
THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2004

THE SENATE

Wednesday, July 18, 2001

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, July 18, 2001, at 11.10 a.m.

PRESENT

His Honour Senator Sir FRED GOLLOP, K.A. (President)

His Honour Senator C. L. BOLDEN, C.B.E., LL.B. (Hons.) (Lond.) (Deputy President)

Senator the Hon. P. C. GODDARD (Minister of Public Works and Transport) (Leader of the Senate)

Senator the Hon. G. S. H. MURRAY, B.A. (Hons.) J.P. (Minister of State, Prime Minister's Office and the Civil Service)

Senator Miss C. Y. FORDE, L.C.P., J.P. (Parliamentary Secretary, Ministry of Education, Youth Affairs and Culture)

Senator T. E. BARKER, B.A. (Hons.), M.A. (Econ.) (Parliamentary Secretary, Ministry of the Environment, Energy and Natural Resources)

Senator the Hon. Dame Patricia SYMMONDS, D.B.E., G.C.M., B.A. (Hons.) P.G.C.E., J.P.

Senator Miss J. C. ODLE, J.P.

Senator J. E. D. WILLIAMS, B.Sc., M.B.A., J.P.

Senator G. E. N. BROME

Senator Mrs. J. P. ALLEYNE, Dip. Man. (Hons.), J.P.

Senator D. D. MARSHALL, LL.B. (Hons.), L.E.C.

Senator LeR. H. McCLEAN, B.Sc., (Hons.)

Senator C. A. MASCOLL, B.Sc. (Econ.) (Hons.) M.A. (Public Finance)

Senator Mrs. P. E. RICKINSON, B.A. (Hons.) M.P.H. (Harvard), S.R.N.

Senator C. K. LAURIE, D.I.C.T.A. (S.T.), FBSTA

Senator Sir JOHN STANLEY GODDARD, K.A. B.Com., C.A., Hon. LL.D. (U.W.I.)

Senator B. R. COLLYMORE, C.M.G.

Senator the Rev. L. W. B. ROCK, M.Div.

Senator Mrs. V. E. NEWTON, S.C.M., B.A. (Spec. Hons.), M.A., LL.B. (Hons.) (U.W.I.), F.L.A. (Gt. Brit) L.E.C.

Prayers were led by Rev. Father Errington Massiah.

Mr. PRESIDENT: The Senate is in session.

PAPERS

SENATOR THE HON. P. C. GODDARD: Mr. President, I am commanded to lay the following documents:

1. The Annual Report and Accounts of the National Bank Inc. for the year, 2000.
2. Report of the Public Enterprise Investment Fund for the quarter ended March 31, 2001.
3. Annual Report of the Barbados Broadcasting Authority for the period October, 1998 to September, 1999.
4. Annual Report of the National Petroleum Corporation for the period April, 1998 to March, 1999.
5. Annual Report of the Department of Labour for the years 1998 and 1999.
6. Annual Report of the National Sports Council for the period April 1, 1999 to March 31, 2000.
7. Annual Report and Financial Statements for the Public Utilities Board for the year ended December 31, 2000.

SUSPENSION OF STANDING ORDERS

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg to move that Standing Order No. 45(2) be suspended for the remainder of this Sitting.

The question was put to the Senate and agreed to.

OBITUARY SPEECHES

SENATOR THE HON. P. C. GODDARD: Mr. President, I rise to extend sincerest condolences to our colleague Senator Forde whose father died recently and was buried at Holy Innocent's Church in St. Thomas. Senator Forde has lost both her mother and father in a very short period of time and we heartily extend our deepest condolences.

The funeral of the late Mr. Forde was truly an impressive display of the appreciation of his character and his contribution to the society in which he lived. He was a man who was clearly dedicated to hard work, a man who was intensely loyal to his company and to his employer, Mrs. Rock of the Rocklyn Bus Company, and a man who had clearly demonstrated his worth to our community.

He was also a man committed to his family and who has contributed significantly to the building of our society. He was truly the salt of the earth. He was one of those people who made Barbados what it is today. The vast number of people from across Barbados in all walks of life who attended his funeral is testimony to his achievements and his stature in the society.

I extend my deepest condolences to Senator Forde and her family and may he rest in peace.

SENATOR C. A. MASCOLL: Mr. President, this is the second occasion in less than three months that we have had to extend sympathy to Senator Forde. It was not easy the first time nor is it easy on this occasion. However, I think that this provides another test for Senator Forde who has demonstrated the capacity to endure through this difficult time. The loss of both parents in the same year must be a very traumatic experience but Senator Forde must feel assured that she has a shoulder to lean on whether it is close or far away.

As I have said before, Senator Forde has the kind of spirit that I am attracted to and even though politically I am on the Other Side, she can find all kinds of comfort whenever she needs it. There is no doubt that she possesses such character having had the examples of her parents to follow in her life.

I am told that both her parents were typical hardworking, law-abiding citizens who made sure that what they did not get in terms of opportunity and education they provided the platform for their offsprings to do so. It is widely known that kind of sacrifice requires a certain method and to have had both around for an extended period of time would have been the kind of support network that Senator Forde would have enjoyed.

There are several families which are led by only the mother, and few families are led by only the father, but to have enjoyed the privilege of having a long-standing family unit that was so well-knit would have been a major plus for Senator Forde over the years. Perhaps, because of those very fortunate factors in her life, she has certainly emerged to be an outstanding character, who not withstanding the ability to battle and put on the armour when necessary, is able to remove the armour and become warm and loving.

Mr. President, I know it is not often that these words are spoken of the opponent, but I am an open and honest individual and I speak from the heart. I have been very impressed with that product that has been nurtured and moulded into a character deserving of recognition.

Mr. President, I thank you.

SENATOR THE HON. Dame PATRICIA SYMMONDS: Mr. President, regrettably I was unable to attend the funeral but I saw to it that I got a copy of Senator Forde's Eulogy and I read it very carefully. It was moving, illuminating and spoke of her father's admirable traits, many of which the Leader of the Senate has already referred to and the values that he helped instilled in his children were very evident.

I noted particularly his work ethic, his loyalty, his sense of humour, his spirituality and his devotion to his wife and family. These are the things that enrich a nation and I know that Senator Forde's strong faith and very fond memories will give her solace.

Therefore, I wish to offer again my sincerest sympathy to her and her family and hope that her father will rest peacefully.

Thank you, Mr. President.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, I want to express my sincerest condolences to Senator Forde and her family on the passing of her father. I was present at the funeral and it is remarkable the number of persons who turned out to grieve with her on that occasion. I know how it feels to lose someone who is very dear to you and in Senator Forde's case, she has lost both mother and father.

I am a resident of St. Thomas but I cannot recall knowing her parents personally, but from everything I heard it seems that they were pinnacles of examples of what our society should be. I believe we are going through a passing stage in this country where we are losing the people who have high regard for themselves, their children and the society as a whole. We can see that in Senator Forde, how

she is able to conduct herself and how she is able to give when it needs to be given.
11.20 a.m.

I wish to extend my condolences to Senator Forde and all her relatives and hope that she continues to be strong enough to bear two sudden losses in such a short time.

I thank you.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, I had the privilege to be present at Senator Forde's mother's funeral but, unfortunately, an official engagement which I could not avoid prevented me from attending her father's funeral. However, I wish to say that while both parents might be physically dead, they are very much alive in the person of Cynthia Forde. All the characteristics that have been exemplified and talked about and lauded in her mother and father, whenever I interact with Senator Forde they come to life on each and every occasion.

I say this because I want to pay tribute to the extension of her mother and father in Senator Forde in particular. In this instance, her father, because I had been talking to Senator Forde over several months during the illness of both her mother and father. I can tell you that my admiration and respect for her has grown tremendously. I do not think that very many people would be familiar with the demands, both physically and emotionally that were placed on the Senator, among other members of the family but particularly Senator Forde, who was very close to them, in order to look after their well-being, make sure they were comfortable, make sure they attended the doctor and the Hospital and to make sure that they took their medication. She played a tremendous role in their well-being, looking after their welfare and keeping the family unit together.

Sir, never once did I hear her complain no matter what time I spoke to her in the day or night, she was always full of spirit and enthusiasm if only that she appreciated the tremendous role which her mother and father would have played in her life. Therefore, in saying goodbye, paying tribute to her father, I would like at the same time to commend Senator Forde. While I wish her father may rest in peace, I just wish that Senator Forde's life may continue to grow.

I thank you.

SENATOR the Rev. L. W. B. ROCK: Mr. President, it always seems to me that to say, "I express sympathy or condolence", these words seem to be so inadequate to truly communicate to persons who have loss loved ones and in this case Senator Forde. There are other words which we have and as I use them, I do so not only on my behalf but on behalf of the Independent Senators in the Chamber.

We extend to you our condolences and we are assured that you, yourself, have a sense of satisfaction and fulfilment in knowing that during the years of the illness of both your parents, that God sustained you with the strength and that your many friends gave to you the support which you needed at that time, and to offer to them the care which was an expression of the love which you have for them, a love which, no doubt, expressed your gratitude for the love which they gave to you.

To lose a love one, to lose someone as close as a father, it is always very heart wrenching, particularly if that father has been truly a father, as I understand your father was to you. Sir, at a time when we lament that so many fathers in our community fail to assume their responsibility, it is always for me a delight and a pleasure when we can affirm and thank God for those fathers who take their responsibility very seriously and who contribute, not only by way of financial and material things to their children, but even more so the rich qualities of life which are evident in my colleague Senator.

I want to say, Sir, that we will always be with you. I am sure that both of them were proud of you and of the contribution which you have and continue to make in service to the community. As we extend our condolences, we pray that God will sustain and keep you and such as they have given to you, that you will pass on to others.

May God keep you and bless you.

Mr. PRESIDENT: I should like to join Honourable Senators in the expressions of sympathy on the passing of her father. As has been said, Senator Forde loss both her mother and father within weeks of each other, that, of course, is a grievous blow which only time will heal.

Both of Senator Forde's parents led worthy lives and made outstanding contributions to their community and their country. I think they lived long enough to see their children follow their example and make outstanding contributions to Barbados.

I should like to express my condolence to Senator Forde on her father's passing. May her father and mother rest in peace.

SENATOR Miss C.Y. FORDE: Mr. President, on behalf of the entire Forde clan, to express thanks to all Honourable Senators and all others in Barbados who would have extended words of comfort to my family and I through visits, cards, wreaths, prayers and all other forms. I, indeed, feel privileged to be sixth child of Cynthia and Joseph Forde and I will continue to have very fond memories of my parents who were examples of what parents should be. They

upheld all of the good virtues in life when it came to honesty, respect, loyalty and all the other things that go with that. I really want to say many thanks on behalf of my family.

The final comment that I would like to make is that my Dad was not ill as such. He was so strong-willed that he felt he should have surgery that the doctor had recommended at age 84 years. Mr. President, you would imagine that a man at 84 years old, who looked like 65, still driving a car, looking after himself in all forms and fashion, would walk into the Hospital for surgery and never come out.
11.30 a.m.

That is not a difficulty with my family. We all believe that God has his way of doing things and, therefore, we have accepted the outcome of what has transpired, but my father's time was up, 84½ years. Therefore, we thank God for his life and service to this society. We are grateful because our parents, Cynthia and Joseph, ensured that we became the rounded citizens that any society should have. I think they have made their mark and that it will not only go through the children, but indeed, will extend to the great-grand children.

Again, I want to express thanks to all Honourable Senators and others who were there for my family and me in our time of grief. I trust that other families will not have to experience two deaths, nine weeks apart from each other, but again, that was how God planned it and therefore, we must continue in life doing all the other things that, despite the fact that they both being gone, would have preferred for us to continue doing; not only service to ourselves, but also to human kind and our nation, so that Barbados can continue to grow and develop into the kind of society our fore-parents worked very hard to build. Therefore, with those few comments, many thanks to all of you for your kind words.

CONGRATULATORY SPEECHES

SENATOR THE HON. P. C. GODDARD: Mr. President, I now move to a more cheerful and joyous occasion, to congratulate the Honourable Deputy President of this Chamber for his elevation to service.

Senator the Honourable C. L. Bolden is a well known Attorney-at-Law in this country and has practised law for many clients. He has had an illustrious career and his elevation to Queen's Counsel is richly deserved.

I would like to congratulate him on this achievement and wish him many years before the Bar and serving his country. Thank you very much, Mr. President.

Mr. PRESIDENT: Senator Mascoll.

SENATOR C. A. MASCOLL: Mr. President, I rise to offer congratulations to Senator Bolden who has been

elevated to his lofty state of Queen's Counsel. There is all evidence in this Chamber that he has made an outstanding contribution to the legal profession and, may I also say, the political arena.

He brings to politics a special kind of character that is able to transcend classes where he has demonstrated the capacity to mingle with the ordinary Barbadian and then be able to elevate himself to discuss all manner of issues, at all of the technical levels, with a very high degree of competence.

Only two years ago, I happened to be a Member of the Caribbean Parliamentary Association who went to Grenada and I can basically say that it was led by Senator Bolden, even though it was not stated. I was proud to be a young Barbadian politician in the company of Caribbean politicians and, certainly, the level of contribution by Senator Bolden at that Conference was very much noted by me. I had been able to see him more clearly as a statesman rather, than in the hustle and bustle of politics that may be apparent in this August Chamber. So that, at that time when representing Barbados, I think I was able to witness the level of maturity and statesmanship that reside in this individual.

So without further ado, I might say that I am not only speaking on my behalf, but also the former Senator Cyrillene Thomas-Mascoll who would express her congratulations in another forum and another form.

I am aware of that and, therefore, I think that when I speak for the two of us, and especially through her eyes as it relates to the legal profession, I can safely say that Senator Bolden is most deserving of this elevation. I thank you, Mr. President.

Mr. PRESIDENT: Senator Murray.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, I too would like to join in the commendations to the recent achievement of Senator Bolden. Like my colleagues, I also endorse that he fully deserves it. I particularly appreciate his intervention in matters in the Senate where he is able to bring his legal training and considerable experience which very often illuminates certain dark corners in persons and in circumstances in legislation as to the ramifications of the society.

I know it has been fashionable for some persons today to feel that these achievements that are accorded to persons are anachronisms and colonialistic, but every society has its own way of rewarding its outstanding citizens and no matter what it is being called, society does single out particular distinctions and honours upon certain persons by using certain forms and fashions. Therefore, it does not matter

whether it is called "Queen's Counsel" or "Senior Counsel", as had been attempted some years ago, but the important thing is that the name signifies that that person has made a significant contribution and should be accorded it.

At this point, Sir, I am speaking on behalf of the Combermerians in the Senate to see that one of our brethren is elevated to such a rank. I want him to know that he takes the blessings and the tradition of the school with him and I suspect that his time at Combermere would have contributed to his achieving this distinction because it would have instilled certain characteristics, aptitudes and values that would have allowed him to be able to be the kind of man he is and be able to impact both politically and legally in the society.

Therefore, I want to join in expressing my heartfelt congratulations and hope that I would be around long enough to see others come this way. I thank you, Mr. President.

Mr. PRESIDENT: Senator Forde.

SENATOR Miss C. Y. FORDE: Thank you, Mr. President. I, too, would like to add my congratulations to Senator Bolden.

However, I want to speak as a person who has known him for many years and to express my admiration of him for that strong personality that he has. If he has a point and facts to prove it he would speak about it, whether it causes others to feel uneasy or not. I think it is that kind of boldness which he has that has encouraged me to want to listen and to associate with him at the level that we are at.

I speak of him as a resident of St. Thomas and every time that we get another individual coming into the parish who would be able to help uplift it, then it makes me feel even better. As St. Thomas is expanding, it is not always good when we hear of violence in the parish. We always feel sad, but now we have another person of whom we can rejoice. I know the kind of individual Senator Bolden is, and the kind of community involvement that he extends to the people of the parish and for that we are happy to welcome him.

11.40 a.m.

We know that he is at the Ayshford Bird Park and he is offering services there for free at times where individuals from around his area and businesses can come in and be a part of the various activities held there for the growth and upliftment of the people in that community.

Sir, that is the kind of contribution I would expect people of the calibre of Senator Bolden to offer to the society. I call it giving back, tithing of resources and time for

free. He is in that capacity and I know he has been doing it before but now he is doing it in the community where we live.

I know that Senator Bolden is a very knowledgeable person and I am sure that the Honour which has been bestowed on him will further motivate others to want to follow in his footsteps of giving service to the society.

With those few comments, I want on behalf of my family and the people in St. Thomas, to congratulate Senator Bolden again on this wonderful Honour.

Thank you.

SENATOR Sir JOHN STANLEY GODDARD: Thank you, Mr. President. None of the Independent Senators on this Side practise at the bar, but that does not prevent us from knowing and admiring the work that Senator Bolden has done in his noble profession.

We have also followed his career in public life. He has been very active in public life for many years and, of course, we are very familiar with the sterling contributions he makes in this Chamber during debates. Sir, on behalf of the Independent Senators, we would like to extend our congratulations to him.

SENATOR THE HON. Dame PATRICIA SYMMONDS: Mr. President, at the risk of appearing to flatter myself, I think that Senator Bolden would be disappointed if I did not speak. In fact, he would expect me to say a few words of congratulations.

Long before I met Senator Bolden, I knew of him through his sisters who attended St. Michael's Girls' School, as it was then, and his dear mother, an ardent supporter of our PTA. Would that there were many more like her. So that when I actually met Senator Bolden, I felt that I already knew him and over the years I have come to appreciate him more and more for his candour, his outspokenness and his loyalty.

I can speak of him politically and say that he is utterly deserving of the Honour that has been bestowed on him because from all accounts, he is an outstanding Barrister and Attorney-at-Law. I hope he will have many more years to serve Barbados both legally and politically. Again, I wish to offer my congratulations.

Thank you, Mr. President.

Mr. PRESIDENT: I warmly congratulate Senator Bolden on his elevation to the status of Queen's Council which is perhaps the highest distinction in the legal profession.

Senator Bolden has, of course, enjoyed a distinguished career. He has a variety of interests and wide knowledge on all kinds of subjects. As a parliamentarian, he sat in the Back Benches. He has been a Minister of the Crown. He has been in Opposition, and of course, in Government. He has been and is a presiding officer but it is in the field of law where Senator Bolden has made his living for 39 years, I believe. I have had the privilege and pleasure of working with, and perhaps I should say on other occasions, on the other side of Senator Bolden and one has always been impressed with his forthrightness and his knowledge of the law. I think a client of Senator Bolden always feels that he has a lawyer who is never afraid to speak his mind and to represent the client's interest without fear or favour and I think that is always one of the distinguishing characteristics of Senator Bolden as we have seen in this Honourable Chamber.

He has, of course, a very commanding voice and despite his stature, of also commanding presence. Not so long ago we paid tribute to him in this Chamber on the award of the CBE and this is yet another distinction to this outstanding Senator. Congratulations Senator Bolden.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, I want to thank everyone for the kind words they have said and I want to assure them that this elevation will, in no way, change the way in which I see life and which I conduct myself.

It is recognised in the legal profession that if one shows ability in general at the Bar, special subjects or individual subjects, they are always invited by the judges to take the inner Bar as recognition of that ability. This has been awarded to me and I can assure everyone in the Chamber and outside the Chamber that it will not change my approach to life.

I have always said to myself that if you accept a job, do it to the best of your ability, and that is how I conduct my legal work. Any time someone walks into my Chamber, I have said to them openly, "You have a case or you do not have a case. Please do not waste my time, please do not waste the court's time."

Sir, that is how I feel. I have been rebuked on many occasions when people said to me, "But I am paying you." I usually say to them, "But it is I, who have to stand before the judges and look like a fool and no money can buy me that way." And that will be the attitude which I will continue to use.

In my politics I have always regarded my party as superior and, therefore, I will always represent the interest of my party, except when we travel abroad in the company of others when I am a Barbadian. I am not just a member of the

Barbados Labour Party, I am a Barbadian and therefore, I am glad that Senator Mascoll recognised that when we were in Grenada.

I want to say one thing to Senator Murray and it is that today is a glorious day for me. It took all these years from 1948 or 1949 onwards for persons to recognise that I am a Combermerian.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: It is amazing. I attempted – in fact, I did eventually join the Old Scholars' Association and it took two and a half years for me to get an answer because at that time I was Deputy Speaker of the House of Assembly and was elevated to Speaker. At a private party, a young lady walked up to me and said, "Are you really a Combermerian?"

Aside.

HIS HONOUR SENATOR C. L. BOLDEN: That shows how bad it is.

I must also thank Senator Murray again because there is something a lot of people do not know. I was appointed as Chairman of the Harrison College Board and at the first meeting, I was asked, "What are you doing as Chairman of the Harrison College Board? You are not a Harrisonian. Even though you have risen to the position of Speaker of the House of Assembly, you should not be Chairman of the Harrison College Board."

Aside.

HIS HONOUR SENATOR C. L. BOLDEN: As I said, I have continued to live my life in the way I have lived it because I never went back to a Board meeting to show them that I did not want to be Chairman of the Harrison College Board. I am a Combermerian and I am proud of it and I will always be proud of that good old school and the late Major Noot who did instill virtues in all Combermerians at that time.

11.50 a.m.

I feel sad to see how Combermerians walk the streets today. When I travel from my office in Roebuck Street through Bush Hall and see the young men with half their clothes outside and trousers as big as would carry two of us, I wonder what is happening to our young people. I do hope that Senator Murray, who is an active member of the Old Scholars' Association, will carry that message to Combermere for me.

I thank you all.

INTRODUCTION OF BILLS

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg to move the First Reading of the following Bills:

1. The Integrated Circuits (Amendment) Bill, 2001.
2. The Trade Marks (Amendment) Bill, 2001.
3. The Protection of New Plant Varieties Bill, 2001.
4. The Patents Bill, 2001.
5. The Queen Elizabeth Hospital Bill, 2001.

The question was put to the Senate and agreed to.

PUBLIC BUSINESS

ORDER NO. 1 – THE TENANTRIES FREEHOLD PURCHASE (AMENDMENT) BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. President, in moving the Second Reading of the Tenancies Freehold Purchase (Amendment) Bill, 2001, I think we have to recognize the tremendous social transformation and contribution to the economic development of the Tenancies Freehold Purchase Act.

This Bill was originally passed in 1980, and the results of it are starkly clear for us to see across the length and breadth of Barbados today where chattel houses have been replaced by substantial bungalows and wall houses, where running water has been installed, where utilities have been put in place and where people have a quality of life and improvement that is truly revolutionary.

In addition to that, there has been a considerable road building programme to improve the cart roads or, in fact, to improve the roads that carts could not even travel on because there was no economic value to improving those roads. These were roads that were passable only on foot. I recall well people having to wear one pair of shoes to get out of their homes and another pair of shoes to arrive at work which they carried in a bag. Those days are fast disappearing.

Not only has this improved the quality of life of individuals, it has substantially contributed to a more secured housing plan for the people of Barbados. We live in a hurricane zone and are subject to the threat of violent storms and the improvement in the housing stock of this country over the past two decades has been truly remarkable. I live in a rural community and I have observed the transformation over the past two decades where tenancies have been

transformed beyond belief and the rate of economic growth has been reflected in the quality of homes of the average working person in Barbados. There is no doubt in my mind that this can all be attributed to the Tenancies Freehold Purchase Act.

Mr. President, we have now arrived at a place in history where we recognize that the areas that were not defined as plantation tenancies, but are tenancies in the country, and in urban areas, need to have mechanisms in place that would allow for greater security of tenure and to assist people in purchasing their own land and building their own houses. The reasons for people living in chattel houses in this day and age are largely because of the lack of security of the ownership of land.

The proposed amendments in this Bill will give people the right to purchase land in other tenancies and to secure the land for them so that they can improve their standard of housing and give them the security of tenure that can only be found in the ownership of land.

This amendment gives the right to purchase to longstanding tenants. It provides for a time limit for purchase. It provides situations where the failure to exercise the right to purchase would also have provisions for better security of tenure on rented land. It would grant a subsidy to non-plantation tenants. It limits the lot size with this subsidy. It establishes conditions for rent increases where rent cannot be increased by large and arbitrary amounts and it provides for the functions of the small-holding committee. It provides for limitations for disposal of lots. The principle Act in Section 5 is amended by inserting that:-

- “(1) a person who is a qualified tenant of a lot at the commencement of this section and who has exercised the right conferred on him by this Act shall complete the purchase of the lot within a period of 5 years from the date of the receipt of the notice referred to in section 10(6).
- (2) A person who becomes a qualified tenant after the commencement of this section and has exercised the right conferred on him by this Act shall complete the purchase of the lot within a period of 3 years from the date of the exercise of that right.”

12.00 noon.

In this regard, Mr. President, the transfer of these lands should become a lot easier because of the work being done in Housing and Lands to computerise totally every land parcel in Barbados within 18 months. That project is underway as we speak. The project has been largely completed in a certain section of Barbados and they are working over the next 18 months to improve and complete the computerisation of the Land Registry.

Under failure to exercise rights:

- "10B (1) Where a qualified tenant fails or refuses to complete the purchase of the freehold of the lot of which he is the tenant within the time specified in section 10A, then the right of the tenant to purchase ceases."

We all recognise that the price of land in Barbados has escalated quite considerably. The very important part is in Part II.

- "1. The price payable by the tenant for a lot in a tenantry other than a plantation tenantry shall not exceed \$2.50 per square foot; but where the open market price of the lot exceeds \$2.50 per square foot, there shall be payable to the landlord a Government subsidy of the difference between the open market price and the \$2.50.
2. Where the lot referred to in paragraph 1 exceeds 5 000 square feet, no subsidy is payable in respect of the excess."

Therefore, what Government is saying is that up to 5 000 square feet they will subsidize the purchase of the land so that any person can purchase land at \$2.50 per square foot and that guarantees their base price for the land.

- "3. The market value referred to in paragraph 1 shall, in the absence of an agreement between the parties, be ascertained by the Small Holdings Committee in accordance with section 29(1)."

Mr. President, this Bill provides for the non-plantation tenancies the rights of individuals to purchase land at a guaranteed price of \$2.50 per square foot.

Mr. President, I have seen recent lots being advertised for sale at the rate of \$10 and \$15 per square foot depending on the location and this is in rural areas of Barbados. I have recently seen an acre of land being advertised in St. John for the price of \$160 000 per acre, a piece of land that has no view, a piece of land from which the soil has been stripped, a piece of land that has no utilities running to it. These are the sorts of prices that people are asking for. I do not know if they will get them.

Government recognizes the importance of allowing the urban and the rural non-plantation tenantry owners who have tenure and who have been on the land for 20 years prior to 1990 to purchase the land and to have a floor price of \$2.50 per square foot, and the Government would pay the differential on the agreed price between the purchaser and the vendor of the land.

Mr. President, we have seen the benefits of the Tenancies Freehold Purchase Act. We have seen the reality of the improvement in the quality of life of people. We have seen the reality in the confidence building that this brings to families and to the improved security and improved well-being of the community. We have seen community spirit build. We have seen directly the creation of parks as a result of community activity.

This amendment will bring benefits into urban Barbados. We cry out for systems to alleviate poverty and to fight against crime and therefore when people have ownership they take ownership in many different ways and part of that ownership is to ensure that the quality of life in their community is enhanced, and they come together in groups to fight criminal activity in their areas.

We will see a sense of improved security in many different fashions. We will have an improved housing stock and we will build a society that is truly a land owning society and an asset owning society. For many people in this world their major asset is their home. This gives people the opportunity to start building that asset. Mr. President, I think this continues the revolution started by Tom Adams and I congratulate the Minister of Housing and Lands for bringing this legislation to Parliament. I think that this will redound to the benefit of our whole society. Everyone in Barbados will be the beneficiary of this. It will strengthen the fabric of our society, build our economy and I have no hesitation in supporting this Bill and beg that it be read a second time.

SENATOR LeR. H. McCLEAN: Mr. President, I have no difficulty in identifying with the benefits which this Tenancies Freehold Purchase Act and other such legislation have brought to a number of people in Barbados. It is indeed true that several persons have been able to improve their lot by being able to improve their housing conditions as a result of being able to purchase the land which they were previously renting. However, Sir, this does not negate the fact that there are still several negative aspects which one needs to examine with respect to this legislation.

Before I move to those points, Sir, I would like to look at some specific points in the legislation and the first question I would like to raise is with respect to the qualified tenants. I have been trying to work out whether the legislation deals with the situation which arises if a qualified tenant dies before exercising the option to purchase that land but has a child or children who would want to exercise the option.

12.10 p.m.

How does that child fit into this situation in terms of qualifying to purchase the land? The reason why I raise this is because individuals have raised concerns in being able to

purchase land which they grew up on because their parents died before the land was purchased so they are now experiencing problems in being able to purchase that land.

Sir, it seems that this amendment also requires some alteration to some sections of the Constitution and, therefore, would require a two-thirds majority in this Senate.

Mr. President, I would like to also find out what specifically the Government hopes to achieve from this legislation. This might seem to be a rhetorical statement since one would quite readily say to give persons the opportunity to own land. Is it a policy that is being pursued in order to widen the land-owning class in this country or does Government believe that such a policy would garnish a significant number of votes? If the legislation is intended to widen the land-owning class in this country, I would say, Mr. President, that it fails in that regard because we all know that 10 per cent of the population owns about 90 per cent of the land. If you are going to take the 10 per cent which is owned by the 90 per cent and redistribute it amongst that 90 per cent, we are really doing nothing in terms of land reform in the country because we have not changed the equation significantly. We are only shuffling around the ownership within that subsector.

I believe that there is definitely a need for land reform in Barbados in terms of the ownership of land in this country and if we are going to have any reform some of the 90 per cent who own 10 per cent of the land must be able to start owning some of the 90 per cent land which is owned by the 10 per cent. Unless we can change that inequality we would have done nothing in terms of changing the pattern of ownership of land in this country. This is the major concern of Barbadians at this time. Sir, to simply take land from the poor and give to the poor in my view is not land reform.

Sir, there is this belief that as long as you talk about the landlord that you are talking about somebody with large tracks of land or somebody who is wealthy when, in fact, many of those landlords who are affected by this legislation are poor people who, in times when persons were desperate to find a spot to put a house on, rather than letting the land remain idle, they rented the land to those persons who were desperately looking for somewhere to put their house only to find now that they are forced to sell that land to the tenants.

In many cases these are persons who have children who now find themselves having to look for land somewhere else at a much higher cost since they were deprived of inheriting the land from their parents. I know it is a view among some Government Ministers that these persons are in the minority and the tenants are in the majority and the policy is to satisfy the majority.

Sir, I am saying that we should not deprive a person merely because he is in the minority. If the Government of Barbados decided that the minority in this country owns the majority of the land and that they were going to embark on some policy of taking away that land, there would be an outcry, and quite rightly so, in this country. You will see what is happening in some African countries right now where persons have attempted to go outside of the ambit of the law in order to take possession of land. You have seen where a black South African Government recently had to enforce the Law to remove swatters from land because they insisted that they must do this within the ambit of the Law. We cannot therefore, use the Law to dispossess persons in an unjust way. Those persons who had a piece of land holding for their children living overseas now find themselves in a position where they cannot pass that land on to their children and I think that is an injustice.

Mr. President, it is unfortunate that I have to state this but I strongly believe some of the house fires experienced recently are directly related to this legislation. One must be very careful in saying this lest he is accused of putting ideas in the head of people.
12.20 p.m.

I have heard of cases where persons have used house fires as a means of taking back the land. Mr. President, we must be careful how we dispossess persons.

I have also seen cases, and there is one case which comes to mind, as a result of Government acquiring land from a gentleman, where this gentleman was then forced to purchase land at a cost which was in excess of what he was able to get for his land. He immediately moved from a situation where he owned his property and he owed nobody for it, to then move to a position where he had to borrow money to get another property. I am saying that these things are not right. If this legislation must be administered there should be justice. I think what Government needs to do is, that in cases where a person now loses possession of their land and they have dependants or children who they wanted to pass this land on to, Government should provide land for those persons.

I am aware that you do not necessarily want to up-root persons. If there are persons on a tenantry and you want to give them the right to purchase the land, it might be inconvenient to have to dislocate five or six persons from a piece of land. Therefore, if you are giving those tenants the right to purchase that land, then Government should provide the opportunity for the owner of the land to acquire land somewhere else, rather than giving that person money which might not necessarily be enough to purchase a piece of land the size that he previously owned, otherwise all we will be doing is shuffling around the land, taking from one set of

people and giving to another which, in my view, makes absolutely no sense.

Sir, I have heard of the Government having 500 or 600 acres of land in the land bank. I think that some of that could be used for this purpose for there are still some areas where land has gone out of production. Recently, the owners of land, because of the appreciation of the land for real estate purposes, which was previously agricultural land, the owners are now able to experience the appreciation of the value of the land.

I think Government could look at acquiring some of that land and make it available to the broad masses of people in this country and embark on a policy of true land reform and making land available to Barbadians rather than simply shuffling around the little bit of land that we have. The idea of land exchange is not anything new. There is precedent for it already. Where some persons may feel that it is nonsense to make such a suggestion, it has already been done. For example, Carters is located on land that they have exchanged for land that they had somewhere else, so it can be done.

Mr. President, Clause 8 of this legislation says that the principle act is amended in section 21 by inserting immediately after sub-section 4 (a):

“Where a government subsidy has been paid in respect of the purchase price of a lot referred to in paragraph 1 Part II of the Second Schedule, shall not be resold without the owner of the lot first offering it to the National Housing Corporation for sale at a price no more than the price paid for the lot plus the cost of any improvement made by the owner to the lot since it was purchased by him.”

Sir, before I get into the ramifications of that, Mr. President, let us deal with the price that is being paid to the landlords of the land. We know that the tenant would pay \$2.50 and the Government will pay the difference between the market price and the \$2.50.

It is interesting to note that several of these areas, for example, an area like Alleyne's Land, Bush Hall, when persons rented that land there were no roads nor utilities. Over the years Government has put in the infrastructure on that land. However, the owners are now in a position to be paid the market value based on the infrastructure when, in fact, they did not spend a cent in putting in the infrastructure. I understand that the Law makes provision for that and you cannot do anything about it.

Sir, let us get to the section where the owner of the land will now be forced to offer the land to the National Housing Corporation first. I believe that contravenes the rights of that

owner to freely dispose of his or her property as they see fit. I do not see how you can have a clear title to land if you have such a provision. Certainly, if you were to approach the bank to borrow money using that land as security, I believe the bank on seeing a clause like that might be hesitant, since it has implications that if there is a default on that loan, can the bank readily take possession of that land since there is a provision there that the first person that land has to be offered to is the National Housing Corporation?

In other words, Government continues to have an interest in that land. Therefore, there cannot be a clear title to that land which that person enjoys. I think that there are some serious implications. I am no lawyer but my feeling is that there are some implications which need to be carefully examined.

Mr. President, in introducing this piece of legislation, the Honourable Minister made the point that every person would be the beneficiary of this legislation. I am saying that whereas we would like to think so, that certainly is not the case. The persons who are forced, I am simply dealing with those persons who are forced to dispose of their land against their free will, to dispose of their land, then those persons and their children do not benefit.

Sir, for example, I know of a case in St. George where one of the tenants who, apparently, is very tardy in paying the rent, has been able to buy three acres of land in another parish but has made it abundantly clear to the landlord that he has no intention of giving up his right to purchase that lot. Sir, that tenant is in a financial position far superior to the position of the landlord, but he is able to hold on to that lot of land and yet he is able to buy a larger lot of land which the landlord cannot afford to buy. I am saying that in this case justice must also prevail.

We cannot have a situation where persons are dispossessed against their will and there are several cases of this type which, if we are honest in our examination of what is happening, we will know that there are posing difficulties. We cannot merely continue on a path which we believe is simply a means of getting political support without paying attention to those persons who will suffer as a result. In the end, justice must be done in this country.
12.30 p.m.

Mr. President, land is sacred and every Barbadian wants the opportunity to own a piece of this rock, or to at least feel secure in occupying a piece of land. We have seen that not only Barbadians feel this way, but also persons from across the world as they trek across the world to come here to acquire a piece of what they see as paradise. In fact, one man has described it as 'a piece of heaven fell off and settled somewhere and later became known as Barbados.'

Recently, according to newspaper reports, we saw one gentleman who was prepared to spend \$3 million for 20 square feet of land and in addition, at his expense, to relocate the tenants also giving them the option to sell their old houses and keeping the money. Now, if someone is prepared to go to that extent, you can very well see the value that is placed on land. Those persons are able to do that because they have the money, but a person who looks forward to building a house on land which their parents have owned will discover later that they cannot build. They do not have \$3 million to purchase another plot of land from someone else. They do not have the resources to go anywhere...

Asides.

SENATOR LeR. H. McCLEAN: Of course, land is sold at \$3 million. Mr. President, we have land that on average a few years ago was sold for \$5 or \$6 per square foot and is now being sold at \$11, \$12, \$14 and \$15 per square foot. There are very few places – of course there is an area of land now that you can get at \$4 per square foot, but in order to do that you have to purchase an acre. I think that the Minister alluded to this when, in his introduction, he spoke of land in St. John being sold for \$160,000 per acre.

Now, if one wants to buy land of that type and has the money to do so, then one can buy it, but I do not think that the average Barbadian is in such a position. Therefore, we cannot believe that every person will be able to freely acquire land in this country and we cannot, in my view, continue on this policy which dispossesses someone and gives to others.

In my view, I have to agree with another person who commented on this legislation and say that in some regards, it is taking from the poor and giving to the poor. I thank you, Mr. President.

Mr. PRESIDENT: Senator Williams.

SENATOR J. E. D. WILLIAMS: Thank you very much, Mr. President. I rise to support the legislation and at the same time I want to begin by saying that it seems that whenever we come to discuss things that are intended to improve the very poor persons in this country there must always be a division between ourselves and the Opposition.

Recently, we heard the Opposition's response to trying to improve the road network system within rural and urban Barbados. Of course, the slant that was put on it was that it was something that was vote-catching, as opposed to trying to improve the quality of life of persons.

Again, we have to go through what I consider harangue, similar to what we experienced when we first discussed the Tenancies Freehold Purchase Act in 1980.

Again, there could be no agreement that, in truth and in fact, it was to improve the lot of persons. We all know the experience of those persons, for example, that Tenancies Freehold Purchase Act first addressed in 1980, but one thing I can say is that it did not deter the BLP from doing what was only right and just. Prior to that there was legislation going back to 1840 and 1890 which was, thereafter, amended on a number of occasions, but never sought to address the situation of the tenants on plantation lands.

I certainly would have thought that in this debate the DLP would have looked back at what the legislation was able to have achieved, what it was intended to have addressed, and fit it into the context from where we have come today.

The Leader of Government Business has already alluded to the fact that, thereafter, you were able to address the environmental conditions of persons living on plantations. People were able to get good roads. We were able to bring community centres and the health standards improved.

What has happened is that after the 1981 Amendments, there were some Amendments in 1990 brought before Parliament by the then Government which, in essence, disenfranchised persons who, prior to that, would have been able to purchase their lots.

You would recall that where there were between two and five lots on a non-plantation tenancy they were excluded from the right to purchase the land on which they had occupied for several years. The Amendments, at that time, also sought to address the question of sub-tenants, because there were situations where the tenants were not living on the land for some time and it gave the sub-tenants the right to purchase the freehold lots.

However, the mere fact that those tenancies with five or less lots where the tenants were not able to purchase meant that there were some 200 persons who were disenfranchised, where prior to that Amendment would have been able to purchase their lots.

Therefore, the Amendment before us seeks to address some of the concerns raised by Senator McClean and may I say, it is intended both to look at the tenants that were and are disadvantaged, as well as the disadvantaged landlords, of which I will speak later.

The fact of the matter is that there are some tenants who, presently, would like to be able to purchase their lots, but would have to pay the market value for the land and the fact that that cannot happen says that the goal of ownership would continue to be frustrated. It is, therefore, felt that

Government had an obligation to make that possible by putting a maximum ceiling on the cost per square foot as it relates to the tenants but, of course, making up the difference between that and the market price. To my mind, to do otherwise would indeed be unfair.

It is also recognized that it was also necessary to look at putting a reasonable time limit in relation to the amount of subsidy paid to Government.

12.40 p.m.

SENATOR LeR. H. McCLEAN: Mr. President, on a point of order. The Honourable Senator is saying that the Government has put a ceiling on the market price and that is not true. There is no ceiling but it is just to say that the Government will pay the difference between the \$2.50 and the market price. The Government has not put any ceiling on the market price.

SENATOR J. E. D. WILLIAMS: Mr. President, I was at pains to point out that the maximum market price in terms of what the tenant will be required to pay his component would be \$2.50 but that the Government would make up the difference between that \$2.50 and the market price of the land. I am sorry that he really does not listen very attentively.

Mr. President, the fact of the matter is that we are talking about people, who in many instances are indeed occupying land for more than 20 years. It is a fact that people do not like to be uprooted from where they are and that those same persons should have the same right to buy the land, as in the case where we went through the whole experience with people on the plantations.

It is unfortunate, of course, that we can never see the benefit of the large and common good in these things. I believe that after 20 years or more – in some instances, it is as long as 30 years – that these people ought to have that right. I think it is fortunate that you have a Government that simply says, “Look, we do not want the owners of the land to be paid less than what is the market price and, therefore, we will step in and ensure that the individuals get the market price for the land but, at the same time, make it possible for the thousands of tenants out there to be able to own a piece of this rock. There is nothing more that Bajans want than to think that they can own a part of Barbados. Mr. President, to be honest, we are not talking about two or three tenants. We are talking in terms of urban Barbados, of approximately 3 000 tenants and also the 2 500 in the rural tenancies as well that would qualify.

When you think that to date, in terms of the plantation tenancies, over 6 300 have already been surveyed and more than two-thirds conveyed, when you add to this, you are

talking about legislation over the years, between 1980 and now, that would have seen some 15 per cent of households in Barbados owning a part of this country.

Mr. President, it is not insignificant that we are talking about this since there are about over 12 000 people who would have bought land between \$0.10 and \$2.50 all because of a Barbados Labour Party Administration, in every instant, that simply said, “We must make opportunities possible, particularly for people to own land in this country.”

One would have thought that is the sort of thing that would gain support on all sides and there would be no divide on it but you hear, on one hand, about this iniquitous matter of taking away the land and, on the other hand, Senator McClean saying that here it is – because he washes us all over the place – that the Government would have gone in, put the roads and whatever, and now these same landowners would be paid at market price after that was done.

The fact of the matter is that it would also help those same landowners, if they have reason to buy elsewhere, to buy land at the market price. We are not saying that the land will be taken from them at a value less than the market price. Sometimes I wish I could understand, but coming from Senator McClean, it is very difficult to glean where he is coming from.

Mr. PRESIDENT: Senator, I would prefer you to leave out the personal references.

SENATOR J. E. D. WILLIAMS: Thank you, Sir, Mr. President. We are saying that after these persons are able to acquire their lots, just like the efforts that were made in the case of the plantation tenancies, you will find that these individuals will continue to enjoy an improved environment. There will be better roads, improved drainage, the provision of water and electricity where it does not obtain today, and the general housing stock in Barbados as a result of all of this, will improve.

Many of the communities that we have in this country which were born out of the plantation tenancies bear no reflection to what obtained in 1980. Again, it is all about improving the lot of Barbadians. Once Barbadians have land, it is natural for them to try and build their properties and improve them. You will find that even in this Bill, it seeks to address situations where, on some of those lands, people have even put wall constructions. I think, you would probably find in some instances, there were even complete wall constructions and they were not partial. It means that the owners of the land would have to be paying taxes at the rate of the improved value and the legislation also seeks to ensure that the rent that one can charge, particularly for those people who do not exercise the option to purchase, really reflects the improved value.

Mr. President, the Bill is about improving the lot of poor people. The Bill is about improving the conditions under which people live. The Bill is about making sure that people can transfer that ownership on to their children and their grandchildren's future. The Bill is making sure that people have secured tenure.

When people have a bit of land, they can then move to the next stage to use that land to be able to secure a loan. One thing follows another and it is about all of this. It is the Government's intention to continue to focus on both rural and urban Barbados.

I would urge the Opposition to take a look at this Government's approach to urban and rural Barbados and its own approach to urban and rural Barbados over the years. It took this Administration to come in and improve the lot of people in St. Michael.

Mr. President, the Opposition does not understand that it did not lose the Election by accident. It lost it because it had lost touch with the people. It lost it because it could not understand that the kind of legislation we are talking about today, hits at the very root of trying to improve the lot of people.
12.50 p.m.

If they, the Democratic Labour Party, could ever begin to understand that, then once again, there would be a connectivity between them and the people of this country. Be that as it may, this Administration will never be deterred in terms of its responsibility. We will move forward, whether it is with the Tenancies Freehold Purchase Act, whether it is dealing with using the Ministry of Social Transformation to address poverty alleviation in this country, whether the Opposition supports it or not, or whether it is by bringing legislation to make it possible for us to be able to build roads in Barbados that go into the heart of the areas where poor people live, it makes absolutely no difference and, in this one, I am satisfied that the Government is indeed on the right track.

I think we have sat back too long and have allowed people to live in conditions less than what we would want for ourselves and it is the responsibility of this Barbados Labour Party Administration or any other government in the future to address those things. I will say this too, unless people are able to focus on these things and understand how people ought to live, those who are in Opposition will remain just there.

I am obliged to you.

SUSPENSION OF SITTING

SENATOR THE HON. P. C. GODDARD: Mr. President, I move that this Sitting be now suspended for one hour and we will return at 2 o'clock.

The question that the Sitting be suspended until 2 o'clock today was put to the Senate and agreed to. Mr. PRESIDENT suspended the Sitting accordingly.
12.55 p.m.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

SENATOR T. E. BARKER: Mr. President, I rise to support this Bill which is revolutionary in nature and which seeks to further the move by the Barbados Labour Party Administration to enfranchise the people of this country and to ensure that the benefits of any economic expansion will go to all Barbadians.

Sir, we know that the average Barbadian likes to own his own house and land. We know that historically there was a bias in the ownership of land in this country and that large tracts of land in urban Barbados, especially in Bush Hall, Bank Hall, and Eagle Hall were owned by one landowner where some of the land may have as many as 100 tenants on one piece of land. For years those tenants paid rent and never had the advantage of owning that piece of land. The advantage is that they can now more readily access loans in order to improve their dwellings.

Sir, we know that when the Tenancies Freehold Purchase Act was passed in 1980, it was primarily for the plantation tenancies all across Barbados. As the last speaker said, some 4 000 house spots were sold to poor Barbadians at the rate of \$0.10 per square foot. So that \$700 would give a person 7 000 square feet of land which revolutionized the very face of our countryside and in a short space of time people were able to improve their lot in life. As a result of that, the improvements in the housing stocks were greater felt in rural Barbados because of the fact that land ownership was transferred from the plantations to the masses where 4 000 households benefited from that scheme.

Sir, it is time now for us to do the same thing in urban Barbados where, sad to say, the standard of the housing stock has not always been what we would desire it to be. In order to speed up the process, the Government is undertaking to do the same thing for the urban tenancies that it did for the rural tenancies. All of us, I would say, know of the condition of the tenancies in St. Michael where in a lot of cases the infrastructure, roads, utilities and so on were undesirable. Government went in over the years built roads

and put in utilities, for example, telephone, electricity and gas, at the State expense and improved the lot of the people. The time has come now for us to go a step further. The Government now is proposing that the tenants in rural Barbados be given the opportunity to purchase the lots which they were utilizing probably from their father's or grandfather's time and the urban tenants are now being put in this same position.

Now, there are always two sides to any action. On one hand we are seeking to enfranchise thousands of Barbadians who have been renting land for generations. On the other side of the coin we have to talk about the rights and privileges of the landowners. Sir, we know very well that in the 1960s the then Democratic Labour Party regime under the late Errol Barrow passed a law which gave a large measure of protection to these tenants against eviction. So even then it was recognized that the tenants needed some sort of security.

This Act, the Tenancies Control and Development Act of 1965, sought to give these renters some measure of protection. The result of this was that even before this Act came into being the landlords could not easily remove tenants from their land, so there was some measure of protection for the tenants. This also meant that the landlord was restricted in how he can dispose of what is legally his.

Now, fairness must always be the order of the day. Not only must we be fair, but we must be seen to be fair. That is why this Act is fair to both the landlord as well as the tenant because the landlord now is in a position where he can say to the tenant, "Okay, you are on my land, I know I cannot move you off my land, therefore, I ought to be compensated for it."

What Government is saying is that if you are a landlord and people are on your land you cannot move them but Government will ensure that you get the fair market price for your land, which is important. You cannot tell the man that he must sell the land at any subsidized rate. You are saying that the free market price must be the order of the day. In other words, Government is not going to disadvantage the landlord because we know ourselves that any time Government compulsorily acquires land from an individual, that individual is not bound to accept the price that is offered and can ask to have the parcel of land valued and Government must pay him according to the market value of the land.

2.10 p.m.

So the same principle is being applied here. The landlord is assured that he will get the fair market value for his property. We recognise that the tenant who has rented for 30, 40 or whatever amount of years also has an investment in the matter so that Government is saying whatever the market

price is, because of the fact you have been living here for 20 years or whatever, we are going to ensure that the price of the land which you have to pay bears relation to your ability to pay.

In other words, we know that the price of land, especially in some of the more desirable tenancies, might be out of the reach of the poor so that Government has stepped up and said that as a social responsibility to you we are going to subsidize the value of the land so that the landlord will get his full share, but the State will bridge the difference, what the market price is for the land and \$2.50 per square foot, which is what the tenant will be required to pay. To me, that is a fair system which shows that the Government recognises its social responsibility to ensure that this land of ours is owned by the people and that the ordinary man, regardless of his economic situation, must be given a fair chance to own a piece of this rock, as we like to call it. At the same time, the landlord's rights are also respected.

I do not see why the Opposition feels constrained to come against this Bill. It is not offensive. The fact of the matter is that the landlord is in a better position because he can now get what he could not get before and that is a piece of cash for the land. The fact remains that the 1965 Act does not allow him to put anybody off the land once they are paying their rent. You cannot move off people once they are paying rent. So it is a win-win situation where the landlord wins and the tenant also wins. Frankly, I do not see what the issue is all about.

If you are saying the landlord may have children in the States, he is going to have cash because the land is going to be sold at market value, not at Government's value. The landlord will have a piece of cash so that he could then access land somewhere else and, in any case, let us be reasonable, most of the people that you are talking about, their children having gone to the States or wherever are not coming back to live in tenancies. It is a fact. In the vast majority of cases they would want to go and live in the Heights and the Terraces, and that is a fact.

When people are making that point, they are ignoring the realities of the situation, but the point I want to stress is that the landlord is not at a disadvantage as far as I am concerned. For the first time, he is able to get cash for his land. Previously, every year he would get a few dollars in terms of rent so the point was made, and this is something I do not understand, the Opposition is quarrelling about the Bill and, at the same time, they are saying that the landlord is getting an advantage because the State has put in the services and, rightly speaking, they have done nothing to improve the value of the land, but they are still benefiting.

I do not fully appreciate nor understand the argument that they are making but we are accustomed to the

Opposition making these sorts of vacuous statements just full of sound and fury signifying nothing but the emptiness of their thinking.

The point is that we have to be very serious about land ownership in this country. I may have said this before, but when I first got a piece of land in Barbados I felt different. I now had title to a piece of Barbados and I felt a lot different. It made me think differently and the 4 000 people who got land ownership as a result of the Rural Tenancies Bill we can see how that benefit was used by them. They have seriously improved their lot and I have no doubt that the same thing will happen as a result of this piece of legislation. Sir, it is just carrying us further down the road where the people of this country own the resources of this country.

The question of alleviation of poverty where people feel they do not have a stake in the country must be addressed. Young people must feel that they can own a piece of the country. That is why we have legislation like this. Government must be highly commended for bringing this piece of legislation to this Chamber.

Sir, we understand the problem the Opposition has with the Tenancies Freehold Purchase Act. From the time we brought it in 1981 the then Leader of the DLP went and talked about us taking away the land from Drax Hall, one of the richest plantations in this land, not fully appreciating or understanding the social impact of what the Government was trying to do. He went on a horse through Drax Hall trying to create sympathy for the plantation owners.

From the time this Bill came in, the Opposition had difficulty with it. We can understand their difficulty. Let us look at it in political terms. The DEMS always felt that St. Michael was their stronghold and in the 1971 Elections I was but a lad then, but the then Leader went on a horse through St. Michael, which is very reminiscent of plantation days. St. Michael was their territory. After so many years, they have done nothing for the people in St. Michael but we came and said that the people of St. Michael need to benefit from what is going on in Barbados so that this Act is geared specifically to those people who had been neglected all of these years by the Democratic Labour Party and they have been taken for granted and we know what happens when you take a lady for granted too long. There comes a time when some other fellow will come along with a better voice and claim the person whom you should have had in the first place.

I can see now why Senator McClean would have problems with this. This is striking at the heart of the people who voted for them through thick and thin over the years but who they have neglected. This is not about vote catching. This Bill is about people. It is about the rights of people. It is about creating opportunity, creating a sense of belonging

in people. If you take away the people from the land you have people alienated without a culture, without a purpose, without a sense of belonging.

This Act will go a long way towards addressing a serious imbalance. I should also mention the point that why this Act is so fair to the landlord is that we have had in the past where people have said that they want to buy the land for years and the poor landlord who, as some quite rightly have said are not as well off as some of the tenants...

This Act puts a time if you accept an option to buy. You do not have until next year but a few years in which to exercise the option. Fairness is the order of the day. Sir, this Bill, and I am specifically addressing my remarks to the whole House, we ought to send a message to the people of Barbados that we are serious about their rights and about the stake they have in this country.
2.20 p.m.

If we reject this Bill, we are saying that we want to perpetuate the landlord system in this country. None of us in this Honourable Chamber would want the message to come from here that we are not concerned about the upliftment of the masses. How we respond to this legislation today will determine whether or not we serve any useful purpose in the scheme of things.

This Chamber must be in the forefront of change in this country because we desire a change for the ordinary man and woman so that they can feel that they belong to the society. When this is done, it will go a long way towards solving some of the social problems we have in this country. When people know that they belong to this country and they have a House of Assembly working on their behalf, then their behaviour will show a marked change for the better.

If we reject this Bill and perpetuate a system which has not been to their advantage over the years, we are relegating them to poverty without ever having the hope of breaking that circle of poverty and discrimination. This Chamber has an opportunity today to send a message that the resources of this country belong to all of us and to reject this Bill is to retard the progress of this country. It is to go against all that we in here believe in, that this country must go forward united and free where the barriers that divide us must be systematically destroyed.

The removal of the landlord system in Barbados, as I see it, is one such obstacle to the full emancipation of our people. When people in these tenancies see the benefits of this legislation, they will thank this Chamber for having the farsightedness to say yes to such an important piece of legislation.

I commend this piece of legislation to the Chamber knowing that there are thousands of households who stand to benefit from us saying yes to this legislation.

Mr. President, I am obliged to you.

SENATOR B. R. COLLYMORE: Mr. President, after the great appeal for support from the last speaker in a matter that requires approval in a constitutional way, I wish to bring the matter out of the area of emotionalism. The Tenancies Freehold Purchase Act, from its inception, made provisions for tenants in these tenancies to have a right to purchase. It would be interesting if we were supplied with statistics on the number of tenancies in this urban non-plantation category which have been subdivided to the occupants of those tenancies. We know that statistics on the plantation tenancies make impressive reading.

I heard someone here say that about two-thirds of the occupants of the plantation tenancies have been able to access ownership. It would be interesting to know how many of the occupants of the non-plantation tenancies have exercised that right.

In addition, we need to examine how this Amendment will facilitate the exercise of that right. The historical and other circumstances about tenancies in Barbados are quite different for plantation tenancies and the urban tenancies. Plantation tenancies were an extension of slavery and people occupied them after Emancipation at the goodwill or compulsorily at the requirements of the owners of the plantation. If you worked at a plantation, you were given an opportunity to occupy a tenancy and you could not leave that plantation and go elsewhere to work because the plantation where you first worked had a right to commandeer your wages from the other plantation.

There were over 400 plantation tenancies scheduled in 1980 and most of the owners were anxious or willing to dispose of them. They had certain difficulties one of which was they had to survey and undertake the legal expenses of transferring this land to other people. In addition, some of them had developed the tenancies at their own expense and it was considered to be unreasonable to expect that after they developed the tenancies with all the infrastructure to get the same ten cents as the ones that had not been developed.

Therefore, the Government had to institute measures to remove most of those hindrances to the implementation of the Act as it related to plantation tenancies. How did the Government do it?

First, the Government undertook to survey all the tenancies. Therefore, a number of surveyors were engaged to carry out the surveys of the various tenancies on the basis of the land that was being occupied by these persons.

Secondly, Government undertook to meet whatever legal expenses resulted from the subdivision.

Thirdly, the Government provided a special window at the Barbados National Bank to facilitate the lending of money to the tenants to purchase the land.
2.30 p.m.

Where there had been development of a tenancy, the Government reimbursed the owner of those tenancies in the sum claimed for such development as could be ascertained. Therefore, in facilitating the transfer, Sir, as I said, the other tenants had the same right all of that time, yet, I believe, that there had been very little transfer and the question is why? The other question that follows the why, will the measures now being pursued in this legislation effect the result which the Government wants?

I take the point of ownership development as it pertains to the non-plantation tenancies and the occupancy. Many of these tenancies, especially in the urban areas, have so many houses on a spot that it is sometimes difficult to determine who was the original tenant and who would have the right to claim the purchase of that tenancy. In Bosvigo, Alkins Land, Strakers Land, Alleyne's Land and you could go on, a mother or grandmother might have been the first occupant of the area. In the process of time, a son, daughter or some relative was allowed to put a house on the land. In one case that I know of, the original tenant died and the question that has arisen is who would now have the right to claim this area with three or four other people living on the land. The other problem that arose with that is, under the Town and Country Planning Regulations, a house spot should not be less than 3 000 square feet. Sir, for this tenancy scheme, I believe they adopted a lower level of 2 400 square feet. Yet, in some of those tenancies, on 2 400 square feet, certainly in one that I knew at the time, there were five houses.

I am saying that the Government already has on the Statute Book legislation that was implemented at the same time as the Tenancies Freehold Purchase Act called the Tenancies Development Act. The Tenancies Development Act allows the Minister of Lands to designate tenancies for development and also impose on the Minister the necessity to bring an improvement plan, once he has designated an area. In that improvement plan, he must show how he is going to rationalise the tenancy. He has to move out occupants in order to give to whoever is going to get that right the opportunity to own the 2 400 square feet of land. Unless this development order and improvement strategy precede the exercise of right, we will get no further than we have in getting these people to exercise that right.

Therefore, it is important that the policy on tenancies should not only be seen in the context of the legislation before us but the practicality of the situation, where in most

of the urban tenancies, somebody said that there were about 3 900 tenants, you have to rationalise what the Town and Country Planners call the act of a graph. You have to do spacial rationalisation or else we will get no further on this matter.

I think that any of us who know any of these tenancies will know how cluttered there are. It is not sufficient to say that you are facilitating it by this legislation, because you will get no further unless you pay attention to that development aspect of it, and the Law is there already to do that development.

Sir, turning to the draft itself, Section 3 reinstates a position that existed prior to February 1, 1990. It does not in itself facilitate the transfer. Clause 4 imposes on the landlord a duty as soon as a tenant expresses his intention to purchase the land, a duty at an expense to cause the lot to be surveyed, causes the conveyance to be prepared *et cetera*.

Asides.

SENATOR B. R. COLLYMORE: Mr. President, that is an expense that you are imposing on a landlord. Perhaps, the Government may well be advised to borrow from what was done in respect of the plantation tenancies if you want to facilitate this transfer.

Asides.

Mr. PRESIDENT: Order, please.

SENATOR B. R. COLLYMORE: Clause 5 is fairly straightforward. My concern is about clause 8. Sir, this is where a government subsidy has been paid in respect of the purchase price of a lot. Since the Government has agreed to pay the difference between \$2.50 and whatever the purchase price is, that lot shall not be resold without the owner of the lot first offering it to the National Housing Corporation for sale. How do you sell this lot? To somebody who is a tenant elsewhere, or the same person who owned it originally is now able to buy it back, or to somebody whom he advises to buy it? It seems to me that you could have a situation of a little bit of wrongdoing in that. Sir, provided that the price is no more than the price paid for the lot, plus the cost of any improvement made by the opener to the lot, since it is purchased by him. I relate that to what existed in the original Act and which had to change by Part II of this draft. 2.40 p.m.

In the original Act it was provided for in respect of these non-plantation tenancies that an owner could claim the agreed market price provided that any improvement on the tenancy which had been undertaken by someone else – and that could very well be the Government – could not be included in the price. If he did not do the improvement, why

should he then benefit from the sale of it? And that was the original provision. This new provision says:

“Where the open market price of the land exceeds \$2.50 there shall be paid to the landlord a government subsidy the difference between the open market price...”

In most cases the Government would have done any development that had occurred. What this Bill is doing is allowing the landlord to get the market price which includes any development which he did not undertake and, at the same time, the Government pays him that difference and, therefore, he gets paid twice.

What is the merit in this Amendment that has fundamentally changed the original provision in Part II of the Act, where in the older Part II the owner could not have benefited from any development undertaken on the tenancy by anyone else. On the other hand, this present Act says that he gets a fair market price, plus the \$2.50 that the person pays, and the difference which could be inclusive of the development that the Government, itself, had undertaken. I do not think that that can be debated. It is very clear.

The other point I want to make is that this present Act is giving the landlord the benefit of developments that he did not undertake and all that he is required to do is to cause the lots to be surveyed and the conveyance to be prepared. I find difficulty with that.

Now, there is a matter of some tidiness that I must address in this offering of mine. Sometime in 1977 a new Weights and Measures Act was passed in Barbados which sought to adopt the metric system in place of the imperial system. That Act provided for dual relevance of both the imperial and the metric systems until such time as the Minister declared that the only measurement that could be used would be the metric system.

Immediately when that Act was proclaimed, the Prime Minister of the day issued a directive to all members of the public service that at no time must the imperial system be used alone. Any time that reference is made to measurements it must be done using the metric system, even if the imperial system conversion is bracketed.

All over the world, and as part of globalization, everybody is moving towards the metric system. Even the United Kingdom and America have decided to reopen the metric system. Yet, in 2001, we bring a Bill to Parliament which makes reference to \$2.50 per square foot, when the original Act speaks of 10 cents or \$2.00 per square metre. This present Act is saying “that it shall not exceed \$2.50 per square foot.” Is it that \$25.00 per square metre would sound too big? I think that we have to be tidy...

Asides.

Mr. PRESIDENT: Senator Barker, you have already spoken. I do not wish you to interrupt the debate.

SENATOR B. R. COLLYMORE: Indeed, I have made the effort to find out whether that section of the Act which says that only the metric system should be used has been proclaimed only to discover that it has not been. Yet we are further behind in implementing the metric system than we were 20 years ago, and more than this, we have to go totally metric, whether we like it or not. I, therefore, think that when these points are being drafted, as small as they may seem, they should be taken into account.

In the early stages when this Tenancies Freehold Purchase (Amendment) Act 2001 was being drafted, no consideration to the ratio for non-plantation tenancies was given to the drafting. The consideration came at a later date in the preparation and I believe at that time...

Aside.

SENATOR B. R. COLLYMORE: I did not say "slip". It was put in and all who dealt with it knew that it was put in and not slipped in.

I still think that we have not worked out a *modus operandi* to make sure that the provisions of the Act can be implemented...

Aside.

SENATOR B. R. COLLYMORE: I have no great difficulty with the Amendment, except that I warn it would achieve nothing, unless we do other things.

Secondly, whilst I believe that there is great merit in any self-congratulation that is made about the plantation tenancies, I do not think that the same degree of self-congratulation can be extended to this aspect of the scheme, and for the very reason which I gave. It came in as an extra and was never thought out. For 20 years it has not been able to be done and again, we are now going at it in a situation where it will not be able to be done, unless other action in relation to the development of those tenancies is done. Development means not only road, water and electricity, but the spacial rationalization which is absolutely important, or else what will happen, who will own the tenancy land?

My last point, Sir, has to do with the economics of this Bill. When the original Act was put forward, an argument with merit was advanced that the people of Barbados were called upon to make substantial outlay in order to implement the Tenancies Freehold Purchase Act. I gave the instances

where that money, belonging to the people of Barbados, was spent to give people the opportunity to own and develop the land, *et cetera*. It was also said that some degree of return would have come back to the Treasury in due course, because there now would be new land owners who would develop the land and, therefore, pay rates that they were not paying before and in most cases, the plantation tenancy land was rab land. It would be good to hear if one could identify what sort of returns have come to the Treasury as a consequence of that development.

2.50 p.m.

Mr. President, I go further and say that again, we are prepared to utilise money from the taxpayers to help these tenants in the non-plantation tenancies to own land. In all of it, while we are being fair to the occupants of those tenancies and probably fair to the owners, there is a third component in it and it is the taxpayer. We need to give them some assurance that all of this is being done in the measure of social development and there has been a return of some significance in the project.

I would hope, Mr. President, that we do not treat likely my reference to the metric system. It will come back to haunt us if we do not make these kinds of corrections at an early stage.

Thank you.

SENATOR Mrs. V. E. NEWTON: Mr. President, I rise to make some brief contributions to the debate on this Bill. I see it as a fairly significant piece of social legislation designed to assist persons who have been occupying lands in the circumstances described in the Bill for many years.

However, I do agree with some of the comments made by Senator Collymore and although I am not as pessimistic as he is about the non-inclusion of preparatory measures in the Bill, I believe the Ministry of Housing ought to be able to ensure that certain procedures take place.

I think that in Section 4, before the landlord exercises any duty of surveying and conveying the land to the tenant, that there should be some statutory provision for the involvement of the Town Planning Department. That way, I think that a lot of the problems which Senator Collymore and others anticipate because of the non-provision of Town Planning involvement, might well be avoided.

Mr. President, with those very brief comments, I would say that I support the Bill.

Thank you.

SENATOR THE HON. Dame PATRICIA SYMMONDS: Mr. President, in the 1930s and 1940s there

was a chattel mortgage but only if the house was fixed on stone, what we in Barbados would call, a groundsel. Merchants, through solicitors would lend a small amount, \$50 to \$200 but banks did not lend on real estate, nor did the majority of insurance companies, apart from two and plantation owners would lend but at 6 per cent. Sir, in that period, people could not afford to buy land and thus we had many tenants but few owners.

This Amendment displays consideration for the landlord and the tenant. It has been said, but I think it bears repeating that it cannot be said too often that the landlord does not lose. He is given compensation by being paid the market rate.

I also think too, Mr. President, that three years is a reasonable amount of time. It allows the legal formalities to be carried out. The seriousness of the planning was evident in 1981 but in 1991, this was initiated by the 1991 amendment and it was not until the return of the Barbados Labour Party Government, which showed its usual commitment and caring, that we set up the Rural Development Commission to improve the quality of life for the people in the tenancies. Immediately after that, as we all know, there was the Urban Development Commission which was established and given the mandate to oversee the smooth transfer of title from landlord to tenant.

Mr. President, if one looks back 20 years at the landscape of the rural tenancies and compares them with today, and I think that our Leader mentioned that, one can see the remarkable transformation and, no doubt, the same thing will occur with this Amendment.

As a matter of fact, I understand that already at this early stage, people have been pouring into the office of the Urban Development Commission asking for information about ownership. Some landlords did nothing to improve their properties and successive Governments put in amenities, water and electricity. Sir, to show even further commitment to the urban tenancies, the Government is embarking, as you know, on a concrete road project and again, I repeat that the Amendment is fair to both landlord and tenant. If the time frame elapses, the landlord can ignore the tenant's request. Throughout its history, many monumental pieces of legislation have been enacted by the Barbados Labour Party Government and this Amendment too. I think, is of some considerable significance. It is trying to ensure the interest of all and therefore, I strongly support this Bill.

Thank you, Mr. President.

SENATOR D. D. MARSHALL: Mr. President, this particular piece of legislation, the Amendment to the

Tenancies Freehold Purchase Act, in my view, is welcome and it has been a long time in coming.

As a legal practitioner, I can attest to the fact that there have been numerous problems which have arisen because of the fact that this legislation essentially binds a landlord to sell to a tenant. There are numerous practical examples of how this could work to the disadvantage of the landowner.

For example, on occasions when landlords have given tenants notices to quit, the very next thing which happens is that the tenant, if it is within a tenancy under the Act, would serve a notice of intention to purchase. Now, there is absolutely no difficulty with that but the problem, however, is because thereafter the tenant did absolutely nothing.

In fact, the nature of this piece of legislation, it is arguable, confers on the tenant more than just the right to purchase. It has been argued in many places that it, in fact, gives the tenant an interest in the property. It is, to my knowledge, that the Ministry of Housing has advised people who have gone to them that in these circumstances the landlord cannot give a notice to quit.

Sir, what we have is a situation, and I can tell from my own clients, Mr. President, where 10 or 12 years have passed and the tenant, having served his notice of intention to purchase, has sat back and done nothing whatsoever. It is a situation which does not allow settlement within the law courts and the time really had come when the interest of the landlord had to be seen in a more reasonable and humane light.

This Amendment which is introduced by Section 10(A) serves to settle that problem and personally, I think, maybe it could be a little shorter, but the reality is that a tenant is now no longer able to hold a landlord to ransom and live out his or her days forever and ever without honouring the obligation and the spirit of the right which this legislation gives to them.

It is a more sinister thing when legislation such as this empowers a tenant, and instead of following up the notice of intention to purchase with the actual completion of a purchase, that tenant sits back and says, "Well, I am now secure forever."

3.00 p.m.

That kind of behaviour is a dishonour to the spirit and tenure of this legislation. I am happy to support this particular measure because it brings that situation now within more control. A tenant must take this issue of purchasing his or her lot seriously. It is no longer permissible after this Amendment is passed – it is passed – for a tenant to simply serve a notice of intention to purchase and sit back and do nothing.

Mr. President, the Landlord and Tenant legislation in Barbados, I would submit, is in need of a fairly fundamental review. A quick count would demonstrate that there are about eight pieces of legislation dealing with landlord and tenant. The oldest one being the Landlords and Tenants Act which dates back to the year 1897 which has had about eight or nine amendments since those days.

Notwithstanding that we have these eight pieces of legislation, practitioners are often forced to rely on some extremely old Common Law, as the Deputy President will attest, when it comes to such areas as distress for a raise of rent. I would submit that we have allowed our legislation to fall in to almost abeyance and have allowed it to fall behind the space of time. For instance, in the Tenancies Control and Development Act there is provision for increasing rents but only in certain circumstances. Under the regulations to that legislation a landlord is allowed to increase his rent for the first time by 20 per cent only and thereafter he or she would have to apply to the Magistrate's Court for permission to increase the rent to a greater amount.

When one considers that there are people in Barbados who are still paying \$25 a quarter for rent, there may not be that many, and the landlord tries to increase the rent he discovers that he can only increase it by a mere 20 per cent per annum. These are the kinds of things which I feel we need to revisit from time to time.

It is important that all Governments strike a balance between the interest of the landlord and the interest of the tenant. The tenant is often perceived to be the one who is put upon and is at a disadvantage. Certainly, this Barbados Labour Party has long voiced its strong support for the tenants of this country whether it is a house tenant or a land tenant but it has also been very careful to ensure that a balancing act is struck so that everyone is protected under the law and that everyone receives the full and fair treatment under the law.

However, when we allow pieces of legislation to sit on our books for 90 years or sometimes more without revisiting them to modernize them to keep pace with the times then we are, in fact, by our laxity or by our acts of omissions, allowing injustice to be visited on those people whom the Law needs to protect.

I would strongly commend to this Government, which I support, that the time has come for us to consolidate our laws relating to landlord and tenant. It is really quite a shame that pieces of legislation dating back to 1897 are still on our books largely in the form in which they were enacted in those days. As Senator Collymore pointed out, the landscape in those days was vastly different from now. We, therefore, need to review our Landlord and Tenant legislation to try to harmonize them.

I am sure all Members of this Honourable Senate would recall that not so long ago there was a dispute or at least an argument as to what consisted a tenantry. The Tenancies Control and Development Act said a tenantry was five spots. The Tenancies Freehold Purchase Act said that it was two or more spots. So these are the kinds of things we need to consider when we look at this very important body of legislation. We need to bring it up-to-date. We need to come up with modern Landlord and Tenant legislation to meet the needs of both landlords and tenants in Barbados whether it is a tenant and landlord of a house spot, or a tenant and landlord of a building of some kind.

Finally, Mr. President, we cannot help but consider the plight of both parties in this kind of arrangement and the Ministry of Housing and Lands is going to have to play a pivotal role in relation to how we carry out this Act. They have done it before. In fact, I think the Ministry of Housing and Lands has done yeomen service in supporting this body of legislation. Under the amendment to Section 5 the landlord has to cause the lot to be surveyed, cause the conveyance to be prepared and give notice to the tenant that he is ready. A difficulty about this kind of legislation is that sometimes you may find a landlord who really cannot afford to take these measures and cannot afford to pay a land surveyor but the Ministry of Housing has done exactly that role in many of the other private developments. They have gone in and done the social surveys and so on, so the Government already has proper systems in place for assisting landlords in those circumstances.

With those few comments, Mr. President, I give my wholehearted support to this legislation but, at the same time, I am calling for a new look at our entire body of Landlord and Tenant Law so that we can come up with a harmonized single piece of legislation where all of the rules are clear cut and we would not have to be running from one piece of legislation to another to try to find out exactly how the land lies.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, I had no intention of speaking on this amendment because I am rather perturbed about this legislation. I am going to support it because I believe I understand what Government is after. I was convinced before and I am more convinced since listening to Senator Collymore, that the Government has not received fair and honest advice in relation to this Amendment.

Senator Collymore has highlighted a number of Bills which could have been used to achieve what we are attempting to achieve today. Senator Collymore was one of the persons in the forefront of the Tenantry Freehold Purchase Act when it was proposed by the Barbados Labour Party Government in 1976 soon after taking office.
3.10 p.m.

As he said, the question of private tenancies was slipped in at the last minute. It got in a few days before it came to Cabinet and, based on the method of passing this Bill, it went through Parliament literally unnoticed.

Sir, the concept behind the Tenancies Freehold Purchase Act is a far different concept that now exists in relation to private tenancies. I was a Member of the Cabinet when we looked at what is now called the Tenancies Freehold Purchase Act. The thing that was staring us in the face was that the Government had a duty to repay to the offsprings of the slaves who worked on the plantations who had built up the plantations. The plantation owners had reaped all of the benefit and they were then pulling the profits out of the plantations and channelling the profits into the tourism industry and leaving the tenants in the same state. They had a policy that if the children of the plantation owners did not come to work on the plantation, wooden houses were stocked up on the side of the road with nowhere to go. That was the concept of the Tenancies Freehold Purchase Act.

Now the Government kept saying that it had no particular interest in maintaining tenancies in Barbados because everyone of us should be entitled to living in a decent house. We have to follow the history of the Barbados Labour Party in this concept. Senator Collymore would remember that the Barbados Labour Party had a motto – "Housing The Nation By The Year 2000". We sat down and devised the first miniature cement plant that was in the world. The cement plant in St. Lucy was the first of its kind in the world. There was a time when cement was brought in here in the 1970s and being sold at \$20.00 a bag. Senator Odle is an example of what this country went through when we were trying to get cement cheap in this country. Ask her how did her parents suffer as a result of bringing cement in here cheap?

We have to look at the history of what we are doing. I say that the functionaries of Government who should have been advising the Ministers have not advised the Ministers correctly in respect of this legislation. I will tell you something. I am going to support the Bill but I have written to the Attorney General and Minister of Housing and Lands where I set out a number of difficulties that will arise as a result of these amendments. Despite the fact that they wrote to me and said they would seek to have certain amendments to be made, I have not heard the amendments today. I have said long ago that when you come into this Senate and talk, apparently it falls on deaf ears. Nobody ever listens to you.

Sir, let us turn to the Amendment in this Bill. I am still of the belief that you need a separate and distinct Bill to deal with private tenancies. I believe that Senator Collymore's speech today brought that out clearly that the two concepts are so different. These should be accommodated in a separate and distinct Bill.

When we look at the Bill, Mr. President, the very first clause, Section 3 – Clause (a) seeks to give the tenant the right if that tenant had been on the land from the 1st February, 1990. It deals with the issue when private tenancies were slipped into the Tenancies Freehold Purchase Act because the Tenancies Freehold Purchase Act listed the plantation tenancies that were effected in a Schedule. You will not find one private tenancy in that Schedule, not one. Do you know something, Sir? During my discussions at the Ministry of Housing, one officer had the gumption to tell me, "You know Tom Adams did not like what I was doing with this Bill, but I am still here and he is gone." That will tell you the thoughts that were still running through functionaries of Government.

Sir, when I try to point out certain iniquities in the Bill, let us look at a broad one. What is happening in this Bill? If you take a broad concept and take it down to the nitty-gritty, Government by this Bill is assisting tenants, then come landlords and double house owners. If the National Housing Corporation is selling land or a house, you have to swear by affidavit that you own no other property in this country in order to go ahead and purchase. I pointed this out to the Ministry of Housing and I say this openly. I represent the interest of Alleyne's Land. As much talk as you may hear, over two or three years now we have only been able to sell nine lots up to now. The people have gone to Mr. Alleyne and said, "We do not want to buy no houses. The Government has to buy it for us." Some are not even paying rent. You check with the landlords because a lot of them are not even paying their rent.

Sir, as to what Senator Marshall has said, we the practitioners know the difficulties, because under Section 10(b) you have now locked the land in the tenants' hands and the landlord will have absolute difficulty in even getting the rent. The Landlord and Tenant Act is in such disarray that I have been able to keep a tenant on land for five years doing nothing. The landlord could not get them off and soon a lot of people are going to stand on the land for a long time. The Landlord and Tenant Act is not an easy Act to deal with in this country.

Sir, what Senator Marshall has said is absolutely true from a practitioner's point of view. When you look at this, we have instances where a person from New York is writing to say that he used to be on this spot but he left it for his cousin to keep it for him. The cousin rented it to somebody else down the line but that does not give you the answers to those problems. You had very little of that in the plantation tenancies. The most you would have had was where a plantation tenant was able to buy a large lot, nearly two acres of land in the plantation tenantry, and he would put his daughter or son on a corner but you could still subdivide that lot into large lots of a comfortable size. The private tenancies are not like that.

Mr. President, I go further. As I said, the same concept of the plantation tenancies have never existed in the private tenancies. A man bought a spot of land with a view that his children would get a spot. Under this Amendment, it automatically subdivides that land for any tenant that was on the land to the exclusion of the children of the landlord. It subdivides it outside of the rules of Town and Country Planning, but the landlord could not subdivide it to suit his three children for them to get a lot.

3.20 p.m.

Therefore, this Act creates a very new concept of landlord and tenant. I said at that meeting that NHC will find pressure now because people will no longer allow a poor old soul who has nowhere to put a house to put it on a corner of their land because she will end up being a tenant, and somebody said, "Oh, we have no pressure at NHC." The functionaries of Government have been misleading Ministers all along. They sit down at a meeting and say that NHC has no problem and yet every day NHC tells you we have more applications for houses and house spots than we can supply. When you begin to look at these things in this Bill, as I said I will support it but, there are myriad problems that I see being thrown up in this Bill. This is what happens.

The tenants will send a notice that they want to buy, and I must say that Government has been ready and willing and able and has been surveying private tenancies for the tenants, but the tenants are not moving forward. An attorney called me about two weeks ago. A tenant came into my office complaining that she cannot get her lot. I wrote to everybody. The Attorney called me and said, "Mr. Bolden, we are ready," and sent me a copy of a letter which went to the tenant asking the tenant to pay in her portion of the money. The tenant called and told me, "I must pay money? I ent paying any money." It is sitting down there, and here the Government is offering to pay up to \$2.50 a square foot towards the purchase of the lot.

I am saying that landlords have been rather reasonable in this exercise because most of the tenants are being sold at \$5 a square foot which means the tenant must pay \$2.50 and the Government puts in \$2.50. There are adjacent lands to these tenancies which are being sold at \$10, \$12, \$14 a square foot. I have said to the Ministry that rather than lock the land, as is done under Section 10(b), there should be a clause which says that where the landlord has consented to the purchase and he has carried out the actions necessary under Section 4 and the tenant refuses to purchase within not more than six months, the landlord should be at liberty to charge a commercial rent for his land. He should be, because you cannot tie up the landlord in this method, and this is what is being done.

When we look at the problem, the problem is what is Government trying to achieve? It is time we get rid of the

wooden houses in Barbados. There is no maybe about that. If the Government is prepared to put funds into assisting a person to purchase a lot of land, I think that person has a bounden duty to come through with the other part of the money. As Senator Collymore said, when the Tenancies Freehold Purchase Act was brought into existence, money was put into BNB so that they could borrow money to carry through the purchase and repair their houses. People do not even want to borrow money to complete a purchase.

I think the Government cannot play it alone. We are becoming an almshouse society and everybody wants everything for free. The Government, I think, is doing as much as it could or even more than it should be doing because if the children of a landlord become deprived of the right to inherit land from their parents and then the tenants on the land are not taking up the offer or not paying their rents, something more stringent should be in the Law to make them comply with the Law. It is not fair to the landlord in the first place.

I think the Barbados Labour Party Government has been doing everything it set out to make everybody a householder with a proper house. We constructed, as I said, the Cement Plant. We brought in surveyors from Guyana to survey the plantation tenancies at the time. The Government is out there surveying the private tenancies now and putting \$2.50 for every square foot of land that the tenant is entitled to purchase. Why are the tenants not responding? As Senator Collymore said, we need to see statistics because Government will have to look at the statistics and take the necessary action if we want to complete this.

While the object behind the Bill is laudable, I think that the Bill will eventually be amended in several areas and I support Senator Marshall's call that we need completely new legislation dealing with landlords and tenants in Barbados. I thank you.

SENATOR Mrs. P. E. RICKINSON: Mr. President, I am not a lawyer so I can support the call that the lawyers are making but I am a consumer and a lot has been said about this amendment of the Tenancies Freehold Purchase Act and quite a lot of it I found very interesting. It sounds like the right thing to say and I sincerely hope that those persons who are involved in drafting the legislation will be able to use some of the information that has been given.

I do not accept that something is slipped into an Act because these Acts must go through Parliament. They go through the Lower House and they come through the Upper House. When people talk about slipping in things, it is telling me that the legislators are not reading the Bills or they are not understanding what they read. I, myself, usually give comments on the point of view of a lay person as how I see it and I am going to continue in that vein today.

I agree with Government's goal to try to make it possible for as many people to own their homes as possible. Governments must have a social conscience. The price of land is so high that unless Government accepts its responsibility for meeting the costs of at least the land for people they are not going to own their own homes and therefore down the road you will have to deal with social unrest. It is a reality. Government must come to terms with that.

I get the impression with your attempt to bring in this Act that that is one of the things you are trying to do. Whether you are doing it the right way or the wrong way, time will tell. What comes through to me in this Bill when I read it in my lay person's style is that something needs to be done, but it seems to me that the landlord in some instances is being unfaired, rightly or wrongly.
3.30 p.m.

Mr. President, Clause 4 says that the landlord has to survey the land. It says that the landlord is obliged to survey the land according to the Law. Mr. President, that does not happen by accident. The landlord needs a fair amount of money to do that especially if it is a big tenantry. It was said that money was being made available at the bank for landlords to do this. It was also said that Government is surveying some of the private tenancies, but this Bill does not say that. Therefore, all landlords do not know they can get some form of help.

Mr. President, it is not easy to get money from the bank. You might be able to get money for a car or to go on a holiday, but if you want money to buy land, the bank will turn you around in circles and you will get nowhere fast. They will tell you to show your personal account but, would you go to a bank if you had a personal account with a big balance? Mr. President, if you owe money on land, this means that your land will be sold out. One has to watch carefully these things which are happening in this country.

Mr. President, another thing is the market value of the land. The Bill says that the tenant will pay \$2.50 and the Government will pay the excess. Government has to look carefully at this because they cannot say one thing in one breath and in the other breath say another thing.

Mr. President, according to the Land Tax Department, if you have land and the person next door sells his land for a huge amount, that becomes the market value. If you ask the Land Tax Department for relief because you are a Barbadian who never worked for so much money in your life and you cannot afford to pay the taxes, they will still insist that it is the market price. Therefore, Government has to be careful about the market price because you cannot tell one set of residents in Barbados that the amount the lot adjacent is sold

for is the market price and when the tenancies are sold that this is not the market price. Government has to be consistent about what happens.

Mr. President, since I have been in this August Chamber, there has been a precedent where Government goes into areas and put in roads, *et cetera*. I remember land being acquired where Government went in and put in roads and then the land was given back to the owner at the same price it was acquired. These are things that should be looked into and ensure that whatever actions taken are fair.

Mr. President, I am glad that the lawyers in the Chamber explained Section 10(a) because I felt that five years was too short to complete the purchase, but now I am hearing that it is unfair to the landlord and that it should be less time. The way I was looking at that paragraph was that the landlord must have the money to complete the purchase and I do not know if he can get the money so quickly because sometimes you have to pay a little money every month to complete the purchase of a property. When I purchased my land I took a little bit out of my salary every month to complete the purchase but I do not know if the same thing applies to other people. People tend to live from month to month and they do not have large amounts of money to pay down on land. Therefore, I will take the lawyers' advice that five years are too long for the landlords.

Mr. President, Section 8 of this Bill worries me. Other Honourable Senators spoke about it but I am seeing it from a different angle. It says that the lot should not be sold without offering it back to the National Housing Corporation. I want to know what will happen to the children of the person who owns that land. Can persons who bought the land will it to their children? This is not clear because the Bill is saying that it has to be sold back to the National Housing Corporation and I do not know if it precludes leaving it to children or grandchildren.

Mr. President, I am calling for a land use policy because we come here and debate these Bills but we do not know what the policy is. The policy needs to be clear and it should be explained to the people of this country. We are not educating people enough about the policy of the Government. I think the public should be educated more about these matters.
3.40 p.m.

I know that there is a precedent for that. In the Town and Country Planning Act there is a clause where the person who is responsible can override Town and Country Planning.

Sir, for 10 years Town and Country Planning refused to give permission to two people who wanted to divide a small lot so that each one of them could have a piece of the

land. The Minister responsible overrode Town and Country Planning and the people were able to get title to the land. There is a way out for those people who are on small lots. The person responsible for Town and Country Planning, in this case the Prime Minister, can override Town and Country Planning and allow those people who are on small lots to acquire those lots and own the lots.

Mr. President, I cannot see anyone, regardless of which Government is in power, being able to take all of those who are crowded in those tenancies, being able to relocate them and find land for them throughout Barbados. Sir, you are going to have to reduce the size of the lots. I live on 3 500 square feet of land and the taxes are high.

Asides.

SENATOR Mrs. P. E. RICKINSON: Sir, we have to start building high-rise properties. We will have to face reality as to what can and cannot be done and then make the necessary legislation because 3 000 square feet of land is too much for the tenancies and you are not going to be able to find a house spot for everyone, so we will have to get accustomed to living on a smaller area of land.

Mr. President, I would like when the Government comes up with a land use policy, that the policy includes in it the use of agricultural land and golf courses, in as much as I love golf and play it every day. I cannot see the island being consumed by golf courses. I cannot view that. It is an expensive game and it is not agriculture, as far as I am concerned.

Asides.

SENATOR Mrs. P. E. RICKINSON: It is not agriculture comparable to cane. I heard someone say that you can change from sugar cane into a golf course.

I think you need to make it very clear in order to stop all the whispers so that people could have a sense of direction knowing the policy of the Government in achieving its goals and getting the support of the people in this country.

Mr. President, with that I will sit.

SENATOR C. A. MASCOLL: Mr. President, it is going to come late in the order, because it gives you a chance to look and observe but I have observed that the Barbados Labour Party Government sees this legislation as a flag ship piece of legislation. The same way in which Barbadians see education as something that the Democratic Labour Party has provided for them to allow for the social revolution that has occurred, I think that the Barbados Labour Party

Administration sees this piece of legislation in a similar vein and that is what is causing a lot of the difficulties in the frequent amendments that are being made to the legislation.

It is evident that the legal practitioners in this Honourable Chamber are caught between a rock and a hard place because, according to my research, the legal profession has encountered substantial difficulties in addressing the several issues that arise as a result of the previous legislation and certainly the amendment that would be made to the legislation.

SENATOR THE HON. P. C. GODDARD: On a point of order. I find it difficult to understand how the legal profession could have encountered difficulties with legislation which is not yet passed.

Mr. PRESIDENT: No point of order. Continue Senator Mascoll.

Asides.

SENATOR C. A. MASCOLL: Mr. President, I am going to take a step back in history and try to understand the context in which this legislation has been brought.

Mr. President, on the 166 square miles of Barbados there are approximately 106 000 acres of land of which the plantation tenancies account for 4 900 acres. There is less acreage under urban tenancies. I gave that information to show that between the rural tenancies in Barbados there is less than 10 000 acres of land. While I can understand the excitement that this Administration places on the legislation and what they would have done on the plantation tenancies, I wish to bring us back to reality that it constitutes far less than the 10 per cent of the available land space in Barbados.

Therefore, the hope for a revolution that would come out of these pieces of legislation would never occur. Suffice to say that you can laud and praise any efforts to enfranchise the average or under-privileged Barbadian. There are several issues that have to be raised relating to land tax, the need for loans, the need for a house after this has occurred and that the tenants must then get involved, not only in the purchase of land, but in the building of a house. I would like to explain all of this to show the costs involved in this apparently simple exercise to enfranchise a tenant.

If you have a tenant who happens to be renting a piece of urban tenantry and renting a house as well, which is normally the case on that piece of land, then you make available to the individual the opportunity to purchase the land, then you take the initiative, a parliamentarian acting in the interest of the tenants in Straker's Tenantry, Black Rock

two or three years ago, and advise Government on this question of allowing tenants to pay only \$2.50 per square foot, and you take that and package it, then you have all of the additional costs that would be incurred.
3.50 p.m.

Let me explain, Sir. That person may be renting a house and land, for example in the Black Rock area. They pay as little as \$18.00 or \$25.00 per quarter. You then offer them the opportunity to purchase. When they have purchased they now have to look for their own home...

Asides.

SENATOR C. A. MASCOLL: It is good, but it is a cost. I am saying to you that it is that additional cost and that while it may appear as though it is simply a question of purchasing land at a price of \$2.50 per square foot, there are several other additional things that have to be attended to in order to bring the household out of their plight to a higher level of living. It takes time, but the reality is that these costs are going to be occurred almost immediately. What is there that is going to give rise to a sudden increase of income or wealth to that underprivileged person that we are seeking to help that will cause him to be able to access such funds in a very short space of time, when we are saying that those persons have lived for 30 or 40 years on the land without any desire to acquire?

One reason why persons, themselves, have not rushed to purchase is that there are several attending costs associated with the purchase of the land. That person is allowed to pay only \$2.50 per square foot and the Government pays the difference between that and the market value. Immediately the following year that person who then becomes the owner of the land which they had previously rented now has to pay a substantial tax, because there has been no attempt on the part of this Administration to reduce the land taxes to adequate amounts for poor persons in Barbados and I have demonstrated that before.

Then, associated with this, as simple as that \$2.50 looks, becomes almost \$10 000 depending on the size of the plot, which means that you have to get a loan, then pay legal fees on the full amount, then pay VAT, Attorney's fees, and I am saying that while we are suggesting that this measure is almost, overnight, going to be a comfort to the individual or household, there are several other costs associated with this transaction.

I am also saying that that person would have to make a decision, almost immediately, in seeking to acquire a mortgage in order to construct his home – and this is the point – that person may not be ready within the next two to three years to be able to acquire a mortgage, but the purchase of land has been locked in by legislation.

This is the point that I am making, that there has not been a full attempt to look at this issue beyond the question of so-called enfranchisement, because the Government is only concerned, as is typical of this Administration, with the public relations aspect of these policies and not with looking at the question of purchase.

If the Government is serious about enfranchising the household, then they have to look beyond the mere provision of the \$2.50 per square foot and look to the immediate commitment of that household to a mortgage in order to build either a wooden or wall house.

I am saying that Senators on the Other Side know that when acquiring land by way of a loan to which there would be additional costs, that a decision cannot be easily made and following that, given the time constraints that have been imposed in the legislation, you need to look for a mortgage to build a home as well. These are ordinary poor persons who were poor before the purchase of the land. What gives them, almost overnight, the comfort to seek a mortgage? What changes the circumstances of these individuals? Where have these individuals come from in relation to their income range or income category? Why would that change dramatically when the persons buys that piece of land?

I am saying, therefore, the question of looking beyond the simple purchase of the land and the substantial commitment that would have to follow in order to complete this exercise have been overlooked by this Administration. I am suggesting that this Administration is caught up in theatrics and public relations and does not sit down to look beyond the issue of promoting their interest. This has to be a major concern because, as soon as you purchase the land, you are urged to get out of the rented house, meaning that you have to commit yourself to building a house. Where would you find the funds to be able to facilitate that?

I understand this Government is never prepared for any debate, because this Government restricts itself to just what is in the Act at present. It does not look beyond the issue of "How great thou art." They love it. They never fully focus on the real issues of the day.

Asides.

SENATOR Miss J. C. ODLE: On point of order, Sir. I think it is misleading this House to say that we praise ourselves by singing "How great we are". I do not think that that has come from the lips of any one of us here.

SENATOR C. A. MASCOLL: Mr. President, as I speak to you, there are approximately 92 000 householders in Barbados. About 40 per cent of the houses in Barbados are wooden structures of which more than half are over the

age of 20 years old, and that statistic is not known. We boast about the concrete structures which we are seeing, but there are several wooden structures still existing in Barbados, mainly in the urban areas. We speak about trying to provide for the underprivileged class, without fully understanding the circumstances which confront them. If you go around the many urban tenancies in Barbados, you will recognize that most of the rented houses are wooden structures. You can go into the Orleans, Strakers Tenantry area, Black Rock, Free Hill, Brandons and several such tenancies around the constituency of St. Michael, so that what is being seen is an inability on the part of this Administration to fully investigate issues and take them from beginning to end and appreciate the circumstances.

When I sat and listened to this debate and heard the question being posed as to why urban tenants have not made the same rush to acquire land, the circumstances are particularly different to those in plantation and rural Barbados. In rural Barbados we speak about adequate lots in terms of their sizes, wonderful views on cliffs or ridges, wonderful examples where persons can truly become enfranchised, where persons can establish nice homes and can still have adequate space for all kinds of endeavours.

In many urban tenancies it would be very difficult to build wall structures on the inadequate lots because we know that before constructing wall, there needs to be X amount of space away from the road, but if you appreciate the circumstances in urban tenancies, then one would know that to construct a concrete house may not be so easy because one may not meet the requirements of the Town and Country Planning Department.

4.00 p.m.

Sir, the distance that you have to be away from your neighbour by law has not been addressed or mentioned in this debate as constraints to why people refuse to develop urban Barbados. There are real constraints to the ability of individuals to develop houses in urban Barbados.

Sir, it has been mentioned already that there is the Tenancies Control and Development Act which came about in 1965 but that piece of legislation proved to be revolutionary. In fact, it was so revolutionary that it caused Barbados to have trained surveyors. It was a radical shift and this Administration is caught up in trying to be remembered as an administration that has done wonders in terms of transforming the economic and social landscape of Barbados.

Asides.

SENATOR C. A. MASCOLL: That is the focus and that focus...

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, on a point of order. The Honourable Senator must not mislead the Senate, neither must he distort history. Sir, that Act was passed and I remember it very well, when Maggie Goodridge wanted to sell the land in Danesbury it was being sold to the Oil Company. The then Prime Minister, the late Right Honourable Errol Walton Barrow, hastily put that Act through the House to stop those lots from being sold. There was no question of surveys. The first time there was a large amount of surveying done in Barbados was when the Tenancies Freehold Act was passed. We had to send to Guyana and bring surveyors to Barbados to survey the land in the tenancies in order to meet the provision of the Act. He must not mislead or change history.

SENATOR C. A. MASCOLL: Mr. President, I heard that off the records from Senator Bolden but it is only because of the patience which I exercise today that Senator Bolden did get to speak after I did.

Asides.

SENATOR C. A. MASCOLL: I exercise patience because I know only too well in this debate that he would have been biting at the bit and the two legal practitioners, or the attorneys-at-law in the Chamber, in fact, were hoodwinked this afternoon.

Mr. PRESIDENT: Senator, I would recommend that you withdraw that word.

Asides.

SENATOR C. A. MASCOLL: Out-manoeuvred. Now there is nothing wrong with trying to be remembered as changing the social and economic landscape because that is a laudable objective for any political party but there is almost a haste on the part of this Administration to do that. They tried to do it in reforming the educational system.

Aside.

SENATOR C. A. MASCOLL: They have tried to do it. Do not think that the reforms to the educational sector are simply to upgrade anything. It is to remove from the memories of Barbadians that precious connection that will continue to exist between the Democratic Labour Party and education. This Administration, in fact, had been on a course to remove that relationship.

The same thing has happened here in this debate with housing and I go back to the developers of this legislation. The first time there was the introduction of the registration of titles and the development and preparation of a physical

development plan in Barbados was after that Tenancies Freehold Purchase Act was put in place. They all tied in because while we can speak of a revolution, we have to caution that what we are attempting to do – while this is very laudable – will not alter the present state of the real estate and land market in Barbados. Giving special provision to the urban tenants will not affect the very high prices the average Barbadians have to pay for land in Barbados and they constitute the majority and that is what has to be understood.

In that regard, I am not disrespecting measures to empower anybody, but I am saying that the focus has to be on the bigger issues in Barbados and not always to present these “storms in teacups” as major things because that is what they constitute. Sir, when you look at their proportion to the overall interest of Barbados, they constitute precisely that, and that is what is happening here in this debate.

I will say that because no one can speak to housing and land development with the same sort of pride that was done back in the 1960s and 1970s, the development of all the housing areas in Barbados that we know about, the real empowerment of the average Barbadian in terms of ownership of houses. Sir, that happened as a result of the 1960s Revolution and now, this is just cosmetic treatment to some of the finer things because we do need to deal with some of the finer things.

It must also be understood why it is that many urban tenancies developed the way they did and, particularly, those around the City, and that was largely to do with the legislation that did not permit blacks to purchase lands beyond a certain amount in our past.

What we saw, therefore, was the concentration of people in very small areas because there was restriction, on the Statue Book of Barbados, on the black's ability to purchase land lots beyond a certain size. Sir, history did not just start and the creation of slums in Barbados can be explained through the legislation that deprived black Barbadians the opportunity to truly purchase land.

Aside.

SENATOR C. A. MASCOLL: It is not Clyde Mascoll speaking. The history books are there so let us first understand the evolution of tenancies first in Barbados before we even begin to think that we can just seek political mileage through cosmetic amendments to legislation.

There is still a major shortage of house spots and houses in Barbados and even as we speak now there is a lack

of adequate financing to provide housing for the average Barbadian. My question to you is this, when Government allowed good tenants to purchase these lands, what provisions have they put in place to allow them to have access to financing to allow the journey to be continued? Has Government done a survey to understand the income levels and composition of households? Have they done a survey to understand whether these households are mainly dominated by females who are hardly working? Have they done a survey to understand the real demographics of urban Barbados? The truth is, they have not.

4.10 p.m.

What Government has done very skilfully is selected an area, a popular Barbados Labour Party area, and use that maybe wisely as their pilot project and have allowed politics to play even in that situation because they are seeking here to give the tenant an opportunity to purchase the land at \$2.50 per square foot and have also allowed the market rate to be determined wherever it can be determined...

Mr. PRESIDENT: Senator Mascoll, you have one minute in which to wind up.

SENATOR C. A. MASCOLL: Mr. President, I cannot see how this could have been considered as a major piece of amendment because the real revolution in land ownership, particularly within urban Barbados, must have within it an entire framework. To deliver, the process must start to finish. This has really not addressed the issue. In fact, this Amendment here is going to create, and I am saying it, substantial headaches for them.

This is not a bad amendment but in order to really facilitate the process they need to do much more than this. They need to reduce taxes and provide financing. They need to tell the tenants how they can accommodate them in terms of the purchase of their own homes because they need to be assisted way beyond what has been done in this legislation.

I thank you, Mr. President.

SENATOR Miss C. Y. FORDE: Mr. President, I would like to make a few comments in giving my support to this amendment to the Tenancies Freehold Purchase Act that is before us.

Mr. President, I know that people, particularly the tenants living in rural Barbados benefited tremendously as a result of this Act. Indeed, I feel hurt at times when I recognize that in Sturges near Bloomsbury in St. Thomas where I used to live that my parents gave up the spot on which all of my family were born before this Act came into being because my parents felt that they wanted to own a

piece of Barbados. As a result of the sale of a property not far away from there, they gave up that position and when I pass that area and see the kind of development there I feel sad to know that I am no longer living at Sturges, or that my family had not had that opportunity to purchase that spot because they moved too fast.

Most urban people seem to have a different approach to life as compared to rural people. I do not mean that in any facetious way. What I mean is that few people in the rural districts run to get a house as a Government unit anywhere. Therefore, as you look across the island there were few housing areas or housing developments built by Government in the rural districts and I think a lot of it has to do with the kind of culture that existed in rural Barbados.

Mr. President, in rural Barbados individuals were able to stay on the tenantry spots. They also had more of the property at the back where they could feed themselves. They could plant garden beds, grow some sugar cane or do a number of other things to make themselves self-sufficient.

Senator Mascoll said some interesting things earlier and I understood what he was saying. I would recommend to Barbadians again in this new century that we as a people need to get back to a number of the important things that serve our foreparents and parents well. A lot of people want a house but they do not want to make the sacrifice. Our parents would throw a meeting turn in order to educate their children and put aside a little to change a few boards on the little chattel house which worked well for them. People need to work honestly and very hard in order to achieve what they needed and that has worked well for a lot of Barbadians both in the urban and rural districts.

Mr. President, too many Barbadians are living beyond their means, but I am saying that if they continue to do what their foreparents and parents did, like putting aside a little bit for a rainy day, they would get whatever is needed without having to beg the Welfare Department or any other department for them to develop.

Our parents joined the Civic to help them and that worked well for them. We also had the Bright Star Lodge where as little children every member of our household would put aside \$0.12 every week so that at Christmastime, or at the beginning of the school term in September, we would get the new shoes, the new school bag or the bow of ribbon that was needed without begging the Welfare Department or any other department for us to develop. I think that Barbadians need to get into their psyche that they do not always have to rely on institutions to help them to get where they want to go but they must make sacrifices and salute honest work.

While I agree that we need to look at minimum wage and all the other things to go with it, I think it is important that Barbadians continue to save a little for a rainy day. We do not have the Bright Star Lodge or the Civic anymore. We do not have the Cotton Factory where we can go and put down a couple hundred dollars and get twice or three times as much in wood or galvanize. It is important that we go to the credit unions and save our money rather than sitting back waiting for Government to give us everything. I find that in Barbados today everybody is saying the Government will give us, the Government will do this, the Government will do that, the Government will do the next and it is just Government, Government. We are becoming a mendicant society today.

Mr. President, living within our means and making sacrifices should come back. I have a difficulty when people are renting a Government house or renting a house from someone else and seem to believe that they must have every facility which the person who is making the sacrifice and has worked for many years to achieve and they want to get it in one day or one year or five years. It is important that we look beyond some of the things we do not really need. In essence, what I mean is that there are some things we want but we do not really have to have. So when it comes to the STV and all of these different things, we may not need to have them and we will be living beyond our means if we go to get them knowing that we cannot afford them.

Those are some of the basis attributes that we need to instill in our people again if we are to be able to achieve as our foreparents did. Our foreparents had nobody to leave anything in a will for them but they saved and did all the things that were necessary. They also went to church to have their spiritual grounding and that is where a lot of our people have fallen short of what it means to be a good citizen and to achieve in an honest and upright way.

Mr. President, Senator Mascoll made mention of tenants living in the urban tenancies. Many of them, as far as I understand, are renting houses from landlords and not land as such. It is not their own houses which are on the land but my understanding is, and if I am wrong I would want to be corrected, that they are renting houses from the landlord by paying a certain amount when the month comes. I think that is the concept that was coming forward, just renting the house, which means that Government has to put a facility in place that those who are just renting the house would be able to get a house somewhere that they can set up. The ones who have their own houses on the land and are renting the land those are the ones I think need to get that opportunity to go forward and take advantage of what is being offered.
4.20 p.m.

Senator Mascoll also mentioned about free education but, Mr. President, many of us in here as I look around, and I am not going to call their names, did not benefit by any free education but we knew that it was our responsibility when we were allowed to go the private secondary schools or wherever to take advantage of the situation. I cannot boast that I have had any free education. I have had to pay through my nose and many of us across Barbados. I do not see what the hue and cry is about. I respect those pioneers in history in this country, political leaders, Prime Ministers, Premiers, for the insightfulness that they put to help ensure that all Barbadians get an opportunity for free education. It did not start with the late Errol Barrow. It started with the Barbados Labour Party and it is that education that was offered to us that has empowered us to be able now to share experiences, to be examples for others to follow because we are living tributes to what the system offered.

It is unfortunate that we have free education still today but thousands of Barbadians are not taking advantage of it and we need to re-look at the system to see what can be done, not to take it away from them but what can be done to encourage them to want to take advantage of the free education that is being offered.

Mr. President, I support any effort that Government pursues to help to empower the people. I would further support any policies that any Government puts in place to help people who are on the fringe to be able to come to a position that they can benefit by the system.

Indeed, the 6 000 odd lots that were surveyed in the plantation tenancies and the 4 000 odd lots that have been conveyed to the tenants represent a large amount of people in rural Barbados that have benefited by what Senator Mascoll said was a good publicity stunt. There is living testimony in St. Thomas, St. Andrew, St. George and many other parishes in Barbados that people have benefited. St. John, too, has benefited from the Tenancies Freehold Purchase Act where persons were able to acquire their properties at \$0.10 per square foot.

What I admire most about that exercise is that the individuals preferred, as I said earlier, to put on a little piece on the back and build and come forward. Mr. President, if those properties had to be valued today, they would cost more than some of the houses we see in the various communities that we call heights and the gardens and the terraces but it is a lot of hard work, commitment, dedication from among those people that helped them to be able to achieve, and correctly so. I always speak of the many Barbadians who never went anywhere near a bank but were able to educate their children, purchase a piece of land, build a house and never had a mortgage or a loan in their entire lives. My parents are testimony to that. I think it is important

that Barbadians recognise that it is no political stunt. It is a reality that Barbadians have been able to benefit from the Tenancies Freehold Purchase Act.

Mr. President, I perused this document more than once. It is already a document of the House, Sir. I am seeing a little girl holding up begging, hoping that something good would have happened.

Mr. PRESIDENT: For the record, Senator, please state the document which you are holding.

SENATOR Miss C. Y. FORDE: The Manifesto, 1999 General Election of the Democratic Labour Party, Sir. Mr. President, there is nothing in here in the area of housing or lands that catches my eye that says that that particular Party had any intention whatsoever of bringing Barbadians forward, of empowering them when it came to land ownership and house ownership. Mr. President, when I look at the Barbados Labour Party's agenda for the 21st century – very forward thinking. I can refer to the 1999 Manifesto of the Barbados Labour Party, page 26 where it indicates the number of things that it intends to do. It brings me to the point where it talks about subsidizing the price of urban land so that lower income groups will pay no more than \$2.50 per square foot for land, irrespective of the open market value and it goes on to mention a number of other issues. I know that Senator Mascoll is talking about his issue, but we have that system of inclusion still going and Senator Mascoll is welcome any time to continue to support his idea that he says is registered here.

Mr. President, this document is a social contract and this Barbados Labour Party will continue to work towards achieving these goals because we do not look and say what shall we cut next, we do not look here to say what can we get out of this for ourselves, because if you look at the individuals behind here we came in owning something and we will support any individual who wants to have ownership in this Barbados. The Barbados Labour Party theme is a better life for our people and whether it is rural or urban or wherever in Barbados and we can give support to qualities that will not only empower the individuals who have the authority to purchase but anybody else pulling them into the net we want Barbados to continue to go forward.

We do not like the crime and violence nor the poverty within a number of communities. That is why we are focussing on Cat's Castle and Church Village to ensure that those individuals living within those communities get an opportunity to look up and move forward. Mr. President, I have not seen that in here and I am only holding this for reference, Sir. Other than that, I would have discarded it a long time ago but we need to keep the record straight.

Mr. President, I just want to move on to a few more comments. The other comment I wanted to touch on is to do with reference to Senator Bolden speaking about the landlords. While I respect his responsibility as an attorney, and I do not mean to be too critical of the comment, I want to say that there are many Attorneys-at-Law who are responsible for holding up the same documents to do with the facilitation of the conveyance of the lots for individuals and that is a real sore point that we can deal with on another issue, but that is one of the major keep backs and that is why people cannot get the documentation to go forward and do the various things they have to do.

What I also know, Mr. President, is that there are a number of young people who would prefer the landlord to sell the property to the tenants than to go to own those properties. Young people are telling you that they do not want to go in there to live, that they would like to get the person who is going to be the highest bidder to buy from them. They want cash in hand to go somewhere else to set up. That is why we can look across the entire landscape of Barbados, indeed of the urban area, and see 1 800, nearly 2 000, derelict buildings because the same young people have left and said that they have fallen apart and they do not want to live there, that the house was such an old-fashioned looking house. It is something within the psyche of young people that they feel that anything that is old is not good. I think it is unfortunate that we should have 2 000 odd derelict buildings across the island as a result of people whose parents have left properties that do not want to use them or perhaps it is tied up in a will and somebody else has to get it and there is in-fighting in the family.

I know for a fact that a lot of young people would prefer, and if I were the landlords I would want to sell and save my money so that when I come down with Alzheimer's and all the other diseases that will impact on my life, or if I live to be 85 and 90 years old, nobody will come and quarrel over my little spot. I would have that money in there to pay a care giver, because that is the route that we in Barbados need to go now, getting whatever savings we have put aside to be able to spend towards our upkeep and our health as we grow older. That is exactly the reality. Mr. President, a member of the Democratic Labour Party would not see that, but they plan short term. We, in this Barbados Labour Party, are going to continue to plan long term.

Mr. President, I want to make a final comment. The role of the Urban Development Commission is to assist people who are in this particular situation where the urban tenancies can be acquired and sold to the tenants and those who have to pay more than the \$2.50 Government will subsidize the rest.
4.30 p.m.

Mr. President, the people in Alleyne's Land in the Bush Hall area will have their properties properly laid out and amenities will be put in. Mr. President, in some communities people have to walk in on a side to get to their houses because the properties are badly laid out but the plan is to resite those individuals in those clutter environments so that footpaths, roads and the various amenities can be put in to give people a better quality life.

Mr. President, within the last few months we have been seeing many house fires because in some communities one house catches and four or five will burn at the same time because of the closeness of the houses in that environment.

The houses in Alleyne's Land will be resited to Jackmans so that the proper amenities can be put in so that people in those environments can open their windows with ease without touching the other person's house. Mr. President, it is important that individuals get space in their environments to make them more comfortable and this will reduce some of the violence and anger within people because they are so close to each other.

Mr. President, Senator Collymore spoke about the window at the Barbados National Bank where individuals can go to access funding and also get the necessary information about funding. I support this exercise fully. I spoke earlier of the Credit Union facilitating people who make requests for the purchase of land and property. Also, at the Barbados Mortgage Finance as long as individuals have the plans ready they will afford people the opportunity to have the necessary loan or mortgage.

I think that Barbadians should work towards saving some money so that when they are ready to purchase land it will minimise the repayment period and this will make them feel important to know that they can access a piece of land.

Mr. President, with those few comments I give my support. I want to encourage others in Government to continue to make the people of Barbados feel safe, comfortable and empowered to the extent that they can own some of Barbados as a result of the policies and programmes of the Barbados Labour Party.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, I have a few observations to make on this measure. Despite the protestations coming from some circles, nobody has disagreed with the philosophy behind this measure. Everybody agrees that it is a philosophy that can only work for the good of Barbados and for the betterment of all Barbadians.

Sir, when one listens to Senator Mascoll, it seems as if he was trying to re-establish the philosophical bearings of a

party that once had a philosophy and he started to talk about free secondary education and other measures. Sir, he was trying to re-establish the *bona fides* of his Party and, as a result, he concocted a scenario and was saying that when one asks a tenant to pay \$2.50 per square foot for land in an urban tenantry, then there were several hidden costs and he tried to make these into insurmountable obstacles and great deterrence. Rather than encouraging Barbadians in urban tenancies to be responsible and become part of the property-owning democracy which we are seeking to create in Barbados, his comments reminded me of the attitude adopted by his Party soon after its formation in 1955 when they encouraged the people in urban Government developments not to pay rent. It was a condescending and patronising attitude as if to say that people in urban Barbados have no pride or ambition and are not prepared to make sacrifice to go to institutions like the Barbados National Bank and the Barbados Mortgage Finance Company who can help them.

Sir, Barbadians in urban tenancies are prepared to make sacrifice, save and be thrifty. I thought it was unfortunate that he again sought to sow the seeds of doubts in tenants of urban tenancies and it has been observed by more than one person that far too many of them are not in any hurry to buy them because it is a residual attitude of what has been pumped into their heads by the Democratic Labour Party from early 1955 and onwards whereby they are saying that you have already paid your taxes which built those houses so you do not have to pay rent, hence the enormous bill that has grown over the years for rent arrears at the National Housing Corporation.

Sir, I am sure that in the same way the tenants on the plantation had the opportunity to buy lots at ten cents per square foot when one sees the infrastructural changes that have taken place in these tenancies that Barbadians will do the same to urban tenancies. When you go into earlier Government developments like Cave Hill, St. Stephens Hill and Deacons Court people have taken small houses on small lots and transformed them into impressive attractive bungalows worth hundreds of thousands of dollars like anywhere else in Barbados.

Sir, wherever you buy a piece of land, it is an asset so you should not concoct the feeling that to pay land tax or legal fees is a bad thing when all of us in here who have taken the step to get mortgages and make sacrifices have had to do the same thing.

These tenants are in the same Barbados as we are and if they are responsible and thrifty they will be the envy of other countries. This is the attitude that has caused Barbados to acquire the reputation for being the highest owners of properties and houses in the world, per capita.

4.40 p.m.

In most countries people rent for their entire lives and most Barbadians want to own something. Hence, from the very beginning in the traditional Barbadian psyche we have gone on to own a house no matter how humble or simple.

Sir, the philosophy behind this Bill is no one's fault. It is essentially part of the quiet revolution that is taking place in Barbados on an ongoing basis. There is no one act that can be identified as the definitive moment in the social revolution in Barbados. It started after 1937. It started particularly with the coming of universal adult suffrage, which incidentally will be 50 years old this year. Sir, this is part of that ongoing continuum quiet revolution that was accelerated by, for example, amendments to the Landlord and Tenants Act of 1987. It was amended in 1955 with the Security of Tenure and Small Holdings Act; the Tenancies Development Act of 1965; the Tenancies Freehold Purchase Act and free secondary education and there has been a series of events which all contributed to the continuum that is the quiet social revolution in Barbados.

Sir, any attempt to downplay the importance of this Act and to seek to elevate free secondary education as the end all and the be all of the social revolution in Barbados is trivializing to the minds of Barbadians who are all free to make up their own minds and can think for themselves. Therefore, this Government in carrying on the social revolution it had to, in very difficult circumstances, strike a balance between the rights of the tenants and the rights of the landlords. We have not attempted to ignore either.

Sir, some Honourable Senators have expressed concern and disquiet about certain parts of the Act. The point is, you have to do a balance between social justice, natural justice, between the rights of the tenants and the landlords, between objectives of the Bill and between the philosophy behind the Bill.

Mr. President, when all is said and done, I think that all will recognise that no legislation is ever perfect. This legislation is dealing with some social dynamics that have obtained in Barbados for generations upon generations. It is not a static, stagnant, rigid situation where you can sit down and carve out an Act which will cover all the regulations because it is static, stagnant and permanent. It is dealing with the dynamics of human behaviour and, therefore, any perceived defects by experience which turn out to be defects, Honourable Senators can have the assurance that Government would come back very shortly, maybe as soon as this year, to look at this measure again to see how it can be further amended for improvement. You have my assurance of that, Sir.

We are not ignoring the pleas and the protestations of any persons. We are not ignoring the pleas and the possibility of damage being done to any one set of

individuals. It is important to note that this Bill was passed in the Other Place on January 16, 2001 and we are dealing with it today because we have taken that intervening period to amend it and improve it as much as possible. Most Honourable Senators have conceded that the Bill that we are now considering, while not perfect, I admit, but it is a vast improvement on what was originally considered and proposed.

Mr. President, that shows that Government is not attempting to run roughshod over the rights, feelings, the sensibilities of any one person or set of persons. We have taken these concerns into consideration even as we speak to address them. The point is the work must go on. Human development is an ongoing process and we cannot come to a standstill. We have to do it and pick up the baton as we go on. Sir, this is not a heartless Government. It is a Government which is seeking to make sure that all Barbadians have a common standard of life, and are exposed to common facilities, as people always say.

We do not intend to have two Barbadoses, a rural Barbados and an urban Barbados. Inside of urban Barbados there should not be two sets of urban Barbadoses where there are slum urban and the rest of the urban Barbados is of a higher calibre of living and quality and amenities of life. We intend to have one Barbados.

Sir, when one considers and puts this into the context of Urban Development and Rural Development Commissions and the broad-range diverse programmes they have on the way, you can see that it is a holistic, comprehensive approach to tackle the many issues of human development.

It is interesting, Sir, that this debate is taking place at a time when, in some circles in Barbados, there is a cry about the price of land and foreigners buying up all the land driving up the price of land. I do not know of any country in the developing world where all the land in every part of that country is of the same value. There must be different valuations based on the location, use, *et cetera*. Therefore, there will be some parts of Barbados which will be valued at a higher price than other parts because of the circumstances. Therefore, I do not understand why some people do not expect we will have a modern striving society and that all the prices of land will remain stagnant and people will romanticise about them.

Sir, not all Barbadians would like to live everywhere. People have their favourite places to live. All Barbadians do not want to live in the heights or next to the beach but what all Barbadians want is a proper standard of living, a good house, road and amenities.

Sir, this is an attempt, in a nutshell, for the Government to make lands available to ordinary Barbadians at affordable prices. When all is said and done, this is what has been done in the rural tenancies, this is what is being attempted in the urban tenancies and, therefore, any Barbadian who is concerned about the development of his country, who is concerned about providing social mobility for other persons, because when these urban tenancies are developed, it immediately brings about the upgrading in the standard of living of people and the whole status of the people involved rises.

Therefore, that is another aspect of upward mobility that has taken place. Sir, this is just another avenue of upward social mobility. Many of these persons will eventually, as long as they continue to save, develop and be thrifty, will eventually come to be known as part of the middle class. The much maligned middle class by which, this same middle class because of the sizeable nature of Barbados, has helped to contribute considerably to Barbados' stability and advancement.

Sir, people are willing to go into mortgages on long-term to make an investment for the future and to help develop their country and themselves. It is known that in a country where there is no sizeable middle class but where there is a great dichotomy between a few very rich at the top and a little or no existing middle class, and a huge segment of very poor people, that is a country of powder "keg" waiting to explode. It is a recipe for disaster and social unrest.

Therefore, we are continuing the process of helping to bring about equalisation in the society of Barbados and to provide Barbadians with the opportunities to have a decent standard of living anywhere in Barbados, whether it is rural or urban. Against that kind of background, I am sure that all Honourable Members will give this measure their fullest support.

I thank you, Sir.

SENATOR THE HON. P. C. GODDARD: Mr. President, we certainly have had a wide-ranging and extensive debate on this matter. It is clear that this Bill will operate within the context of the other Laws of Barbados.

We have noted the call for the review and updating of other pieces of legislation relating to the Tenancies Freehold Purchase Act. I do not think that you can say that this piece of legislation would operate in a vacuum. It would be, within the context of other laws and regulations regarding the rights of individuals and the processes that we do have in place for people to access funds and support to achieve the aims of this particular Bill.
4.50 p.m.

Mr. President, I do believe that given the context of all that has been said this Bill is most appropriate at this time and I now move that it be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD the Senate resolved itself into Committee on the Bill. HIS HONOUR SENATOR C. L. BOLDEN in the Chair.

COMMITTEE

Mr. DEPUTY PRESIDENT: The Senate is in Committee.

Clauses 1 – 12 inclusive, were called and passed.

On the motion of SENATOR THE HON. P. C. GODDARD, HIS HONOUR SENATOR C. L. BOLDEN reported to His HONOUR THE PRESIDENT the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg that this Bill be now read a third time.

A division has been called for.

The bell was rung.

Mr. PRESIDENT: Under the Constitution a minimum of two-thirds majority of the Senate must be passed at this stage. I will ask the Clerk to conduct a poll.

AYES:

SENATOR THE HON. P. C. GODDARD, SENATOR THE HON. G. S. H. MURRAY, SENATOR Miss C. Y. FORDE, SENATOR T. E. BARKER, SENATOR THE HON. Dame PATRICIA SYMMONDS, SENATOR G. E. N. BROME, SENATOR Mrs. J. P. ALLEYNE, SENATOR Miss J. C. ODLE, SENATOR Mrs. V. E. NEWTON, SENATOR J. E. D. WILLIAMS, SENATOR D. D. MARSHALL, SENATOR Sir JOHN STANLEY GODDARD, SENATOR B. R. COLLYMORE, SENATOR the Rev. L. W. B. ROCK, HIS HONOUR SENATOR C. L. BOLDEN – 15

ABSTAIN:

SENATOR Mrs. P. E. RICKINSON – 1

On the motion of SENATOR THE HON. P. C. GODDARD the Bill was read a third time and passed and cited as the Tenancies Freehold Purchase (Amendment) Bill, 2001.

SUSPENSION OF SITTING

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg that this Sitting be now suspended for 15 minutes.

The question that the Sitting do now suspend for 15 minutes was put to the Senate and agreed to. Mr. PRESIDENT suspended the Sitting accordingly. 5.00 p.m.

RESUMPTION

Mr. DEPUTY PRESIDENT: This Sitting is resumed.

ORDER NO. 3 – THE TRADEMARKS (AMENDMENT) BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, this Bill to amend the Trademarks Act and succeeding Bills to be discussed are all part of the Government's programme to comply with the TRIPS Regulations under the World Trade Organisation (WTO).

I intend to discuss the intellectual properties' legislation in total and then treat each Bill separately as we proceed. There are four pieces of legislation which are the Patents Bill, 2001, the Protection of New Plant Varieties Bill, 2001, the Integrated Circuits (Amendment) Bill, 2001 and Trademarks (Amendment) Bill, 2001.

Intellectual property has taken a significant importance in world trade and for too long, Barbadian business people and artisans have not been aware of the importance of our intellectual property legislation. Too often we see intellectual property legislation as legislation that benefits foreign producers of goods and intellectual property such as music, books and so on.

However we, as a small country, should recognise that intellectual property benefits our country very much more than it can benefit a large country. The reason for this is that if we were to have a Bob Marley in our society, to take an example, who has a marketplace of Japan, Brazil, North America, his sales into those countries would far outweigh the total intellectual property sales into a population base of only 250 000 people.

We have to see that the intellectual property legislation is of much greater consequence to Barbadians for their intellectual property and trademarks and specialist goods that we may export from Barbados. As we become a service society, and develop into the new economy where information will be, by and large, the major medium of exchange and the greater part of trade – rather than physical

goods – intellectual property then undertakes a much greater importance. It is in that context that this legislation is being brought before the Honourable the Senate.

The Trademarks Act is being amended to give effect to the agreement on trade related aspects of intellectual property rights, 1994 and provide for related matters.

The Law currently governing the granting of trademarks in Barbados is the 1981 Trademarks Act, Cap. 319 which came into force January 1, 1985. Since this commencement, there have been relatively few difficulties with the Act which is relatively simple to administer.

The Trademarks (Amendment) Bill, 2001 introduces a number of miscellaneous amendments to the current Trademarks Act, Cap. 319 with a view to ensuring compliance with the TRIPS Agreement. The Bill covers, among other things, matters pertaining to the provision of criminal penalties in case of willful trademark counterfeiting on a commercial scale and the seizure, forfeiture and the destruction of the infringing goods pursuant to a court order.

Articles 51 to 60 of the TRIPS Agreement which deal with the special requirements related to border measures are also addressed. In particular, Clauses 53(A) to 53(M) of the Bill set out the procedures which will enable the rights holder to request the Controller of Customs to suspend counterfeit goods held at the border from free circulation within Barbados. The new border measures provisions are modelled on the World's Customs Organisation model law which has gained widespread international approval.

The opportunity of parliamentary action in relation to the Trademarks Act has been taken in Clause 7 of the Bill to amend section 10(D) of the Trademarks Act, 1981 in the interest of greater clarity. Additionally, Clause 11 of the Bill contains new provisions governing the manner in which the evidence is to be received by the Registrar, in trademark proposition proceedings and confers on the Registrar powers to award costs relating to proceedings before him or her.

Mr. Deputy President, with that explanation, I move that this Bill be read a second time.

SENATOR THE HON. Dame PATRICIA SYMMONDS: Mr. Deputy President, I have been, of course, always been interested in copyright to do with writers but I know that would not be particularly relevant here. I also have read and reread with much interest this legislation and I find that regarding trademarks, it is a great leap forward because it safeguards the products of one's creativity in a far more concrete way than ever before.

With regard to the Bill, if a person has a logo associated with his goods or services, then that person can

register it and be afforded the wide protection given by the Act which I find has been strengthened considerably by this Amendment. As the Honourable Leader said, many Barbadians are not aware of the significance and importance or the power of a trademark. I have observed, when I read the *Official Gazette*, I sometimes see many pages of trademarks and did observe that they all seem to be international and not local, but brands your product in terms of quality and years after it can become valuable.

I have heard of one or two instances where people became immediately aware of the value of registering their trademark when they were threatened with exploitation of its use by someone else, so they had no choice but to become swiftly conscious of the protection afforded them and register that trademark. I do not wish to call names or be any more specific.

I have observed that the Amendment gives wider powers to the authorities to deal with the infringement of the use of a registered trademark and I also think that is significant and very important. It seems to me to make the Act more workable and the registration more important. As the Honourable Leader, Senator Goddard indicated, with it comes certain rights, not only to sue but if the goods are forfeited or destroyed, the person using these goods or infringing on those trademarks could be charged with a criminal offence. I think this is something one has to note and it means that if we in Barbados are going to become more involved with the exportation of goods on an international level, this legislation will protect our goods but only if the logo is registered. Therefore, at the risk of tedium, I repeat that recognition is crucial, otherwise, competitors can just come in and make use of any existing marks which are not registered.

Mr. Deputy President, I think that because of this Amendment, more people will be encouraged to register now that they have the effective enforcement methods which will afford better protection than previously.

Again, as Senator Goddard said, a small enterprise with a trademark can now compete with a large corporation and the legislation does not discriminate. It protects everybody, both small and large businesses. Therefore, I think that the Government is to be congratulated on bringing this legislation. I know it has to be in keeping with World Trade Organisation (WTO) demands and the TRIPS Agreement and I am pleased to support it strongly.

Thank you, Mr. Deputy President.
5.30 p.m.

SENATOR LeR. H. McCLEAN: Mr. Deputy President, this is a piece of legislation which we must

approach as Barbadians and not as representatives of a political party. I do not think that there is room at all for any political divide on this matter since it is simply bringing before us this legislation which is required since we are signatories to certain international agreements.

However, I would like us to look at some of the implications for it. At present, the legislation is more beneficial to non-Barbadians than it is to Barbadians in our particular context simply because of a lack of awareness on the part of most Barbadians with respect to the whole idea of intellectual property.

Recently, I was listening to a programme on radio and John King and some other entertainers were on the programme and someone actually called John King and asked him not to talk so much during the playing of a song because they wanted to tape it. Now John King was livid. People do not understand the creativity, the work the effort and the cost that have to go into producing the lyrics and the music for that song. People do not appreciate that that has a value. They feel that it is just a song so they can record it. Even recently Sister Marshall was complaining that people were just copying her CDs and even selling them within the Church. This shows that people really do not understand what is right or wrong about this thing. As far as they are concerned, they can record the music and distribute it to their friends. Basically, what they do is buy some cassette, tape the music and then sell it to you and they see nothing wrong with that, so it is because of this lack of awareness that persons who have created intellectual property in Barbados have continued to suffer.

Senator Symmonds in her contribution spoke of writers. The literature that has come out of the Caribbean is one of the areas we stand to benefit most from and this is extremely important. There is a big demand throughout the world for Caribbean music, art and literature. There is something special about the Caribbean product, but we have not been able to capitalize on the value of it because of this lack of awareness.

Unfortunately, the attorneys-at-law who should be leading the way, or who can make this legislation relevant, sometimes seem to be the ones not to be able to deal with it because I have heard persons complaining about the difficulties they encounter when they try to get a pattern for an item and they have to go from one attorney to another and nobody seems to understand the process which they need to go about it.

I know also that if you are a writer – and I am particularly interested in this area because I find that people are always aware of the music and the art – and you write something, you have to put it in an envelope and post it to

yourself in order to prove that you own the property, so this legislation can help us deal with this kind of situation and help us to be able to capitalize on the benefits to be derived from registering our intellectual property.

I am a bit concerned too about the matter of the new plant varieties. For many years...

Mr. DEPUTY PRESIDENT: Senator, we have not reached there as yet. We are doing each Bill separately. We have to pass each Bill separately, so if you will hold your comments on that I will appreciate it.

SENATOR LeR. H. McCLEAN: Okay, I will do that. I must emphasize that it is important for all persons concerned to get familiar with the legislation. I know that persons in certain Government departments have been holding seminars to educate people about the value and importance of intellectual property but I think we need to do a bit more of this to bring it home to the average Barbadian.

I am also very concerned that Government continues to encourage persons to break the Law with respect to intellectual property in Barbados. I am saying it because they have allowed these video stores to continue to operate and whenever you raise the question about it now – they will prosecute the fellow who attempts to sell music on Swan Street or if they hear that somebody is taping or copying software from somewhere they will go and prosecute that person but yet video stores can set up chains all over Barbados by pirating video tapes and renting them. They have become so ridiculous that someone told me that they lost a video tape and when they went back to the store the people had the nerve to tell them it would cost them \$70 to replace it. This is a tape which they copied off a television station and had it in their store renting. So whereas we want to say that it is important that we protect intellectual property, I do not think that we can continue to allow this situation to exist where people can openly violate the principles of the protection of intellectual property by pirating video tapes.

5.40 p.m.

You see on the tapes big and bold that they are not supposed to be distributed through rentals and when you raise this you keep hearing that Barbados is such a small market that the persons overseas do not have any interest in it. If that is the case, the principle is the important thing.

If we are going to say that we want to protect our intellectual property, if we are going to get annoyed because somebody can have CDs of our musicians on the street in New York even before they are released here, perhaps, somebody will say it is only one man who has them on the street in New York but we cannot turn a blind eye to that.

How on the one hand are we going to be complaining about somebody pirating our work but yet we can almost be encouraging people to violate people's intellectual property by having these video stores?

Mr. Deputy President, I think that the time will come. Someone once told me that you should not trouble them because people would not be able to get cheap tapes. As far as I am concerned, you either stick to a principle or you do not. I believe it is time that Government stops encouraging it by collecting taxes from those people because Government becomes party to violating people's intellectual property.

With those few words, Mr. Deputy President, I would like to give support to the legislation with the provisos which I have mentioned. Thank you.

SENATOR G. E. N. BROME: Mr. Deputy President, I think this is an important piece of legislation and I think that I am a victim as well because what has happened is that many people in my northern district have seriously affected my trade by stealing my intellectual property. I have spent years to develop a product and I have spent money, time and effort. Those people have taken it upon themselves to work with me and then go and do exactly the same thing in the same way I have developed it, with no other effort than to get money to put it together and make a proper living out of me.

I believe all these products should be packaged or labelled so that we can differentiate one from another. The ability to forge and not develop just to make fast money, should be termed as illegal and I am happy to see Government taking some sort of initiative to correct such measures.

I do hope that this will be enforced very shortly to correct such ills within our communities.

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, I beg to move that this Bill be read a second time.

The question was put and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the Senate resolved itself into Committee, SENATOR THE HON. Dame PATRICIA SYMMONDS in the Chair.

COMMITTEE

Clauses 1 to 14, inclusive, were called and passed.

On the motion of SENATOR THE HON. P. C. GODDARD, MADAM CHAIRMAN reported to HIS HONOUR THE DEPUTY PRESIDENT the passing of one

Bill in Committee and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.

On the motion of SENATOR THE HON. P. C. GODDARD, the Bill was read a third time and passed and cited as the Trade Marks (Amendment) Act, 2001.

ORDER NO. 4 – SECOND READING OF THE PROTECTION OF NEW PLANT VARIETIES BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, the new Plant Varieties Bill, 2001 would introduce a completely new subject area in intellectual property rights in Barbados. According to Article 27(3) of the TRIPS Agreement, WTO Member States provide for the protection of plant varieties under the patent system owned by an effective *sui generis* system of protection. By a combination of such methods, a system of plant variety protection within a country ensures that there are incentives in the form of exclusive rights to individuals or institutions engaged in plant breeding activities to increase either the quantity or effectiveness of their breeding activities, for example, Mr. President, a rose, an orchid or a particular variety of sugar cane.

Additionally, the existence of a national system of plant variety protection creates secure conditions under which foreign breeders and seed companies can produce seed of protected varieties for re-export. Over the past three decades, rapid advances have been made in the area of bio-technology and, in particular, genetic engineering, in the medical field and in food. Pharmaceutical and agricultural industries have benefited from advances made in these two areas.

However, while genetic engineering programmes in the medical field appear generally acceptable, there is much controversy about such activity in the agricultural and food industry. The fundamental nature of genetic engineering which involves the transfer of DNA from unrelated species is the basis for great concern and debate now ranging among consumer groups, manufacturers and retailers in developed countries for the rejection of genetically modified organisms or GMOs and their products.

As the development and commercialisation of genetically modified products expand, consumers in developed countries are demanding assurances from governments and the scientific community that these products are safe and are calling for better lines of traceability from GMO production to the table, new ways that consumers should be allowed to have maximum information and choice about what they purchase since ultimately only consumers should decide whether a product whether developed by genetic modification or conventional means is right for them.

As consumers, manufacturers and retailers in developed countries reject GMOs and their products, developing countries will increasingly be faced with the prospect of the introduction into their territories of GMOs and GM products. Concern about bio-safety has led to governments in both developed and developing countries seeking to regulate the release of trans-genetic crops and to assess potential risk before the genetically modified crops are approved for commercialisation.

At this point, Mr. Deputy President, I will explain that a trans-genetic crop is a crop that would take the genes from an unrelated species, say cotton, to be implanted into a food crop, say wheat or corn. That is a trans-genetic crop.

In a paper entitled Genetically Modified Foods, a briefing paper prepared by the Inter-American Institute for cooperation in agriculture for the Ministry of Industry and International Business, Dr. Wesley Hollingsworth of ICCA made a number of recommendations for developing a regulatory framework to ensure that research development and commercialisation is conducted safely in Barbados.

In September 1999, Dr. Hollingsworth, engaged by the Ministry of Agriculture and Rural Development, made recommendations for the introduction of plant varieties legislation for Barbados and prepared a draft text for adoption in Barbados. The Hollingsworth draft was reviewed by the working group on the Advisory Committee on Intellectual Property but was found to be conceptually difficult and inappropriate for adaptation in Barbados following a detailed review and analysis of the text.
5.50 p.m.

In Trinidad and Tobago's Protection of New Plant Varieties Act, 1997, the working group recommended that while the Trinidad's Act should be used as a guide, the text should be modified so that joint administration would be shared between the Corporate Affairs and Intellectual Property Office and the Ministry of Agriculture and Rural Development. Following its preparation by the Chief Parliamentary Council in May this year, the current Bill has been checked by the Registrar of Corporate Affairs and Intellectual Property and has been found to be satisfactory.

Under Part I of the Bill dealing with Interpretation, the definition of "Contracting Party" has been expanded to take into account the possibility that Barbados might eventually become a member of the International Union for the protection of new varieties of plants.

The Bill facilitates the making of an Order by the Minister under Clause 5 specifying a list of genera or species of plants which will qualify for the granting of plant breeders' rights in Barbados.

A draft Protection of New Plant Varieties Order, 2001 made under Section 5 of the Act has been prepared in conjunction with the Chief Agricultural Officer and when made, will list some 45 genera and species for which plant breeders' rights may be obtained. This Bill will allow the Minister with responsibility for Intellectual Property Rights to add or remove species from the list as necessary.

Clause 3 of the Bill provides for the Registrar of Corporate Affairs and Intellectual Property and the Chief Agricultural Officer of the Ministry of Agriculture to jointly administer this Act.

Mr. Deputy President, I beg to move that this Bill be read a second time.

SENATOR LeR. H. McCLEAN: Mr. Deputy President, this piece of legislation is of particular interest to me, having spent some time in the field of science.

We in Barbados are not yet in a position to benefit significantly from this legislation, although we are pioneers in the area of sugar cane breeding for several years to the extent that countries which we have supplied and assisted in breeding various varieties of sugar cane breeding are now probably way ahead of us in this area. For example, Cuba benefited from Barbados in terms of sugar cane breeding.

Mr. Deputy President, we are fulfilling our requirements in respect to this legislation. However, we do not have the necessary agencies to monitor some of the spinoffs from what is happening in the field of plant breeding and the development of new varieties through genetic engineering.

Mr. Deputy President, only recently, an entire corn crop in Iowa was recalled by the Food and Drug Administration in the United States of America because a variety of corn that was genetically modified but was not yet approved, got into the crop and contaminated it. Some of it had already been exported to Japan and experts were sent to Japan to try to separate the genetically modified corn that was not yet approved from the rest of the crop.

Unfortunately, when I raised the question with a person in the field of science here in Barbados and asked them what was the possibility of some of that corn reaching Barbados, they said that maybe it had reached Barbados but we do not have any mechanism to detect whether it is here or not. This is one the areas which we must not only look at by having legislation in place for these new plant varieties but we also need to have the necessary mechanisms in place to monitor what is happening to genetically modified food because people are doing some very weird things with plants these days.

In fact, we have the situation where people are taking genes from animals, putting them into plants and *vice versa*. Recently there was some furore in England about chicken coming from Holland. In Holland they are taking chickens after they are slaughtered, putting them in a large drum with water and rotating them so that the meat absorbs at least 40 per cent of the water. The people in England were referring to it as plastic chicken. They were selling it in Chinese and Indian restaurants which use a lot of spices so that the taste was masked.

Sainsbury, a food store in England, admitted that they also use some in their restaurants but accidentally, some of it got on the shelf and when people detected that the chicken tasted strange, it was only then that people discovered what the people in Holland were doing with the chicken. There are a lot of strange things happening in respect of the modification of food and we must be able to protect our citizens from any possible harm.

Sir, in addition, we have a situation where some time ago in India some Americans put a patent on tumeric, something that Indians used for years but the Americans patented it in America. What is to stop a person from coming to Barbados, finding a plant which we are accustomed to using, doing some slight genetic modification to it, putting a patent on it and then we cannot have the use of it without having to pay that person for the use of that plant?

Sir, I have always heard that whatever can be imagined is possible. A lot of things which we read as science fiction years ago are actually happening now and, therefore, we should not dismiss any possibility whatsoever. We must put safeguards in place to protect the varieties of plants we have here as well as safeguard ourselves from varieties coming into the island which could be harmful to Barbadians.

We have seen people modifying plants to the extent that they require a specific regime of fertilizer in order for them to grow. Therefore, when you use that particular variety you are forced to buy the particular fertilizer to go with that plant or else it will not produce in the way it is expected. We are in a totally different era now. What we took for granted in the past, we can no longer take for granted.
6.00 p.m.

We must play closer attention to the branding of things we have and clearly identify them as Barbadian. We all know of the experience with the Sea Island Cotton. I do not think we should want similar problems with other things. Barbados' sugar had a good reputation in England and Europe for many years. There is nothing branding Barbadian sugar, rum, pepper sauce *et cetera* because of a particular input that we have which offer it some measure of uniqueness.

Mr. Deputy President, this is the kind of legislation which we must look at as Barbadians and see wherever possible that we can improve on what we have and approach it as a country and not as individuals or supporters of any particular organisation. The Government, I hope, will be open to ideas that would be coming from any quarters.

I have to refer to practising attorneys-at-law and, I think that probably Government could look at providing a scholarship or some opportunity for persons who are already trained in science who can go on and do law and be able to assist in this area. I know of one person who works at the University who has a doctorate in Biology, who has also done a law degree. He said that he worked in America where they had to patent a gene and he realised the difficulties the lawyers had in dealing with the scientific aspect of it and this prompted him to pursue a law degree also. The University of the West Indies is interested in doing this kind of work. It would be good to have more people who have that science background and the legal training who can assist the legal fraternity in coming to grips with the many different areas of law which we will have to understand and we will have those people to assist them in that area.

Mr. Deputy President, let us look at the areas where we need to have protection. Let us be in a position to be able to heighten the awareness of the things that are going on around us as we try to fit into what is happening in the rapidly changing global environment.

I thank you, Sir.

SENATOR T. E. BARKER: Mr. Deputy President, I just want to add a few comments. While I support this piece of legislation which deals with the protection of new varieties of plants.

Sir, I want to note that Barbados has a strong interest in a special plant that is grown locally and in the Eastern Caribbean, the Sea Island Cotton. I know that there have been attempts by other people to grow Sea Island Cotton. It is not of the same quality of the West Indian Sea Island Cotton but they have tried to pass it off as genuine West Indian Sea Island Cotton. It can cause all sorts of problems especially since we know that our Sea Island Cotton is among the best in the world and we can get premium value for it.

Sir, legislation like these would be very useful to small countries of the Eastern Caribbean because of the peculiar climate and geography. There are other varieties which we might develop and which can be very useful to us in the whole issue of trade. We have to look beyond physical trade. There are issues relating to non-physical trade which we

have to come to grips with, that is why this Government must be commended for ensuring that Barbados is preparing itself for the new trade order.

Mr. Deputy President, the last Bill that was passed is a very important Bill. The Bill on Trademarks, the question of intellectual property and now this Bill, will encourage our own scientists to do some additional work on these varieties which maybe unique to our own situation. There is now protection in law which will ensure that their research and investment can be protected. Our scientists have to become acquainted with these issues.

A scientist now needs to know more than genetics. He needs to be aware of his rights within the whole scheme of trade and trade issues. Senator McClean spoke about the scientist who did a degree in law because the subjects are becoming interwoven where you are being called upon to know a lot more things. These Bills may not appear to us as much but they are very important and Barbados must be proactive in ensuring that this country benefits from the new dispensation.

Sir, we hear a lot of hysteria about WTO and globalization but it is my view that it is the best thing that ever happened to developing countries for a long time. We must take advantage of the situation and prepare ourselves mentally. We have this dependency syndrome borne out of colonial experience. The world has now become competitive and I believe that we are in an ideal position, because of our size, to be able to better compete.

Sir, what we must never do is to get into the state of mind which make us bemoan every new advancement. I hear people talk about the new working order and that it is a reverse colonisation, which I consider to be foolishness. Do not forget that this region is, to some extent, showing the way because CARICOM has set up the negotiation machinery where we have people whose jobs are to negotiate these treaties on behalf of the Caribbean region. This Government, of which I have the honour to be a part of, has gone as far as to say that a lot of issues are being discussed in Geneva relating to WTO.

6.10 p.m.

It is incumbent that we have a presence in Geneva and that is why last year this Government set up an office there, headed by a distinguish civil servant whose job is to keep Barbados apprised with all World Trade Organization (WTO) and Trade issues and, therefore, this Government is not going to sit back nor bury its head in the sand. The world does not owe us a living, but we know that we have the mental and academic capacity in order, not just to survive, but to prosper in this new world situation.

In the past, Barbados has benefited because we have been paying attention to our people and we must continue to do so. We have to get out of the mindset and the fact that we are hearing so many protests about the World Trade Organization (WTO) is, to me, an indication that the developed world – do not forget that is where the protestations are. They have recognized that if this new Order gets going, it will be to the advantage of the poor and deprived nations, because the issue now has to be on trade, rather than aid. The Third World has the mental capacity and capability to develop themselves in this way. The Protection of New Plant Varieties Bill, 2001, is but one small Bill in a whole set of Bills and there are four of them on the same theme; preparing Barbados to make sure that we are in a position to take advantage of whatever the world has to offer.

With those few words, Sir, I want to support this Bill and urge our scientists and agriculturalists to take advantage of this protection and to go into the market and make sure that our agriculture and horticulture are at the forefront where we are seeking to do more. For centuries, Barbados was known as one of the leading islands for sugar cane research. We have made our name in the world for developing new varieties of cane, *et cetera*. We can do the same for other crops by putting the ingenuity of our people to work. I thank you, very much, Mr. Deputy President.

SENATOR Miss J. C. ODLE: I rise to give my support to this Resolution and particularly, in light of the fact that other Honourable Members have spoken extensively about the benefits to be accrued, the protection therein and the importance of registering a trade mark or something special.

Sir, Barbadian products are becoming more and more popular everywhere you go and as well, it is not uncommon that people will attach Barbados' name on things that were not even manufactured or grown here and I speak specifically to plants and some other services.

I want to support this Resolution and to echo the same sentiments as the other Honourable Senators in relation to awareness. Many persons, for example, in gardening, may create a new "species" and not recognize the value or the importance of this new "species" but lo and behold, it is being pirated and appears elsewhere, so that, once again, you have lost the opportunity to do well in making a statement and a mark for Barbados.

The Barbados Horticultural Society and the Barbados Flower Arranging Society are two bodies that come readily to mind who, by virtue of their involvement in public exercise, and I make reference to the Chelsea Flower Show in the United Kingdom where, for many years, Barbados has done exceedingly well in promoting many of the species of

plants and foliage that are common and indigenous to Barbados and some too that are hybrids and are very renown for their beauty.

I think this legislation is one that will give protection to those who are creating this awareness. This awareness, Sir, of course, augers very well to these particular types of plants and varieties that are common and indigenous to Barbados and also on the international forum. This came from discussions with those persons who have participated in the last Chelsea Flower Show. Many of them were highly commended for the quality of the types of foliage that were presented.

Sir, when people laud or compliment you, you have to keep your antennae up well, because do not believe for one moment that those persons in the international domain may not be seeking to "run away" with your idea and "run away" with your particular item.

I think that this Bill will offer that protection, provided of course, that those breeders take the initiative and register their species. I think this will auger very well for Barbados in an area which can become a niche for us, moreso an item where we can realize economic benefits in the long run. I thank you.

On the motion of SENATOR THE HON. P. C. GODDARD the Bill was read a second time.

On the motion of SENATOR THE HON. P. C. GODDARD the Senate resolved itself into Committee, SENATOR THE HON. Dame PATRICIA SYMMONDS in the Chair.

COMMITTEE

Section 1: Parts I – VIII inclusive, were called and passed.

On the motion of SENATOR THE HON. P. C. GODDARD, MADAM CHAIRMAN reported to Mr. DEPUTY PRESIDENT, the passing of one Bill in Committee and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.
6.20 p.m.

On the motion of SENATOR THE HON. P. C. GODDARD, the Bill was read a third time and passed and cited as the Protection of New Plant Varieties Act, 2001.

ORDER NO. 2 – THE INTEGRATED CIRCUITS (AMENDMENT) BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, the Integrated Circuits (Amendment) Bill, 2001

and the existing Integrated Circuits Act, 1998 which came into force on February 18, 2001 implements Articles 35 to 38 of the TRIPS Agreement and provides protection for the layout and design of integrated circuits.

It also provides safeguards against the importation, reproduction, selling or other distribution of legal, illegal, or unauthorised versions of integrated circuits. The period of protection under this Act is ten years, commencing from the date of first commercial exploitation or the date of filing, whichever is the earlier.

The Integrated Circuits (Amendment) Bill, 2001 amends the 1998 Act to clarify the criteria for protection under Section 3. It provides a right of appeal from a decision from the Registrar of Corporate Affairs and Intellectual Property and gives the Minister power to make subsidiary regulations to implement the Act.

The draft Integrated Circuits Regulations, 2001 have already been prepared and are awaiting the commencement of the Integrated Circuits (Amendment) Bill, 2001 before they are made by the Minister with responsibility for Intellectual Property Rights. When made, the Regulations will regulate the application process, opposition hearings, prescribe the applicable fees and forms and other matters not covered in the Act.

Mr. Deputy President, I beg that the Bill be now read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the Senate resolved itself into Committee on the Bill, MADAM SENATOR THE HON. Dame PATRICIA SYMMONDS in the Chair.

COMMITTEE

MADAM CHAIRMAN: The Senate is in Committee.

Clauses 1 to 3, inclusive, were called and passed.

On the motion of SENATOR THE HON. P. C. GODDARD, MADAM CHAIRMAN reported to HIS HONOUR THE DEPUTY PRESIDENT the passing of one Bill in Committee and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. P. C. GODDARD the Bill was read a third time and passed and cited as the Integrated Circuits (Amendment) Act, 2001.

ORDER NO. 5 – THE PATENTS BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. Deputy President, the Law currently governing the grant of patents in Barbados is the 1981 Patents Act, Cap. 314 which came into force on January 1, 1985.

Although the current Patent Act states that it was intended to bring Barbados laws in lines with its obligation of the Patent Corporation Treaty, (PCT) conceptual difficulties and inconsistencies exist between the working procedures to be employed for international patent applications filed under the PCT system and patent applications filed nationally.

The Advisory Committee on intellectual property established in 1999, reviewed the text of a completely new Patents Bill, prepared by the office of the Attorney General which made certain recommendations. The working group was generally satisfied with the language of the draft Bill but suggested certain amendments to the text of the Bill to ensure better clarity.

The new Patents' legislation will revise the existing Patent Act to give effect to the agreement on trade related aspects of the Intellectual Property Rights, 1994, that is, the TRIPS Agreement with respect to the Patent Corporation Treaty, 1970 and in respect of international patent applications patentable criteria.

The Bill establishes the term of protection for patents available in accordance with the TRIPS Agreement and now clarifies, to the satisfaction of the Registrar of Corporate Affairs and Intellectual Property, the procedure to be followed to facilitate the examination, grant and registration of patent rights in Barbados. The Bill clearly articulates the conditions under which various types of patents will be granted in Barbados, the criteria for receiving a patent as stipulated in Clause 7, where invention must be a novel involved in an inventive step and be inventively acceptable.

The provisions of the Patent Act, Cap. 314 relating to the grant of non-contractual or compulsory licences necessary in the interest of national security, national health or national nutrition, or the development of an essential sector of the economy of Barbados, or for other public interest, have been retained in sections 49 or 50 of the new Patents Bill, 2001.

It is considered that compulsory licences are essential tools for Governments to carry out public health policies, since they facilitate action to medicine through prevention of abuse of rights, encouragement of domestic capacities for manufacturing pharmaceutical and enable the Government to act in the public interest in cases of national emergencies.

Access to medicines at affordable prices is recognised internationally as one of the most effective elements of public health policies to reduce mortality and infection rates. In the case of HIV/AIDS for example, some of the most effective policies have been possible through provision of increased access to generic and patented medicines to those in need. Access to patent medicines can, however, be limited by a number of factors such as high cost, refusal to deal, failure to work and an inadequate supply and information gap, among others.

6.30 p.m.

Normally patent holders are expected to provide access to patent medicines on the market. When the patent rights holder fails to provide enough medicine in the domestic market and refuses to voluntarily licence the production of their patent to an interested third person, such a situation poses an obvious threat to public health policy. As the patent rights holder would be free to set abusive prices for their lifesaving drug, Governments may, therefore, issue compulsory licences as a way of ensuring that medicines would be available at more affordable prices.

The Patents Bill, 2001, therefore, ensures the rights of the Barbados Government to invoke the compulsory licence procedures to ensure that Barbadians have access to patent medication whenever the exercise of patent rights by the rightful holder results in the creation of barriers to access medicine at affordable prices.

The new legislation now increases the period of protection on a grant of a patent to 20 years. It was previously 15 years. The Bill now gives a more precise definition of the term "filing date" and now clearly differentiates between the three categories of patent applications filed at the Intellectual Property Office. The Bill provides that a filing date would be accorded by the Registrar depending upon whether the patent falls into either of the three categories as follows:

1. Locally filed patents;
2. Locally filed patents applications claiming the priority of an earlier filing date in a Paris Convention country; and
3. International applications filed with the International Bureau under the Patents Cooperation Treaty.

The Bill would repeal the 1991 Patents Act when passed but will save pending applications and patents registered under the 1981 Act. The existing patents regulations 1984 will be expressly saved from repeal and will serve *mutatis mutandis* as the governing regulation for the new Patents Act to such time as new regulations are made.

I beg that this Bill be read a second time.

SENATOR B. R. COLLYMORE: This is just a query. There is no specific provision to repeal the old Act in this new legislation. At least I have not seen any.

SENATOR THE HON P. C. GODDARD: Mr. Deputy President, I move that further consideration be given to this Bill.

The question was put to the Senate and agreed to.

ADJOURNMENT

SENATOR THE HON P. C. GODDARD: Mr. Deputy President, I beg to move that the Senate do now adjourn until Wednesday, July 25, 2001 at 11.00 a.m.

The question that the Senate do now adjourn until Wednesday, July 25, 2001 at 11.00 a.m. was put to the Senate and agreed to and Mr. DEPUTY PRESIDENT adjourned the Senate accordingly.
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