Seasons Hotel.

Sir, one thing we do know is that expediting this guarantee will not finish the villas far less the hotels. Sir, the proceeds from the sale of eight villas cannot even finish the other 27 that have to be built far less the hotel. Sir, the Minister has to tell us in specific terms how and when these

35 villas are going to be finished. They cannot come in here knowing that they are committing US\$60 million of Barbados' taxpayers money and not give us some specifics. Sir, I am not accepting, with the greatest respect, any more wishy-washy new time-line being given or any more generalities that ANSA McAL has now pledged another \$100 million more and all of this. We have heard all of that too many times before. We have been given too many new start up dates. We want now some specifics as to when what is going to happen.

Asides.

Mr. R. St.C. TOPPIN: Sir, quite apart from all of that, the truth is that a project of this size needs equity. A project of this size cannot succeed just on the basis of debt financing. Sir, according to one of the agreements attached to this Bill, this is a US\$350 million project, this cannot proceed on the basis of debt financing alone, it cannot. Sir, the question is then: Who are the equity investors in this project, who are the ones putting money in so that you can then go and borrow the rest? Sir, this is exactly like a man who is deciding that he is going to build a house and borrows only enough money to go up to rim beam. Sir, you end up losing the money and you do not have a house anyhow. Sir, the reality is that given the state of the property market in Barbados now and internationally, we cannot expect to get for the sale of these villas the premium that you were going to get three four years ago, that is not going to happen.

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Sir, the reality is that in addition to these things, equity financing is needed for this project and the Government is not saying anything on this. Sir, I repeat, there are no specific financing arrangements at all in place to indicate that the project can be restarted to a satisfactory conclusion. Sir, where we are now, in my view, does not justify the bringing of any guarantee by Government. This guarantee merely relates to the repayment to preexisting creditors Sir, the Government had more than enough time to have looked for and secured a reputable investor to put money into this project. Sir, if the Government is going to get into the financial aspect of this project and is doing so now by way of a guarantee, which is talking about money, the Government ought to have ensured that it found necessary a reputable investor to have bought into the picture.

Mr. Speaker, I heard the talk by the Minister about the value of the land. We all know that these people come around and that when they wish to attract someone to a particular project all sorts of high faults and unrealistic evaluations are given of things. I therefore would be very reluctant to assume that land alone would be able to secure the sum of BDS\$120 million. Sir, I do not accept that.

Asides.

Mr. R. St.C. TOPPIN: It has on eight half-way villas, that is what it has on. Sir, what Government has now in effect done is to jump headlong in the guaranteeing of private residential development. This Government has jumped headlong into the guaranteeing of private residential development and I believe that this may very well be the first time that this has ever been done in Barbados.

Mr. Speaker, it cannot be accepted or agreed to without the certainty that we will get what we wanted from the beginning and that we will get what will be of value to us, which is a brand-named hotel in the form of the Four Seasons. If there is certainty in getting that, then this ridiculous approach of guaranteeing private residential development could at least be justified or explained but in the absence of that, there is no justification whatsoever for it. Sir, the Government has to get up and get in relation to this project. It has put \$60 million at risk and the clock is ticking and time is running out. Sir, if you look at Clause 5(c), which sets out that:

"In the event that on or before September 12, 2011, the Borrowers are unable to secure long-term financing for the Four Seasons Development, then the Parent Company may, on giving not less than 60 days' notice in writing to the Administrative Agent, exercise the option for a further period ending March 12, 2012."

Mr. Speaker, this clause tells us that if Clearwater Bay Hotel does not secure the necessary long-term financing for this project by September this year or as an outer limit by March next year, that it seems to me that the section is saying that the obligation of the Government to pay the full amount guaranteed today, US\$60 million, will be triggered and that taxpayers can kiss their hard-earned cash goodbye. That is what that says to me.

Asides.

Mr. R. St.C. TOPPIN: Mr. Speaker, the last...

Hon. F. J. STUART: On a point of order. Mr. Speaker, unless I am reading from a different document, the Honourable Member is misleading this Honourable House. Sir, I am at page 12 of the document, at Clause 5(c), and it says:

"5. Repayment of the Facility is governed by the following: (a) the Borrowers shall repay the advances in full on the repayment date; (b) no amount of any advance repaid under the agreement be re-borrowed; and (c) in the event that on or before September 12, 2011, the Borrowers are unable to secure long-term financing for the Four Seasons Development, then the Parent Company may, on

giving not less than 60 days' notice in writing to the Administrative Agent, exercise the option for a further period ending March 12, 2012."

Mr. Speaker, that is what I have read, I do not know how that could be interpreted to mean anything the Honourable Members is saying.

Mr. SPEAKER: I am sure the Honourable Member would be guided accordingly now.

Mr. R. St.C. TOPPIN: Mr. Speaker, this clause speaks of default by the Borrowers. Sir, in the event of the default by the Borrowers the guarantee is triggered.

Asides.

Mr. R. St.C. TOPPIN: Mr. Speaker, first of all, the clause even stops abruptly.

Asides.

Mr. R. St.C. TOPPIN: Even so. Sir, the fact is that the interpretation of this Act stops abruptly.

Asides.

Mr. R. St.C. TOPPIN: Mr. Speaker, that is why I said that we need to have the entire document but clearly on the basis of this, you have to draw the inference that you are saying if the Borrowers should not secure this long-term financing, then the guarantee in relation to this document is triggered. That is my interpretation.

Asides.

Mr. R. St.C. TOPPIN: Mr. Speaker, the fact of the matter is that the late Prime Minister started Government's financial involvement in this project by signing a letter of comfort to ANSA Mcal, December 2009. The new Minister of Finance had a choice and he has opted by saying that this is what David Thompson dropped in his lap and he will run with it. He had a choice, so he decided now to continue and perpetuate Government's financial involvement by having this guarantee put in place. Sir, it is so obvious that the path being travelled by this Government in relation

n to this project is wrong, that I believe that somehow they may have even been tricked into getting involved in the way in which they have done. Sir, if I am wrong in that and Government was not tricked, it then means that Government is simply being caught up in this frenzy, someone wanting to say that something is happening in Barbados.

Mr. Speaker, as the Minister has just done by repeatedly making statements announcing possible restarts

and possible securing of loans and so on, and even with the very bringing of this Bill today, the hope of the Government is that people would start to believe that this project is going forward or that it would be going forward any time soon. Sir, this project, at this time, is not going forward and in the absence of hearing any definitive and concrete proposals in relation to the taking forward of this project, we will find that...

Asides.

Mr. R. St.C. TOPPIN: From the ones who have been making statements before, the Government has been making some statements on it as to when it will proceed. Sir, in the absence of concrete statements on the matter, and particularly in light of the fact that as of now there are no concrete financing arrangements in place, the Opposition cannot be expected, in these circumstances, to support this guarantee. Mr. Speaker, it is very ironic that Government has now found itself in a position opposite to where it was many years ago, when the Barbados Labour Party was running with this project. Sir, the then Opposition tried to put so many obstacles in its path. There were so many allegations in relation to the project, even in relation to who was working on the site.

H:No.A86 (52)

I think the Honourable Member for St. Philip North even called upon the then Minister involved to resign because of having only Chinese on the project and, Sir, all sorts of obstacles were being placed in the way. Sir, they now find themselves today having to try to use every possible avenue, and to try to pull out every single stop now to get the very project that they sought to confuse and to bring so many controversies in relation to, that they themselves now have recognised its importance and find themselves today in Parliament arguing in support fully of the project.

Mr. Speaker, for all the reasons that I have said, at this stage and all the circumstances that I have outlined, the Opposition cannot readily associate itself with this Guarantee.

Mr. SPEAKER: The Honourable Member for St. Lucy.

Hon. D. St.E. KELLMAN: Mr. Speaker, I rise to support this Guarantee and to make the point that you should ignore every thing that was said before by the last member and put it down to what was said in the last statement. Sir, the Honourable Member is vex because we have been able to restart this project. This project has been able to rekindle the interest in other projects in Barbados but what is worrying the Honourable Member is that when this project was under their watch, they were a lot of

Chinese working on it and now the Honourable Member is not seeing any Chinese working on this project, the Honourable Member is angry. The Honourable Member can now identify with persons working on the project and that is now creating problems for the Honourable Member.

Mr. Speaker, I also want to say that there is no doubt that this project was bad-mouthed right across Barbados. Sir, we heard that it would never start back and we can now understand, now that the project is up and running, why the Honourable Member is holding a brief for someone else and delivering a speech in here today that you can tell clearly that he is not associated with the writing of it, and giving the impression that what was good for them is now bad for Barbados.

Sir, I want to say that I fully support this project and I want to say that the people of Barbados are happy to see that when they go to this project that they can now identify with the workers. Sir, not only has this project started but it has rekindled interest in other project and, Sir, watch and see that now that this project has restarted that other projects will start in Barbados and it will create jealousy in the heart of the Honourable Member.

Mr. Speaker, I want to say that the Democratic Labour Party again has shown vision because the Honourable Members felt that we were going to allow this project not to be restarted but it is worrying the Honourable Member that we came up with the creative idea to find financing to jump-start this project and, Sir, it is up and going again.

Mr. Speaker, I want to congratulate the Government for looking for projects not only to create investment for the economy but to create work for the people of Barbados. Sir, if one side of the Opposition is vex with this project, there is nothing we can do about it but, Sir, I am sure that we will get support on the other side for this project because they understand the importance of this project to Barbados.

Mr. SPEAKER: The Honourable Member St. Michael South Central.

Hon. R.L. SEALY: Mr. Speaker, I rise to speak very briefly on this Bill which is before us. The Honourable Member for St. Michael North who, for reasons I believe we can understand, is a little upset by the decision of Government to get involved in a project that is of strategic importance to us on several fronts. Sir, I believe very strongly that in looking at this project we should also give it some context.

Mr. Speaker, the project was suspended during 2009 right in the middle of the worse economic crisis the world has ever seen. We speak of the period end of 2007 and

2010 as being that period and, Mr. Speaker, what we saw during that period was Governments the world over getting involved in private sector activity in a way that we had never seen before, and I think we need to understand that. Of course, during the Asian crisis, which was a few years earlier, you did have some of that activity taking place. We remember Hong Kong, every stock that was sold during the late 90s, during the Asian crisis, the Government took five per cent share, and at one point the Hong Kong Shanghai Bank was practically owned, actually, by the Hong Kong State. Well, Sir, it is really China but the body that governs Hong Kong.

Mr. Speaker, more recently, of course, in the home of capitalism, the United States of America, they had to engage in a number of programmes. Those of us who watch CNN during the financial reports and BBC and, of course, Bloomberg, new terms into the lexicon and we heard about toxic asset, we heard about a trouble assets relief programme in the United States of America, the home of capitalism. (7:04) We saw in Great Britain where the then Chancellor, Alistair Campbell put a \$50 billion pound programme in place to rescue the banks in London. Sir, this is the reality of what was happening. Of course, even prior to the Trouble Assets Relief Programme, under President Bush, you had the efforts to deal with the subprime mortgage crisis which was as a result of recklessness on the part of the private sector, we saw the Government intervening and, in essence, getting involved to save that programme.

Mr. Speaker, I think it is important that we set that context because the truth is that the roots of this Four Season affair is actually in that global crisis. We were very fortunate, the Canadian banks that make up the brunt of the financial intermediaries were not severely affect, and that is true but this project, of course, was financed through the Bank of Scotland and many of the tourism related investments in Barbados were affected by financial institutions that had challenges. Mr. Speaker, we speak of the global crisis and sometimes I understand certain people in the Opposition like to make light of it and say we were not affected but we were in a very direct way particularly on a project like this.

Asides.

Hon. R.L. SEALY: Sir, we definitely felt it, albeit not at the retail level, so Broad Street would not have felt it but many of the projects on the west coast and so on, many of those large type developments definitely felt it. (9:02) Sir, I think it is important that we set that context for what the Government of Barbados is doing. These are not normal times and we cannot, therefore, expect to behave in a normal manner. Sir, that is why we, as a Cabinet, took the difficult decision to get involved in Four Seasons at this level.

Mr. Speaker, why would we do that? Sir, as I have mentioned earlier, we got through the economic crisis without having serious problems at the level of our banking institutions as, of course, happened elsewhere but what where the areas that were greatest affected in Barbados.

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If you think about it, the levels of foreign investments that I spoke about earlier for construction related activity, and of course tourism arrivals. Sir, 2009 was a year of decline while 2008 showed a very slight decline over 2007. I hear about the glory days of 2007, but the truth is, in 2008 we broke even with 2007. So much for the manna that was to fall from heaven during the World Cup, but anyway we would not go back there. What I am just trying to say is...

Asides.

Hon. R.L. SEALY: You want to return there? We will get there eventually. The Estimates coming up and we have a lot to talk about, so you take it light.

Sir, the hour is late and I only have a few minutes. I do not want to rob the Honourable Member for St. Michael North East. I am looking forward to her contribution in this debate. I am saying if you accept that in the area of foreign investment and in the area of tourism arrivals, we would have felt it. This very project can very well help us in both areas. So it is Government deploying resources by way of providing a guarantee as well.

Sir, I do not know why anyone would want to suggest we are taking up the taxpayers money and basically handing it to a private developer. It is not true. We are providing a guarantee. That is what we are doing. I think that is a fundamental point, because it is not being provided in a vacuum. This is a villa development. They are property owners. They are investing, making progress payments as the project goes along. So the improved value of the asset is constantly going up and up. So it is not a case of where you are being exposed, and at any rate, there is an arrangement in place that will see this almost functioning as a bridging arrangement where the private sector element in terms of the financing that has been located will take us out, but it is still important that Government makes a statement and places confidence not only in the investors but also in the brand, because I am going to speak about that as well, and it is more important that we do not earn a reputation for having started a Four Seasons project which failed for whatever reason. So we have strategic interests that are very much at stake here. That is why it is important that we get involved by approving a guarantee.

Now, of course, we have done other things during this crisis as well. I feel this effort is a part of the overall

position that we have taken. As you know there was the Tourism Industry Relief Fund, (TURF) which served to preserve jobs in the sector and it worked well. There are not too many Ministers of Tourism in the Caribbean can do what I can do, stand up on the Floor of my Parliament and say that we have not had any major hotel closures at all in Barbados. The Silver Sands Hotel situation, there were some complications there that went beyond the crisis, but the truth is to have in fact picked up a few rooms in terms of the Marriott Courtyard opening without having to deal with any major closure is a good thing.

Sir, the other thing, of course, that we did not have to do is go on these mass discounting programmes. There is a model that is often advocated by a Member of the Opposition, in all fairness, that we should follow what is done elsewhere, but they have been on discount now for two years and the ADRs are ridiculous. We had no need to do that kind of thing, and in that context we are now coming not with additional funds in a relief programme but providing a guarantee to give some confidence not only to the sector, but will send the right signals also to the international community.

Sir, we often talk about the linkages that exist between the foreign exchange earning sectors. There is a natural linkage of course between our international business sector and tourism, and to some extent we also have to be aware of the signals that we send to that sector as well. Four Seasons in many ways represents precisely that kind of linkage. A lot of the investors in this project are people who either have international business companies or potentially could have them here. We are currently embarking on a programme with high network persons from the United Kingdom and to have them as a domicile here for tax purposes. The Honourable Member for St. James Central can elaborate on that, but I am saying that in the context of what it means to tourism, the context of what it means to the International Business Sector, the context of what it means in terms of confidence in Barbados' Financial Services, this is a sensible decision that the Government of Barbados took. Of course, last but not means least, ultimately it will have a direct benefit in producing jobs, increasing the capacity in terms of high-end rooms to earn foreign exchange for tourism and growing the GDP and so on. Sir, we have made a very prudent decision here.

Sir, last and by no means least, I will also say that I think it is about time that piece of real estate be enhanced and brought back into full production. We all know for too long that site has been boarded up, and it is interesting to hear the Honourable Member for St. Michael North talk, because under the last Government I do not remember any big set of energy being made to get that site back up and running. Of course, it had concerned Mr. Stuart before, and we all knew the reasons why he was a little reluctant.

Sir, he developed three hotels in St. Lucia in the period of time that we have holding up that Paradise site, three hotels, and nothing was done to Paradise site.

Finally I guess we have seen the Four Seasons situation coming to stream, having inherited that situation, and with all the factors at stake, I do believe that the Government has made the right decision. I would not even bother to get into the debate on brands, suffice it to say that I learnt for the first time here today that the Hilton came to Barbados ten years ago. I was always of the view that the Hilton came here in the 1960s. I happen to know that quite well, because the late Honourable Wynter Crawford was very instrumental in bringing the Hilton here. There is the story of when he went to bring the Hilton and Sheraton to Barbados, Sheraton was supposed to go to Heywoods Estate, that never happened, and of course many years later Government still holding the estate made it into a hotel. It is now, of course, the flagship of the Almond Group, but as far as I know that is the history of Hilton.

Sir, so this idea that the last Government had some programme of bringing brands to Barbados is news to me. That Hilton, I did not understand the knocking down of a hotel and building it back, you can then take credit for the Hilton.

Asides.

Hon. R.L. SEALY: Let us understand there was no real programme as far as brands were concerned under the last Government. We have brought that issue to the fore and we are determined to see to it that we will make ourselves attractive with more branded hotels in Barbados. I hasten to add that we also believe there is an important role for indigenous brands as well. There have been the bedrock of our tourism industry and we are not going to embark on one at the expense of the other. There are just natural synergies. Sir, the marketing might that many of those brands bring is significant and we have to also say that Four Seasons is particularly strong in that US market.

Sir, you find that branded hotels do better in the US, and with the expanded airlift we now have coming out of the US it is a good time to also be in a position to advertise. Effective some day in the not too distant future you will be opening a Four Seasons. That means a lot. So I think you have to take all of those factors into consideration when you look at something like this.

I accept that as we go forward it is not something that we would wish to see replicated, where private sector entities come to Government for guarantees.

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I do not think that President Obama is looking forward to having to draft another Trouble Assets Relief Programme. I do not think the current Chancellor of the Exchequer is looking forward to having to provide a £200 billion scheme to bail out British banks. You do not look forward to doing these things but you have to deal with circumstances as they arise.

Asides.

Hon. R.L. SEALY: As put so succinctly by the Prime Minister, the Honourable Member for St. Michael South, necessity is the mother of invention and the Democratic Labour Party is always prepared to be creative and to put on our thinking caps and to make sure that we can apply the appropriate solutions to those vexing problems.

And so I just want to say, Mr. Speaker, once again I completely associate myself with this Bill before the House. It is unfortunate that the Member for St. Michael North opted not to listen to what the Honourable Member for St. Michael North West said. As late as the hour was I was very glad that he took his time and explained everything involved in this process because there is too much misinformation out there about what the Government is doing with respect to Four Seasons. We are not taking up a single dollar of the taxpayers' monies and putting in that project. We are merely doing what any sensible Government would do anywhere in the world. We are facilitating in order to see a project come to fruition that is in our national interest and that is the bottom line.

Sir, with few words, I want to say I totally support this matter before the House.

Mr. SPEAKER: The Honourable Member for St. Michael North East.

Hon. Miss M.A. MOTTLEY: Thank you very much, Mr. Speaker.

I do not intend to detain the House for very long but I do feel that as young as I am at 45 years old that 20 years experience in this Chamber and the other Chamber has allowed me to develop a sanguine approach to the conduct of public policy and public life. I say so because I have sat on both sides of the isle. I have known what it is to justify expenditure by the Government to generate economic activity for Cricket World Cup that was absolutely necessary. I have known what it is to justify guarantees and investment in LIAT because it was absolutely essential to help with interregional transportation.

Equally, as recent as a year ago when I was leading the Opposition I would have disclosed my interest to this Chamber as one of the counsels involved in relation to the

Four Seasons matter. Indeed, the late Prime Minister was standing opposite me and he and I both spoke to the issue in the Estimates, so it was exactly a year ago and I believe the former Prime Minister, the Right Honourable Member for St. Peter, the current Leader of the Opposition, equally in his contribution have focussed his contribution on the urgent need for Four Seasons to resume with the Government's assistance. In fact, that was the gravamen of this contribution on the Estimates debate on the last occasion.

Sir, I understand the nature of this Chamber, just as much as I appreciate the coldness that it brings in our bones, especially in this hour of the night but I think that it is important for the country's sake that we be clear as to what has been done, and this is without breaching any privilege. Most of this is public information and most of it is here. It is regrettable that we are doing the Bill in all of its stages but that happens and it has happened because there is a deadline by which this Guarantee must be approved by the Parliament and it was within six months of the guarantee being given by Clearwater Bay Limited, which is a wholly-owned subsidiary of the Government of Barbados in relation to this matter.

Let me say at the outset that I have been involved in this matter since October 2009, almost 18 months and the Minister of Finance was correct in saying that there were three failed private sector attempts prior to this effort to rescue, which Professor Persuade has so ably led. The truth is that the Government's relationship with the company is anchored by a framework agreement which was signed, I believe, on the 1st of July, the day that the former late Prime Minister left the island last year. Sir, that framework agreement then admitted of the completion of the credit facility arrangements which is the arrangement that governs the disbursement of what was always intended to be a short-term loan, a 12-month loan with an option to extend for a further six months to 18 months. Sir, it is due in September of this year but there is the further option to extend until March of 2012.

It was always intended that it be a short-term loan because what was required was to stabilise the project. Like you had villa owners who had ceased paying stage payments, that you had creditors who were owed as much as \$30 million collectively across the board, that you had 800 employees, that you had also a situation where there were consequences from the international financial collapse on the real property market across the world. Hence, Barbados was no different as it related to villa sales and real property development.

In those circumstances it was recognised that you needed like the doctors to stop the hemorrhaging, access and stabilise the situation and then apply the treatment. We are in the stage of stabilisation at this state, and with the

recognition that the resumption can now begin to take place with the new financing in place, the Minister of Finance has adverted to a new term-sheet from ANSA. May I say it is not ANSA McAL alone that has financed this \$60 million either. It is ANSA McAL and other note purchasers, other institutional investors from outside of the Caribbean region, which therefore meant that there had to be also confidence that this is not just a Caribbean bank doing a Caribbean country a favour. These notes and this project has withstood the scrutiny of institutional investors who are internationally domiciles and who are reputable.

In addition, it was recognised that once you could do five things and that is why there are five tranches:

One, that you had to pay off the Bank of Scotland their US\$34 million because they had the first charge on the property and in any event, Bank of Scotland was not interested in continuing any further in tourism development any part of the world, far less the Caribbean and they make that clear that they wanted to get out of this kind of financing.

Two, that one of the failed attempts before the Government of Barbados became involved in an investor called Maybach and therefore there was a US\$2 million that had to be satisfied because Maybach had a charge on the property.

Three, that the project always was conceived of including the Esso lands where those tanks are in Black Rock therefore one of the things that was urgent, is that you secure funds to be able to purchase those Esso lands because a lot of the support for both the villas and the hotel would be located in that spot right there on the main road going back down. In fact, there is still the intention of proceeding with the purchase of those lands almost as we speak, because environmental studies have been done and without going into more detail, they are virtually ready to start the conveyancing process on those lands.

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Fourthly, that the creditors, and remember that I said that there was about \$30 million in debt, will be paid over a three-year period starting in November... working capital, both to restart the villa to trigger new stage payments in from villa owners. As has been said, there are eight villas that have been started and all of those villas, once a certain level of work is completed, triggers payments in from the purchasers into the company.

Equally, you would have, in the context of all that happened over the last three years in the global economy, to have a redesign of the hotel, a slight reduction in rooms not that much, and a reduction in some other aspects of the design that makes no sense given the realities of the post

2008 environment and therefore US\$10 million in working million capital is in there for that. Mr. Speaker, that could never be enough to finish the hotel and those who therefore have given the impression that it is, it is unfortunate that is the position.

Secondly, there is a lot of doubt being cast as to whether Four Seasons is still on board. Well, I can only say that I had numerous meetings with Four Seasons' counsel. In fact, on Thursday this week, the number three person at Four Seasons would be in the island and I am meeting with him again. I can only say that a non-disturbed agreement was signed with Four Seasons and ANSA McAL, which essentially means that if the worse was ever to happen, ANSA has to agree that they would keep the project as a hotel branded project that protects and gives Four Seasons the first option.

Sir, I speak therefore in these terms with this clarity because I think that it is important that the country knows where we are and that the country is not forced to carry any additional burden of doubt in circumstances where certainty and stability is required not just for our benefit as public officials and politicians but because the livelihood, the jobs and the stability of people in this country depends on that certainty that we give to our investment climate.

There are difficulties that I have with some things the Government is doing and I will say so but in respect of this matter, I can say that there are clear steps being taken. I think the Minister of Finance has said correctly that you cannot expect to sign a legal agreement on this type of project today and that work resumes next week or next month. Perhaps it is the innocence of Professor Persaud to the vagaries of public life as well as to the vagaries of political interpretation that may have caused him not to be specific that when you sign the credit facility agreement and when you pay off creditors that from a civil engineering and construction perspective if you have not been on a work site for 18 months/two years you first have to get a Project Manager - now, the villa owners in this instance, for their confidence, insisted on an internationally recognised Project Manager - and then that Project Manager, apart from the tendering requirements which take time - because the Government of Barbados knowing the Opposition will for that matter agree that any exercise such as this should take place without the widest possible participation of Barbadian companies for the opportunity to bid - would then have to do a dilapidation survey because you cannot leave civil works exposed, concrete and steel, for 18 months or 20 months without doing an assessment of the integrity of a structure. When you have to cost the dilapidation corrective works that have to be done and then on a parallel track you have to renegotiate or resume your dealings with the villa owners who already are there in relation to the villas that have been partially started, all of

that takes a good four to eight months. We are on or about five months to six months.

The first set of supplemental sales and purchase agreements went off this week to the current villa owners to be able to reflect what has happened and to be able to put things forward to move forward. It is anticipated that their resumption on the project, which hinges on those supplemental agreements, would take place within the next six to eight weeks, probably sooner, but my caution for public life has caused me to be even more cautious in the estimation, so that when you hear that there is diffident, let us put things in reality and let us carry along the public with us in a way that allows the public to understand the various steps that are required. Yes, this has become an instantaneous society but there are still some things that take time. How much ever people try to put Cou Cou in a microwave, it does not taste good, you got to turn it. Some things take time, if you are going to be surefooted and if you are going to get it right. In those circumstances, you are dealing with investors who are non-resident, you are dealing with purchasers some of whom are resident and non-resident, you are dealing with local and international counsels and you are dealing with local and international civil works and construction people so that it is not a simple exercise.

I would be the most surprise person if things do not continue to move smoothly as they have been going for the last four months. It is fair to say since the signing of the credit facility agreement on September 15th that everything that we had expected has happened and gone in sequence and to time as has been anticipated. Perhaps the level of communications can be better on all parts but equally people have to listen and be prepared to listen and to understand that you cannot resume works without that dilapidation survey. You cannot move to major infrastructural works if buildings are in the wrong place where you need to put roads or sewerage plants, those have to be brought down first. I think that is what the Minister was referring to when he talked about soft openings, that they are using this opportunity to do some of the preliminary civil works that are necessary once you go full steam ahead with the full construction of it.

I hope, Mr. Speaker, that I have treated to the issue in relation to whether \$60 million could ever finish this project. It was never intended to be able to finish it, it was intended to be able to stabilise it to put the project, and let me be clear now, in a condition where there could be an appropriate recapitalisation of the company and the securing of other financing that is necessary. Now what do I mean. Nobody is going to inject equity into a company where the project was stalled, where villa owners are not paying in any money and where there is the likelihood of over 300 creditors seeking to sue and invoke insolvency at any stage, so that stabilisation was necessary.

Now that it is stabilised, there are three separate potential streams of income in relation to new equity; a rights issue and future villa sales, not one has been sold yet and those are extremely conservative. In fact, in order for this project to succeed, they only need to sell one more villa a year for four years, four villas. It is not now 35 villas, it is actually 54 units, which include about 30 villas and town houses/apartments/condominiums, whatever. Out of those 54 units, you need to sell three beach front villas and one other villa in order for the financing conditions to be met. Now that is less than 10 per cent of new units to be sold over a four-year period. They are being extremely conservative in their projections on the financing.

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Secondly, they anticipate that the resumption of these eight villas, they are assuming that only half resumes and with that half resuming, that will bring an additional US\$10 million from the profit side of the villas into the hotel financing, and then US\$15 million in equity. Of course, you then have US\$40 million being made available in the medium-term financing to which the Minister would have referred that ANSA McAL put a new term sheet on the table. The term sheet will actually show \$103 million, largely because they are going to have to refinance this US\$60 which is before us today, which is only a 12 month's or 18 month's loan, depending on whether the option is exercised to extend and then the additional US\$40 million for the hotel.

Mr. Speaker, that US\$40 cannot go into villas, it has to go into a hotel construction account, largely because the villa owners are absolutely committed, as they should be, to their being a hotel next to their villas to service their hotel. They bought a Four Seasons Villa on the understanding that Four Seasons was serious and that all of the amenities that go with the Four Seasons hotel will also be available to them. Therefore, you have to build the hotel, you cannot simply turn this into a residential project. Therefore, you cannot describe it as a private sector residential project, it is a tourism project, because at its core must be a hotel and the villa owners are absolutely clear on that. That was one of the reason it took so long to be able to get everybody back together on the same page before the stabilisation.

Mr. Speaker, there is no doubt that that this approach is a variation of what we have done. It is normal perhaps in the sense that we have never guaranteed a hotel private sector developers but we have guaranteed Barbados Light and Power Company Limited, we have guaranteed other entities and on the other extreme we have invested in the construction of tourism projects because going back to the days of the Right Excellent Sir Grantley Adams, with the Barbados Development Board, formed in the last 1950s, it was recognised that our model of development - and it is

one of which the Right Honourable Member for St. Peter is a strong proponent, that is the State as entrepreneur. In our model of development the State very often has to risk capital where the private sector in our part of the world in developing countries either is disinclined to or is unable to risk the capital. Therefore, the State as entrepreneur particularly in the tourism sector goes back 50 years easily in Barbados. I believe Honourable Members have referred to the Hilton Hotel today, the Hilton was initially built by the Government of Barbados.

Asides.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I therefore say, we have too much going for us as a country and I want to see the building of a post-partisan society. I want to see the majority of our energies devoted to what is an already difficult exercise in development, the survival of a small open economy, with limited resources, with a small population base, even though we think we are many on this 166 square miles, and fighting a world in which the decks are stacked up against us. Mr. Speaker, there are things we have to use to distinguish who should have the right to govern but it ought not to be at the expense of what is necessary to carry us forward developmentally as a country.

Mr. Speaker, maybe I may end up being very out of touch with what is necessary politically but I say to you - and I am a loyal member of the Barbados Labour Party and so do not get me wrong, the Honourable Member for Christ Church East-Central, but I also recognised as I did when I undertook the responsibility of assisting as prime legal counsel on this project because I knew it was important to the country. Sir, if any one of us on both side, if asked to do something important for the country would do so. I also believe that we set the tone. Sir, I may look at some Honourable Members on both sides who find it impossible to rise above the partisan phase and to recognise that our duty is to fight at election time but to be able to see how as legislators we can provide the best possible solutions. Therefore, those in Government as Executives, who are then accountable to the people of this country, then people will respond to what we put on the table.

Mr. Speaker, I believe that this was an essential action on the part of the Government. I did not know there was a divide on it, certainly not for the last 18 months and I still do not think there is any divide on it. Mr. Speaker, it is critical that we get it right and that we do things right. Of course, there are things I can criticise about the manner in which they were done but it does not help anybody for me to do so. What matters now is how do we get to the point of safety in relation to making sure that all aspects of this project are fully delivered for the benefit of the people of this country and for the benefit particularly of those constituents in St. Michael because very often we do not get a look-in in the tourism sector for our constituents. Sir,

that is a fact, and Paradise distinguishes itself as being at the top of the west coast and has traditionally catered to people goin from Black Rock, up to Gazettes, Bush Hall and Spooners Hill, in terms of its natural catchment area because of the proximity to the hotel, the shift work and the various other things that go with it.

Mr. Speaker, let us move forward with certainty. May I say for absolute clarity that the Government of Barbados has not had to put up a single cent. It is my view they are unlikely ever have to risk the guarantee but if that were ever to happen the Government has a second mortgage and a second debenture. In circumstances where the first mortgage and the second mortgage still add up to less than the evaluation of US\$140 million, which was given at the height of the international financial recession in 2008 December, when property values had already started to plunge significantly. Sir, that is regarded by all as a very conservative estimate by Sandals and that the value of the project at US\$140 million will be enough to satisfy both the first mortgagee, namely ANSA McAl and their purchasers and the second, namely the Government of Barbados, were the worst ever to happen.

Mr. Speaker, I think that was what made it easier for the former Prime Minister to take the decision that what the Government of Barbados was risking was not as great as may have seemed at first glance, largely because not only do you have the benefit of that second mortgage and debenture but that at the end of the day, as my grandfather used to say all the time, land does not spoil, and you cannot take up the land and carry it anywhere.

H:No.86 (57)

Sir, but what are the economic benefits to this country, 800 hundred more jobs? Sir, when it resumes the construction what we have negotiated is that the money comes into a Barbadian escrow account and hence the country gets the advance benefit of the foreign exchange inflows in the next month or two months as we go along.

Thirdly, that ultimately, what you are talking about is a further US\$300 million roughly in additional sales over a three-year period and then not to mention a major Four Season hotel brand which obviously adds value to the Barbados tourism product in the medium-term to the long-term.

Mr. SPEAKER: Honourable Member, you have five more minutes.

Miss M.A. MOTTLEY: Sir, I am not going to even use it. I want to thank you and to say that I really do believe not because I have a vested interest, my interest in has only exposed me to all of the information and to play a part in making it happen but I believe that any Government

of Barbados would have taken this decision at the time at which it was taken to stabilise this project, recognising the implications that it had for other tourism development projects in the country and for the unlocking of those projects in terms of their resumption be it Beechlands, Apes Hill, et cetera, that have equally been stalled. If there is a need for any further information, Sir, I feel that the public should have it and I am prepared to continue to speak in this way simply because it is too important to the economy of this country in the same way that getting LIAT to fly inter-regionally was too important to the economy of this country and the Eastern Caribbean and in the same way Cricket World Cup and the redevelopment of Kensington which is now being used by all and sundry and the redevelopment of other facilities towards Cricket World Cup were critical to the repositioning of the Barbados economy and the Barbados tourism product in relation to moving us forward as a nation.

Mr. Speaker, things may give us an economic return but not always a financial return. Sir, that economic return is what keeps people working and that economic return is what keeps foreign exchange flowing. Sir, in those circumstances I see the decision to support this interim loan which the Government has guaranteed to its wholly owned subsidiary Clear Water Bay against that background to stabilise Four Seasons, the project but equally to stabilise the Barbadian economy which has seen the most troublesome drop in corporation taxes even this year again that we are now completing on March 31st this year and, Sir, it is critical that, therefore, we do these things.

Mr. Speaker, I am obliged to you.

Mr. SPEAKER: I am obliged. The Honourable Member for St. Michael North West.

MR. C. P. SINCKLER: Thank you very much, Mr. Speaker, Sir. I think, given the lateness of the hour and the fact that we have really, in two speeches today, have had a clear dispensation of the critical factors... Sir, of course, I am not including the Honourable Member for St. Michael North's speech because, clearly, he did not connect with the issue, and it is unfortunate because a matter as serious as this, only two-ninth of the Opposition remains at hours and the seriousness with which the Honourable Member for St. Michael North professes that the Opposition treats this particular issue has not been evinced by the absence of the other members of the Opposition. Sir, to that extent I just want to make two points because we cannot allow misinformation to go abroad and to set in.

Mr. Speaker, I must make the point that the Honourable Member for St. Michael North made reference to a letter which he did not produce that he said was written to the late Prime Minister by Four Seasons claiming that they had lost confidence in the project and that, Mr.

Speaker, Sir, is not true. Sir, in fact, Four Seasons has specifically indicated that they very much want this project to go ahead and are happy that the Government of Barbados will come in, and has come into this project, to save it because it was not only going to reflect badly on Four Seasons but would reflect badly on Barbados, and on the reputation of Barbados and, therefore, they are happy to be associated with this project because they believe that Barbados is an excellent place for a high-valued, exclusive brand such as they have.

Mr. Speaker, with those very few words, I beg to move that this Bill be read a second time.

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

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

On the separate motion of MR. C. P. SINCKLER, seconded by Hon. A.D. BRATHWAITE, the House resolved itself into Committee, Mr. J.D. PAUL in the Chair.

COMMITTEE

Mr. J.D. PAUL: This House is in Committee.

Clause 1 was called and passed.

Clause 2 was called.

MR. C. P. SINCKLER: Mr. Speaker, Sir, I beg to move that Clause 2 stand part with correction at paragraph 5 delete “incorporated under Companies Act” and replace with the word “continued”.

I also beg to move that Clause 2, paragraph 10 be amended to read as follows:(8:11)

“Court lenders” means answer and consolidated finance and any other member to whom the whole or any part of the commitments under the agreement have been transferred or assigned and includes where the context so permits or requires the holder of note certificates as defined in the agreement but does not include a person to whom a lender has transferred any of the advances of the facility without an assignment and transfer by novation (8:45) of all or any its rights, benefits, or obligations or both as lender under Clause 19.1.1. of the agreement.”

Mr. CHAIRMAN: Is that the final amendment?

Miss M.A. MOTTLEY: I believe that really only seeks to add the notion of note purchaser rather than what was defined there as lender. It just brings absolute clarity to the definition and by reflecting what was said in the credit

facility agreement. Sir, so it is not a troublesome amendment.

The question that Clause 2, as amended was put and in the resolved in affirmative without division.

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COMMITTEE

Clause 2 as amended was called and passed.

Hon. P.M.T. TODD: I beg to second that, Sir.

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

Clause 3 was called.

Hon. C. P. SINCKLER: Mr. Chairman, there is a correction, “The Government guarantee”, delete “may” and replace it with “guarantees”.

Sir, it should read, “The Government guarantees the obligations of Clearwater Bay Limited under the deed of guarantee referred to in subsection 2”

Clause 3 as amended was called and passed.

Hon. P.M.T. TODD: I beg to second that, Sir.

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

Clauses 4 was called and passed.

The First and Second Schedules became the Schedules to the Bill.

On the motion of Hon. C. P. SINCKLER, seconded by Hon. P.M.T. TODD: Mr. CHAIRMAN: reported to His HONOUR, the SPEAKER, the passing of one Bill in Committee with amendments and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motion of Hon. C. P. SINCKLER, seconded by Hon. P.M.T. TODD, the Bill was read a third time, passed and cited as the Clearwater Bay Limited (Guarantee of Loan) Act, 2011.

ORDER NO. 10

RESOLUTION TO APPROVE THE GUARANTEE BY THE MINISTER RESPONSIBLE FOR FINANCE, OF THE ADDITIONAL SUM OF \$12 850 000 IN THE CURRENCY OF THE UNITED STATES OF AMERICA AND INTEREST THEREON TO BE BORROWED BY

CAVES OF BARBADOS LIMITED FROM THE CARIBBEAN DEVELOPMENT BANK.

Mr. SPEAKER: The Honourable Member for St. Michael North West.

Hon. C. P. SINCKLER: Mr. Speaker, thank you very much. Sir, you will recall sometime during the latter part of 2010 I had occasion to bring to this Honourable House an extension for the limit allowable under the Companies Act to BDS\$1 billion, and in that debate I had given a listing of projects both prior and intended to come, which would have required Government guarantees to facilitate either completion or indeed to facilitate their tidy disposition of the resources provided to those projects. Once such project was the Caves of Barbados development project which, of course, started in 2005, as I indicated, in November by way of Cabinet decision, to do improvements at the Cave as part of a special environmental project. At that time it was determined that the Government of Barbados, through the Caves, should seek funding from the Caribbean Development Bank in the amount of US\$15.97 million to facilitate improvements and upgrades at the Caves of Barbados. That, of course, amounted to approximately BDS\$31.94 million. That facility was provided under the previous administration. Once we came into office in 2008 to realise that design changes, and other issues in terms of upgrade of what was originally intended at the Caves, required a situation in which additional resources would have been necessary.

Sir, indeed, up to the point and time when we took over this project, close to BDS\$60 million was spent and the project, in fact, had come to a virtual halt because of additional resources were required to finish it. Sir, given the importance and critical nature of the Cave, it was determined by the new Government that they should approach the Caribbean Development Bank for additional resources to complete the project rather than leaving it there unfinished.

Sir, we all know now that has happened. The Caves have reopened under an almost brand new and spanking facility for which the tourists of cruise ship and land-based, and of course Barbadians alike have begun to enjoy, but that, of course, has come at the additional resources from the Caribbean Development Bank. Those resources to which I speak is an additional facility of US\$12 850 000 for a total together with the original loan of US\$29 716 000.

Sir, as you will imagine, because the original facility had already been acted upon, there were still things which had to be incorporated into the new facility in order for it to really be executed properly. It should be noted that in addition to the existing loan amount, it was necessitated that an amendment to the main terms and conditions of the

original loan contract had to be done and these included, (1) moving the moratorium period from five years to three years, (2) in terms of the rate payment originally to be repaid in 56 equal amounts of quarterly installments, that is now reduced to 48, or approximately, equal installments; (3) five withdrawals from the loan amount were not to exceed 65 per cent, that was revised

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4) the period of disbursement was originally January 30, 2008, that was revised to December 30, 2011 and 5) there is also a new condition precedent, relating to the provision of additional land for the project. Of course, I believe that was associated with the extension of the car parking facilities at the Cave.

The new terms and conditions in the amended agreement on the loan, was signed on January 22nd 2010 by Caves of Barbados Limited and of course with the Caribbean Development Bank and those terms, Sir, are as follows:

1. The amount of US\$29 716 consistent of the original loan and the additional loan of US\$12 850 million.
2. That the repayment is made in 45 equal or approximately equal and consecutive quarterly installments, commencing five years from the date of the loan agreement or such related date as the bank may specify in writing.
3. That the interest is payable quarterly on the principal at an interest rate of 4 per cent per annum and
4. Commitment charge is payable quarterly at a rate of 1 per cent per annum on the original loan and the additional loan withdrawn from time to time.

These charges, Sir, accruing, in the case of the original loan from the 60th day after the date of the loan agreement, and in the case of the amended loan agreement, the 60th day after the date of that particular amending loan agreement. Of course, Sir, the moratorium and principals as I indicated were the principal payments of three years.

Sir, it has come to be a stage where as I said, the project been executed. The Cave is open but we need to do this guarantee because the resources which were provided to allow us to get the Cave ready in time for the Winter Season last year, were done out of the Consolidated Fund, and what this guarantee does, is to allow the Government of Barbados to redistribute those resources, which of course, I am sure you know in these tough financial times are required. Therefore, this guarantee gives us the ability to get back our resources into the Consolidated Fund.

Of course, as I indicated, the amount under the Guarantee of Loans Companies Act Cap. 96 has been moved to \$1 billion and so this sits within that amount.

Therefore, Mr. Speaker, I had no problem as Minister of Finance in signing the Certificate of the provisions under 4.2(b) of the Act, Appendix 2 that this falls within that particular limit. Sir, I am asking that this Resolution meets with the concurrence of this Honourable Chamber.

Hon. P.M.T. TODD: I beg to second that, Sir.

Mr. SPEAKER: The Honourable Member for St. Thomas.

Miss C.Y. FORDE: Mr. Speaker, I understand what the Finance Minister has indicated and I really am happy to see that the Cave has reached a level of completion. I have some concerns that I would wish to have my fears allayed in the light that a number of the areas that were outlined, which that would help to benefit the residents are still unattended. They have not been addressed in the manner in which the documents that we would have received at that time when the plans for the refurbishment of the Cave were put on the cards.

Sir, you would appreciate that quite a number of communities surrounding the Cave were unable to further construct housing and to carry on their lives in their usual way. Many people had to stop their farming and all that and while they are concerned I believe that the points that were raised in the documents that residents would have received that helped them at that time to buy into the redevelopment of the project really, have not materialised and they are very concerned and angry at what has happened in this whole exercise. Sir, to compound it, they are still waiting for a word from the Ministry of Housing and Lands, not only to do with their properties but indeed to do with the Housing Neighbourhood Project that should have started since September as was promised.

Mr. Speaker, there were community projects that helped with the buy-in of the people in the area through the Special Projects Unit that had an excellent programme going with the Heart of Barbados and summer camps at Holy Innocence Schools and the Environmental Clubs and so on. That has all stopped over the last three years and the residents are not intimately involved in the way that they have been. There was a plan as part of the redevelopment to widen the road and the coaches and buses that are going in are still meeting a lot of problems. There was a plan for an exit road and that has not materialised either therefore the agricultural access road that will take the residents out of the village is in disrepair and limited traffic can traverse that particular area.

I believe, Sir, that yes, I will support the Honourable Member's presentation, but I would want to get further advice and action to follow for what should happen to the folk in Allen View who are extremely disillusioned. One of my constituents whose property was entered upon without

even a single word coming from the Ministry of Housing and Lands for the redevelopment of the project, has died of a broken heart as a result of the lack of communication for what we were saying for so many years, the piece of the rock that she had, was taken away from her.

There are other persons who speak of the challenges that they have been experiencing in getting the funds for the lands that were acquired for the redevelopment process. Previous to that, there would have been persons where chaffs and other pieces of equipment that have been placed on their properties, and they cannot get the royalties in the way that they would like.

If anybody acquires my land and five years go, ten years go, fifteen years go, I expect to get some kind of message that makes me feel comfortable about the compensation package and that is not happening. You would appreciate, Sir, that when people can no longer expand their houses as a result of being living either on top of the Cave or the environs surrounding the Cave and still cannot get a waterborne toilet because a lot of the houses that require the water attached to them and the Barbados Water Authority is still not budging. Therefore, the plans and the promises, I would say that were offered to them, have not materialised.

Sir, to chuck it all in my final comments, when the Cave was officially reopened, the residents of Allen View in particular, and Welchman Hall by extension, did not even get a single invitation and it really rub them up the wrong way because all the years they were a part of the project. When Mr. Sorensen went in, locals went in and lent their support. Locals have always been a part of the project but now they have been left out and how do we expect them to appreciate, to respect and to buy into a project that is the world's eighth wonder but yet all these things are happening around them and they do not think that they are benefitting.

Where are the kiosks that were a part of the project at this conception in 1998 and the surveys that were done for two years? Those people in Allen View, Welchman Hall, Vault Road, Bryans Road, Sturges, Bloomsbury and so on are extremely disillusioned to what has happened to them, and the plans that were to engage them in a way that helped them to gain employment, that helped them to sell the package of Harrisons Cave. Unfortunately that has not materialised in the way we expected. I am not pouring cold water on it but I just want the Honourable Minister responsible for environment and so and the Prime Minister of course to pay closer attention to it because the people of Allen View expect more and they were being taken step by step because of their engagement in the Heart of Barbados, where they were travelling as guides.

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They worked with the entire project. They were able to sell their ware. They were part of the sports programme. The Youth Path Project from UNESCO was also part of the programme. Sir, sad to say, nothing is happening in the scale that would bring any joy or contentment to their hearts even though they are living around or on top of the eighth wonder of the world and therefore I want for the Government to treat to the exercise of engaging them again so that at the end of the day the Cave belongs first to the people of Allen View and the surrounding communities and all Barbadians and then all the other visitors from the rest of the islands and the world who want to come in and pay some kind of attention. As I have said, I have absolutely no problem in the presentation made by the Honourable Minister to have that funding available but we need to treat to it now in a more systematic way to build that confidence that has been lost over the last few years due to the exclusion of the locals in the entire exercise.

I wish to thank you, Sir, for the moments.

Mr. SPEAKER: I am obliged. The Honourable Member for St. Lucy.

Hon. D. St.E. KELLMAN: Mr. Speaker, it is no doubt that we have heard what was said by the Honourable Member for St. Thomas but as the Honourable Member for St. Thomas is aware, the money budgeted for this project was all spent before the year 2009 and that is the reason now that we are here seeking this guarantee because we had to look for some additional funds to spend on this project because when we came to Government, we found that the money allocated by the previous Government was all spent and the project had not progressed at the rate that it should have been progressed.

Sir, I want to assure the Honourable Member for St. Thomas that this Government will do everything that she has spoken about because the National Heritage Department will continue all those programmes. I can also assure the Honourable Member that there is money in the Budget for the provision of roads of which the Minister of Public Works can speak to and in the area of housing, which the Minister of Housing and Lands can also speak to. We are not leaving out the people of St. Thomas. This is something that we spoke to as far back as 2001 when we pleaded to the Government at the time... As you are aware, Sir, this land and all the things that the Honourable Member is complaining about are the provisions that were put in place as far as back as 2001 where persons in St. Thomas were not allowed to even have a plan drawn so this is nothing new. This is something we went through during the bi-election.

Miss C. Y. FORDE: On a point of order. The Honourable Member is misleading the House. The Honourable Member for St. Lucy said that the people of St.

Thomas were not allowed to submit a plan. The Honourable Member needs to be corrected because he is misleading the Honourable Chamber. It is to do with those areas that were demarcated as within the zone of Harrison's Cave and not St. Thomas on a wide scale.

Hon. D. St.E. KELLMAN: That is exactly what we speak to, Sir. At St. Thomas on a wide scale there is tremendous development going on so I could not be speaking about St. Thomas on a whole, I am speaking of those locations near to the Cave. Sir, so bad is the situation that the Government of the day, which happened to be the Barbados Labour Party Government, had to even relocate persons or a person to St. Lucy because it was thought that the operation that the person was carrying on at that location was affecting the Cave although what the Government at the time did not know that it was not only a pig pen but that somebody was processing as many as 500 chickens a day in that particular location. The Honourable Member for St. Thomas might not have known that but it is a fact that there was a chicken processing plant operation going on in that area and that might have been the cause of the effect in that area. Mr. Speaker, it is no doubt that we need not worry. This is a caring Government and we understand exactly what has to happen.

Mr. Speaker, this even goes back from when this Cave was first turned into a company. I wish the Honourable Member for St. Thomas to go and read the speech because I suggested at the time that on no consideration should the tour buses be driving straight to the Cave's mouth, go and look at it. Now today we have another situation where the tour buses are not now going to the Cave's mouth but they are allowed to park. We have gone so far as to ensure that we have a visitors' reception centre, which is completed. It has now a conference room, retail space, a ticket office, a restaurant, a bar, an amphitheatre, staff offices and wash rooms. It is like if you are now entering the Grantley Adams International Airport. All of the facilities are up there and the nice parking is also up there.

Not only that, Sir, it is the best example of greening in Barbados of which the Honourable Prime Minister will deal with tomorrow and so I have no intention to get involved in what will be launched tomorrow by the Honourable Prime Minister at the University of the West Indies. Sir, I am saying that we have done tremendous work at the Cave and we will complete that work in the interest of Barbadians. When one looks at the amount of money that has been spent on the Cave, it is no doubt that we will have to do our own marketing plans, which was not planned by the previous Government, to ensure that instead of the Cave depending on the tour operators for the delivery of people that we have our own catchment area for our own people so as to ensure that this investment is matched by returning revenues to make it profitable.

As it stands right now, the Government of Barbados is still subsidising the Cave in a tremendous way. One would have thought that our major tourist attraction should be able to stand alone but it is not so. We assure you that we would do enough work to ensure that this project is profitable and is not one that will have to humbug the Minister of Finance every year for a supplementary or for a grant but that it will be a contribution to the Government and the people of Barbados.

I am saying, Sir, that this project cannot only be receiving money for entrance fees into the Cave, it is too major a project. I am saying that it will have to do with the other things around the Cave of which there are many. The Honourable Member has spoken about the nature walk. We will ensure that everything that we were doing with the Holy Innocent Church and the school, like the nature walks, the trails and so on, will be completed and that we will not have to depend on the Honourable Member for St. Thomas for any ideas.

Sir, it is clear that everything that was said when the company was launched, has now been corrupted by the previous Government but we will ensure that we put our plan in place. We have been able to build the tourist building. We have been able to purchase new trams. We have been able to retrofit the Cave's Interpretive Centre. We have done the drainage, the external works and everything. The lighting, the ventilation system, the emergency exits, the sewerage plants and everything else have been put in place. We have also ensured that we are not only practising a green economy but we are ensuring that everything that is needed to make this the major impetus of a green economy has been started at the Cave and that we are not talking about it but we are also doing it.

I must admit, Sir, that the Minister of Finance has done a wonderful job on this. We have no intention of delaying the House but it must be said that everything that was promised will be delivered.

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Sir, we will have a lot more to say on this project. I also want the Honourable Member to understand that the construction of the pathway under Highway 2A to connect Welchman Hall Gully to Harrison Cave will be done by the Ministry of Transport and Works because the financing is there and therefore the Honourable Member needs not worry. Mr. Speaker, we will also be doing directional signage. I also want the Honourable Member to know, if the Honourable Member were reading the papers last week, the Honourable Member would have recognised that the Ministry of Housing and Lands, Urban and Rural Development has readvertised for the land acquisition that has to be done in here and so the Honourable Member

needs not to worry about those things. Mr. Speaker, the project is nearly completed.

Asides.

Hon. D. St.E. KELLMAN: Mr. Speaker, the Honourable Member is saying that we bought some of the chickens that were killed in St. Thomas. I am not aware of that and I am not aware of that blood that was going into the cane from the chickens the Honourable Member is saying we bought at Moon Town. We are also ensuring that we are monitoring the environmental hazards that might occur. We are ensuring that we are doing everything possible to ensure that this project is all good.

Mr. Speaker, the Honourable Member does not like fairness and that is why the Honourable Member cannot appreciate me. Mr. Speaker, there is no doubt that this project being a major one, we cannot ignore it. We must recognise the importance of it to tourism. We cannot see it as a stand-alone, we have to recognise that this is a major project in our environmental drive. It has the same significance that we would put to the Botanical Gardens, the same significance that we would put to Beautifying Barbados, the same significance that we would put to sanitation or the drainage and that there is a connection between all of these projects. Sir, at the end of the day, we will have a better Barbados because of these projects. Mr. Speaker, I am happy to report the fact that was in the first session of this construction has been taken out and we are now on progress to come in within the new budgetary figures, even though we had to deal with some overruns previously.

Mr. Speaker, I am happy to support this guarantee and to say that the Ministry of the Environment, Water Resource and Drainage will do everything to ensure that Barbados continues to play a pivotal role in ensuring that we carry forward the concept of a green economy. We will ensure that we continue to be environmentally- friendly and that we do everything within our power to appreciate that we are part of the tourism industry and that we will make the environment a lot better than it was previously.

Mr. Speaker, I can assure you that not only would we make that promise but we will do everything within that Ministry to ensure that when we drive around Barbados you would see a better Barbados. Mr. Speaker, we will continue not only to fight above our weight but that we will continue to be heavyweights. I thank you.

Mr. SPEAKER VACATED THE CHAIR. Mr. DEPUTY SPEAKER ASSUMED THE CHAIR.

MR. DEPUTY SPEAKER: The Honourable Member for St. Michael North-East.

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, I want to support the comments of the Honourable Member of St. Thomas. I have listened to the Honourable Member for St. Lucy but note that his comments pertained almost exclusively to the redevelopment of the Cave itself. I think we have to have a policy that recognises that we are investing in areas for the public good of the country, that where people's ownership rights are circumscribed or constrained because of the necessity of maintaining that public good, the Government has to have a policy that appropriately treat to the concerns of those who are disadvantaged by reason of wanting to maintain that public good.

Mr. Speaker, there is no doubt that the Cave is the number one tourism attraction in Barbados. There is no doubt that underpinned the decision of the former Government to undertake the redevelopment of the Cave for the economic benefits of which we already spoke tonight, in relation to Four Seasons and now in relation to the Cave. Sir, where those economic benefits for the public good lead to a marginalisation or a constraining of individual property rights, then I believe the Government has a moral obligation to treat to those people where there are concerns.

Mr. Deputy Speaker, I think the Honourable Member of St. Thomas was making a point. Sir, I think that perhaps it was because the Honourable Member for St. Lucy was not a Minister in May 2010 but I have notes from a town hall meeting of May 15, 2010, where the Minister of Housing and Lands, Urban and Rural Development spoke to the residents, particularly in Allen View, and indicated that by September 2010 work to the tune of \$5.5 million would have commenced, leading to the development of a sewerage system such that the residents there who have been prevented from being able to have waterborne facilities and connections would be able to undertake that activity. Similarly, that there would be widening of roads, septic tanks and filter beds, trenching and pipe works, there would have to be 540 metres of a new road. There would be assistance with the add-on of the waterborne facilities.

Mr. Deputy Speaker, we would appreciate that if a deadline was given ten months ago for works to start and those works which should have started six months go have not yet started, there will be a genuine concern on the part of an entire community. Mr. Deputy Speaker, this is not one or two houses, this is an entire community in St. Thomas who is affected, Allen View, and one that should be well-known to the Honourable Member for St. Lucy. In fact, the one farmer they had there has been relocated to St. Lucy in the Spring Hall Land Lease Project. Sir, while the works have started, the truth is that we need to have greater clarity of policy in relation to how we deal with persons who are disadvantaged by the country building up the

national public good. Mr. Deputy Speaker, that is a broader point than just the Caves alone, as it will affect other developments and attractions.

Mr. Deputy Speaker, in relation to the Botanical Gardens, luckily there are no houses to be moved. That is a Zone One area and that will not be an issue but there are other areas, for example, on the east coast if we want to be able to make decisions that will lead to certain types of ecological developments, it may negatively impact on some land owners and how do we as a Government compensate those land owners individually as private citizens against the background on the desire of the county and the Government to maintain the national good.

Mr. Deputy Speaker, with those few remarks, I simply urge the Government, and particularly the Prime Minister, to be sensitive. It was unfortunate that I believe the Chairman of the Cave of Barbados would have given the Minister at the time invitation for the residents. They were not give out nor distributed. Sir, that is the kind of thing that will alienate people after having worked so hard to get their assistance on board.

Asides.

Hon. Miss M. A. MOTTLEY: It is not a question of spending all the money, they had a large reception for the opening a year ago and people came from all parts of Barbados, except Allen View. That cannot be right and therefore in those circumstances we ask that these things be considered. Sir, more importantly than the failed invitations is the commitment to build the sewerage plant and to allow people to resume their lives. We talk about these things but if you have to do it day in and day out and you cannot get the waterborne facilities day in and day out because what is necessary at the Government level has not been done, you begin to understand the nature of the hardship that these people are facing on a daily basis. Therefore, in my view, it must be treated as a matter of urgency, particularly since the funding is identified under the Housing and Neighborhood Upgrade Programme, which is being funded by the Inter-American Development Bank. Sir, I am obliged.

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Mr. DEPUTY SPEAKER: The Honourable Member for the City.

Hon. P.M.T. TODD: Mr. Deputy Speaker, I will be very brief but I would wish to respond very quickly to points made in relation to housing. Sir, as Minister of State within this Ministry I am aware that the Housing and Neighbourhood Upgrading Programme was almost stagnated by the Barbados Labour Party administration and, Sir, this administration signed the loan agreement in

2008 and I remember within weeks of assuming office, the Minister of Housing and Lands, at the time, invited myself as Member of Parliament for the City where two of the pilots sites are located, namely, Cat's Castle and Greenfields.

Mr. Deputy Speaker, the Honourable Member for St. Thomas was at that meeting at the Ministry of Housing's conference room when we were all brought up to date in relation to that project and, in fact, as recent as the last Financial Statement and Budgetary Proposals, presented by the Honourable Member for St. Michael North West, he did indicate the revised dates for the start of work at these pilot sites, Alan View, Garden Land and Cat's Castle and Greenfield so, Sir, it is not correct to give the impression that this administration has not updated the public. Sir, we have made the point that the trenching work and the tendering process takes time, and we are not getting the big contractors interested in this painstaking trenching work and that creates necessary challenges.

Mr. Speaker, you know that when you are getting funding by the IDB that certain conditions, precedents and so on have to be adhered to. Sir, the tendering process must be transparent and far and wide and so these issues are being addressed.

Mr. Deputy Speaker, we have identified the 10 additional sites necessary and so the public can be assured that this project will be executed by this administration because there are certain deadlines that must be met, if we are to draw down on these funds. Sir, we have had in some instances in Allan View just one firm tendering and so we have to go back to tender to make this process compliant with the IDB conditionalities and their rules of engagement and, Mr. Deputy Speaker, this is a well-known fact.

Mr. Deputy Speaker, let me just conclude by saying that there are cost overruns, which the Honourable Member for St. Lucy is talking about, that the Barbados Labour Party left this administration to deal with. I remember as a member of the public listening to this debate within the House of Assembly when the Barbados Labour Party was in office when the former member for St. James South was Minister responsible, and at that time the Barbados Labour Party administration actually rocking the taxpayers of Barbados into an arrangement where those trams were excessively expensive because the Barbados Labour Party administration decided that the Government would have the patent to be the sold entity to manufacture these trams as if Barbados, realistically, would be engaged in building trams for export or something like that.

Sir, it was necessary expenditure which this Democratic Labour Party administration has been saddled with and, Sir, that is why the Barbados Labour Party is in Opposition. Sir, they were incompetent and they were

grossly incompetent with regard to the management and the execution of the Harrison Cave Redevelopment.

Mr. Deputy Speaker, I thank you.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Michael North West.

MR. C. P. SINCKLER: Mr. Deputy Speaker, Sir, with those contributions, I beg to move that this Resolution do now pass.

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

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

ORDER NO. 12 – INCOME TAX (AMENDMENT) BILL, 2011.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Michael North West.

MR. C. P. SINCKLER: Mr. Speaker, Sir, these matters pertain, in this particular Bill, to an amendment to provide for the proposal which, of course, were enunciated in here by myself as Minister of Finance in the Financial Statement and Budgetary Proposals. Sir, the Income Tax (Amendment) Bill, 2011 provides for the removal of the tax-free allowances, travel and entertainment, if you want to call it that. Sir, Clause 3 makes the provision for the removal of the allowance for travel by deleting Section 9 (1)(d) of the Principal Act and replacing it with the following:

(d) amounts advanced or received in the income year by the employee from his employer to be used exclusively to cover the cost of travel in the performance of duties of his office or employment away from his employer's place of business or in different places."

Mr. President, it should be noted that the Commissioner of Inland Revenue has advised that the in the Income Tax Act there was no provision for an allowance in respect of entertainment hence it should have been subject to tax. Sir, I think that should be made abundantly clear so, therefore, there is really nothing for entertainment to be removed because it was never really provided for in the law and, therefore, that is what has happened in relation to this.

Mr. Deputy Speaker, there is one other thing that I should point out. Sir, as is the case with most of these exercises, whenever you implement, there is always a category of public officer who may tend to become ill-effected by these amendments and in this particular regard the intention of this proposal, Mr. Speaker, Sir, as

enunciated by me in November, was never to be attached to persons who are reimbursed their travel. It was for persons with a fixed travel allowance and it has been since discovered that it is entirely possible that such attachment could be made to certain categories of public workers including postmen, public health inspectors, court marshals and so forth. Sir, so as not to cause any unnecessary distress in this particular regard, for the avoidance of doubt included in this particular amendment, we have agreed that at Clause 3 (b), we have inserted Subsection 1. (a) to read the following:

For the avoidance of doubt with respect to Paragraph (d) of Subsection 1, where an office is entitled to be reimbursed for any amount of travel in the performance of the duties of his office or employment, that amount is not taxable”.

Sir, this Act becomes effective from income year, 2011.

Sir, with those few words, I beg to move that this Bill be read a second time.

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

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

The Honourable Member for St. Michael North East.

Miss M.A. MOTTLEY: Mr. Deputy Speaker, let me say at the outset that I am happy to hear that this amendment specifically excludes those categories of workers postmen, court marshals, Youth Commissioners, police, et cetera, who would be entitled to have their travel reimbursed as part and parcel of their terms and conditions and hence would not be now out of pocket, as many of them had feared when the Budget was initially delivered by the Honourable Member for St. Michael North West, the Honourable Minister of Finance. Sir, I think that is a good thing and, perhaps, that lack of clarity would be addressed initially in the future.

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I think that is a good thing. Perhaps that lack of clarity would be addressed initially in the future. Sir, I want to still emphathise and sympathise with those workers who have been affected, who get fixed travel, and to recognise that the combination of the cost of living increases of the last three to four years, combined now with the reduction effectively of their disposable income, because from January most of these workers, in fact, do pay PAYE and therefore would already be experiencing the adjustment to

their take home pay in relation to their travel allowance now being taxed. Sir, the range of experiences that I have encountered move from people losing as little as \$250/\$300 a month to as much as \$700 a month in relation to both travel. I take the Minister's point about entertainment but recognised that it was treated as if it was not subject to taxation in the past. Therefore the combined affect on people's salaries have been as much as, as I said, from \$300 to \$700 on average a month.

Sir, the impact on that is not only to reduce their disposal income, but in many instances people have started to make adjustments. If they were hiring a gardener for one week, they are now making the adjustments and doing the gardening themselves. Therefore, that gardener now who is depending on that pick at three, four or five different residences, no longer has money coming in to pay for his own existence. Therefore, there is a negative consequence being faced in relation to certain types of what I call ad hoc and informal employment in relation to people who may have come in to help them iron or to wash. People are now making decisions that they have to do all of this on their own, because they have seen a reduction in their income. Sir, it not a happy situation.

Sir, I do not know that we would have made the same choice in relation to adjustments for the raising of revenue, but the Government is entitled to make the decisions that they want, but we equally are entitled to comment on the decisions which they have made. I think that this is one in the interest of the impact on the average Barbadian who is affected, which is effectively your middle class workers, and I am not talking about Government workers alone now. I am talking about the private sector too, middle level people, journalists, all of those kinds of persons, that you may want at some point to revisit particularly given in recent weeks the increase in oil prices and the concomitant increases that are likely to accrue again in relation to oil and food, given the hardship that it is imposing on individual households.

Sir, Barbadian workers at both the lower working class levels and lower middle income levels and middle income levels have been harshly affected by the last few years. Some may argue that many of them still have jobs, but there is a higher degree of what I call under employment. It is not an issue of unemployment per se but people who are working three-day weeks, four-day weeks or two-day weeks. These are the ones being affected.

We are seeing the consequences of it in the performance of the domestic economy, through the significant reduction in corporation taxes. This year the Estimates which were lay today reflects corporation taxes coming in this year, that is now finished, at \$309 million, which is almost \$80 mullion less than the year before, and in circumstances where the projection for corporation taxes

was \$150 million more. Now why the disparity? You project to get \$460 million. You end with \$309 million. You also will not see in my view the full intake in relation to the VAT that was projected, largely because the disposable income of individuals has been affected, and this reduction in their net take home pay, as a result of the travel allowances, will further compound the situation in 2011.

You are hearing the people complaining.

Sir, I am sure everybody in here has. The question is, is it right decision and how can we sustain it, particularly were continue to see the increase in oil prices and the concomitant consequential impact that will have on prices in Barbados.

I believe that this is matter that we have to keep our eyes on. The amendments are here but the amendments are not necessarily required to be cast in stone forever, and given the impact of further increases in prices that our workers and our household will face, I believe this is one of the areas that the Government is going to want to keep under review, because \$300 to \$700 less is a lot of money for most families who were already struggling to live on a budget with that \$300 to \$700 coming in.

I am obliged to you, Sir.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Michael North West.

Hon. C. P. SINCKLER: Mr. Deputy Speaker, I almost feel obligated to say thanks to the last Honourable Member who spoke, for giving us a preview of her Estimates presentation, even though I am not sure under the rules of the House if the Honourable Member really could have been referring to the Estimate which were laid today and anticipated the debate, but be that as it may, at the late hour, the Honourable Member chose to slip in a little...

Asides.

Hon. C. P. SINCKLER: ...slip in a little thing there in the absence of the Honourable Member for St. Peter. I understand the points being made by the Honourable Member.

Of course, when the Budget was delivered last year, it was a particularly distressful time for the Honourable Member for St. Michael North East. The Honourable Member recently had been disposed as Leader of the Opposition and perhaps has not paid as close attention to the comments which I made at the time during the debate.

Asides.

Hon. C. P. SINCKLER: Mr. Deputy Speaker, if the Honourable Member was paying the attention that the Honourable Member normally pays to these debates, she would have known that we indicated that this would be a temporary measure and that it was being implemented to deal precisely with a serious disequilibrium in the public finances that needed to be brought to some level of order, and we took no comfort in doing it. Sir, even for us on this side, as Ministers of Government or Parliamentarians, there were no clarifications...

Asides.

Hon. C. P. SINCKLER: Sir, the fact of the matter is, we have had to take a knock as well. At a personal level I can indicate that together with my wife, this proposal has caused us to lose over \$1 200 a month, or probably more.

Hon. Miss M.A. MOTTLEY: On a point of order. The Honourable Member is misleading the Chamber in making the public believe that the rest of the public has the same kind of girth as he, or even me, to be able to withstand these shocks. The truth is, the average member of the public does not have the girth to withstand this kind of shock. Be that as it may, I know his clarifications came in January, after the Budget, once he heard the squealing on the part of the public as well.

Hon. C. P. SINCKLER: Sir, I would never try to suggest that everyone in the public has the level of capacity as we would, but that does not mean that we too do not feel the pinch of measures. We said to the public why we were going to do it. We said that we know that it is going to be, perhaps not popular, and certainly not painless, but we indicated to the public that the options available to the Government to bring the deficit under some level of serious discipline were simply unpalatable, because it would have meant for us to have retrenched hundreds if not thousands of public officers.

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Therefore in my whole mantra and in the mantra of the Democratic Labour Party and I make this very clear, Mr. Deputy Speaker, it is better in a recession so styled the world's greatest recession, certainly in the last Century and in this Century so far that it is better for a man to go to work and earn a dollar, even if the Government has to ask for an additional effort, than for that man or woman to be sent home and earn nothing at all and that is the dividing line between this Party in Government and that Party in Government and I want to make that abundantly clear.

It is in short-terms, we will review it and we will make adjustments according to how the Budget recovers. Mr. Speaker, the final point I want to make is this. In 1991 when we had a similar occurrence in terms of a recession

of this nature, obviously it was not of this magnitude, the public servants of Barbados were asked to carry an inordinate burden in the sense of the 8 per cent cut. It was only the public servants. On this occasion, we have asked everybody to carry part of the burden of the adjustment that has to occur, private sector, public sector, highly paid, lowly paid and in between. I think this is a fair way in which to approach the effort of adjustment in the country.

Sir, I believe that what we are seeing is an effort from the public of Barbados. I want to thank them for their contribution to helping us to recover this economy and together we will success and triumph. Sir, people will be vexed, people will say what they have to say but Barbadians always make their contribution to the development of their society and they will continue to do so on this occasion.

With those few words, Sir, I beg to move that this Bill be read a second time.

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

On the motion of Hon. C.P. SINCKLER, seconded by Hon. P.M.T. TODD, the House resolved itself in Committee on the Bill, Mr. J.D. PAUL in the Chair.

COMMITTEE

Mr. CHAIRMAN: This Honourable House is in Committee.

Clauses 1, 2, 3 and 4 were called and passed.

On the motion of Hon. C.P. SINCKLER, seconded by Hon. P.M.T. TODD, Mr. CHAIRMAN reported to His Honour the DEPUTY SPEAKER, the passing of Bill in Committee and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. C.P. SINCKLER, seconded by Hon. P.M.T. TODD, the Bill was read a third time and passed and cited as the Income Tax (Amendment) Act, 2011.

ORDER NO. 14 – THE PENSIONS (MISCELLANEOUS PROVISIONS) BILL, 2011

Hon. C.P. SINCKLER: Mr. Speaker, again this is a matter arising out of the Budget Presentation of November 2010 and it seeks to give effect to a categorisation of those allowances which would now be taxable on the public servants to be treated as pensionable to allow for it to be recorded in their accrued pensions at the end of their service. Sir, this is also extended not only to the public service, in terms of the central service under the Pensions

Act, Cap. 25 but also extended to the Statutory Board Pension Act Cap. 384. It means that we will have to amend the Schedule.

In the Pension Act, Cap. 25 in section 2, in the definition “pensionable emoluments” we will delete the words “entertainment allowance” appearing therein; and immediately insert after sub-paragraph (iv) the following “entertainment allowance and commuted travel allowances” which does not include of course travel which is reimbursable because that cannot be categorised as pensionable.

Sir, under the Statutory Boards Pensions Act, Cap. 384, in section 2 to delete the definition “pensionable emoluments” and substitute it with the following: “pensionable emoluments” means (a) in respect of service under a Board, (i) salary or wages and interim payment made pending a salaries or wages revision; (ii) fees and house allowance; (iii) entertainment allowance; and (iv) commuted travel allowance which does not include travel allowance that is reimbursable.”

Of course, under column 1 of the enactments of the Statutory Boards Pensions Act continues but does not include a payment for overtime. Of course, cost of office accommodation, assistance of deputies, clerical or other assistants, duty allowance, none of that will be considered as payable only that which applies to the allowances which would attract tax from income year 2011.

With those few words, Sir, I beg to move that this Bill be read a second time.

Hon. P.M.T. TODD: I beg to second that, Sir.

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On the motion of Hon. C. P. SINCKLER seconded by Hon. P. M. T. TODD, the House resolved itself into Committee, Mr. J. D PAUL in the Chair.

COMMITTEE

Mr. CHAIRMAN: This House is in Committee.

Clause 1 - 4 inclusive were called and passed.

The Schedule was called and passed.

On the motion of seconded Hon. C. P. SINCKLER, seconded by Hon. P. M. T. TODD, Mr. CHAIRMAN reported to His Honour the DEPUTY SPEAKER the passing of one Bill in Committee and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motion of Hon. C. P. SINCKLER, seconded by Hon. P. M. T. TODD, the Bill was read a third time and passed and cited as the Pensions (Miscellaneous Provisions) Act, 2011.

Mr. Deputy Speaker, vacated the Chair and Mr. SPEAKER resumed the Chair.

ORDER No. 15

MINISTERS AND PARLIAMENTARY SECRETARIES (REMUNERATION AND ALLOWANCES) (AMENDMENT) BILL, 2011

Mr. SPEAKER: The Honourable Member for St. Michael North West.

Hon. C. P. SINCKLER: Mr. Speaker, again this is another one of the matters that arises out of the proposal on the travelling and entertainment allowances. Of course, this permits for the protection clause on the travelling and entertainment allowances for Members of Parliament to be lifted by way of this amendment so that the provisions announced in the Budgetary Proposals can also have equal effect on Members of the Chamber. I am sure that Honourable Member would join me in gladly making their contribution to this effort.

With those few words, Sir, I beg to move that this Bill be read a second time.

Hon. P. M. T. TODD: I beg to second that, Sir.

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

On the motion of Hon. C. P. SINCKLER, seconded by Hon. P. M. T. TODD, the House resolved itself into Committee, Mr. J. D PAUL in the Chair.

COMMITTEE

Mr. CHAIRMAN: This House is in Committee.

Clause 1 - 3 inclusive were called and passed.

On the motion of Hon. C. P. SINCKLER, seconded by Hon. P. M. T. TODD, 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 motion of Hon. C. P. SINCKLER, seconded by Hon. P. M. T. TODD, the Bill was read a third time and passed and cited as the Ministers and Parliamentary Secretaries (Remuneration and Allowances) (Amendment) Act, 2011.

ORDER No. 16

VALUE ADDED TAX (AMENDMENT) BILL, 2011

Mr. SPEAKER: Yes, Honourable Minister.

Hon. C. P. SINCKLER: Yes, Mr. Speaker, this Value Added Tax (Amendment) Bill is again another, and the final for the evening, of the measures to give proper legal effect to the Budgetary Proposals. Of course, as you know, we had invited that such be raised from 15 per cent to 17.5 per cent for a period not exceeding 18 months and we have reflected that in the legislation, so it is time-dated. Of course, for those hotel properties, the services paid their required figure, we have adjudged that to be at 50 per cent according to the legislation of the going standard rate, which of course is now 17.5 per cent and that should take effect from the 1st of May.

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We have consulted with the Barbados Hotel Association, who have indicated that they would have preferred we had been given a stay of execution based on the winter season. We facilitated that. Our anticipation is that May 01, 2011, we have cleared that particular hurdle. Of course, in the Budgetary presentation, even though it was not voiced, it was included in the presentation that the VAT threshold is raised from \$60 000 to \$80 000. Therefore, we want to give effect to raising the VAT registration by that amount.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, in normal circumstances I would have wanted to give a full speech but I am sensitive to the time.

Asides.

Mr. SPEAKER: You have time to do the people's business.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, this matter of the increase of VAT was one with which the Opposition would have expressed some concern at the time of the Budget. The truth is that it is having an impact on both individuals and households and businesses. We are happy that the Minister of Finance has brought the legislation. The Minister indicated that it would have been possibly time-bound. The legislation now reflects the fact that it is time-bound, that he has followed the example of the British Parliament in relation to the time-bound nature of this increase in the rate but the 17.5 per cent is having an impact in relation to cost of living, is having an impact in relation to disposable income. Sir, the cries of the tourism sector in relation to the winter season really reflects the circumstances of other enterprises and businesses across the country. Sir, the truth is that in order for growth to

return to this economy, we are going to have to be able to find a way for businesses to be to become profitable again. It is well-known that between 2008 and the middle of last year, businesses due down on their retained earnings to the tune of more than \$ 2 million. That has therefore meant that they now have little or no buffer in relation to the conduct of their enterprises. If these businesses cannot keep their heads above water, we are going to have problems.

Mr. Speaker, we understand that Government is doing this as an interim measure. Sir, what is the reality of our condition? We have had three straight years and on the verge of a fourth year of a current account deficit - not an overall deficit - which reflects that we are spending more money on a day-to-day basis than we are earning and the increase in VAT was to be able to regularize that.

Mr. Speaker, if this is time-bound, as we accept the Minister's word and the legislation which is before us, it also imposes on Government an immediate burden to reconstruct Government and to reconstruct the expenditure of Government because if not, we are not going to get out of the woods. The truth is that the scale of excess expenditure, the day-to-day current expenditure over Government revenue and particularly given the performance of the taxes on incomes and profits, corporation taxes and personal income taxes, to which I earlier refer, the reality is that to say this is time-bound is going to lead to those concerns in relation to how would a Government manage and build Barbados fiscal position back into a state of normalcy.

Mr. Speaker, next week we will have the opportunity for a full debate in the Estimates and therefore I expect that we will discuss these issues in a more fulsome manner but I do raise the point at this stage that it imposes a greater degree of urgency now for the reconstruction of Government and the reconstruction of what is it truly that the Government of Barbados can afford to deliver in terms of services, particularly given the fact that the maintenance of budgets deficits in excess of 3 per cent is, in fact, problematic.

Mr. Speaker, there are those who would seek to voice whether we want higher school fees, as if that were the only option. Sir, fortunately, I would have placed on record as far back as September last year, the need to begin to examine what are the things that Government must deliver. In my view, we must continue to deliver security; we must continue to deliver public health; we must continue to deliver education, in the context of our historical background. For those who perhaps are more recent to Government, it is for them a choice between education and something else. Sir, we do know that the subsidies to the University of the West Indies constitute 50 per cent of central Government public transfers and subsidies to institutions but there is another 50 per cent,

that other 50 per cent will have to come realistically under the microscope, if we are being honest with ourselves. Sir, if we want the reality of this measure to be time-bound to a period of 18 months.

Mr. Speaker, if we recognise that the impact on businesses who cannot reclaim the VAT, because not every item is capable of being reclaimed, therefore those prices are absorbed. Sir, let me also add to the fact that the reversed tax credit is premised not on a 17.5 per cent VAT but on a 15 per cent VAT and so those workers who are the very bottom of the scale have now also had a further adjustment downward in relation to what they would get back, because of the fact that they are spending more money because of that increase in VAT.

Mr. Speaker, I understand that Government has chosen this as their option but what we are signalling at this stage is that for it to be time-bound means that this time, of which four months have already gone, must be used to prepare Government's operations to bring us to a point where we are not in a perpetual position of spending more than we are earning as a country. Sir, the impact will not only be on Government fiscal condition, it will be on the social stability of the country.

Mr. Speaker, I note that Minister of Finance was sober in his comments but as said, there are some in Cabinet who are more recent to Government, who believe that it is a simplistic exercise of higher education or school fees, rather than something else. Sir, the reality is that even May Ferguson, as recently as two weeks ago, has written that the American fiscal situation is of such a concern that they can no longer only look at revenue and expenditure but that there has to be an examination of the purposes of Government, the services which Government delivers, as well as the assets of Government. Sir, when you have a deficit what are you doing? You are borrowing to maintain that level of expenditure at that point. Now, do we continue to borrow, while being cognisant of the high public debt to Gross Domestic Product ratio that we have or do we say to Barbadians who have savings to come to the rescue of the Government and their country?

Do we say to Barbadians en masse, Barbadian workers who have the opportunity to be able to invest some of their moneys in operations which are not essential to be owned by Government but which relieves the pressure off central Government in order to maintain the delivery of those services which are critical, such as education, public access and access to quality and affordable health care in this country, law and order which remains critical on an island 166 square miles where people have no opportunity to escape, if there is a further increase in crime.

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We have options but it is going to require difficult decisions.

Mr. Speaker, you cannot talk about the worse economic crisis, or the worse financial crisis in 60 years or 70 years and then cause the country to believe that you can continue with a current account deficit ad nauseam, now going into its fourth straight years, in circumstances where since Independence the country has only ever had two examples, on an isolated occasion, of current expenditure exceeding Government's revenue.

Mr. Speaker, all I am saying is that we have reached a point where discussion even in this Parliament will no longer suffice but the engagement of the public and the execution of decisions that are intended to restructure Government, make our operations affordable without hurting those who need the benefits of Government, and without hurting the Government itself in playing the critical and catalytic role that it must play in the spurring of our productive sectors in order to restore growth to this country.

Mr. Speaker, the truth is that there are some who chose not to see but the reality is that even if they chose not to see, they will feel. Sir, if it were a simplistic choice of sending home Barbadians or increasing school fees, or the use of scared tactics, as the Attorney-General wants to reflect on in his comments generally, then we would really be in trouble but the Government has choices, and the Government has choices because there is nothing that says that the Government has to continue to provide the range of other public transfers and subsidies that it is doing.

Mr. Speaker, we had a debate in here recently on the Transport Board, which has been the beneficiary of another Supplementary of \$49 million. We have had a debate also in relation to the operations of the airport and the seaport and the broader community. We had debates in relation to whether the workers of the NCC cannot become their own owners and operators rather than being employees and the Government has already sunk the investment in the equipment which they use, so do not let the public of Barbados believe that its Parliament is now so bereft of ideas that it cannot treat, in 2011, to the urgent reconstruction of Government such that Government's current expenditure, Government's monthly expenditure does not exceed its ability to earn money.

Mr. Speaker, We have been in a revenue rut for four straight years, and the reason why this VAT measure is here tonight to increase VAT for 18 months is an act of desperation on the part of Government to try to mitigate some of the damage that we are facing but, Sir, 18 months will come and go and if we have not adjusted the fact that our expenditure between 2001 and 2011 has grown by over \$1 billion, of which salaries and wages have only been

about \$300 million increase. Sir, the biggest increase in Government's current expenditure has been in transfers and subsidies. Sir, if we accept, as I believe is the case of both political Parties in this country that we have a duty to protect education, access to tertiary education and access to quality health care then we have to start having discussions if not, the 18 months will come and go and we will still be in the same vicious cycle that is seeing Barbados now being categorised as a country that is spending beyond its means on a consistent basis for the first time since Independence.

Mr. Speaker, who suffers? The people at the bottom, the people who can least protect themselves, the people who are not getting the benefit of the increase reverse tax credit to offset the 17.5 per cent VAT are the same people who, equally, will suffer now that oil prices have gone up, will suffer now that food prices are likely to continue to spiral and who will suffer if Government cannot provide the same quality of social care and safety net beyond the medium-term simply because persistent current account deficits will lead to a reduction of our credit rating, a narrowing of our policy options and a diminution of investment opportunities in this country both for locals and for international investors.

Mr. Speaker, when you look at the gross capital formation, the level of investment in this country in the last three years, you have to be concerned.

Sir, I am not seeking to attribute blame, I am simply saying that is our condition and if we do not do them with the macro economic fundamentals of the country those things will persist in a way that would threaten our stability but we do not want to have it. The Government has chosen to go this route in relation to the increase of VAT, and that is fine. It says it is for 18 month but all I am saying at this stage is that there has to be the concomitant discussion as to how we will treat to the issue of the bludgeoning expenditure of Government in a manner that keeps us faithful to those values and keep those things sacrosanct which we want to protect because they have been the basic of economic empowerment in this country for ordinary citizens. (7:17)

Mr. Speaker, people must have access to education, people must have access to health care because without health you do not have life and in the circumstances let us start to address these issues in a serious way. Sir, that is all I am saying but it seems to have unnerved the Attorney-General. Sir, I assume that he really more unnerved by the lateness of the hour of the night but given that this is International Women's Day, I have a duty to speak out on behalf of both the workers and women before the night finishes in the next 10 minutes. Sir, I am simply saying to the country, yes, I understand the Government has difficult decisions and a difficult situation but let us also recognise

that there has to be an urgency to being able to put on the table for sensible discussion because it will take one to two to three years to begin to reconstruct those aspects of Government that maybe better deployed or better owned by the collective earnings, not of a few in the private sector but of the workers of this country through the National Insurance Scheme, through the credit unions, through the pensions funds, through the collective individual savings of people and, Sir, who best to help Barbados but Barbadians and their own savings rather than resorting to the international or domestic capital markets for more debt in circumstances where we know we cannot sustain it. Mr. Speaker, that is all I am saying.

Mr. Speaker, I trust and hope that we will have a greater opportunity next week in the context of the Estimates to address these issues and in those circumstances, Sir, and beyond because this is an exercise that will engage this Government and any future Government over the next five to seven years in Barbados because what you are talking about is effectively changing the structure of Government to meet the realities of a 21st Century Barbados that has been (1) affected by the failure to address all of the circumstances and also reform all of the conditions and, Sir, that is a tall order for a young independent country.

Mr. Speaker, nobody expects miracles overnight but we have still to deal with it because the reality is that in the growth tables there are 180 countries going ahead of us, and there are just over 200 countries in the world. Sir, we are accustomed being in the lower ranks of the table. Sir, I am not casting blame because it is a combination of factors that have brought us here but what I do know is that there ought to be the collective will in this Parliament and in this country to say that we are not prepared to bequeath to our children that which we did not receive as a legacy. We do not have a custom or a habit of persistent current account deficits in this country, and we must not become accustomed to it. It must not become part of our vocabulary or part of the norm.

11.51 p.m.

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The only way we can avoid it is not by simply having eighteen-month increases in VAT but also making the decisions that when the eighteen months is up there is no need for the Minister of Finance to hurt his head, and to inflict that scale of pain on the Barbadian households and consumers again, because we have made decisions that have right-sized our Government while protecting the most vulnerable and recognising the catalytic role that Government must play for the productive sectors and small open and developing economies such as our own.

I am obliged to you, Sir.

Mr. SPEAKER: The Honourable Member for St. Lucy.

His Excellency D.St. E. KELLMAN: Mr. Speaker, it is rather interesting sometimes to hear the Opposition, one would not have believed that after 14 years that they are now trying to teach the Democratic Labour Party, the lesson which they should have taught themselves; there is no doubt that the Ant had more economic sense than the Barbados Labour Party, because the Ant knew how to build reserves for hard times. Instead of the Barbados Labour Party building reserves when the revenue flowed and the economy was well, they behaved like every day was catching day and spent all the money, rather than building reserves.

Sir, one would have heard the former Honourable Leader of the Opposition making the point about high transfers, and at face value throwing across the Floor a figure of \$875 million. One would get the impression that figure arrived just like that. One would not believe that it included the Queen Elizabeth Hospital which was removed from normal expenditure and put which to transfers. Sir, anybody hearing the Honourable Member would believe that all these transfers are current because of the Democratic Labour Party, but has nothing to do with the Barbados Labour Party, and we increased transfers from zero to \$875 million.

Sir, we would hear how badly the poor people are doing in this country, how VAT was increased by 2.5 per cent and there was no cushioning. That is not true. The Reverse Tax Credit was increased from \$1 000 to \$1 300 to cushion that impact. Sir, do not let the former Leader of the Opposition behave as if the hands of Honourable Members on that side are clean and have not contributed to this problem.

Asides.

His Excellency D.St. E. KELLMAN: Mr. Speaker, if they had not taken all the surpluses and converted them into deficits we would have had a surplus. The record would prove that they had in the last fourteen years which if kept for us, would have improved our position. They behaved as if the revenue flows would continue the same say and never budgeted for a crisis. Sir, today it is clear they have created the problem and are now looking for someone to blame.

Sir, finally, you would have heard about the size of the Government's wages bill and you would have heard the Honourable Member making the point of a transfer of \$875 million, but what the Honourable Member would not tell you as that at nearly every Statutory Board, 75 per cent of

the transfers are for wages and salaries. That is the point I am ending on.

I thank you.

Mr. SPEAKER: The Honourable Member for St. Michael West.

J.D. PAUL: Mr. Speaker, I will not sit down in Parliament and listen to somebody pretending...

Asides.

J.D. PAUL: Sir, I sat down in Parliament and listened to the Honourable Member for St. Michael North West indicate to Barbadians the path we need to take in terms of right-siding the economy. Sir, we get a Jackal and Hyde performance from the Honourable Member for St. Michael North East. At one point in time I sat in here today and heard the Honourable Members talk about forging a national consensus. Sir, how can we forge a national consensus when we have a constant attempt on the part of the Opposition to give the impression to Barbadians that this Government is not serious about the real economic issues which are actively facing this country? Sir, not only that, we also forget that even the last presentation which the Honourable Member for St. Michael North West made, clearly outlined to Barbadians the fact that one of the main players upon which we intend to bring back this economy, is the whole question of entrepreneurship.

Sir, to my mind it is extremely unfortunate that we have a situation where a spokesperson for the Opposition could get up in Parliament and say that we have not presented to the public of Barbados the solution. I also want to say something else.

Mr. SPEAKER: Honourable Members, let us keep quiet.

J.D. PAUL: Sir, most of the solutions that appear to be coming forward from the Opposition are ones that will cause considerable pain to the people of this country. Sir, when they had the opportunity to put in place solutions to right-side this economy, they ran away from it and called a general election. That is what they did. They wanted the opportunity to come back into Parliament and impose draconian measures on this country. They would not say that to the people of Barbados. They called an election to win, then to come back into this House of Assembly and impose draconian measures. They would not say that. Sir, instead, what we have done as a Government is to attempt a humane approach to resolving the issues that are being faced in this country at this point in time. I think we need to make that clear to Barbados.

Sir, the Opposition must stop giving the impression to Barbadians that this Government is not, first of all, aware of the challenges that we face, not only that, they must stop giving the impression that they are the only people who seemed to have the answers, in terms of resolving the difficult economic issues that we are being faced with at this point in time. I think that we need to make that very clear. Sir, we need to move away from the Jackal and Hyde approach that is being used at this point in time to confuse Barbadians as to the ability of this Government to get them out of this current economic recession.

Sir, we have made the path very clear and we have also said that we will not sacrifice the current welfare programmes, we have because we recognise the impact that it has on the poor. We have also said we will not compromise employment in this country. Sir, most of the solutions advanced, clearly you can see would have an impact on employment. That is what the Opposition is advancing.

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In that regard, Sir, I want to say I welcome the debate next week and I intend to participate. I want to say that we will have a wide debate and I look forward to hearing from the Opposition, the solution that they came to be advancing to this Government.

I thank you very much, Sir.

Mr. SPEAKER: The Honourable Member for St. Michael North West. Hon. C.P. SINCKLER: Mr. Speaker, I am not going to propose at this stage to be sidetracked by any of the Latter Day Saintism by the Opposition. I think the Honourable Member for St. Michael North East, even at this late hour when the Honourable Member believes that nobody in this country is listening, has now crossed back over into her accustomed role as a traditional politician, has demonstrated that all of the talk about post Party partisanship has now been thrown through the window and that we know what to come to expect because we understand what has transferred and what will transpire. Therefore, at this late hour, the false fury which, Sir, came forth from the former leader of the Opposition is not surprising and we expect more of that in the months to come.

Sir, with those few words, I beg to move that this Bill be read a second time.

Hon. P.M.T. TODD: I beg to second that, Sir, The question was put and resolved in the affirmative without division.

On the motion of Hon. C.P. SINCKLER, seconded by Hon. P.M.T. TODD, the House resolved itself in Committee on the Bill, Mr. J.D. PAUL in the Chair.

COMMITTEE

Mr. CHAIRMAN: This Honourable House is in Committee.

Clauses 1, 2, 3, 4 and 5 were called and passed.

On the motion of Hon. C.P. SINCKLER, seconded by Hon. P.M.T. TODD, Mr. CHAIRMAN reported to His Honour the SPEAKER, the passing of Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. C.P. SINCKLER, seconded by Hon. P.M.T. TODD, the Bill was read a third time and passed and cited as the Value Added Tax (Amendment) Act, 2011.

ORDER NO. 7 – TO MOVE THAT THE HOUSE RESOLVE ITSELF INTO COMMITTEE OF SUPPLY TO CONSIDER THE GRANT OF SUMS OF MONEY FOR THE SERVICE OF THIS ISLAND

On the motion of Hon. J.D.E. BOYCE, seconded by Hon. P.M.T. TODD, the House resolved itself in Committee of supply to consider the grant of the sums of money for the service of this island, Mr. J.D. PAUL in the Chair.

COMMITTEE OF SUPPLY

Mr. CHAIRMAN: This Honourable House is in Committee of Supply.

RESOLUTION TO GRANT THE SUM OF \$6 203 723 FROM THE CONSOLIDATED FUND AND TO PLACE IT AT THE DISPOSAL OF THE GOVERNMENT TO SUPPLEMENT THE ESTIMATES 2010-2011 AS SHOWN IN THE SUPPLEMENTARY ESTIMATES NO.12 2010-2011 WHICH FORM THE SCHEDULE TO THE RESOLUTION.

Head 13 - Prime Minister's Office in the amount of \$406 033

Hon. F.J. STUART: Mr. Speaker, very briefly, the Prime Minister's office is seeking the sum of \$406 033 to supplement the Estimates of Expenditure for the financial year 2010-2011. The sum of \$89 233 is required by the Ministry of Defence and Security to take care of a balance due on Barbados' subscription to the Regional Security System. Barbados' subscription to the Regional Security System for 2010-2011 was \$4 089 223 but only \$4 000 000

had been provided in the approved Estimates so the additional sum of \$89 223 is therefore required to cover subscriptions for this financial year.

In addition, the sum of \$7 868 is required for the integrated coastal surveillance system under account code 226 Professional Services. Barbados has an Integrated Coastal Surveillance System part of which is an Advanced Coastal Radar System, which has required the establishment of four radar towers around the island and we are still in the process of perfecting this and the sum of \$7 868 is required to cover fees for the project manager and an administrative assistant.

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In addition, of course, there were a few complications with the construction of the towers and there have had to be the relocation of one tower, which had been substantially constructed and therefore an additional sum of \$73 029 is required for the relocation of that tower and the erection of another one in the North of the island.

Under Programme 201, Immigration Regulatory Services, subprogramme 0202, Immigration Department, the Immigration Department, Mr. Chairman, requires an additional sum of \$150 513 to cover the cost of utilities for the period December 2010 to March 2011. Utilities charges at the Department have gone up. The sum of \$458 585 has been provided to cover the cost of the payment of utilities charges for the Department and at January 6th expenditure stood at \$413 897 086 and the balance was \$44 687 014, which will not be adequate to cover utilities cost for the balance of the financial year, hence the additional sum of \$150 513.

Mr. Chairman, the Department also needs an additional sum of \$85 400, which is required to cover the cost of an annual maintenance agreement for a sixth automated passport machine printing which is used by the Department. Sir, because of the sophistication of this piece of machinery, the Department had to enter into a maintenance agreement and that sum is required to cover the payment of the cost of that annual maintenance agreement, so the total sum of \$406 033 is required to supplement the Estimates of Expenditure for 2010-2011 of the Prime Minister's Office. Against that background, Sir, I beg to move that Head 13 stand part.

Hon. J. D. E. BOYCE: I beg to second that, Sir.

The question that Head 13 stand part was put and resolved in the affirmative without division.

HEAD 40 - MINISTRY OF TRANSPORT AND WORKS

\$5 500 225

Hon. J. D. E. BOYCE: Mr. Chairman, in moving that this Head stand part, I just want to note that this amount is for road rehabilitation. Road rehabilitation at Padmore Village in St. Philip accounts for \$857 000 out of this amount and the remainder is for rehabilitation under the Public/Private Partnership Arrangement with the Ministry for roads in Christ Church, Yorkshire Road, Airport, Thornbury Hill, Waverley Road, Deighton Griffith School to Aberdine, Lowthers and Charnocks and in St. Philip to complete the rehabilitation of Highway 5, Brereton to Marchfield and in St. James, Mollyneux Road.

With that additional information, I beg to move that Head 40 stand part.

Hon. P. M. T. TODD: I beg to second that, Sir.

Hon. M. A. LASHLEY: I rise to thank the Honourable Minister for moving with haste to ensure that we will have the necessary resources to complete the road at Padmore Village in St. Philip. Of course, I have had numerous complaints and messages in relation to the condition of the road at Padmore Village, St. Phillip and I will be announcing very shortly that road would be completed very shortly. As I said, there are a number of other roads that I could mention but given the hour of the night I will conclude my speech, Sir.

Hon. J. D. E. BOYCE: Mr. Chairman, I beg to move that Head 40 stand part.

Hon. P. M. T. TODD: I beg to second that, Sir.

The question that Head 40 stand part was put and resolved in the affirmative without division.

HEAD 66 - MINISTRY OF ENVIRONMENT, WATER RESOURCES AND DRAINAGE

\$200 000

Hon. D. St.E. KELLMAN: Mr. Chairman, in March 2009, the late Prime Minister and Minister of Finance announced his vision for Barbados becoming the most environmentally advanced green economy in Latin America and the Caribbean. Sir, in the same 2009, the Government of Barbados also held several high level exchanges between themselves and the United Nations Environmental Programme (UNEP) and it was agreed by the Cabinet on December 16, 2010 that the Cabinet would have a formal study re the Green Economy Scoping Study. It was agreed, that the Government of Barbados, UNEP and the University of the West Indies would partner in this study of which the University of the West Indies would carry out the work. Sir, come tomorrow, one would see the vision of the Government where the Prime Minister of Barbados would use the opportunity to launch this study.

Sir, it is from that end that we are here today to get this \$200 000 to ensure that our share is there to carry out the study and to ensure that Barbados will not only talk about it but will continue the work to push Barbados as the best green economy in the Caribbean and Latin America.

Mr. Chairman, I wanted you to know that the Green Economy Scoping Study would involve the Ministry of Tourism, the Ministry of Transport and Public Works, the Ministry of Housing and Lands, the Ministry of Agriculture, et cetera. It will deal with water, waste and energy and also ensure that we continue to look after our environment.

Mr. Speaker, there is no doubt that this Government has no intention of allowing itself to be left behind and we are ensuring that we go back to those old values and to ensure that we utilise the resources and that we take on board those good values that were left to us by our foreparents. We want to say that we will also ensure that waste would now have a new meaning in this country and it would not be seen just as waste but it would be seen as a resource.

With those few words, Sir, I beg to move that Head 66 stand part.

Hon. P. M. T. TODD: I beg to second that, Sir.

The question that Head 66 stand part was put and resolved in the affirmative without division.

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HEAD 68

MINISTRY OF INTERNATIONAL BUSINESS AND INTERNATIONAL TRANSPORT IN THE AMOUNT OF \$97 465

Mr. CHAIRMAN: The Minister of Finance.

Hon. E. G. HUTSON: Mr. Chairman, I beg to move that Head 68 stand part.

Hon. Patrick M. T. TODD: Mr. Chairman, I beg to second that, Sir.

The question that Head 68 stand part was put to the Honourable House and resolved in the affirmative without division.

On the motion of Hon. J. D. E. BOYCE, seconded by Hon. F. J. STUART, Mr. CHAIRMAN reported to His Honour the SPEAKER, the passing of one Money Resolution in Committee of Supply, and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of the Hon. J. D. E. BOYCE, seconded by the Hon. F. J. STUART, the Money Resolution was read a second time, a third time and agreed to.

ADJOURNMENT

Hon. J. D. E. BOYCE: Mr. Speaker, we have come to the end of Government Business for the morning. I beg to move that this Honourable House be now adjourned until Monday 14th March, at 10.00 a.m. when we will start consideration of the Estimates.

Mr. Speaker, quickly speaking on the adjournment, I would like to thank the staff of Parliament who have been through this Sitting with us starting yesterday and this morning, who have to return tomorrow for a sitting in another Place. We appreciate their dedication to duty and I wish them a quiet night's rest before they return in the morning.

Mr. Speaker, I now beg to move that this Honourable House be now adjourned until Monday, 14th March, 2011, at 10.00 a.m.

Hon. F. J. STUART: I beg to second that, Sir.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I think it is only appropriate that we thank the workers who have really gone beyond the call of duty to service us today. The truth is that I do not recall, since my time in 1994, of us working beyond midnight. Sir, the fact that many of these workers will have to be here to service the Other Place later today, beholds us to thank them for their service to this Honourable Chamber. Sir, they cannot even look forward to any rest next week because we are into five full days of debate next week, then they are into three full days of debates the week after in the Other Place, so that this is obviously a two-week marathon for them.

Mr. Speaker, on behalf of the Opposition I beg to associate myself with the remarks of Government in relation to thanking those who have serviced us for this 14-hour day, soon approaching 15-hour day. Mr. Speaker, I am obliged.

The question that the House be now adjourned until Monday 14th March at 10.00 p.m. was put to the Honourable House and resolved in the affirmative without division and Mr. SPEAKER suspended the House accordingly.

12.26 a.m.

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BRATHWAITE, Hon. A.D. (St. Philip South)
CLARKE, Mr. G.A. (St. George North)
EASTMOND, Mr. R.C. (St. James North)
FORDE, Miss C.Y. (St. Thomas)
HUTSON, Hon. E.G. (St. James Central)
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MARSHALL, Mr. D. D. (St. Joseph)
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SINCKLER, Hon. C. P. (St. Michael North West)
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EDITORIAL NOTES — NOT PART OF THE REPORT

Prepared with the transcript; for checking against the recording and the Minutes.

EDITORIAL QUERIES

Points noted while preparing this report from the edited transcript. The text has not been altered except where stated.

Q1. Masthead. The session is not stated in the source, so no session line is printed.

Q2. Order No. 16, Minister's reply. Hon. C. P. Sinckler's reply runs on from Mr. Speaker's call in a single paragraph ('The Honourable Member for St. Michael North West. Hon. C.P. SINCKLER: Mr. Speaker, I am not going to propose ...') and so stands under the Speaker's label. Stray recording times such as '(5:59)', '(7:04)' and '(9:02)' also appear within the text of several speeches. Printed as in the source.

Q3. Order No. 6 and Order No. 12. In this House sitting the Chair is once labelled 'Madam DEPUTY PRESIDENT', and Hon. C. P. Sinckler once addresses 'Mr. President'. Printed as in the source.

Q4. Order No. 6, speech labels and references. The source has 'Mr. R.E. EASTMOND' for one speech of Mr. R. C. Eastmond and 'Mr. D.St.C. KELLMAN' for Hon. D. St.E. Kellman. The author of the 1973 thesis is named 'Molly Reid' by Mr. D. D. Marshall and 'Molly Reeves' and 'Ms. Reeves' by the Attorney-General. Printed as in the source.

Q5. Order No. 6, Committee and third reading. The Committee entries read 'Part 11' and 'Part 111' (presumably Parts II and III), and the Bill is cited on third reading as the 'Land Title Proceedings Act, 2011' rather than the Land (Title Proceedings) Act. Printed as in the source.

Q6. Notices, first reading and Order No. 8. The Bill is called 'The Clear Water Bay Limited (Guarantee of Loan) Bill, 2011' in the notices, 'the Clear Water Limited Guarantee of Loan Bill 2011' at first reading and 'THE CLEARWATER BAY LIMITED (GUARANTEE OF LOAN) BILL, 2011' at Order No. 8. Printed as in the source.

Q7. Order No. 10. The Minister gives the combined loans as 'US\$29 716' and the additional loan as 'US\$12 850 million', against US\$12 850 000 in the Resolution. Printed as in the source.

Q8. Committee of Supply, Head 13. The amount for the Regional Security System is given first as '\$89 233' and then as '\$89 223'; the subscription of \$4 089 223 less

the \$4 000 000 provided gives \$89 223. Printed as in the source.

Q9. Adjournment. The Leader of the House moved the adjournment until Monday, 14th March, 2011 at 10.00 a.m., but the closing entry reads 'until Monday 14th March at 10.00 p.m.' and says that Mr. Speaker 'suspended' the House. Printed as in the source.

DEBATE SUMMARY

(Editorial summary — not part of the record.)

The House of Assembly met on Tuesday, 8th March, 2011 at 10.00 a.m., with His Honour M. A. Carrington, Speaker, in the Chair; prayers were taken by Canon Father Ivan Harewood. The Minutes of 22nd February were confirmed. The Leader of the House, Hon. J. D. E. Boyce, laid the Estimates of Revenue and Expenditure, 2011-2012, and Hon. E. G. Hutson later laid the Barbados Human Resource Development Strategy 2011-2016. The Appropriation Bill, 2011 and several Budget Bills were read a first time during the day.

The Attorney-General, Hon. A. D. Brathwaite, moved the second reading of the Land (Title Proceedings) Bill, 2011, replacing the fictitious mortgage and foreclosure suit long used to prove title with a court process containing safeguards against fraud and transitional provision for suits filed since 1st October, 2009. Mr. G. W. Payne, Member for St. Andrew, criticised the Explanatory Memorandum and proposed amendments to Clauses 11 and 22. Hon. D. St.E. Kellman, Mr. G. A. Clarke, Mr. R. C. Eastmond, Hon. S. A. Lashley, Hon. Miss M. A. Mottley, Hon. P. M. T. Todd, Hon. M. A. Lashley, His Honour K. St.C. Best, J. D. Paul, Mr. D. D. Marshall and the Prime Minister, Hon. F. J. Stuart, also spoke, Mr. Clarke and Mr. Marshall raising cost, advertising abroad and compensation. The Attorney-General withdrew a charge that a Member was deliberately misleading. The Bill passed all stages.

On the Clearwater Bay Limited (Guarantee of Loan) Bill, 2011, the Minister of Finance and Economic Affairs, Hon. C. P. Sinckler, explained the rescue of the US\$350 million Four Seasons project at Paradise, Black Rock, through a Government guarantee of a US\$60 million facility in five tranches, which he said was covered by land valued at US\$140 million. Mr. R. St.C. Toppin protested at notice given only that day and argued that the project needed equity. Hon. R. L. Sealy cited the global crisis, and Hon. Miss Mottley, declaring her earlier involvement as counsel, said the loan would pay the Bank of Scotland

US\$34 million and about \$30 million owed to creditors. The Bill passed with amendments to Clauses 2 and 3.

The Resolution guaranteeing an additional US\$12 850 000 to be borrowed by Caves of Barbados Limited from the Caribbean Development Bank was agreed to after Miss C. Y. Forde, Member for St. Thomas, raised the concerns of surrounding communities.

The Budget measures followed: the Income Tax (Amendment) Bill, 2011, taxing entertainment and commuted travel allowances, on which Hon. Miss Mottley said some salaries fell by \$300 to \$700 a month; the Pensions (Miscellaneous Provisions) Bill and the Ministers

and Parliamentary Secretaries (Remuneration and Allowances) (Amendment) Bill, 2011; and the Value Added Tax (Amendment) Bill, 2011, raising VAT from 15 to 17.5 per cent for not more than 18 months from 1st May and the registration threshold from \$60 000 to \$80 000. All passed.

In Committee of Supply the House approved \$6 203 723 under Supplementary Estimates No. 12 2010-2011, including \$5 500 225 for road rehabilitation, \$857 000 of it at Padmore Village. On the motion of Hon. J. D. E. Boyce the House was adjourned until Monday, 14th March, 2011; Hon. Miss Mottley noted that the sitting had run past midnight, close to 15 hours.