

THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1994 - 99

HOUSE OF ASSEMBLY

Tuesday, April 18, 1995.

Pursuant to the adjournment, the House of Assembly met at the Parliament Buildings on Tuesday, the 18th day of April, 1995 at 11.20 a.m. o'clock.

PRESENT

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

J.P.

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

Mr. L. A. WEEKES, G.C.M., J.P.

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

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

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

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

Hon. Dr. R. L. CHELTENHAM, Q.C., M.A., M.Sc. (Econ.) (Minister of Tourism, International Transport and the Environment)

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

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

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

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

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

Mr. D. Carter

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

Mr. J. M. EDGHILL

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

Mr. H. F. LASHLEY

Mr. R. St. C. TOPPIN, LL.B.

Mr. D. St. E. KELLMAN

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

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

Prayers were led by Father Ivan Harewood.

Mr. SPEAKER: This House is now in session.

MINUTES Mr. SPEAKER:

Minutes of 4th April, 1995.

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that the Minutes of this Honourable, the House of Assembly for the 4th April 1995, which Minutes have been circulated, be taken as read.

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

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

PAPERS

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I am commanded to lay:

The Duties, Taxes and Other Payments (Exemption) (No. 3) Order, 1995,

The Duties, Taxes and Other Payments (Exemption)
(No. 4) Order, 1995,

The Duties, Taxes and Other Payments (Exemption)
(No. 5) Order, 1995,

The Duties Taxes and Other Payments (Exemption)
(No. 6) Order, 1995.

ORAL REPLIES

Hon. Dr. R. L. CHELTENHAM: Mr. Speaker, Sir, I am to advise that the oral replies to the questions asked of me by the Honourable Member for St. Michael South on the 4th November last, Questions 1, 2, 3, 4 and 6, those replies are ready. You can perhaps take them at the end of the debate.

ORDERS OF THE DAY

SUSPENSION OF STANDING ORDERS

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

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

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

GOVERNMENT BUSINESS

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

Order No. 2 was called.

ORDER NO. 2 - TO RESUME DEBATE OF SECOND READING OF THE VAGRANCY (AMENDMENT) BILL, 1995

Mr. SPEAKER: Honourable Member for St. John.

Mr. D. J. H. THOMPSON: Thank you, Mr. Speaker. I rise to contribute to this particular debate and to put into context the position of the Democratic Labour Party with respect to this particular piece of legislation.

Mr. Speaker, Sir, one is always wary in matters of this sort, apart from putting one's position on the general principles of the Bill, to adopt hard and fast positions because most Attorneys General in this House have adopted the position that where it is manifest that legislation is not in the best interest of the people of Barbados, particularly where the pretext for it is that it is of a temporary nature, they have generally accommodated

the concerns of even opposition parties and sent that legislation to Select Committee for consideration.

The history of Select Committees in Barbados, under the last administration, has been quite successful and I think it is a tribute to both the then Government and Members of the Barbados Labour Party Opposition that by and large we were able, with respect to each piece of legislation, to return to this House with a formulation which served all of the interests of Parliament.

I wish to say to the Honourable Member for St. Thomas, and I hope I am not too early out of the blocks, that I have noticed a reluctance on his part to utilize the method of the Select Committee and sometimes his positions on issues such as this and other issues hardens because, as I understand it, he feels the weight of the problem of crime on his shoulder. I do not object to that. The Honourable Member has made it very clear, even if he was speaking only for himself because he said "I" not "we" that he had a great resolve and nobody should underestimate his resolve to stamp out lawlessness and crime in Barbados. I do not underestimate that resolve but I wish to say that that resolve needs to be tempered by a sensible approach to matters of this sort which accommodates the view points of interest groups.

I am appalled, Mr. Speaker, that a piece of legislation like this, which can affect so seriously the rights of those groups of Barbadians who are most vulnerable as sales persons, taxi drivers, small traders in Barbados, that this legislation is being brought to Parliament without giving them an opportunity, before bringing it to Parliament, to make their input and the Government had promised that where major pieces of legislation were going to be brought to this House, that those pieces of legislation would be made available to a wide cross-section of interest groups. And even though this Parliament, Government and Opposition combined, are interested in eradicating lawlessness and crime on the streets of Barbados, that desire must not be higher, Mr. Speaker, Sir, than giving an opportunity, not to a group of reactionaries and not giving the vent to the views of the old Labour Party, but giving vent to the views of the new Labour Party as we once understood it at around September 6, which was that interest groups would have an opportunity to make an input in legislation of this sort. The Honourable Attorney General must not assume and arrogate to himself any single-handed mission to eradicate crime in Barbados because we cannot eradicate crime in that way. 11.30a.m

It cannot be done simply by pandering to the desires of the Police Force as he has said on several occasions. It cannot be done simply by pandering to judicial officers at whatever level. That alone cannot achieve it. It cannot be done simply by pandering to the desires of those who

think that everytime you bring legislation that you are going to wipe out some kind of phenomenon. We already have legislation in Barbados, Mr. Speaker, which deals with matters of this sort. What the Attorney General needs to do is to ensure that the Royal Barbados Police Force and its members use the existing legislation and the remedies available to them, which have not worked any great injustice so far, to eradicate those forms of crime and lawlessness.

The reason why I have to start in this way, Mr. Speaker, is that if you start the debate off by prejudicing the debate, by suggesting that the level of crime in Barbados is so significant as a result of a few events at the Garrison or the National Stadium, that that should give the Government *carte blanche* to bring any piece of legislation no matter how draconian, no matter its social consequences, no matter its impact on the defences which citizens can raise in a Court and the way in which those defences will impact on the Court, the shifting of the burden of proof. All of these other things are happening in this very small and simple piece of legislation. I am only saying that our view in the Democratic Labour Party is that this should be referred to a Select Committee of Parliament as we did with the Evidence Act, as we did with the Domestic Violence Bill, as we did with the Sexual Offences Bill, as we did with the Proceeds of Crime Bill and a whole history of Bills prior to this in which the Honourable Member for St. Thomas had the opportunity to participate and to put his views. So that that privilege should be given to the Members of this Parliament. As a result of that, we could factor in the concerns of all of the interest groups in this matter.

We have some very genuine concerns about legislation which seeks to react and pander to the concerns of one group. When we were discussing the Domestic Violence Bill in Select Committee, Sir, Members of the Barbados Labour Party, and I do not remember if the Honourable Member for St. Thomas was one, were very clear to point out that we were going a bit overboard - I think the Honourable Member for St. Joseph was one of them and the Honourable Member for St. George South - in pandering to law enforcement officers who already had adequate legislation in place but wanted their hands to be strengthened so that they could go about their business with some form of caprice. We were concerned and those were genuine concerns. I raise those same concerns with respect to this section because, Mr. Speaker, Sir, I do not think the Honourable Attorney General or the Government has been able to point out to us those groups of offenders upon whom this legislation will impact the most. What is the group in Barbados that is so terrorizing this country that we need to bring a piece of legislation over and above the existing legislation which is in place to control people's activities on the beaches; over and above the already odious provisions of the present Vagrancy Act, which should be repealed and replaced by creative

legislation and not by temporary piecemeal legislation such as this? What is the group of persons? Who are they? What is it that they are doing that requires legislation of this sort? Is this legislation meant to stop taxi-drivers on Broad Street from shouting "taxi" on street corners? Because under this legislation, Section (g) states: "In any street, highway, or public place including a beach without lawful authority or excuse (the proof whereof shall lie on the person accused), accosts, annoys, threatens or harasses any person or follows him about or offers to sell him goods or services of any kind." Does a Taxi Permit in Barbados permit you to stand up on a street corner and solicit tourists? People are telling me to read the law.

Aside.

Mr. D. J. H. THOMPSON: Does a Taxi Permit held by the fellows who congregate by the Lower Green, Nelson's statue and other parts of Barbados, by the hotels around the Hilton and Grand Barbados, and in front of the Barbados Mutual or wherever?

Aside.

Mr. SPEAKER: Okay. Let us hear the Honourable Member.

Mr. D. *J. H. THOMPSON: I am asking a question. Does a Taxi Permit provide an adequate defence under this section? I am only asking and we have genuine concerns. Because as the Honourable Member for St. Philip South pointed out, many of those taxi drivers do not have the means to advertise on television, newspapers and so on in Barbados. Therefore, is this legislation aimed at outlawing their trade? Is it to impact on the water sport operators? This concerns me because yesterday the Government-owned Caribbean Broadcasting Corporation carried as its first story, not the speech by the roving Honourable Diplomat about his work with the Fishing Treaties, but the story of the small, young water sport operators in Barbados who say essentially that the economic conditions in Barbados and the role of the hotels, I think on the West Coast in particular, have almost put them out of business.

Aside.

Mr. D. J. H. THOMPSON: The all-inclusive. That is a fact and I am not blaming anybody for it. So to say that you all did it does not make sense. The point is that there is a role for those water sport operators and the Democratic Labour Party always took the view that we would never give a single tax concession to any operator of an all-inclusive resort for any water sport activities and none were ever given; neither with Heywoods and none were promised to the people who are operating Sandals. None. We always took the view that if there was one area that we needed to ensure that we protect it is those water sport operators.

We have had several debates in this Chamber, Mr. Speaker, Sir, on this issue before. Is this Vagrancy Act which impacts on economic activities, because selling goods and services of any kind is economic activity, aimed at curtailing the functioning of those small water sport operators on the beaches in Barbados? I want the Honourable Members to specify that. This is not a legal debate only and I am not going to permit the 14 Attorneys on that side, Mr. Speaker, to come into this Chamber week after week and reduce every argument to some kind of legalistic story that they can defend everything on legalistic grounds. This piece of legislation has a great social impact particularly on the lives of the poorest people and those who are out there seeking to eke out a living in Barbados. 11.40a.m.

Aside.

Mr. D. J. H. THOMPSON: Well, they will not be unemployed because they are doing something. The Honourable Member for the City never seems to understand what she is talking about.

Asides.

Mr. SPEAKER: Order, please. Let us hear the Honourable Member.

Mr. D. J. H. THOMPSON: Thank you, Mr. Speaker. I am only asking, I have not made any accusations which cannot be borne out by the facts, so we have to ask about this legislation and I have to say to the Honourable Attorney General that we as an Opposition are not going to stand in his way. We promised in our Manifesto and we pledged to fulfil this dream within the framework of maintaining the civil and political and human rights of all Barbadians in a parliamentary democratic framework. We said:

"We pledge to protect our national sovereignty and independence, to improve national security, to strengthen law, order and justice, and to give to all residents and visitors alike the guarantee that Barbados is one of the safest countries in the world."

Then we went on, at page 45 of the Manifesto, to say that we pledge to insist on strict and rigorous enforcement of the laws relating to public places, the beaches, the streets and traffic. We were referring to existing laws and I want to know what is the problem with the existing legislation in Barbados such as to impel the Honourable Attorney General to bring an amendment at this time? What are the economic factors? What are the social factors? What are the political factors which would bring an administration, based on a political party 50 years old, which must have had at some point in its history to fight economic injustice, at least to call the words "economic democracy" and

"enfranchisement" every now and again, but I will only credit that to the Honourable Member for St George South in his speech on the good society. How can this amendment fall within the precepts of that vision which the Honourable Member as the leader of that group in the Labour Party, very small though it is, which is interested in enfranchising the citizens of this country? How could this amendment assist in that?

This is not just a legal argument, and it does not fall to be determined on the basis of anybody's resolve to stamp out crime, because we are equally resolved in our homes, in our communities by the policies we practise as citizens of this country, because we understand the significance of crime on the major economic sector in Barbados. So we have that resolve, but we are not going to assist anybody - and the Honourable Member made it very clear that it is his resolve to stamp out crime. I wish to hear the other members of the Labour Party on this piece of legislation. We have only heard one person. The Honourable Member for St. George South has joined with me on several occasions in this Chamber and joined with the then Attorney General, Mr. Maurice King, in saying that the Vagrancy Act needed to be repealed in this country and replaced. Do not repeal all of it. The Vagrancy Act is the Act in Barbados which outlaws casino gambling, so do not let anybody say that I was part of any call to repeal the Vagrancy Act without replacing it. It is the Vagrancy Act which outlaws casino gambling, Mr. Speaker, and the Democratic Labour Party remains opposed to its introduction, so we would like to see the Vagrancy Act for all of the historical reasons raised by the Honourable Member for St. Philip South, *for* all of the social, economic and political reasons presently prevailing in Barbados to be repealed and replaced by a piece of legislation which is creative.

I cannot say that the Democratic Labour Party is going to join in these exercises of temporary legislation where you bring a temporary measure to amend the Constitution, now we have a temporary Bill to amend the Vagrancy Act until the matter can be discussed further. Let us get into Select Committee now with an entire draft to look at those provisions of the Vagrancy Act which are desirable and those which are not. Let us as a Parliament give the Attorney General a brief and tell him go back to his office and have his officers draft a piece of legislation which is in keeping with modern developments in Barbados, and let him bring back that piece of legislation to a Select Committee so that we can discuss it further. That is what people like the Honourable Member for the City have been calling for, the active involvement of Parliament in the early stages of the preparation of legislation, Select Committees which are doing work and which are going to call interest groups - the vendors, the water sports operators, the taxi drivers - all of whom could be affected by this legislation, as well as the big businessmen and businesswomen, the trade union movement,

people involved in community development in Barbados, because that is at the heart and start of the solution to the problem of crime.

I want to hear from the Police myself in a Select Committee, I am not going on any second-hand information culled from brief discussions at a Bar Table or in the precincts of the courts, and I am not going to defer as a parliamentarian to the judgment of anybody else in relation to what is a good law in Barbados. Political parties are not just institutions of lawyers, political parties when they come up with policies have to base those policies on a wider set of factors and considerations. We have to be looking to develop Barbados as a whole and I think that based on the comments made by the Honourable Attorney General at the outset of this debate, that he needs to enlighten us a bit further on what it is that has caused him to rush to Parliament with this amendment in such a short space of time.

There are people in the Democratic Labour Party, I believe all of us sitting here now, who have been part of a Cabinet which has approved legislation which shifts the burden of proof, but it is not something that we have done lightly. My recollection is that the only occasion that it came up was when we were dealing with the Proceeds of Crime Bill and we were seeking to harmonise legislation at that time, but generally speaking the Democratic Labour Party remains fundamentally opposed to legislation and amendments of legislation which shift the burden of proof on to the accused, where the accused must say, as a citizen of Barbados, that he has a valid reason for being on a street, on a beach or on a highway, whether selling goods or by the definition of this Act, accosting, annoying, threatening or harassing. We are saying that we are unalterably opposed, and will continue to be opposed, to legislation which seeks to shift the burden of proof. We are saying that it is wrong for Barbadians to feel that they are not entitled to walk in public places in this country unless they must give a valid excuse for being where they are. I should feel free to walk any part of Barbados, except on people's private property, I should be entitled to walk on the beaches of Barbados. These are rights which have been enshrined in our Constitution by the Democratic Labour Party. 11.50a.m.

I do not feel that as citizens of Barbados, after all we have been through in 1937 and right through the history of Barbados, should now find ourselves in a position where we have to offer a defence of lawful authority or excuse for being on the street, highway, or public place where somebody feels we are accosting, annoying, threatening or harassing them. This is not our style. This is not even the style of Barbadians as a whole. This piece of legislation needs to go to Select Committee. We need to have the Attorney General stripped of the burden of this pressure which he is under and have...

Aside.

Mr. D. J. H. THOMPSON: You said you were under pressure with crime - the Honourable Member says he was not under pressure.

Well, stripped of the pressure you should be under. I would say the Attorney General should be stripped of the pressure he should be under because crime, as I understand it from the Commissioner of Police in last week's newspaper, even though the figures have gone down, is still a major problem in Barbados.

I would like to say that we need perhaps a sanitised environment where lawmakers bring to the table the multifaceted concerns of this society but, in particular, the concerns which protect the vulnerable and those persons who are hauled before the courts of Barbados unrepresented and who sometimes do not fare as well as they should under those circumstances. I will not say anymore about that because I have already earned an unenviable reputation for my views about the way unrepresented people are sometimes treated in the courts of Barbados. I am not going to repeat that again because now is not the occasion; but I will say what I have to say. We have not said which of the interest groups have been considered.

The Barbados Labour Party has a strange record when it comes to this issue of vendors. We have to watch who lines up behind the Barbados Labour Party when these issues come up - the Honourable Member for St. George South I know is concerned - the kind of people who line up behind the Barbados Labour Party whenever they are about to move vendors from Broad Street. The Honourable Member for Christ Church South does not even remember what a government he was involved in did.

Hon. Sir HAROLD St JOHN: The Honourable Member is misleading this House. The Democratic Labour Party under the late Errol Walton Barrow cleared Broad Street of every vendor with the exception of sellers of newspapers early in the administration of the Democratic Labour Party.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, Barbadians will not forget the heavy handed tactics used by an administration of which the Honourable Member for Christ Church South was the leading philosophical light, heading into an alley on Broad Street guns blazing, batons swinging to remove vendors.

Asides.

Mr. D. J. H. THOMPSON: We know the history of the Barbados Labour Party with respect to the concept of access to beaches in Barbados and the Honourable

Member for Christ Church South should be terrified even on that subject

Hon. Sir HAROLD St. JOHN: The Honourable Member cannot say that The Honourable Member would know that the Barbados Labour Party created more beach accesses in Barbados than any other political party. There are 59 beach accesses and among them the large area on Bay Street.

Mr. D. J. H. THOMPSON: Only the Honourable Member for Christ Church South believes that and therefore I would not dispute it because his own memory of it and mine do not converge. We know of legislation like the Emergency Powers Bill, the public of Barbados are not trustful of the Barbados Labour Party in matters of this sort and therefore we wish to have the cleanest possible exposition and explanation for this piece of legislation. If we feel satisfied that it conforms with what is necessary in Barbados at this time we are not going to stand in the way of the Honourable Member for St. Thomas. But if we think that it is going to be used as yet another burden on the backs of the people of this country, as another exercise to entrench economic interests, particularly those large companies which are now going into the water sports sector, whether it is an all inclusive hotel or otherwise; which are competing with Barbadians, who have to pay \$5 000 for an insurance policy for speed boats or jet skis or reef runner or whatever they are called and who have all other kinds of pressure placed on them, who do not have access to the television, who have no special provision being made for them, if this is yet another impediment to their functioning free of fetters in our economy, then we cannot support it. If the Honourable Member for St. Thomas can give us some sound and cogent reason then we will consider our position carefully.

Mr. Speaker, Sir, I want to make it very clear that the Democratic Labour Party does not believe in lawlessness. The Honourable Member said he does not believe in *laissez-faire* attitudes. I think that is a misplaced expression in the context of this debate.

Mr. SPEAKER: The Honourable Member has 2 minutes.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, we believe that it is necessary to ensure that our citizens go about their business not being interfered with by the State in everything they do; but with the State intervening where what they are doing prejudices the rights of other citizens to such an extent that there is a need for the State to intervene. Other than that, we cannot support it.

I am shocked, Mr. Speaker, that all of those defenders of freedom in Barbados are not noticing how we have a piece of legislation shifting the burden of proof and

introducing measures for control of the movement of citizens on streets, highways and beaches in Barbados. Without this piece of legislation, we have already said there are plenty of other bases on which law enforcement officers can act.

Mr. Speaker, we do not need an exercise which pampers to the emotions, with people talking about a U.S. advisory. The U.S. Advisory has nothing to do with harassment on beaches in Barbados. We all know the basis of the U.S. Advisory. We all know that the IADB loan which the Barbados Labour Party is hoping to access is based on capitulating to everything the United States wants.

We have Barbadians committing crimes in Barbados...

Mr. SPEAKER: Will the Honourable Member conclude please.

Mr. D. J. H. THOMPSON: Yes, I will conclude. We have Barbadians committing crimes in Barbados and being arrested elsewhere, outside of Barbados, for crimes committed in this country and not a single word from any Barbadian Government Minister or any person who is required to protect the interests of our citizens.

Mr. Speaker, Sir, we need to understand where we are in 1995.

Mr. SPEAKER: Order, please.

Asides.

Mr. D. J. H. THOMPSON: Can I finish my sentence, Mr. Speaker, Sir? Thank you.

So Mr. Speaker, Sir, we expect to have from the Honourable Attorney General a very clear and cogent exposition for the reasons for this piece of legislation. We will not be supporting legislation which further disenfranchises Barbadians, which cuts into their opportunities for self-sufficiency and self-employment, which makes Barbadians walk around in this country in a straight jacket. We are not going to support those kinds of measures and particularly where it impacts on the lives of our citizens in increasingly difficult economic times. I will wait for his further exposition on this matter. 12.00 noon.

Hon. Miss H. E. THOMPSON: Mr. Speaker, I rise in this debate to speak on the issue at hand and to say that there is some degree of mischief afoot where the public is being led to believe that poor black people in this country are going to be disadvantaged by the legislation which the Honourable Attorney General is bringing before this House and that people are not going to be allowed to walk around and enjoy their freedom and rights in the country where their navel string is buried.

Mr. Speaker, not only will people be allowed to walk around but people who have broken their toe in diverse places in suspicious circumstances will be allowed to hop around. This legislation does not interfere with the rights of Barbadians to walk around Barbados or to have legitimate trade or business in Barbados. The person who rises in this Chamber, and I speak of the Honourable Member for St. John, to speak against it his record on issues in this Chamber must be put before the public. He is the same person...

Mr. SPEAKER: The Honourable Member.

Hon. Miss H. E. THOMPSON: The Honourable Member for St. John is the same person who promised that he had a big secret to reveal in September of 1994. It has come to nought. The public now knows that there was no credibility in that. The Honourable Member for St. John is the very member who purports to proclaim the Democratic Labour Party as being anti-casino gambling when, in fact, the record in this Chamber shows that he was signing documents to have casino gambling in Barbados, and the public knowing these facts...

Mr. D. J. H. THOMPSON: Mr. Speaker, on a point of order. I do not wish to interrupt the Honourable Member because she never says anything of any substance but she is making an allegation there that is thoroughly untrue. I have never signed any document in Barbados, either as a Minister, or in any other capacity, to permit the operation of casinos in this country.

Hon. Miss H. E. THOMPSON: Mr. Speaker, the records of this House already show the role of the Honourable Member for St John in thwarting the directive of his Prime Minister at the time. I will say no more on it except to say to the public that given his' total absence of credibility on any issue, the fact that he purports to line up against this legislation is in fact evidence that everybody else should support it.

The legislation, Mr. Speaker, purports to create an offence for persons who accost, annoy, threaten or harass persons or follow them about offering to sell goods or services of any kind without lawful authority or excuse and the person who does the harassing, annoying, threatening and so on, or purports to sell these services must show that they are selling legitimately.

Mr. Speaker, the Honourable Member for St. John is not steeped in the knowledge of any law but were he, he would know that even under the Road Traffic Act that where you are charged with driving without a licence the burden of proof is on you to produce your driver's licence and to show that you are the holder of a legitimate driver's

licence. These things are normal in law. It is not complex. It is not difficult and this legislation in that respect is no different because what the legislation is saying...

Mr. D. J. H. THOMPSON: On a point of elucidation, Sir. I wish to elucidate my speech. I spoke of shifting the burden of proof. I was not dealing with a strict liability offence. The Honourable Member is a lawyer and must know that those offences under the Road Traffic Act are strict liability offences. It is a simple matter.

Hon. Miss H. E. THOMPSON: The Honourable Member for St John knows very little about peculiar negative averment and I will not try to teach him in this setting.

Mr. SPEAKER: The Honourable Member, please address the Chair. Let us proceed with the debate orderly, please.

Hon. Miss H. E. THOMPSON: Mr. Speaker, it is a fact that in the Laws of Barbados there are several circumstances in which a person who is an accused person has to prove his or her innocence to the court often by the production of documents in their possession. One of those examples is the example I just cited of using the driver's licence so that this legislation is no different. All it says is that if you are purporting to sell a service then you must prove that you have the appropriate licence or authority to do so.

Mr. Speaker, the language of the section shows who it is targeting, accosting, annoying, threatening or harassing. That is the sort of behaviour that the legislation is attempting to deal with. The woman who is braiding hair and says "Sweet girl, let me do your hair" does not fall within the ambit of this Bill. The taxi driver who purports to pick up somebody for a fare does not fall under this Bill. The watersports operator, of whom there are many in my constituency, does not fall under this Bill. People selling goods legitimately, people not harassing, accosting or annoying do not fall under this Bill. This Bill is intended to deal with criminal activity and we see it in Bridgetown every day. Do not let us delude ourselves.

You walk along Broad Street any day and you see people following tourists, shouting at them, hanging necklaces over their heads and refusing to let go until the money is put in their hands, people who the tourists repeatedly say "No, thank you" to and yet these persons are indulging in activity that cannot be fair and legitimate however you look at it. This is not an attempt to stop anybody from being an entrepreneur. This is not any attempt to stop the development of business. It is an attempt to stop the development of criminal activity and nuisances within the community.

There are two approaches. We can, as a Government, adopt the approach of the last administration and refuse to admit or deal with the problem - and now we are hearing today from members on the other side about the creative replacement of the legislation, something that they had eight years to do. They could have got this legislation off the statute book all together. They could have replaced it creatively. They could have repealed it in part or in whole. They did nothing to deal with the legislation but they come before this House to try to say that there is no problem with which we have to deal. But indeed, there is a problem.

There are two approaches. One, we can copy their approach of 1986 to 1994 and we know that well and what it has caused. They denied the existence of gangs. In Barbados we are seeing the results of the gangs. Only some weeks ago motorcycle marauders entered Parish Land and when they left a young man in his early 20s lay dead. We have to deal with the problems in the society. We cannot adopt their approach and deny the existence of the problems.

We can either provide places for vendors, or give them licences to sell legitimately, or we can have them lined up on Swan Street creating health hazards by having all sorts of food all over the place with rats, other rodents, insects, cockroaches and so on making a mess of the place and without bathroom facilities. We can have that or we can deal with it.

We can as S Government say that we are not going to hang people and have the worst sort of lawlessness escalate in the society until it reaches the stage where they are in prison for so long that you cannot hang them at all. We well know that the Honourable Member for St John is a member of Amnesty International and does not support hanging. We can deal with that.

We can have dope in our diplomatic pouch and not do anything about it or we can deal with it as a problem. We can have lawlessness on the beach and pretend that it does not exist. That was the approach of the Democratic Labour Party and the last Government. 12.10 p.m.

This Barbados Labour Party is eeking to deal with what we recognize is a problem. It is not only a problem for us, as a society, because it points to an escalating lack of respect for the other person. But it is a problem because of the threat which is posed to our very economic base, in tourism.

When one sees the crime reports from the Police every week, there are replete with examples of tourists who have been attacked, robbed, had their goods stolen on the beach, who have been harassed on the beach, who have been assaulted, who have been indecently assaulted, and we know it is true.

You only have to go on to any beach, any day of the week and you will see young men and women selling aloes, and not that that is illegal but they grab the tourists and they put it on, in some cases. They do not give the tourists the opportunity to refuse it. So that by the time they have covered you in aloes, you have no choice but to pay, whether you want the aloes or not.

We see young men and women on the beaches selling themselves. We see young men and women on the beaches selling drugs. This is what the legislation purports to deal with.

This talk from the Opposition of disadvantaged groups and interest groups bears no relationship to the reality of the social problem with which we have to deal. That is what the Barbados Labour Party is attempting to do. How do we do that? To have read the legislation so that people can hear for themselves who is targeted by the legislation.

In addition to that, we have completely repealed the section which deals with deeming people a rogue and a vagabond. Previously, under this legislation, you could be deemed a rogue and a vagabond. Once you were so deemed, then it had implications for your getting permission to travel overseas. It had implications for your getting a visa. It had implications for your getting a job, because it went on a permanent record card and anytime you were asked for a* Police Certificate of Character, the Police Certificate of Character would say that you were a rogue and a vagabond, having been so deemed by the court.

The Dems never dealt with that. During their 8 years in office, all over Barbados, people were being deemed rogues and vagabonds. They did not seek, at that time, to protect those people.

We, within 6 months of coming into office have repealed that part of the legislation so that people in Barbados, poor, black people particularly can never be socially stigmatized in that way again, can never be deemed a rogue and a vagabond. That they will continue to have access to visas, to Police Certificates of Character that they can take them and be able to get a job. But they are not telling you that. The Opposition is not dealing with the truth of this legislation or the good that the legislation is doing. They only seek to miscast it as an instrument of social destruction for the poor and the black.

But we can adopt their approach or we can adopt the approach of the Barbados Labour Party which has already set up a Commission on Social Justice in order to help to deal with some of the social and legislative problems that we have.

We have already set up a task force on crime to try to come to grips with what are the social phenomena causing crime. What are the economic phenomena causing crime. What are the economic phenomena resulting in crime and how does one address it?

We have adopted, within the Barbados Labour Party's Government an approach that is proactive to community development. We are just out of the Estimates and we know the sort of measures which will be put in place to promote community activity. We know that we will be seeing, shortly on the ground, a system of youth commissioners to try to deal with a lot of the young people out there who have problems, who are marginalized, who have no jobs.

Who are the interest groups who will benefit from this legislation? That is the question posed by the Honourable Member for St. John. I seek to answer it. The interest groups who will benefit from this legislation are 2 broad categories, one every Barbadian and every resident of Barbados who is accosted, annoyed, threatened or harassed by people on the beach or in public places, Bridgetown, any highway, any street or public place. They are the people who will benefit from this legislation.

I know what it is like, as a single woman in this community, to have men harassing you on the streets selling you all kinds of things and offering you themselves, because they feel you could do with them.

This legislation purports to deal with people of that sort, Mr. Speaker. I am glad for it. A lot of people, including single women will benefit from this legislation. The other broad category of person who would benefit from this legislation are the tourists. We often laugh you know, but those of us who know what it is like to pay to go away on a holiday and to want to enjoy your holiday in peace, to enjoy the benefits of that country, the beauty of the country to which you go, the shopping and whatever else you want to enjoy will appreciate how difficult it must be for tourists who come and are lying on the beach or are walking Bridgetown. Somebody comes up to them and they say, "No thanks, I do not want what you are selling." Or, "I do not want you, if you are selling yourself¹, as indeed happens. But to be threatened.

But, Mr. Speaker, we know that it is a fact that in cases where tourists refuse, particularly single women who are alone, certain types of services that are offered to them, the people who are purporting to sell these services often ask the Lord to take away their vision or you hear all about the holes in their anatomy and so on. The behaviour becomes most offensive when you purport to refuse what is being offered or sold to you.

Therefore, this legislation will attempt to deal with that. It will protect male tourists as well. Because let us not fool ourselves. This is the age of the sexually aggressive woman and our men are also being harassed. There are women on the beach who are not there for legitimate purposes, or selling legitimate things, there are some women out there selling drugs. Let us not delude ourselves that there is no problem. Let us identify the problem, as indeed the Barbados Labour Party has done and let us deal with it. This legislation deals with the problem.

Those are the interest groups, Barbadians and residents of Barbados and tourist who want the right to enjoy their holiday in peace, without harassment and annoyance and so on, those are the interest groups who are going to benefit from this legislation. Before I go to the next point that I want to make, I should like to say briefly and to repeat, because you are going to hear it, you have heard it already from speakers on that side, on a previous day when we met, and we will hear it again.

Hair braiders are not going to be adversely affected by this legislation, nor taxi drivers, nor legitimate beach vendors, nor people not harassing and annoying, nor people not assaulting or indecently assaulting, watersports operators, sellers of goods and services from food to aloes. These people are not going to be adversely affected. Nobody is going to stop Barbadians from walking all over Barbados. That is not the point of the legislation. Anybody who seeks to tell the public that or to give the public that impression is not being honest, in relation to what the legislation is doing or seeking to do. This legislation is not about stopping people from walking on Broad Street. It is not about attacking people engaged in economic activity.

I heard the Honourable Member for St. John say that selling anything is economic activity. I wrote it down and I cannot find it. But selling drugs is economic activity too. In fact there is evidence that showed that in Columbia, part of the revenue earned for the country is earned by the sale of drugs so that when he says we are stopping people from economic activity... 12.20 p.m.

Aside.

Hon. Miss H. E. THOMPSON: Yes it is the major foreign exchange earner. So when he says stopping people from selling is to stop people from engaging in economic activity we only want to stop people from engaging in illegal economic activity. But anybody who wants to support themselves by legitimately selling on the beach, any kind of goods or service, and doing it in a businesslike way or even aggressively, because you can market

yourself aggressively, you can market your product aggressively without harassing anybody.

I have been on Swan Street and heard some orange vendors with some lyrics that would make you stop and listen to them. That is creative. That is aggressive marketing of their product but that is not illegal. Therefore we want to encourage that and promote that and we want to promote people getting into business activity to support themselves but it cannot be activity at the expense of the whole community. It cannot be activity at the expense of the tourism product.

It is important, Mr. Speaker, in analysing the global picture to ask ourselves whether or not the poor and the black are going to be adversely affected by this legislation. My submission is they will not. In fact, analysis of recent events shows that there were more disadvantaged under the Democratic Labour Party than under any administration in the history of this country. We look at the growth of CLICO with its many tentacles. We look at giving of the lease for the Harbour to particular types of interest groups, the very people whom the Democratic Labour Party said they had nothing to do with, handing the Port to them, lock, stock and barrel to the extent that poor black businesses were excluded.

Mr. D. J. H. THOMPSON: On a point of order, I never knew that the Bridgetown Port had been leased and I should like, in keeping with your previous ruling in this matter, for the evidence of the leasing of the Bridgetown Port to anybody to be made available to Barbados. I am very concerned about that statement, Mr. Speaker, Sir. If it has been leased I would like to know who presently has leased it from the Government. I like accuracy, Sir.

Hon. Miss H. E. THOMPSON: Mr. Speaker, Sir, I thank the Honourable Member for St. John for giving me the opportunity to make it even more apparent. I speak of the cruise facility and the arrangement entered into with the Government that I believe is an arrangement for the handing of the Cruise Facility to what they call white Barbados whom they are always cursing in public but with whom they are closeted with in private. And what is the significance of that? The significance of it is that before tourists got to Pelican where the black businesses are, their money has already been taken away by the major white entrepreneurs down in the Port. The very people whom they are cursing all the time.

Let us speak of the deals entered into with Barbados Shipping and Trading which grew into a massive conglomerate under the Democratic Labour Party and with their assistance. In particular, let us look at handing Heywoods over to Barbados Shipping and Trading without

even an arrangement that protected the rights of the employees who worked there. It could have been part of the arrangement, the Government of the day could have negotiated an arrangement with Barbados Shipping and Trading so that Barbados Shipping and Trading had to take a number of employees whose severance rights would have been maintained. They did not do that. Not a single job was protected and several people who were working at Heywoods were fired by Barbados Shipping and Trading. So who was protecting the poor then?

There are several other examples of how the Democratic Labour Party has alienated the working class in Barbados in a way that this legislation could never do and alienated people in this country who are poor and black. It has to do with the fact that wages in this country were frozen. It has to do with the fact that we had wage cuts in this country. It has to do with the fact that people were losing their homes in this country. It has to do with the fact that you could no longer claim certain things on your income tax. It has to do with the fact that there is massive unemployment in this country, caused by the Democratic Labour Party. These are the socio-economic problems that the DEMS had the opportunity to address but never did. Now they have come to this Parliament to make it appear as if this Barbados Labour Party wants to injure the economic and social interest of poor black people in this country.

I would want to remind this Chamber, Mr. Speaker, Sir, that it is this Barbados Labour Party, and I am going to deal with this in the context of the social legislation passed in this country. It is this Barbados Labour Party that passed a plethora of Acts promoting workers' rights in this country. It is this Barbados Labour Party, Mr. Speaker, that passed legislation in this country which protected people's rights to education and in fact it is this Barbados Labour Party which started free secondary education. So that when we set the record straight, when we look at who has really done what, we would recognise it is a fact, free secondary education in Barbados, Mr. Speaker, and it is part of the myth of the Democratic Labour Party, was started...

Asides.

Hon. Miss H. E. THOMPSON: Free education in this country started under the Barbados Labour Party at the St. Leonard's Secondary School and the continuation of it was in our Manifesto at the time but the foundation was completely laid by us. The Democratic Labour Party won the elections and then continued to carry out what had been the existing policy at the time.

It is time, Mr. Speaker, that we take a look at those persons or which party in Barbados really is the defender of the poor and black.

Mr. SPEAKER: The Honourable Member has two minutes to conclude.

Hon. Miss H. E. THOMPSON: It is time that we strip the Democratic Labour Party from what are its commonness.

Dr. R. C. HAYNES: On a point of order, Sir. I think the Honourable Member is being unfairly deprived of her time. I think she has another IS minutes to go.

Mr. SPEAKER: No point of order. Let us continue please. The Honourable Member for St. Michael South Central is enjoying listening to you.

Hon. Miss H. E. THOMPSON: Mr. Speaker, Sir, the Honourable Member for St. Michael South Central, as usual, rises to entertain us and to bring some element of humour and mischief into the debate and I accept that.

Mr. Speaker, Sir, it is time that the public of Barbados does not allow itself to be fooled by the Democratic Labour Party. That while their mouths speak of a defense of the poor and the black, while they purport to curse all that is white in Barbados, that in fact much of what they are doing and have done promote the interest of those persons as opposed to the interest of the poor and black.

I wish, Mr. Speaker, as I resume my seat, to commend the Honourable Attorney General and the Government for this piece of legislation which will protect Barbadians and tourists alike from being annoyed, threatened, accosted, harassed by persons engaging in illegal activity. And we can all walk in Barbados knowing that we are protected from that type of illegal activity. Thank you very much, Sir. 12.30 p.m.

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

Mr. L. R. TOLL: Mr. Speaker, I want to say at the beginning that there are two lines that I propose to follow in this contribution. One relates directly to the amendments that are before the House and the other refers to the substantive Vagrancy Act. Let me say first of all, Sir, that I have no quarrel with the Government in seeking to bring some order to society. It is not necessary for any Honourable Member in here to get up and say that I am for law and order. We take that for granted and I am sure that every Honourable Member in here whatever he professes in his speech is against the indiscipline that has crept into this society and is working havoc on the way we live and do business. I believe, Sir, there is no quarrel about that and everyone accepts that.

I have heard in the course of the debate a lot of protestations about what happens on the beaches and tourists and so on. I will at some point talk about what has happened to Barbadians. But I want, Sir, to say that in respect of the legislation dealing with accosting, threatening, annoying and harassment I have no fundamental difficulty. Everyday, Sir, I park my car in Bridgetown and as I am walking to and from my office I am the subject of a tremendous amount of harassment from persons who want to wash my car. If I say no, that it was washed already, sometimes I am met by a string of abuse. So I understand that. I am not a tourist. I am a Barbadian living here. I understand the difficulty.

I would however, Sir, like to look at the substantive Vagrancy Act. I think the Psalmist, David, captured it best. Somewhere he said, it was shaped in wickedness and conceived in sin. That is the Vagrancy Act, Sir.

Aside.

Mr. L. R. TOLL: Psalm 51. I am going to deal with that as separate and apart from the amendments. There is no doubt at all that this particular Vagrancy Act, the substantive Act that we are talking about and not the amendments today, is a piece of legislation that is vulgar and gross and an affront to the sensitivities by ordinary right thinking Barbadians. I tell you, Mr. Speaker, Sir, that I am not going to use any hyperbole nor am I going to use any colourful language. I am going to say it exactly how I see it.

The Barbados Labour Party has long rightly boasted on its political platforms and in its literature about its repeal of the Located Labours Act. That iniquitous piece of legislation required persons who lived in areas like my constituency who work on the plantations of Barbados almost for carry a passbook. It is the equivalent to the passbook legislation in South Africa before the end of apartheid. It is equivalent to the Bastustan legislation where people were confined to an area and were deemed as criminals and punished for moving outside an area in the country of their birth. The Located Labours Act in Barbados was equivalent to that. We have long boasted on this side that when we had an opportunity to do something about it that we did something about it. No longer were Barbadians to be the pawns of the owners of plantations in this country and a minor offence at one plantation should not be good enough reason for the deprivation of one's livelihood at every other plantation in Barbados. That was our proud boast, Sir.

This Vagrancy Act is offensive to me and I have said it to my colleagues. It is offensive for all the reasons that I have already stated and many, many more. One can take a look perhaps at the seminal work of George Lamming

"In The Castle Of My Skin", a book that I read perhaps 35 years or more ago and which made an important impact on my thinking on these matters. Because, Sir, I grew up in Carrington Village next door to Belleville. For a short time, I also lived in Peterkin Road, Bank Hall next door to Strathclyde and I know from personal experience the devastation that was done to people's lives and psyche because of this kind of legislation that has remained on the statute books too long.

Now I do not want anybody, Sir, to say to me now or subsequently that this Vagrancy Act has been before Parliament before and certain positions such as being stated today were not heard. That is intellectual shallowness, Sir. To say that because you did not take a stand against evil yesterday, you are doomed and damned forever for taking that position. I do not even want to hear that. When I was in Third Form and that kind of argument was injected into a Third Form debate, it would be met with howls of derision. Now I do not want to hear that, Sir. If there is something wrong with the submissions that were made in respect of this based upon historical and sociological grounds, I am willing to listen to them, Sir. I really am going to listen to them. The Opposition must find no comfort in my words. The Leader of the Opposition found himself in a very difficult position of having to pray my name in aid for arguments that he is making. Everything is the Honourable Member for St. George South who supported this, that and the other.

When I sought to rise, Mr. Speaker, in this debate, Your Honour looked in this direction and obviously did not see me and gave the floor to someone whom you saw. I believe that it was the Honourable Member for St. Michael South Central. I really would have liked to have had my say at that point. Because I do not want anyone to get the feeling that anything that I say is an afterthought. The Honourable Members on this side know full well what are my views in relation to this issue before us today because they have been stated. I want, Sir, to say also that we have to be very careful. I am not quarreling, Sir, and I am going to repeat it. I am not quarreling with the provisions of the amendments that seek to tighten up on the indiscipline in this society. I am all for that, Sir. But I do want to give the Government a word of warning. This country has got a lot of laws. I have heard the argument so far in favour and I hear who has been wounded on Settlers Beach and who has been choked, and indecently assaulted and who has been grabbed on Broad Street, and all of this. I am saying, Sir, that there are already in the laws of Barbados provisions for all of these things. Indecent assault is covered by the Sexual Offences Act

Aside.

Mr. L. R. TULL: All the offences that I have been hearing...

Mr. SPEAKER: Let us hear the Honourable Member.

Mr. L. R. TULL: We have also, Sir, the Offences Against the Person Act. We have the Petty Trespass Act covering 90 per cent of most of these things. These things are already covered in the laws of Barbados. Now there are two perhaps of the new ones that are not, they relate to annoying and harassing. Threatening a person is already covered under the Magistrates Jurisdiction and Procedure Act and the penalty for an offence under that Act is to be put on a bond. I am wondering therefore, Sir, whether with the use of threats under a different piece of legislation with a \$2 500 fine and an alternative of two years and/or two years' imprisonment, the government should not at this time take a look at and do something about threats which already appear in other legislation. But the two areas that are new, Sir, the annoying and harassing, I am troubled about the fact that they have not been defined. 12.40 p.m.

One learns very early in law school, Sir, that the law must be certain. That is a fundamental principle of law. Everybody must know what the law is, and when we are dealing with annoying and harassing, although there are definitions in the British law, I am not aware that there are definitions of annoyance and harassment in our law, certainly not in this particular piece of legislation, that will guide over-zealous police officers from muscling in where they should not I speak as someone who deals with these matters on a regular basis. I think we have to clearly define these matters so that those who are to enforce them would know exactly what they are to deal with.

On this question of enforcement, Sir, let me just say that the problems in relation to the principles of the Vagrancy Act, or the objectives, relate less to punitive legislation than to enforcement. If one listens to the arguments for the legislation, one continually hears the question of enforcement. It is not that there are no laws to prevent people from locking off people's necks on Broad Street, or assaulting indecently or otherwise somebody on the beach, there are already laws to cover that. The weakness is the lack of enforcement, and the lack of enforcement derives from the lack of resources. Perhaps a lack of will too. So all this debate should not be about the need for more hammer blows as punitive legislation, because there is legislation by and large already in place. But what we are lacking is, as I said, the resources or the will to enforce.

I want to throw out another caution, Mr. Speaker, and it relates to criminality versus social illness. Most of the people who move around and harass people and are nuisances around the streets of Bridgetown, the beaches and so on are persons who are not criminals in

the traditional sense of the word "criminality". There are a number of persons out there who, because of the pressures of modern living, the difficulties of the hard economic times, the lack of jobs, the stress and strain in their homes and the society, are, to put it euphemistically, a little off and those persons are the ones who tend, to a very large extent, to be the nuisances, those who harass and annoy. We have to be careful that we do not seek to impose legal sanctions where what we really need are social cures. I, therefore, Mr. Speaker, have no quarrel with the general objectives, but those points I have made trouble me.

The Attorney General said that he will refer this Vagrancy Act to the Law Reform Committee. That tells me that he has trouble with it too, Sir. There is no reason for him to submit it to the Law Reform Committee unless he has certain misgivings about it. But I want to make a point, and I do not like to do this, because I hate to make points that have been made by persons on the other side before me, and particularly one individual, but since I believe it I have to say it.

I believe that law reform must involve persons other than lawyers. Lawyers are the technicians. You have to determine a policy, you have to determine what the policy is before you go about reforming it, and although I hear a list of persons who will be a Law Reform Committee, they are lawyers. They are those who have a number of concerns and knowledge and interest in many of the social problems in this country, and who are capable of making an important input before we get around to the reforming of the law. It is that recognition by the learned Attorney General that this Vagrancy Act should go to the Law Reform Committee that tells me that perhaps we have not looked at it for the last time.

I know the gestation period for matters that go before the Law Reform Committee. I have seen some Bills before the Law Reform Committee for 15 years. Some have not yet been born, the gestation period is still going on. I have seen law reform matters that engaged my attention, even if cursorily, when I was Attorney General which were there during the time of my predecessor - I believe he was the one who started action on them - and even now those Bills have not come before Parliament, they are still in the gestation period. I hope, Sir, that this particular measure will not suffer the same indignity.

I want also to make one final point in relation to the mechanics of this thing. I made the point that I do not object to strengthening measures to establish law or maintain law and order in this country, but I believe that the Vagrancy Act is the wrong vehicle. It is so tarnished, it is so iniquitous; as I said, Sir, it was shapened in wickedness and conceived in sin, that it should not be the

vehicle for the normal aspirations of the Government in trying to bring a measure of law and order in this country that is slipping. I have suggested, and I do suggest again, that if the beaches and the highways are the arenas in which this anti-social behaviour is being worked out, the Highway Act would have been a better vehicle for the annoying and accosting and harassing and so on on the highways. The Parks and Beaches Act, which was specifically introduced in this Parliament to deal with many of the problems that existed in the parks and on the beaches in this island, would have been a better vehicle for the inclusion of the measures that are before Parliament today. 12.50 p.m.

I want further to say that in relation to the mechanics we have difficulty with too many offences and penalties for the same conduct scattered over different parts of the legislation. I will give an example, Sir. If someone on a Saturday morning when Bridgetown is full of people stands in the middle of Broad Street and uses indecent language, the fine is \$10. If that same person leaves Broad Street and goes into Queen's Park with nobody around other than an island constable or a police officer and bellows a few indecent words, the fine is \$500. Under this legislation now, if you threaten, you have to pay \$2 500. If you threaten in a public place other than the beach or the highway, you can only be put on a bond. If you use insulting language in one part of Barbados, there is one penalty, insulting language in another place a different penalty.

I am not blaming these discrepancies on anybody. All I am saying is that it is time that we look to tidy up these things and make them a little easier for comprehension by those who have to enforce and those who have to work in those areas.

I want to say one final word on this business of criminality as against social illness. The law is quite clear that you must intend criminal intent when you behave a certain way. Many persons who would be affected by this particular piece of legislation and who may find themselves before the courts and indeed given the 2 years or part thereof or fined the \$2 500 or part thereof are people who cannot reasonably by any objective criteria be considered criminal in intent.

I want to make it absolutely clear that we have to develop a society that is based on an empathy by some of us who could afford it and sympathy by others for those in this society who are marginalised and disadvantaged because of the circumstances of their daily lives. We have a duty to them, Sir. We must be very careful not

to criminalise those who through no fault of their own are the victims of the social pressures and behave not as criminals but as persons for whom our society should be providing the cures and the considerations through its social agencies. We have to be very careful about that, Sir.

I know, Mr. Speaker, that what I have to say may be not welcomed in certain circumstances but I have to speak from my heart how I feel. I have heard the question of burden of proof being raised again. It is true that in many sections of our law many Acts of Parliament, I have seen 5 as I was trying to research and I am sure there are a lot more, there are areas where the burden of proof falls on the accused person, mainly in the areas of licences and so on. That is understandable.

This particular piece of legislation not only deals with persons who are offering to sell goods on the beaches and highways but it deals with people who are annoying and threatening. As far as I have read the Bill, it says "or selling goods". The reverse burden of proof is something that we need to look at. To say that it is already in our law, so what is the big thing, is to condemn ourselves to remain forever flat-footed. We don't move on.

Although the reverse burden of proof, as it is called in law, exists in a few areas of our legislation. I believe that more consistent with the purpose and intent of our Constitution we should look to see to what extent we can minimise it and, indeed, where necessary, to remove it.

I am not one to say that it should be removed in all cases. If a man is charged for driving without a licence, as the Honourable Member for St. James South has said, the best way to get that over with is to say produce your licence, if you have one. I have no quarrel with that, Sir. I don't think that if I am walking through Spry Street at half past eight at night and I am approached by a police officer who wants to know what I am doing around there - I am talking now about trespassing, wandering and this kind of thing - that a burden should be thrown on me to show that I had good reason to be there. I don't think that is right, Sir.

I believe that in an overall look at the debate as it has gone so far... I hope the Government will see a lot that can be improved. Obviously, a lot of the criticism that has come from the other side has been partisan criticism, criticism just for the sake of criticising, arguments that this is a diminution of the rights of Barbadians - I don't think that is a serious argument - that we should be seeking more to enlarge the rights of people. I don't understand it in the context of this particular piece of legislation.

I am glad the Honourable Members on the other side agree with the strength and conviction of the arguments

that I have used in this debate. I want to say finally because I don't believe that there can be any serious quarrel with putting the Vagrancy Act in the context of modern Barbados by looking at where it came from, what were its original intentions to see the iniquitous provisions that have affected the lives of Barbadians all over the years. I applaud the Attorney General and the Government for bringing the legislation to end the provisions about deeming people "incorrigible rogue and vagabond" and "idle and disorderly persons". And that is an acceptance by the Government that that particular piece of legislation, the Vagrancy Act, was badly flawed.

All I am urging, Sir, is that we go a step further and repeal the legislation, the Vagrancy Act. Take out those sections that we can live with, place them in other existing pieces of legislation because all of them are there already. The Parks and Beaches Act, the Highways Act and a number of pieces of legislation are there where anything that can be salvaged from this intrinsically evil Act that was passed in the last century can be put in other bits of legislation that are not as unpalatable as this one is.

It would have been a remarkable thing if when apartheid came to an end in South Africa that the new Mandela Government would have taken the most vicious bits of apartheid legislation and said "Let us juggle. Let's exorcise this and leave in this. Let's exorcise that and leave in this." We at this end of the world would have been ridiculing and wondering what was going on in South Africa and why were we giving our support over the years to a government that did not have the courage and the will to bite the bullet and scrap and repeal all the legislation that worked social and economic hardship on the vast majority of the people in that sad land at that time.

Mr. SPEAKER: The Honourable Member has 2 minutes to conclude.

Mr. L. R. TOLL: By parity of reasoning, Sir, it is incumbent on all right thinking people in this society and every single Member of this Honourable Chamber falls in that category... Every single Member of this Honourable Chamber falls in that category. It is incumbent on us, as we go along, to remove and excise from our body of legislation in this country all of those residual bits that offend the decency and dignity of modern Barbadians. This would be a good start. 1.00p.m.

I have no apologies, Sir, for saying that I would like to see this gross and vulgar piece of legislation, not the amendments, the substantive Vagrancy Act removed once and for all from the statute book of Barbados because it has...

Asides.

Mr. L. R. TULL: Mr. Speaker, I am being troubled by the asides.

Mr. SPEAKER: Let us hear the Honourable Member.

Mr. L. R. TULL: Mr. Speaker, I believe that I have covered all the areas that troubled me about the Vagrancy Act. I have no difficulties at all, Sir, in supporting amending legislation that will bring more order and discipline in this society whether it be on the beaches or on the highways of Barbados.

Thank you.

SUSPENSION OF SITTING

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that this sitting be suspended until 2.00 o'clock.

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

The question that the sitting be suspended until 2.00 o'clock was put and resolved in the affirmative without division. Mr. SPEAKER suspended the sitting accordingly. 1.04 p.m.

RESUMPTION Mr.

SPEAKER: This sitting is resumed.

Rt. Hon. L. E. SANDIFORD: Mr. Speaker, I rise to make my contribution to this particular debate on the Vagrancy (Amendment) Bill. I speak as the representative for St. Michael South. I speak on behalf of the people of St. Michael South and on behalf of all Barbadians. I believe what the people of St. Michael South and the people of Barbados are interested in is that they can live in their homes, they can walk around their neighborhoods, and they can go to their places of work or recreation in peace without being offended by aggressive words or acts, and that, generally speaking, they can live in a community and in a country where the rule of law prevails and where peace and justice are the order of the day.

I make no hesitation, Sir, in proclaiming my own position. I am a strong believer in law, order and discipline. Unless we have a firm regime of law, order and discipline in this country, our society and our country will deteriorate; and we will find social conditions becoming worse, and they will impact and feed into the economic situation and into other areas of our national life. So, Sir, I make no hesitation in saying that I support the call of the Attorney

General and Member for St. Thomas for a strong regime of law and order and his desire, which is the desire of all right-thinking Barbadians, that the laws of Barbados should be enforced and that they should be strengthened wherever that is deemed necessary.

I make no hesitation, Sir, in saying that I, from my own conscious position, am a believer in the death penalty. I believe in that, and I also believe that there are enough opportunities for attorneys and those persons who defend themselves to obtain justice in capital offences if they are so involved. I believe there are enough opportunities, nay enough loopholes, for justice to prevail by and large in an imperfect world.

On this particular Vagrancy Bill, let me say that the Attorney General and the Government would have heard from both sides of the House now, from the back benches on his own side, and from two very powerful speeches on this side made by the Member for St. Philip South and by the Leader of the Opposition, expressing deep concerns about the intents and the impact which the amendments to the Vagrancy Act may have. I share those concerns.

I believe the person who has put it strongest is the Honourable Member for St. George South. "Gross" was certainly one of the terms which he used in respect of the legislation and I share that view. We share a lot in common. 2.10 p.m.

As he gets older, Sir, I am speaking about the Member for St. George South, he is becoming a little more mature and mellow. He is approximating to the positions which the Member for St. Michael South has enunciated down through the years. We see eye to eye on a number of issues.

We are now in the year of grace 1995. Let us reflect, Sir. It is almost 100 years ago a major Amendment to the Vagrancy Act was put on the Statute Book, 1897, as far as I recall it, Sir. The roots of that particular piece of legislation meanders far and wide into the social history, and the legal history and arrangements of Barbados.

I believe we can go back into the fourth decade or indeed even the second decade of the 19th Century and before, in respect of this concept of "Vagrancy". I recall in one of his famous Essays, that renaissance scholar, jurist and philosopher, Sir Francis Bacon started one of his Essays with the words:

"What is truth? said jesting Pilate, and would not stay for answer."

What is a vagrant, we may ask today? I will pause for the answer. But I will say that, perhaps, but for the grace of God, go all of us. Because this piece of legislation, when put into its social context, has tried to bring to heel those persons in society, some of whom through no fault of their own, who could not make their way in society. In all societies some people tend to fall through the cracks. But this particular piece of legislation, Sir, has a very strange social history because Governments have attempted down through the years, if we go back to the break up of the feudal system where legislation was put on the Statute Book, in the form of Statutes of Labourers and Artificers or some such term, to prevent the mobility of people, and to prevent persons from moving away from their customary places of employment to seek other freedoms and to seek upward mobility in the society.

In our own society and context in Barbados, Vagrancy was a concept that was used to keep persons located around certain plantations so that they would not disturb the relationships between employer and employee.

I share the view that while it is necessary to have, on our Statute Books, the Laws that will protect law-abiding citizens from errant or deviant behaviour, we must put the matter within a proper social and legal context

I should like you, Sir, to follow carefully the line that I am taking. We need legislation to protect society and the public from anti-social behaviour. At the same time, we need to protect the rights, freedoms and aspirations of people to go about their lawful pursuits but, in a way, that does not offend the rights and freedoms of others.

I do not believe that, in seeking to strengthen a regime of law and order in our society, we should be relying on the crutches of a piece of legislation that, in its legal, its historical and its social context, is legislation that really should be removed from the Statute Books. I do not believe so, Sir. Rather, I believe that it would be quite feasible for a new piece of legislation dealing with these matters to be introduced and placed on the Statute Book.

I would therefore urge the Attorney General to start afresh on this matter. I believe the behaviours which he is seeking to deal with can be dealt with under other pieces of legislation. I believe so, Sir. I think the Member for St. George South referred to some of them. I am not getting into the legal argument. That is for the Attorney General to deal with. He is a member of a Cabinet that has 90% or 95% Attorneys-at-Law in it, certainly from this House.

The only trouble, Sir, is that there are few there, if any, who are able to challenge the legal scholarship of the Attorney General. So that when he brings the full weight of his grasp of legal niceties to bear on the matters, the

others probably sit in awe, bemused that one man could be as comprehensive and decisive in his...

Aside.

Rt. Hon. L. E. SANDIFORD: That is exactly what I am saying, Sir. He has a free run in these matters.

I would urge him though, on this issue, to think twice about it. Think again. We do not speak lightly in here on these issues. I believe that Parliament is a place, and should be a place, where we seek to bring Laws into being that would make our society a better place, but that takes into account our historical development, where we have come from, where we are, and where we wish to go. The opportunity should be provided, and we should create the opportunity whereby we ensure that Parliament fulfills that particular role. I am urging all of this on the Attorney General. I know, Sir, he has taken the point, because very early in his address or somewhere in his address, he indicated that this was a temporary or stop gap measure to deal with what he conceives to be an immediate problem. He must now indicate, Sir, why the matter cannot be dealt with under other pieces of legislation as his colleague and former Attorney General, the Member for St. George South, has indicated. From my own position, Sir, I would urge it. 2.20 p.m.

I find it difficult, Sir, apart from the cosmetic changes to this piece of legislation, to place the onus of a regime of law and order for Barbados, as we approach the turn of this century, on a piece of legislation which has its roots in the problems that were placed on the backs of the masses of people in this country.

I have not attempted, Sir, to give any definition of "vagrancy" or "vagrant". I know, Sir, that in other jurisdictions, for we are not the only jurisdiction to use this concept and this legal device, legislation of this type has been used as a convenience to deal with other problems in the society, and that the rights of persons have in fact been abrogated or suppressed in other jurisdictions. I would hate to think that we would wish to prolong that kind of situation any longer in our country. I think that far from coming with an amendment, we should be coming with a different piece of legislation altogether. The Member for St. John referred to it. We should be coming with a creative piece of legislation; and I believe that if we put our heads together we can do just that, and come up with legislation that would protect the society and at the same time guarantee the rights of individuals to seek a living without undue harassment in the land of their birth.

Sir, I make an appeal for this amending legislation to be postponed for further consideration and I may add,

not only further, but more mature consideration. We may then come back with perhaps an entirely new piece of legislation which this House could give its total support to. I believe we are capable of that. That will be my contribution to this debate.

I would however like to add, Sir, that we should not come up with the kind of argument which I believe is due to immature consideration of the legislative and political process, namely that you had 8 years and you did not do it. We can continue down that road and say you had 10 years before that, from 1976 to 1986 or from 1950 to 1961, or 1961 to 1976. We can go with that argument! However, out task today and onwards, our task now is to try to make the legislation better, and to use it as an instrument to improve socio-economic conditions in our country. So, while in here we are not on a political platform, we are here to work constructively on behalf of the people of Barbados.

As legislators let us take this task seriously. All of us representing our different parties, can come up with the measures passed in a legislative session. I can give a list of the reforming legislation or of all the measures passed during the period 1986 to 1994. I can do that, very significant legislation; and you will find that under a most enlightened Attorney General, Mr. Maurice King, tremendous work was done in trying to improve the corpus of legislation on our statute books. And no doubt from 1976 to 1986 they could put up a list, although they must start with things like the Education Act which was put on the Statute Hoc* in 1975, repealed in the early 1980s and then put back on the Statute Bode with 90% of the 1975 provisions in it

Mr. SPEAKER: Honourable Member, I do believe you are still addressing the Vagrancy Act

Rt. Hon. L. E. SANDIFORD: Yes, Sir, it would be an act of vagrancy not to do that! I think I have made my point, Sir, and I myself do not wish to become guilty of what I said we should have been doing. I wish to stick to the particular point. I have appealed to the Government to take a second look at this matter and let us think about it and come up with something that can meet with the approval of both sides of the House. I thank you, Sir.

Hon. Dr. R. L. CHELTENHAM: Mr. Speaker, I really had no intention, when I came here earlier today, of participating in this debate because even though it is a televised debate no one must run away with the impression that it is the most important measure we have had to deal with in this House for a long time or anything of the sort. It is really routine amendments, as it were, to the Vagrancy Act which has been on the Statute Book of this country ever since 1840. Even though the Act was born in

circumstances which would suggest that we should sooner rather than later repeal the Vagrancy Act in its entirety and remove it from the Statute Book, the point is that it is a useful vehicle for over a century not only in this country but in the United Kingdom and in many parts of the Commonwealth where it has been common form of legislation to control elements of lawlessness and disorder in the society. What is being done here on this occasion is to further amend the Vagrancy Act so as to address particular problems which have been manifesting themselves in our society of late. 2.30 p.m.

All of that would have gone on without my involvement had it not been for the alarmist signals, which in my respectful submission were sent by the Honourable Leader of the Opposition when he spoke. I thought that his tone was exaggerated, that he distorted the context with which this matter has come to Parliament and, to that extent, it merited a response on my part. Because at the end of the day this amendment is intended not only to make Barbados a more safe and secure home for all those who live within its boundaries as fellow Barbadians, but it is also intended to make sure that it is an attractive haven for those who come from abroad to spend some time here as tourists. It is in that context that I greatly welcomed the speech made by the former Honourable Prime Minister and Member for St. Michael South. I thought myself that it was a sharp denial of many of the utterances of his youthful Leader of the Opposition. I thought that his speech represented what we have come to welcome and that is that he is a "break" on the misguided enthusiasm of his youthful leader. That is very important because the Leader of the Opposition holds heavy responsibility, constitutional responsibility at an early age and it is not always that youth is synonymous with maturity of action and of thought. It is very important therefore that we should have a break on that side and I think that today his speech might be seen as a break on his Leader.

The idea that taximen are at risk and that beach vendors are in danger in the pursuit of their lawful activity, all of that is a horrible distortion and an exaggeration of reality. No law abiding Barbadian having an evening at the beach, no law abiding taximan going about on his job, no law abiding vendor plying his or her trade need fear the consequences of the amendments that we are introducing here today. This is intended to deal with the lawless and the disorderly and those who want to undermine those who are involved in their lawful activity. So that the taximen that I have spoken to welcome these amendments. The vendors on the beach who are authorized to sell who have their selling licences have been undermined by the lawless, by those who are intruding without licences. To that extent, they too welcome these amendments.

In an ideal world, one may argue that we should wait until we could have repealed the Vagrancy Act and

bring a new piece of legislation to deal with these recently manifested problems. But we do not live in an ideal world and, as a Government committed to action and to the maintenance of law and order, we have got to act. That is precisely what the learned Attorney General is doing and he does not act on his own behalf. He is not expressing any personal philosophy when he introduces these amendments. He is doing it because it is the will and the wish of the Cabinet of Barbados, the Barbados Labour Party administration.

Mr. Speaker, it has got to be realized, if I may address the aspect of the tourism product, that tourism has emerged as the dominant in this Barbadian economy. There was a time when sugar and its bi-products of rum and molasses had that place. There was also a time since the 1950's when the Barbadian economy was in many respects a diversified economy in terms of its strength and the sources of foreign exchange. We relied not only on sugar and its bi-products but also on manufacturing activity. Up to the mid-1980's, we were exporting in excess of a half billion dollars. There was a time too when we relied not only on sugar as I said and manufacturing but also on tourism. But the story is a well known one that in the last 10 years in particular and it happened to have coincided with the rule of the Democratic Labour Party. I am at this point attaching no blame but sugar has moved from being an important sector producing up to 1986 111 000 tonnes to the point where in 8 short years we are struggling to produce 36 000 tonnes of sugar. It has moved to the point, Mr. Speaker, where we have to import molasses in order to sustain our rum industry which has been growing by leaps and bounds. Regarding manufacturing which realized up to half a billion dollars in exports in 1985/86, we are today only at the level of producing \$200 million resulting from manufacturing.

The point that I am making, Mr. Speaker, is that tourism is exceptionally important in this Barbados economy being not only the biggest earner of foreign exchange in excess of one billion dollars, but it is the biggest employer of labour directly and indirectly of about 22 per cent. It is also the biggest buyer of goods and services from the rest of the Barbadian economy.

I do not recall whether the learned Attorney General emphasized this in his presentation, but we have had several complaints from visitors not one or two. It is easy to react in the face of one or two letters in the Press or one or two complaints reaching the Barbados Tourism Authority or the Ministry of Tourism. But we have had surveys done and it would appear that in one period some 15 000 visitors or so were surveyed and upwards of 50 per cent of them complained of harassment in Barbados either on the beach or in the streets or elsewhere. Now that is

serious and it comes in the context of a situation in which Advisories have been issued by the U.S. Government and the U.K. Government with respect to Barbados suggesting that it is a place where it is not necessarily as safe and secure as it used to be and that there are elements of lawlessness, high incidents of harassment and threats, and all of the rest which constitute a direct attack on the quality of our tourism product. It is very important for us to maintain that at the highest level.

Sir, that is part of the background. Many have already spoken of harassment which we as Barbadians experience in our own country. 2.40 p.m.

The Honourable Member for St. George South spoke of incidents of harassment on a daily basis almost with respect to people who want to wash your cars, who snatch your keys from you. Even when the car had been washed hours before they want to wash it a second time, all within five hours and so on, all of that goes on in Barbados even in the face of a polite and firm "No, I have had it washed earlier today," or "I will wash it tomorrow, not today." All of that goes on and many of us have been victims of that. So that we have problems which we have to address and we cannot afford to wait until the perception about Barbados is such that the quality of our product is spoilt in the eyes of visitors. That explains in part why it is that we have to act and act with despatch.

Harassment is a relatively new concept in the law. The Honourable Member who just spoke, the Member for St. Michael South, was right when he says that it does not admit of precise definition. You posed the question with respect to what is a vagrant and you ran away virtually without providing the answer. The Caribbean Tourism Organisation did a study on visitor harassment many years ago and it alluded in the course of the study to the difficulty of defining with precision the notion of harassment. You are approached three times within an hour by the same vendor and asked to make a purchase and you say on each occasion, politely, "No, thank you, I am not interested today." How many times would he have to approach before he is guilty of harassment? Will it be four times? Five times? Three times? I have travelled a great deal, both in my private life and in pursuit of the public's business, and I have in many countries, both developed and developing, encountered those sorts of experiences. It is a very subjective thing as to the point at which it becomes harassment. An element of persistence and intimidation obviously has to be present, and some people would say that three times within an hour represent harassment and others would say that is forgivable. Perhaps if he came five times, but not three, and so there is a large subjective element about it.

We have to rely, Mr. Speaker, on the good sense, the experience of Barbadian life, the judgement of our judicial officers to determine the point at which one has gone beyond that thin line, and so we can only put the legislation on the Statute Book, trying as best we can to dissuade fellow Barbadians from behaving in that particularly offensive manner, but at the end of the day it will be left to the Magistrates using their best judgement, their experience and their good sense, along with the evidence that is provided, in order to determine when one has committed that offence of harassment or fall short since committing that offence. It is not intended to frustrate taxi men, who are going about their lawful business; it is not intended to restrict in any way or to inhibit vendors on the beach or on the streets, it is not intended in any way to interfere with lawful Barbadians going about their business. These amendments are intended for that small lawless element that if we are not careful will undermine the activities of the beach vendors, of the taxi men and of all fellow Barbadians who are interested in the promotion of their country and in law and order in this society.

The point has been made, Mr. Speaker, that other pieces of legislation on the Statute Book could have addressed the particular problems with which we are concerned, and to that extent there is some overlapping here, but I do not think the case can be made that it is unnecessary overlapping. For example, there are in the National Conservation Commission Act provisions dealing with harassment on the beaches, but that does not extend to harassment on the streets, and we know that the problem is not only a problem on the beaches, it is a problem on the streets, and the Government in its wisdom, acting on the advice of the Attorney General, has decided that the best way of addressing the harassment on the streets, bearing in mind that that is already dealt with by the NCC Act with respect to the beaches, is to amend the Vagrancy Act and to make provision for it.

Equally, Mr. Speaker, threats are dealt with under the Magistrates Jurisdiction and Procedure Act, Section 98 I am reminded, but that addresses a situation where neighbours threaten one another for the most part, threats in the village, and in order to restore order the Magistrate has the power to impose a bond as a disciplinary measure. He puts you on a bond to keep the peace and be of good behaviour, but when you threaten people outside of your village, when someone who is living in one of the northern parishes decides to come to town and threaten fellow Barbadians or threaten visitors, a bond is not perhaps the appropriate punishment for him, and so we needed to increase the penalties there. To that extent the Attorney General again thought it wise that we should make provision for this situation which I have identified by amending the Vagrancy Act. It is true that there is overlapping, so it would appear, but we are suddenly

addressing new issues that have arisen. New manifestations of lawlessness and disorder when we are using the vehicle of the Vagrancy Act by way of amendment in order to tackle these problems.

While supporting the view, Mr. Speaker, that sooner rather than later we should repeal the Vagrancy Act, we cannot wait until that ideal moment has come, that is some time in the future. As a Government we have the responsibility to act now and to make sure that all of these manifestations of lawlessness are addressed and tackled in the most vigorous and determined manner, and that is what this Barbados Labour Party is doing.

Mr. Speaker, I do not want to deal with the misdeeds of the past administration. They are well known and one of the reasons why the Barbados Labour Party is in office and they are in Opposition, why we won in the decisive way the last election and they lost is because those matters were put to the electorate and the electorate was satisfied that the Democratic Labour Party was found wanting, and that there was a strong case for changing the Government. So that unlike a lot of other speakers I am not interested in going back into the past. I know I cause uneasiness when I mention it at all although for a long while it might be proper and will be proper that the Democratic Labour Party, the Other Side, should be reminded of some of what constitutes our inheritance, some of the mess resulting from their deeds and misdeeds. 2.50 p.m.

I mention that, Sir, in the context of a statement made by the Honourable Leader of the Opposition that somehow this is an attack on the small man. This small man in Barbados is a very elusive fellow if I may put it that way, Mr. Speaker. We are not too sure who precisely is this small man, but we politicians like to raise him up and suggest that you are affecting the small man and to that extent your actions may not be legitimate, may not be politically acceptable.

It is the small man on the beach, the man who is vending and who has put himself to the trouble to secure a licence from the NCC who is being undermined. The taximan in Barbados is a small man and he is being frustrated as he goes about plying his trade when lawless men who are also without licences trying to act as taximen destroy the reputation of the taximen generally. This legislation is in an interesting way designed to protect that small man and that is consistent with the whole history of the Barbados Labour Party in its 56 odd years as an organisation.

We have always been concerned to lift up and empower the small man in this country and because that

is part of our proud history, Mr. Speaker, I do not lightly allow any spokesman, whether he be the Democratic Labour Party spokesman or any other spokesman, to attack the record of the Barbados Labour Party in terms of lifting up and empowering the small man in this country.

I want to say something else. Government has been attacked for shifting the burden of proof in one particular area in the amendments which we have introduced or are introducing. We say that if in truth and in fact you are a legitimate vendor on the beach or on the street and you are approached by the police and you cannot show your licence, or he has good reason to believe that you have no licence, that having been arrested and charged it should be your responsibility to prove that you have a licence. That is good and old legal practice.

The Honourable Minister of Health, although the Honourable Leader of the Opposition attempted to discredit her contribution in that respect spoke to the point in a very sensible way. It has always been the law, certainly well over a century that if you are a holder of a licence but the police has reason to believe that you are not and you are charged for not having a licence, for not having an insurance policy, for example, and that is the illustration that she gave, the burden of proving that you have one is on you. Who would better know if you have a licence than you?

You have a good 5 days if the police hold you and there is an accident to come and show at the nearest police station that you have a licence. These days to have a photocopy to leave with them. It is known as the doctrine of "peculiar negative environment". It is based on the simple premise that no one knows better than the holder of the licence or the insurance policy whether, or not he has one. So the burden is put on you, if indeed you are charged for selling - it is only in relation to that section - on the beach, selling on the street without a licence that you should have the responsibility of bringing forward that licence. That is all that we are doing so that we are not doing anything that is not known to our jurisprudence, that is not known to our legal system.

It is consistent with good sense in the law and practice in this country for over a century. If you are the holder of a licence, if you are the holder of an insurance policy and it is suggested that you are operating without a licence or without an insurance policy • that the responsibility is put on you to come forward and show your licence or your policy. That is my understanding of what is meant by the burden of proof, that the responsibility of proving that you have one is not on the prosecution but on you the accused or the defendant That is the position, Mr. Speaker.

Without prolonging my contribution, I would just want to assure the House and through the House the general public that these amendments are minor amendments that constitute no threat to law-abiding citizens. They are intended to root out elements of lawlessness in the form of harassment and annoying behaviour, intimidation and threats which have manifested themselves on our streets and on our beaches.

We have to act speedily consistent with our mandate and consistent too with our determination to ensure that Barbados will not be only a safe and secure home for fellow Barbadians who live here but for all those who come within our midsts, including the tourists.

Mr. L. A. WEEKES: Mr. Speaker, a few days ago I was trying to convince some of my colleagues that when we speak in Parliament we should speak as the conscience of the people. When we try to analyse the conscience of the people in the Barbadian context, they abhor crime. They believe in good behaviour and they adore law and order.

The Honourable Member for St. Joseph has a tendency to quantify by saying a "minority", and now in the last one he said "a small number"; but these generalised statements need more explanation. If there is a small number, tell us what percentage of the population is regarded as that number. I do not think that we should extend ourselves in here on a law just for a few people who can amply be made to comply with the law, as far as I know, under the present legislation.

I will not tend to go into the history of vagrancy, because all of that has been said today, Sir, and as you know the law is not my field and I will not be able to go beyond that. But the people send me here to speak on their behalf so as to shape legislation for the good peace and tranquility of this country. No matter how we try, the law will work only if the people are willing to make it work.

The law always tends to have its problems when we introduce the type of legislation which either the people do not understand or the social or the cultural development in the country will not allow them to conform to. It would not amaze you, Sir, that in my time very few people knew what the law was but they were very good law abiding citizens and they knew either by instinct or by passing on from time to time what they should do.

When this Bill was first brought - I wouldn't like to use the word "deception" - it was clearly a Bill for the tourist industry and when you make those laws although they are intended for one area it has a tendency to spill over to other areas. So that when you talk about

illegal people walking about, we have to get to the root cause of this thing - illegal because in a country like ours which has been growing and educating people in a very fast way... I hope I am not going beyond the Bill but unemployment has a tendency to show up in some of these areas. Unemployment, not because the persons do not have the skills because we are here having a lot of programmes teaching people how to work and I speak as a local person. The number of people who come to me regularly, Sir, and genuinely want to do something with their hands, but they must get a permit, are very seldom able to get one. A person may want to vend along the street. They apply for a permit and cannot get it. What are you saying to that person? Not that they want to break the law but starvation, hunger and things of that nature teach people how to survive and it is not that they want to break the law, nor would I ever encourage them to break the law, but what I am saying is that this Bill seems to be a premature Bill because the Honourable Member for St. James South said that the Government has set up a task force to deal with crime. If they are going to deal with crime, and this in my mind would have to be a BiU based on crime, then the first thing which should have been done was to see if that commission would have been able to give some guidance as to whether this Bill was necessary. It may have given guidance in such a way that before you brought the Bill you may necessarily have had to adjust certain areas of development 3.00 p.m.

I say that when this law is put in place, because the Government seems bent on so doing, a number of people will be coming to every politician asking for help in order not to break the law. I am saying that these very same people who may end up with a criminal record, never mind they have removed the question of rogue and vagabond, they will still have a kind of crime against them because in most cases these persons are not able to pay even .50. I understand the penalty is \$2 500. All that is going to do is to send the person to break the law more because if he has to find the money, how, therefore, is he going to ^et it?

I am saying, Sir, that this Bill seems to me that they could have taken a little bit more time in trying to assess other areas to assist in reducing that kind of element We have said over the years that when tourism came to Barbados, I remember this very well, it will bring with it a number of problems. Once it has brought these problems we have to deal with them.

I have no difficulty in trying to suppress or to wipe out any serious crime within the country but what I do have difficulty with is that it may make more criminals out of people who do not want to be criminals. That is an underlying statement which a lot of us never pay attention

to. People must be given the opportunity to make that kind of livelihood without getting into criminal activity.

I heard an Honourable Member talked about putting necklaces around a person's neck in Broad Street. I am going to use this as an example to justify my argument that there must be something before you get to that. I do not know how many people there are but I suppose if they could say how many it could be a useful thing. It would tell us how the country is either breaking down *or* destroying itself, or in some way needs attention. In most cases, those persons are persons who would be under the influence of drugs. The law could deal with that The law has really been there to deal with people who have drug problems.

What I am trying to say, Sir, is that these people are not really balanced in their minds and I am referring to a particular incident that I have seen. I have seen it myself. It seems to me that these people need to be helped. They need to be adjusted in some way rather than under this law where you are either going to put them in prison or you are going to confine them. Those kinds of people ought to be in some way investigated before you start to deal with that. That is why I said that any programme that tends to help a person to motivate himself and to get himself in the correct mode of employment is far more desirable than putting this law before him when in truth and in fact it will not help him.

I am saying that the law requires, as it is before us, some kind of preparation for this kind of law to be effective. All you are going to do, Sir, and I think the Attorney General has made the point, that he does not intend to put them in a room up at Glendairy but he will try to rehabilitate them. All of that should be done, in my view, before we start to get the clients and have no place for them. That is going to be the problem. As a Barbadian, Sir, I would prefer to see a reduction in that kind of criminal activity rather than to see the numbers increased.

It is in that context then, Sir, that any law that we put to operate in Barbados or allow to be functionable in Barbados, we must do it with the sure knowledge that it is for the good of the entire country. It must be one by which the people themselves are able to expect the benefits of the system rather than be worse off. I think we have all come to the conclusion that extreme penalties do not always help a cause. Most of these people who you find involved in these activities from my own experience - and I need not tell you, I am on the beach every day. I have two hotels very near to me and I see the people walking and I can count the number of people who are reacting in that pattern. That is what convinced me to say that very often the people who behave like that are very often

people who need attention. If the law is going to change that person and make him a better person, I believe one has the support for it but if you are talking about a person who has a criminal mentality now I have no difficulty in supporting any form of legislation that will have to deal harshly with that person. I have no difficulty with that but I fear that the majority of people who are likely to be hurt by this kind of legislation may not necessarily be people with criminal thoughts.

I listened very carefully, Sir, to the case in the United States with Judge Thomas and the whole question of harassment was a very difficult case to deal with. I listened to it very carefully and at the end of the day very few were able to conclude what was harassment. In our system here if we are not clear as to when a person is not harassing we are going to have some more conflicts. That is why I draw the thin line between the criminal and the person who may be out there for some legitimate reason. He may be a legitimate salesman but if a person has skills and he feels he could sell something, and it is not on the beach, it is an every day thing. We have a lot of young people who cannot set up stores of their own, who do not have the capital to set up anything and they have to make a living out of these sorts of things. I hope that this Bill will not in any way make it difficult for them but should encourage whichever department it is to make life easier for them to have an opportunity to continue their businesses.

That is an area too that I believe that when you stretch this thing out, it is going to bring in some people who are on the borderline, some who are in the middle and then you come to the hard persons. I am speaking in a broad sense. I am not speaking against the Bill because to speak against a Bill that inclines to encourage people to be lawful persons who should give of their best to their country in terms of image, I know Barbados has a very good image abroad both at the political level and also at the jurisprudence level. 3.10 p.m.

I have heard it and we can notice, by the number of people who are allowed to sit on international bodies. That is a plus for us. I will believe that the intention is good. But you must remember that there are always those fringe things that create problems in a society. It is in this context then, Sir, that I spoke about the law. Once it would help people to be more law abiding and give them an opportunity to make a more productive way of life, Sir, I have no difficulty with it. But if it is going to make a division in the society where people have to do a lot of black market and all of that sort of thing, then we have to look at it.

My side has called for further discussions on it but I believe there should be some social input on this Bill. I

believe people who have a knowledge of these kinds of things ought to be allowed to say something for it. Because in our haste to correct something, we may very well create something else which may be undesirable.

One law will satisfy 100% of the people but I believe that if you come to a very good percentage, the society will balance itself out. I believe that that is the setting, as I see this Bill, that it must be able to work with the least inconvenience, by the most production you can get out of it I think so, Sir. I believe that is the way to do it.

Perhaps, some of us might think that the Law is all. There is something I always remember. You could make Laws but the people themselves must feel that they have made the law. They must feel that it is done, as they wish it to be done. I bet you would get good compliance on that.

My contention is that we should try to eliminate any of the unpleasantness that could occur, if this Bill, as the Government seems decided on so to do.

The Honourable Member for St. James South made a comment which, in my view, needs to be carefully looked at, Sir. That is that, I put it in this context, free secondary education, as she mentioned it, and I am not discussing that because it is out of that free secondary education that we are more law abiding and probably, in some instances, far more progressive than other countries. I do not want to go into the history of that.

All I can tell the Honourable Member for St. James South is to look in this House, with the exception of four Members, and see that free secondary education has shown its worth, as we know it. If all of us who go through the system do not find a haven or somewhere to make life more productive, Sir, this lot will pick us up, not because we want to break the law but because we are not able to utilize our talents.

I am saying that the Government should try to evaluate, a little bit more, the social implications with this Bill, so that we do not have more people out there doing worse things and putting *far* more load on an already hard pressed Police Force. I believe that we should not try to create those situations but we should make it more comfortable for people to enjoy life in Barbados.

It is in that context that I should like to feel that the Bill itself will give, if it is passed here today, Sir, that it will be used and applied in such a manner that none of us will have any regrets of having brought it to Parliament and aired our views here and, hopefully, that the views that we have said here would be taken into consideration, by the Government, in respect of this particular Bill.

Thank you, Sir.

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

Mr. J. O. TUDOR: Mr. Speaker, I too am going to express a few views on this particular Bill which is before the House. I think that it is necessary for us to state fairly clearly how we on this side feel with regards to the imposition of fines and the adjustment, in general, of this particular Bill.

I understand, very clearly, what the intention of the Government is regarding the targeting of certain individuals who have been involved in activity that is perceived to be offensive to the tourism industry. Members on this side of the House, when we were in Government, were concerned about the perceived harassment of some visitors, by some individuals, who operate in the Bridgetown area and at some of the popular sites around Barbados like the St. John Church, Bathsheba and various points around the island where there is tourism activity. We have this whole question of harassment against the visitors by trying to sell them this or trying to sell them that.

The target of this Bill, clearly, is to send a strong message to those persons who are perceived to be interfering with the tourism product by going beyond the palatable limits and seeking to project an image of Barbadians that is not general to the average Barbadian. The average Barbadian does not necessarily behave in that manner and it is generally perceived that persons who seek to run afoul of the tourism industry disregard all proper procedure and just try to sell whatever they are trying to sell in their particular style that is the target group that we are focussing with this Bill. I suspect that there are probably only 2 or 3 persons in Barbados who this Bill is intended to target, not necessarily more than that This Bill is targeted at about 2 or 3 people. I know them by name.

I recall very well, Mr. Speaker, asking the question, I believe it was of the Commissioner of Police, on several occasions if there was something that we could do about these persons who were going up to visitors in Bridgetown and just putting necklaces around their necks because, to me, it does not present the right image for us. The Commissioner of Police, or whoever it was, at the time, advised me that there was nothing on the Statute Books that allowed the Police to deal in a meaningful way to seek to correct that problem of these guys going on the beaches. That was our understanding.

The Bill, as it stood, was what they call a soft Bill. The Vagrancy Act, as it stood really did not have any teeth

and it was not a deterrent There was nothing that could be used to say to the individuals who were offending all the time, "Look, we have a Bill in place that can charge you \$20 000, \$5 000 or whatever.

This Bill with a limit of some \$2 500 is targeted at those 2 or 3 individuals to get them out of the system. I am not sure that that is necessarily the correct approach because the general perception, in Barbados, is that the Barbados Labour Party represents big business. They have no regard for small business people.

Aside.

Mr. J. O. TUDOR: I am just talking about the perception. I am saying the general perception...

Aside.

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, on a point of order, Sir. There is a point beyond which really it cannot be expected that Honourable Members would seek to mislead the House.

Mr. SPEAKER: Could you make your point, please.

Hon. Miss B. A. MILLER: It is exceedingly well known that the Democratic Labour Party is the Party associated with big business in the Port of Barbados and in so many other places in Barbados.

Mr. SPEAKER: Is that the point of order?

Hon. Miss B. A. MILLER: That is the point of order, Sir. He is misleading the House. It is not the Barbados Labour Party, it is the Democratic Labour Party that is so associated all the years. 3.20 p.m.

Mr. J. O. TUDOR: Mr. Speaker, thanks for indicating to her that it is no point of order. I appreciate that. Now, as I was saying, Sir, the Barbados Labour Party is perceived to be a party that represents big business in this country. They are now struggling to identify with the small people in this country. What this Bill is doing is sending a message, not necessarily to the two or three persons out there who need to be rehabilitated into the system, whatever way we find to do it, but this is sending a message that the bad boys are in town and we will not be tolerating any nonsense because if you attack white tourists we are coming for you. Hands off.

Asides.

Mr. J. O. TUDOR: I am not referring to anybody in here, Sir. That is the general perception that we have

out there, that here we have an administration that is seeking to bring down the heavy hand of the law on persons and it may miss the target. I understand what the Honourable Attorney General is trying to do but what we, on this side, are concerned about is the severity of the punishment because they are now taking persons who, in their minds, they consider themselves to be ambassadors of Barbados. I have gone myself and spoken to Richard and ...

Aside.

Mr. J. O. TUDOR: Richard is one of the offending persons and he, in his own mind, considers that he is an ambassador for Barbados. He says to a visitor, and I would give you an example, "Good morning, I hope that you and your wife have had a nice hip to Barbados on the boat. Which boat did you come on? I have a necklace for you that is hand made".

Aside.

Mr. J. O. TUDOR: Yes he was speaking to me, Sir. I observed Richard in operation. I was concerned about it and I have gone and sat with him, watched him in operation and he considers himself to be an ambassador. Here we are, taking a person who considers himself to be an ambassador and we are seeking to make him a criminal. He, in his own mind, believes that he is an ambassador for Barbados. "Good morning, I hope you and your wife have had a good trip to Barbados. I hope that you would like to purchase for her a necklace which consists of beads that were made from shells picked up on the shores of Barbados".

Aside.

Mr. SPEAKER: Let us be orderly.

Mr. J. O. TUDOR: That is what he says, but the mere fact that he approaches people, you do not get close to him to hear what he is saying to people but I have gone, Sir. I take the time to go and listen to these people in operation. He is very polite. He does not look clean. He needs to dress up himself and make himself look presentable but he considers himself to be an ambassador of Barbados where he is selling handmade necklaces, made out of sea shells. Nothing is wrong with that. He is very polite. This Bill is seeking to make the same Richard a criminal.

Asides.

Mr. J. O. TUDOR: He has no licence and I have argued for him that he should be given a licence, he should be put into a training centre, he should be counselled. I

believe he has a bit of a mental history as well but he still wants to be part of the system. So how can we take ordinary Barbadians, who have been deprived of opportunities in many other areas, and that is the area where he sees he can contribute and we seek to make him a criminal. I have a problem with that.

Now, there is another problem that I was addressing because I have general concerns about this kind of situation. Now there are other problems regarding vagrants, Sir. There are a number of people around the Bridgetown area who were sleeping on nights, many people would come on mornings and feed them, give them tea, some bread and so forth. The former Right Honourable Prime Minister Lloyd Erskine Sandiford, when he observed the vagrants that were lying around Bridgetown! he mandated us to try to do something about the problem and the Democratic Labour Party's administration was able to create the Sir Clyde Gollop Shelter for the homeless.

Aside.

Mr. SPEAKER: Order, please.

Mr. J. O. TUDOR: That does not matter, the point is, a shelter was created for the homeless in conjunction with the Seventh Day Adventist Church.

Asides.

Mr. J. O. TUDOR: Mr. Speaker, she does not know how to behave at all? When she is speaking I do not trouble her.

Mr. SPEAKER: Will the Honourable Member for the City please desist from shouting across the Floor.

Mr. J. O. TUDOR: Mr. Speaker, I will continue. We created, Sir, a home, and one of the reasons why we did it is because again that is an area that will interfere with the perception of Barbados, because even if we are in the business of tourism and we have people sleeping all around the streets at night it sends a message about the rest of us. What is this society all about that allows people to sleep around? So we did something about it. There is a home that is supervised by members of the Seventh Day Adventist Church on a voluntary basis. It is very effective. The numbers are growing and I think it is absorbing almost all of the persons who find themselves sleeping in vagrant style around Barbados.

Aside.

Mr. J. O. TUDOR: It is not a shame. We have to accept that these are social problems we have. It has nothing to do with politics.

Asides.

Mr. SPEAKER: Let us continue to address the Chair, please.

Mr. J. O. TUDOR: It has nothing to do with politics. Mr. Speaker, once we are in the business of tourism there is going to be a social impact on our Barbadian people. What we have to do, as a people, is to seek to integrate the Barbadian people with visitors so that they understand their role, *vis-a-vis* how they have to treat each other. I have no difficulty in understanding that something must be done. When we were in office, the Democratic Labour Party...

Aside.

Mr. SPEAKER: Order, please. Let us hear the Honourable Member, please.

Mr. J. O. TUDOR: The Democratic Labour Party placed at the disposal of Caribbean Broadcasting Corporation a number of fillers which were part of a local awareness programme which sought to address the problem of integrating Barbadians in a meaningful manner...

Mr. SPEAKER: The Honourable Member for the City, please! Let us hear the Honourable Member.

Mr. J. O. TUDOR: Mr. Speaker, I had a father who was a comedian and every time I make serious, social comments in this country they want to make laughing sport at me but I hope none of them do not have a father who used to run a rum shop because if any of them have a father who has a rum shop and if any of them open their mouths in here I am going to deal with them to suit. If they are dealing with father or parents and what they used to wear and what they did not wear, let them come and play with me.

Mr. SPEAKER: Honourable Member, please.

Mr. J. O. TUDOR: Tell them to behave themselves. 3.30 p.m.

Mr. Speaker, I was making the point when I was rudely interrupted again by the Honourable Member for the City that the Democratic Labour Party sought to put in place fillers that were making the public aware of their role with regards to the development of tourism. Clearly, if we are in the business of tourism, no right thinking Barbadian would want a situation where 1, 2, 3 or 4 Barbadians are offending the whole system. Because once one body offends in one particular area whether it is the beach operator or the vagrants in town plying beads or whatever,

it is going to create a problem for Barbados' image. We sought to put in place local awareness programmes that would address the attitude of Barbadians towards tourism and it was very effective. We saw a significant change. We saw a reduction in the level of harassment on the beaches. All of the reports that were published by Ernst and Young would show the significant reduction in visitor harassment from a crisis proportion to the extent now where visitors say that they are not at all harassed on the beaches in Barbados. It has been reduced significantly.

Aside.

Mr. J. O. TUDOR: I am not saying that it still does not exist. But there was a significant reduction in the visitor surveys published by Ernst and Young and those other companies.

Mr. Speaker, regarding this whole attitude of high handedness in the system where "I am the Government and the big man", I can tell you to do this and not to do that, we have got to be careful, Sir, how we throw this attitude out in the public. There is a lot of fear. There are lots of people who are frightened of the Barbados Labour Party administration. They are afraid of them because this is the second time that we have come under this situation and even though they will deny it when the former Chairman of the Board of Tourism...

Certain remarks made by the Honourable Member for St. Michael East were asked to be expunged from the record by Mr. SPEAKER.

Mr. J. O. TUDOR: And the former Minister, Aaron Truss, when he was Minister of Tourism. They tried to bring this whole question of harassment by Barbadians against visitors to some sort of order. They tried and this is the same attitude that is now persisting in this particular Bill. When you are a vendor or perceived to be a vagrant, hands off the visitors. Do not go near the visitors. That is basically the attitude that is coming through now. Vending in Barbados is an area that had been dominated by small business people. Many operators in Barbados and I think that this was the point that was being made by the Honourable Leader of the Opposition have had their trade, and in particular the beach vendors, encroached upon by some hotels who are offering services that they offer on an individual basis. Those services are now being offered as part of a package. Those kinds of activities are provocative and the vendors see it as the system acting against them in trying to keep them out of the main stream of the tourism network.

Now we will make no progress in our country if we continue to project this perception that certain people

must never be pan of the system. Barbados is a small country. Our pie is very small and the point must be made sooner or later that all Barbadians must share in that pie and we must not have a situation where we are seeking to exclude a, b, c or d because they do not look clean or they do not represent the main stream. What we have to do is to take those persons and train them, get them in a halfway house or whatever to rehabilitate them and then get them back into the system because they want to be part of it. What they are presently doing is not being done in the right image. I understand what the Honourable Attorney General is seeking to achieve. I agree with him that the perception of these vagrants who lode dirty and are approaching visitors really does not look good. We have got to make provisions *for* them to function within the system.

Now I heard the Minister of Transport recently speak in terms of highway vending. But I want to say very clearly that the whole idea of highway vending was left for the present Minister of Transport. It is nothing new and I am of the view that, if you are talking about the image of vending on the highways, right now there are a few huts that have been put up on the highway that look very unpresentable. They are some terrible looking shacks that have been allowed to remain on the side of the highway. I think that as a matter of priority again to allow for vending to take place where a market can be created where there is a high volume of traffic the Government must prioritize areas along the highway to allow vending to take place in a proper order. Because several of the huts that are presently set up are too near to the roundabouts and they may create a road hazard.

I am concerned, Sir, that when you travel on the roads in Canada or, if you go to the United States, there is a section where you can come off of the highway and there is a village or vending village where you can buy your food or whatever. It is very popular and you have no problem whatsoever in going off of the highway and having a vending market set up off the highway. That is part of the programme that we left as an administration because we were in the process of seeking to make facilities available for vending on the highways. We were in the process and that was approved.

Mr. Speaker, this is not a Bill that we would want to oppose the intention of the Bill. I think that in principle we understand what the Honourable Attorney General is seeking to do. But the point is that we have to be very careful in this country not to be sending the wrong signals to the society as a whole. I am afraid and our concerns on this side is that this Bill comes across very strong. It comes over very strong and it may be an over-kill of a situation that may be addressed in a slightly different light.

With those few words, Sir, I would like to thank you for allowing me to make my contribution.

Mr. W. C. C. CALLENDER: Mr. Speaker, I rise now to speak similarly to continue the speech of the Member when he pointed out that we need to look at the serious nature of things in this country. Now, Sir, I am speaking in the context where I have experienced a number of situations which have taught me that law and order is a priority in this Government I recall, Sir, in 1989 when the last Farley Hill Concert was held. There were rumours that there were going to be gang wars taking place at that concert. At that time, Sir, we had requested that the Defence Force be on hand to deal with any incidents that may arise. You will recall, Sir, seeing in the newspaper the following day a number of weapons that were discovered outside of the Farley Hill Concert I was the organizer of that concert and it was around 11.00 p.m. when a security person came to me and said that he would like to have the concert finished very, very soon. We were judging contestants, I think it was a dub chanting competition, and so I had to quietly indicate to the judges that they had to expedite their business. I could not let them know exactly what it was all about, but I knew that there was fear that there could be some kind of trouble at Farley Hill that night. That experience has taught me, Sir, that law and order in this country cannot be lightly dismissed.

We had expressions of people talking about there are not any gangs in Barbados. I do not know if you can say that there are gangs, but I believe the person who said that at that time should have had the responsibility to deal with the problem of violence by whatever he chose to call them gangs, groups, young boys or whatever he wanted to call them. It was his responsibility to recognize that there was a problem and to deal with it, but he did not deal with it, Sir. So I have had to live in seeing the Parish Land situation where people can come into an area and shoot in houses, where people can shoot around playing fields and where people can pass through on motorcycles and kill people. We have reached this stage, Sir, I believe simply because we have ignored the meaning of law and order in this country. We have gone through a stage where tourist buses were shot at We have gone through a stage where tourists were harassed.

I believe that we can all recall the days when we could wander over in the Scotland District and we would have no fears. We would have no inhibitions. But today, Sir, that is unthinkable. We cannot go to those places anymore. We do not even want to drive in those places during the day, Sir. Fear has gripped this country and I believe that this Government owes it to the people to relieve them of this fear. I am speaking, Sir, on behalf

of the vast majority of Barbadians who want to live in peace, who want to live without fear, who want to live in a country where they know that there is a Government that want to see that they live in a society, which I regret cannot return to the good old days but at least where the escalation of violence and crime can be put to a halt This is therefore why I support the Manifesto of the Barbados Labour Party on Page 34 where it states in speaking of law and order and public safety: "In seeking to change Barbados fundamentally for the future and create a service oriented economy, it is absolutely essential that law and order be at the centre of our developmental strategies. Barbados today is not a safe place to live in. Violent crime threatens us in our homes, on the streets and on our beaches. Things have got so bad that we have been forced to arm the police. None of these distorting features will disappear unless Government create an economic environment in which youth can be fully employed", etc.

This is stated in the Manifesto of the Barbados Labour Party and I identify with it because of my experience. That is why today I rose to speak on this Bill before the House because I think that it is motivated by the intention of bringing about better conditions in Barbados for the majority of Barbadians. If only for that reason alone, Sir, I have to look at the good features of this Bill then I have to support it on that point.

I am concerned, as I indicated earlier, that people can walk around with guns and other weapons and keep other people in fear. I need to remind this House that the amendment is part of the Vagrancy Act, part of which speaks of people who are armed with any gun, pistol, hanger, cutlass, or other offensive weapon or people who are found with any instrument with the intent to commit an arrestable offence. So it is speaking about people who are walking about with guns as well, Sir. Do you mean to tell me that in 1995 that a man who walks about with a gun and threatens people that he only has to pay \$5.00 in this day and age? Sir, in this context when we talk about increasing the fine to \$2 500, I cannot oppose that. I have to support it because I do not want to see people walking about with guns and scaring my people.

Sir, it is part of the Act which speaks about people being armed with guns and, therefore, this section that is being changed from a penalty of \$5.00 to \$2 500 has also to deal with the section to which I referred. A lot of Members in this House are only dealing with the touristic features of the changes, but it has other implications for features of the Vagrancy Act, if they will read it, Cap. 156. They will understand that it also has implications for matters that are of serious import in 1995. 3.40p.m.

We are addressing issues in 1995 so that those who are going back to 1887 can afford to do that. They are

historians. I have done history but I don't like to relish the idea of being a great historian. I relish the idea of being pragmatic in an age when pragmatism is important, but at the same time we also have to understand that pragmatism has to be backed by a social philosophy.

I need to address the social implications of the Bill that we are looking at; but before I look at the social implications let me point out that I cannot dismiss a Bill which speaks about people who are accosting people, annoying people, threatening people and harassing people. It starts with annoyance. It starts with a threat When you are fighting at school you don't start by throwing rocks. In this modern age you don't start to shoot, you start with a threat first

I understand that they are threatening you, not by using a word, but they look at you hard. They threaten you with a stare. That is what the guys told me. We are talking, Sir, about an age in which there is too much threatening and too much harassment People have to understand that the person has to be respected wherever they may be. So I am fully supportive of this section of the Bill.

I wish to point out as well that for those who fear the implications of the Bill, they are talking about people not being able to walk this place and do that. Let me say that when you see a judicial system which could allow for a court being open at 2 o'clock a.m. - I think it was - so that you could have a hearing about a matter that is supposed to go to the Privy Council, can you want a system that is fairer than that? If you look at the judicial system in Barbados it is one...

Aside.

Mr. W. C. C. CALLENDER: We are not talking about an oppressive judicial system. Do you mean to say that overnight we are going to get such a drastic change? It does not happen overnight If things were to change we have enough Members in this House that we can come back in this same House and make a change if there is any abuse of the Act. We can return here and we can change it overnight if you will.

I am saying, Sir, that given the context in which we are looking at this amendment today, I have to look at it favourably.

I, however, have to point out that my maternal and paternal grandmothers were poor vendors. They lived in the days when you walked around selling chickens and fowls in baskets and selling sweet bread outside of schools.

Aside.

Mr. SPEAKER: Just proceed, please.

Mr. W. C. C. CALLENDER: Sir, I am saying that I have the greatest respect for vendors because I have come out of that lineage. My acquaintance of vendors of merchandise of that sort was when I dealt with selling agricultural products to hotels and to restaurants and to supermarkets and all those things. That was the kind of vending that people knew about. Even today, Sir, I am still vending because as a marketing person I have to sell my services to people so I am a vendor now, not a vendor of merchandise and hard products but a vendor of services. Therefore, I have to understand vending and vendors. 3.50 p.m.

I have also had the privilege, Sir, to train some vendors. I am talking about the vendors in Barbados, the beach vendors especially. Their biggest complaint to me was that - this was a few years ago during the Democratic Labour Party time - they were taken away from the beach and they were made promises that a marketing system would be put in place so that the visitors would come to them but it was not being done. That was one complaint.

The second complaint was, Sir, that there were illegal vendors who were doing a lot of mischief and they were getting the blame. That is what they told me. The illegal vendors were doing all of these damaging things and they, the legal ones, were getting the blame and things were being made harder for them because of illegal vendors.

Now, I understand their plight, Sir, but I also have to understand the plight of illegal vendors as well because in the old days I do not think you had to get this licence. You did not have to do all of these things to be a vendor.

Aside.

Mr. W. C. C. CALLENDER: Well, my grandmother probably broke the rules and therefore she was really liable to imprisonment. I am saying that one has to be very careful with the implementation of the section which deals with the offering to sell goods or services of any kind. If we are talking about selling illegal goods I have no difficulty whatsoever with that but if you are speaking about my grandmother selling her fowls, ducks, or her sweetbread and because she did not have a licence that she was therefore liable on conviction for \$2 500, which she would not have had, that she could therefore have imprisonment for two years, that part I am a little worried about.

I believe that when the Attorney General rises to speak in response, that he would want to address that or

that when it comes into Committee I believe that the opportunity could be made for any amendments that may be necessary. But I am saying that these are my concerns born of my experience, that my paternal grandmother could have been faced with that difficulty and today I could be standing here as the grandson of a criminal. This is what I am concerned about because this is reality and you all would be telling me whether on that side or even this side that I am the grandson of a criminal. Go and look at your grandmother. She went to prison.

This is the part I am concerned about, Sir. I have to say I am concerned about it because I have seen poverty all the days of my life and I believe I will remain poor. I therefore have to speak in this context and this is reality for me. I am saying I am offering an opportunity that if a change has to be made to this Bill to take cognisance of these considerations. I am saying it could be addressed when it is spoken about again or it could be addressed in Committee, or it could be addressed elsewhere.

I have no problem at all, Sir, with the law and order provisions of the Bill but the section that deals with the selling of goods or services which has the implication that if for some reason you are selling something because you do not have the licence that you could find yourself in this predicament, I believe we have to address that situation. I would really love that that be addressed because I could be in that position myself.

Aside.

Mr. W. C. C. CALLENDER: I am neither barefoot or otherwise. I speak the truth, Sir.

Mr. SPEAKER: Just continue to address the Chair please, and let us move on.

Mr. W. C. C. CALLENDER: I believe, Sir, that the intention of this Bill is good. It is part of a whole mood of addressing law and order in this country and it has to be looked at in totality, not only in the sense of the law itself but in terms of what is done within the school system where we have to get back to looking in a deep seated way at value education, where people have to learn to respect each other, and where they have to learn to respect those in authority. It has to start in the school system and we are therefore looking at a networking between the relevant Ministries so that within the school we are addressing values from right there in the school so that a guy does not leave school and believe he can just walk around and do anything he pleases, that he is answerable to no one, including the Police, and they feel they can do whatever they feel like.

It is also in line with the observations that we cannot place everybody in prison. There are young offenders that we do not want to put in prison. We need to have institutions that can nurture them at that stage in their life so that they do not become full-fledged criminals. This is the kind of language that this side is talking. I welcome the mood, a mood for change, a mood to address law and order in a meaningful way.

We also have to address, Sir, the implementation of these Bills. It is okay to have an Act but at the end of the day implementation is very important. You need to look at your Police Force. You need to make sure that the Police Force is trained to deal with all aspects of policing including the human relations element of policing. That is important because if you have an Act and there is no one to see that it is being implemented it is a waste of time. It is just something on a piece of paper so we have to look at it from that end as well. I am sure the direction in which the learned Attorney General is going that he understands that and that he will be heading in that direction as well.

Sir, I believe that this Bill, as I said earlier, is a step in the right direction. I am not one of those who is going to stand here and argue about the Vagrancy Bill, where it came from, who did it and who did not do it. I am not into that I operate in a world where you have to make decisions and where things have to be done, where you have to look at the factors that have to impact on what you are doing and most of the time, even though historical information might inform your decision making, it is not something that you delay and pontificate on because all the time you are pontificating the world is going along and leaving you.

This Government is one that believes in making decisions, not vacillating, talking around and pussyfooting so decisions have to be made. This is why I think it is a step in the right direction. But although I say it is a step in the right direction, my only plea is that the section dealing with the selling of goods be revisited and that any necessary changes be made so that the whole House would be able to vote for it in good spirit and good faith, understanding that we are in a serious age. This is 1995 heading for 1996. If we do not address law and order in every regard whether it is in the school, Parliament, through the justice system, policing or whatever it is, if we do not address these matters now in all seriousness there will come a day when none of us will be able to walk out of our doors. This is a time for decision, Sir, and the decisions will be made.

I thank you.
4.00 p.m.

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

Mr. D. St. E. KELLMAN: Mr. Speaker, this Act, as I have listened to many speakers from the other side, seems to have nothing to do with drugs, as was mentioned by the Honourable Minister when he said, in his opening statement that he is trying to eradicate the beach of drugs, *et cetera*.

While I listened to other speakers, on the other side, I have heard about car washers, about taximen, about vendors and I have heard a lot of other things. We have a problem in this country and I am not sure if the Honourable Member for St. Thomas is aware of it, that there is a group of people who would feed advice to people and the type of advice that they would give to people is advice to give a particular impression. So that when you come with legislation, that advice that they have given you is advice to protect their interest.

We had in this country in the sixties, the seventies and early eighties certain activities that were controlled by what we would call the beach vendors and other small businessmen. We now have in this country a situation where people who we would have said previously would not have gotten involved in these activities like beach vending, the operating of watercraft, *et cetera*. We have a situation now where they are getting involved in these activities. It seems to me that they have smartly set about to feed information into the authorities to make sure that small businessmen are branded in such a way that these small businessmen will not be able to operate any longer.

We have a situation where, previously, you had large hotels that were not involved in vending. They were not involved in watersports. Some of them were not even involved in restaurants or minimarts. But now they are getting involved in these things and they are trying to say that the Laws that we have at present that they are not good laws.

They are saying that people who are trying to promote their businesses, *et cetera*, that they are vagrants. We have to look at the information that is being fed to us and we must be sure that the information is not information that is fed to us to deprive small people who are competing against other business people who previously used finance as the way to promote their businesses, but now they are trying to use us, as politicians, to protect their interest

As you are aware, Sir, I am always talking about the all-inclusive concept. You can see it You can see how these people plan for you. They have brought in the system of all-inclusive tourism to keep out the small man. They are now asking us to amend the Vagrancy Act, also to keep out the small man.

Check and see that, previously, the tourism industry was controlled by what we call the foreigners. I am not talking about the small hotels, *et cetera*. But all of a sudden, there are groups of people in Barbados who are getting involved in tourism, people who never were accustomed to getting involved in tourism. They want everything for themselves, Mr. Speaker, not realizing that, in Barbados this is a country that belongs to all of us and that we must have a share of the cake and it must be equally divided. They feel that once they buy a hotel that they must be able to supply every service to that hotel, not realizing that, if they provide...

Mr. SPEAKER: One minute, please. Honourable Members, on this side, I am having some difficulty hearing the Honourable Member. Let us hear him* please.

Mr. D. St. E. KELLMAN: Yes, Sir. Not realizing that if the policy of the Government is to promote small business and if that policy is to be developed, that these large hoteliers must leave some scope where these small businessmen can continue their businesses and also encourage other small businessmen to get involved to help solve the unemployment situation, in this country. But we are not getting that, Sir.

What you are finding is a situation where people are building hotels and now they are trying to provide everything, every possible service. They are keeping out the small man. What would happen? The small man cannot afford to pay for an ad on television. He has to approach the tourists and, under this Act, he would be regarded as annoying someone or harassing someone, when that small man would only be promoting a service that he is offering. Sometimes he cannot do it himself. He might ask a friend of his to go and encourage some tourists to come and get on his speed boat, buy some craft from him or something like that. The friend, when he is approached, he might not be carrying a licence for that particular field and the next thing you know he is a criminal, he is not a rogue or vagabond any more.

In this Century we cannot have Laws that would hamper small business people. We must be looking after their interest. They are the ones that would need our protection. As the rich would say, Sir, you do not look after the dollars, the dollars look after themselves. It is the cents and pennies that you have to look after. I am saying to this Government, it is not the big fish you have to look after, you have to look after the small fish.

Mr. Speaker, I should like to know if there is a survey - and I am always hearing that there are surveys saying that there is beach harassment - I should like to know if there is a breakdown. Whether this information is

coming from the English tourists, whether it is coming from the Germans, the Americans or the Canadians.

I had the opportunity to visit some friends of mine a couple Saturdays ago and I was told that they went to a particular hotel to have breakfast with a friend and the lady said to this other friend, "I cannot understand the people in Barbados anymore. The workers are not coming to work as they used to come to work, 10 or 20 years ago. I am not seeing anybody serving me in suits anymore." Can you imagine what I am saying, Sir? We have to be careful, Sir,...

Mr. SPEAKER: I am trying to. I am trying.

Mr. D. St. E. KELLMAN: ...that we do not follow information from people who have a particular interest to serve. Mr. Speaker, we know that the English tourists are quite different - and that is if you are involved or if you know anything about tourism - from the American tourists, the Canadian tourists or the German tourists. That is if you know anything about tourism, Sir.

I am also aware that there are people from your constituency who operate in the St. James area and I know you would have an interest in this because you would want to be sure that they will not be branded as vagrants, rogues or vagabonds.

We must look after the vulnerable group because we have found ourselves, in this country, where even the taximen, as the Honourable Member for St. Joseph would want you to believe, even the taximen that he has spoken to are a bit worried that they are now not getting their fair share of the cake. They are complaining that there are other people - and all-inclusive tourism again - before 50 taxi cars used to service 4 hotels. Now one person with 2 or 3 buses is servicing a hotel. They are cutting out 50 people. Multiply 50 by 6 and that is 300 people. Then do the multiplier effect, Sir, and you would see the disadvantage that all-inclusive tourism is putting on this country. Also then take the amendments to the Vagrancy Act and you tell me if you do not see a situation where in the long run, instead of creating jobs, you will be creating unemployment in this country. 4.10 p.m.

Sir, wherever there is freedom there is the possibility of employment but whenever there are strict rules and guidelines you will always get problems with employment because there are honest people who might be prepared to apply for a licence to work on the beach but if they find that the rules and laws are enforced in such a way they might feel within themselves that if they go on the beach somebody might interpret the law the wrong way and

they might become criminals. One has to be very careful how they amend certain rules and amend certain laws because you might set out to do something that is very good, and I believe the intention of the Honourable Member for St. Thomas is good, but it is not the Honourable Member for St. Thomas who would have to police these things. He is not going to be on the spot. You can have a situation, Sir, where a competitor feeds information to a policeman about a vendor and when that information gets to the policeman he believes the information, that the beach vendor is doing something wrong, when in truth and in fact the beach vendor might not be doing anything wrong but he might have been framed because he might have been competing with one of his competitors and the competitor is about to use the Vagrancy Act against him.

Sir, I am in a position where I listen to people and I have heard many cases of people getting involved in water sports at large hotels and they give the beach vendors and the people in water sports bad names. They say all sorts of things to them, to the wardens and to the policemen just to keep the trade for themselves. We must be sure that whatever we are doing in this House that we are doing it with a clear conscience and that at the end of the day we are representing the interests of all and not a minority group, Sir.

I am saying, Sir, that the hoteliers have a right to get involved in whatever they want to get involved in. That is their right. But we as lawmakers, we should not be seen as the ones promoting their interests just because we have to protect the hotel industry and it is in our interest to protect the hotel industry, but at the same time we must take that information and we must be sure that the information that is coming to us is the correct information.

I am also told, Sir, that sometimes a lot of the crimes that we hear about, they never occur. There are people who put in claims to the police station just to make an insurance claim. Do you know when that happens who will be blamed for it? Your constituents, my constituents, the constituents of the Honourable Member for St. James North, the constituents of the Honourable Member for St. James South, because the impression out there is that there are bad boys on the beaches and that they will do anything wrong. When you hear of a situation where someone has been robbed of jewelry when in truth and fact they never had the jewelry in Barbados, the people of Barbados will be blamed for stealing the jewelry when it never came to Barbados.

If we are going to amend the Vagrancy Act, we have to be sure in our minds that it will be policed in such a way that innocent people will not be unfair.

Sir, on this topic about harassment, a lot of us, nearly everybody in here, we have been harassed every Sunday, sometimes as late as 8 o'clock in the night. We have been harassed by people and sometimes we do not know them. Sometimes we cannot even identify with them but we never ask the politicians for laws to deal with them. So, Sir, we must ask ourselves if there is harassment for the tourists and the harassment for the tourists is different to the harassment for Barbadians.

Sir, I have no problem with anybody trying to promote their business but at the same time, if someone is free to come to me to promote their business and I can give them an ear, I feel other people have a right to promote theirs too.

Tell me something, Sir. If a black American comes to Barbados and he is travelling along one of the streets and someone goes up to him and promotes a service, would that be regarded as harassment? If a white American comes to Barbados and someone goes up to that person on the street, would that be regarded as harassment?

Sir, we need to know what is harassment, we need to know what is annoyance. We need to be sure in our minds that people out there trying to earn a living are not doing something that is wrong. You might have two situations. You might have two vendors and today when you are talking about vendors you are not talking about white or black because there are white vendors and there are black vendors so do not bring in the talk about racism or anything like that. If a Bajan approaches a tourist someone might regard that as harassment. If a German approaches a tourist it would not be regarded as harassment even though the German might be offering the same thing that the Bajan is offering. I would like to know, Sir, what in the Vagrancy Act would protect the German and what would protect the Bajan? I would like to know whether the policeman would know that the German was harassing the tourist or whether he would know that the Bajan is harassing the tourist?

Mr. Speaker, the reason why I have mentioned that point is that there are business people in Barbados now, who in order to get around the system, are not employing locals to promote their businesses anymore they are importing some of the same tourists because they are saying they have the one to one contact because they cannot get into the hotels to promote their businesses so what they are doing, they are getting the tourists now to do it for themselves.

I want to know how would you differentiate between the local harassment, as they would say, according to the Act and the foreign harassment? I would like to know if the foreign harassment is a criminal offence like how it

is regarded that the local harassment is an offence. I would like to know if there is one law for the tourists and there is a different law for locals. You see, Mr. Speaker, even though I compliment the Honourable Attorney General of what he is trying to do, his intentions might be right but I believe that the end results will be wrong, Sir. I look forward to the Honourable Member for Christ Church South when he makes his contribution because I would like to hear what he has to say on this particular amendment I am sure, Sir, that for the amount of research that the Honourable Member for Christ Church South has done for today alone that he will have a lot to say in this House. I know that after he has finished his research he will have to call for another amendment to the Vagrancy Act, because he will be convinced that there are laws already in Barbados to cover the areas that the Vagrancy Act would like to cover. 4.20 p.m.

Mr. Speaker, I have no choice and I have observed that the Honourable Member for St James North has not spoken on this debate. So I will have to put in his five cents worth too, Sir. I feel that seeing the number of people that he has working in his constituency on the beach that he will find it extremely difficult to go against me, Sir, on this particular point. On his behalf, Sir, I would like to tell the Honourable Member for St. Thomas that he should have another look at this amendment. I believe and I will repeat myself again, Sir, he means well on what he would like to do. But you can identify the people. Look, do not let anybody fool you. The same two people you see in Bridgetown you see in St James, Oistins or up by Chefette. They are known. The crimes are known, Sir, and I am saying that, if you know people have a problem and to be honest with you, Sir, I have to say to them: Why are you annoying the tourists? They say to me that they are not annoying the tourists. I am offering a service. It is true to me that their approaches are wrong. That is only my judgment, Sir. I am not saying that I am right and they are wrong. What we need to find out, Sir, if they are doing something wrong. We need to shape those people to make sure that their approaches are correct, Sir. Because if you bring a law, it is not going to change them if you do not teach them correctly. What we need to do, Sir, is to change the way they think. If you try to change the minds of those people, Sir, you may not be able to convert all but you may be able to convert some.

I honestly believe, Sir, that the licensed beach vendors have a major role to play on the beaches. I honestly believe, Sir, that you should not need policemen to police the beaches. I believe that the licensed beach vendors in their own interest should be doing that job. Because if you are on the beach and you see someone doing something that is going to jeopardize what you are doing, you have a right to make sure you weed them out.

I am saying, Sir, that another area we might have to look at instead of amending the Vagrancy Act is to increase the number of licences for vendors and other people whether it is for beach vendors to operate beach crafts, etc. There are lots of people on the beach who would like to operate within the law but they are deprived of a licence. 4.25 p.m.

I think that the Honourable Attorney General can speak to his comrades and make sure that... They are good people and they are not trying to break the law because they want to break the law, but it is a matter of survival and we have a right to look after those people. I am saying that those who feel within themselves that they are above the law, well, that is a different matter.

Mr. Speaker, I would like to end by saying that we must look to protect jobs for people and not to deprive people of jobs. Thank you very much, Sir.

Mr. B. M. TAITT: Mr. Speaker, I first wish to apologise for the frog in my voice. I have lost my voice.

I did not intend to speak in this debate but in the light of the contribution made especially by the Honourable Member for St. Joseph, my not speaking in the debate might leave the wrong impression seeing as how I represent a constituency more than 90% of which can be said to be constituted by persons likely to fall foul of this legislation.

I was very pleased to hear the Honourable Member for St. George South because I felt that even though he spoke as befitting a member of a political organisation who has to defend the legislation it is clear in principle he still was able to be consistent. I think more than anyone in this House I have heard that Honourable Member over a long period of time consistently ask for the elimination and repeal of the Vagrancy Act, and both on the Opposition side and in the Government I have often wondered what is the difficulty for the repeal of the Vagrancy Act I have been in here a very long time now, Sir, and on all sides I have heard that the Vagrancy Act is a pernicious and wicked piece of legislation. I have never understood what has been the reason why it has not been repealed.

I wish to join with my colleagues on this side who say that we really ought to repeal the Vagrancy Act and we should replace it with modern legislation, as I believe it was the intention of the last Attorney General to do. I make no excuses that I take as my first point that this Act has been on the books much too long and should have gone a long time ago. I believe it was the intention to bring

the repeal of the Vagrancy Act as part of the modernisation of the criminal law in Barbados and therefore I have no particular quarrel except that the present Attorney General, the Honourable Member for St. Thomas, ought really to explain to us what is the mischief that is being corrected by these amendments in such a fashion as would not have waited for the new legislation that is to come.

I am a little uneasy about the reference of this legislation or the residue from the legislation, after we have amended it, to the Law Reform Committee. The Law Reform Committee works in an ordered way and will not elevate this to any particular priority. It will therefore take its place in the normal order of things, and hence it will be some time before it is dealt with.

Unfortunately, in the public domain there was some confusion between the referral of this to the Law Reform Committee which the Attorney General said when he introduced the legislation and a Select Committee of the House. So some part of the media indicated that the Bill was in fact going to be referred to a Select Committee. That was incorrect and a misunderstanding of what had actually gone on. It may have presaged the call which the Leader of the Opposition made and which we seriously recommend to the Attorney General and the Government for their consideration that this matter go to a Select Committee, not because we wish to kill it but as happened with the other legislation relating to the modernisation of the criminal law we could make inputs in a much more studied and restrained way.

I have some concern that in an attempt to amend the existing Vagrancy Act the phrases which have been substituted are going to prove difficult of interpretation. With a very specious examination, but, nonetheless, some examination, it has been very difficult to find any definition of "harass" in the context of this amendment in the judicial phrases that are acceptable. What constitutes "harassment" in the context of the social environment in Barbados will be difficult of interpretation and it is constituents like mine who will fall afoul of this particular legislation.

My difficulty with it, Sir, is that I know for a fact that the people who always are the beneficiaries, if I may use that term, of this kind of legislation are those who are incapable of defending themselves. It is quite all right for us to talk in terms of how we have a system of justice which assumes that a man is innocent until he is found guilty; but if you frequent the environs of certain areas of Barbados, if you are familiar with how those people perceive their treatment at the hands of the authorities in this country, Your Honour would be aware that there are people who fear for these kinds of laws.

The legislation which we are amending dealt with prostitutes and wanderers in the latter years. Originally, it was those who had come off the plantations and, in the words of the Honourable Member for St. Joseph, this has worked as a useful piece of legislation for control over nearly 100 years. That is true.

My representation of the St. Michael West Constituency includes Peterkin or Peterkins Road; and Peterkins Road used to have a physical divide. People who are under 25 might not believe this but Your Honour and other Honourable Members in here know that Peterkins Road used to have a physical divide and those of us who walked beyond Eagle Hall to Wesley Hall School or other places knew that when we were little children we had to walk on one side of the road and could not be caught on the other side. So "vagrancy" is not something that we imagined.

If you were found on the other side of those blocks in Peterkins, Strathclyde... You used to come down Peterkins and turn into Strathclyde. It was Peterkins over one side and Strathclyde on the other. If you were of a certain kind, you had to walk on the side of the road that was reserved for those people who could walk on that side of the road. Again, Sir, there are people, including my parents and my parents' contemporaries, who will tell you that there were certain times when you could not be found in Belleville beyond a certain hour.

Aside.

Mr. B. M. TAITT: I am not going to deny that the Barbados Labour Party... It doesn't matter. The point I am making is that history needs to be kept in perspective. When people are discussing the Vagrancy Act and saying how heinous an Act it has been this has to be seen in a context of what we know as living history in Barbados. Therefore when we talk about the Vagrancy Act being repealed we are not merely making statements for the sake of political benefit.

The Barbados Labour Party was at one time the only political party in the country that had any semblance of interest in the ordinary masses. I think that is historically correct. Subsequently, the Democratic Labour Party emerged from the Barbados Labour Party and these are the 2 political parties that have down through the last 50 years looked after the interest of the people.

I am not going to have any divide on who has looked after this part of the interest of the people best, because we have discussed this when we have to get elected and we discuss who represents what. The fact is that there is a group of people in this country that genuinely believes that we ought to revert to positions that have been fought

and dismissed and, we thought, buried. There are people in this country who believe today that there are certain times when certain kinds of people who may be deemed the barefoot people ought not to be able to walk through their streets. There are people in Barbados who believe that today, Sir.

It is dangerous if we do not accept that those kinds of thoughts still permeate the minds of persons in this country, some of whom have power. It is in that context, Sir, that we must be wary as parliamentarians of any legislation which seeks, however innocently, to deal with the question of the liberty of the person.

There are some journalists in this country who like to talk about the liberty of the subject and they wax very warm sometimes when they are either speaking or writing about the liberty of the subject. In an examination of this legislation, if we could postpone the partisanship and examine it in its raw state, we would see that it could open the door for a serious infringement of the liberty of the subject.

Let me remind this House that if it searches the records it will find that I once in this House more than 15 years ago spoke about a police officer who threatened me because I came into this House and spoke about a constituent who lived in Alkins Land whom they had attempted to frame. I spoke in this House and a police officer said to me afterward, "Don't forget that you go home late at night." In those days, it was particularly true. I go home a lot earlier now!

I remember coming into this House and putting it on the record because I wanted to establish that one of the reasons why we get elected to this House is because we can speak freely in here.

Mr. Speaker, it is important therefore that when we say that we are concerned about some aspects of these amendments that we not be seen to be merely taking a DLP position versus a BLP position. If you look at the configuration of this House, some ordinary people out there have every reason to wonder if we, now that we are the legislators, are going to downpress them in the same way as they or our parents were downpressed. They may not be right, because I don't believe that educated people on either side of this House will normally bring legislation to downpress people, but the fact is that we do not administer the legislation that we enact. There are people in this country who will downpress for the sake of downpressing.

Mr. Speaker, let me give an example of how people function in authority. In order to get elected to this House, one has to pay \$250 to the Treasury. After you get elected,

you are entitled to get it back. It is your money. I paid my \$250. They sent me a letter saying that a voucher was there for me. I have a constituency secretary and I endorsed the letter and said, "Please pay to So and So". She went down with identification. It was just after the election. I should have waited a little time till things settled down. The manner in which she was treated, neither she nor I will go back to the Treasury for the \$250 until a little time from now. She was ill-treated.

Mr. Speaker, I say that not to indict anybody in there but to make a point that in the exercise of power, some people become very strange. That is my money you know, Sir. That \$250 belongs to me not to the Crown. It is not going to get any interest. If I thought it would get a little interest, I would let it stay until the next election and collect the interest.

Aside.

Mr. B. M. TAITT: I am coming back. You know I'm coming back. Do you think I am you?

Sir, the point I am making is that here was a simple case where somebody was using raw power. Now, transfer that to this concept of "annoy" and "harass". The law that we are changing now talks about accost. There is a clear understanding about how you accost somebody but when you come now and add "annoy" and "harass", annoyance is brought about by the person who is annoyed in the first instance because if the Honourable Members over there do me something and I do not feel any way, as the children say, then that is not annoyance. It is when the person who is the receiver feels something that the annoyance begins. 4.40 p.m.

If you have ever been down to the Port, Sir, as a taxi driver, if you are a taxi driver at the Port waiting to go in to get a fare to come out, if there is anyone who has been a taxi driver...

Asides.

Mr. SPEAKER: Let us hear the Honourable Member, please.

Mr. B. M. TAITT:... waiting for a tourist ship, they have to line up. Then there is a police sergeant who determines who can do what under certain circumstances. I have had many of my friends who are taxi drivers complain, not now but at a time when a certain person was in charge. That person would demonstrate a certain amount of favouritism. Now, Sir, can you imagine a taxi driver who is waiting to bring a tourist out of the Port and who sees one that missed the gate and starts walking up

and goes to them and says "Would you like me to take you up?" or however they say it, that a person who does that can be deemed by an observer to be "annoying" and "harassing"?

Now, what is the objective test for "annoying"? The Attorney General is not able to say that there is - certainly not in the courts in Barbados and not to the known law - any objective test for annoyance and harassment. It is all right to talk about people harassing people on the beach. We should arrest the people who are persistent annoyers and persistent harassers to sell people dope! If we arrested the people who sell dope on the beaches, Sir, much of the harassment would disappear.

Aside.

Mr. B. M. TAITT: You know who sells dope? The Honourable Member cannot say it is not true.

Mr. SPEAKER: Okay. Just continue to address the Chair, please.

Mr. B. M. TAITT: I am saying that if you live in the environment where I live, if you represent the people where I represent, if you practice criminal law you have some idea of who does what.

Asides.

Mr. SPEAKER: Okay. Let us hear the Honourable Member, please.

Mr. B. M. TAITT: My point is, Sir, that if we are bringing law we must bring law that is capable of objective application. If it is not capable of objective application we must be very wary of putting the burden of proof on the potential criminal.

I am sure the Honourable Attorney General understands me. If we are not able to have objective criteria for determining harassment and determining annoyance in the context of this law we should be extremely careful when we say that the burden must be on the defendant. Now, here is the catch. When you were talking about a person under section (g) that is going to be amended here and you were talking about "accost", you were in a position to talk about "without lawful authority or excuse"; but now we are using the same word and we are going to be talking about "lawful authority or excuse in relation to harassment and annoyance". We have to be extremely careful.

The Attorney General with the best intention in the world would not wish, I submit, to put on the law books a

set of words that can be used against people. That is not the intention. The intention is to catch criminals. The intention is to catch offenders but this as it now stands suggests to me that it is capable of being used both as a shield and buckler on the one hand and a two-edged sword on the other. We have to be extremely careful.

When we on this side say we are against the Vagrancy Act, we are against the basic principle attached to the Vagrancy Act which was determined in its entirety at its inception to work against ordinary people. We have lived in a society where very few people have been charged under the Vagrancy Act. I think any objective research will show that very seldom have the police considered it necessary in modern Barbados to bring charges against anybody under the Vagrancy Act. Therefore, if the Attorney General and the Government are correcting a mischief the question is, do they wish to correct that mischief in the context of the Vagrancy Act? And what is the hurry?

If, in fact, the situation in Barbados is getting progressively better, if, indeed, the modernisation of the criminal law is happening apace, I want to submit that the recommendation of the Opposition that this matter can be dealt with in a select committee is worthy of serious and mature consideration.

We do not wish on this side to be against the enactment of proper legislation to deal with a particular mischief. We wish to help correct the mischief. We are saying at the same time that the vehicle which is being utilised for this purpose is subject to and open to circumstances and results which are not anticipated or which may not have been considered initially.

We offer to the Attorney General for what it is worth our recommendation that he gives some consideration to putting this to a Select Committee that will report by a certain time. If he is concerned that sending it to a Select Committee will operate to defeat its purpose, then let us have a Select Committee that must report by a particular time so we could examine in their entirety some of the concepts which have come out in the words and phrases that can be found in this amendment. It is a very simple amendment on the face of it, Sir, but it is fraught with dangerous possibilities.

Now, Mr. Speaker, the Honourable Member for St. Joseph who captured my attention talked about no law abiding Bajan, no law abiding taximan or no law abiding vendor needing to worry. The truth is that you only have a problem when something happens. No law abiding vendor, no law abiding taximan, no law abiding Bajan has to worry, in the words of the Honourable Member, if one is on the beach minding one's business. But everyone

who has got into trouble who was not a professional criminal was a law abiding citizen up to that point. This is precisely the issue: that you are a law abiding citizen until someone deems that you have stopped being a law abiding citizen.

We are not addressing, and no one expects us to address, those whose business it is to be criminals. No one is going to get involved here in passing any legislation, no one can pass any legislation, that will stop criminals from being criminals. There is no such legislation, Sir. But when we pass legislation deemed to assist the police and other law enforcement agencies in going about trapping and entrapping criminals, we have a duty, we have a responsibility to ensure that in so doing we do not inadvertently or otherwise embrace the law abiding citizen.

It is not difficult to argue this case, Sir, if we are arguing it with goodwill. If we are perceiving this as a political divide then we have to talk the history and in a sense the historicity of how the two political parties perceive the people. We on this side have always perceived the people as ends in themselves and not as means to an end. I do not know how they perceive them. I can only speak about how we have seen them from our point of view. We have never perceived the people of Barbados as a means to an end. Each individual must feel that he or she is somebody and the policies of the Democratic Labour Party both in and out of Government have been governed by this particular perception of people being ends in themselves. Each time I have had an opportunity to participate in the governance of this country I have been motivated primarily by a feeling that ordinary people, those in the vulnerable groups, are the ones who need us the most. The people who need the Government the most are not the people who can fend for themselves. The people who need the Government the most are those who are in the vulnerable groups. That is why, sometimes, Sir, it is necessary to make decisions about people that may, on the face of it, appear to be infringing some other aspect of the body politic. I will give you an example. 4.50 p.m.

I was reading the other day where, one of the newspapers, in making a valid comment about the Auditor General's Report, made some reference to the Queen Elizabeth Hospital and how they may have, according to the Auditor General, made certain decisions that were contrary to the Law.

From a strict point of view - and it was not at a time when I was Minister - my sympathy extended to this kind of situation. Take a Minister, the present Minister of Health or the Hospital Director or a Consultant who has to make a decision about a person who must have an operation in

New York City. In order for that person to[^] have the operation which may be a life saving operation, the person must leave "now".

The Rules and Regulations may require a certain procedure but the decision of life or death requires another procedure. In those circumstances the moral decision must be made to save the life. It is all right, *ex-post facto* to examine that, in a certain context; but unless all of the circumstances are known, it might be unfair to criticize those who made the decision, at the time.

I saw that - I do not write letters to the press now about certain things because maybe I am getting wiser. Not all of them appear, anyhow. But the point I am making is that when we are functioning at a certain level of Government, we have to bear in mind not always the run of the mill, not those situations that fall within what may be called the bell shaped curve, but those on the fringes. Both ends of the curve and, especially those, on the lower end, the vulnerable groups. Unless politicians are going to make their decisions primarily to uplift those who cannot uplift themselves, then many of their decisions are going to be useless and unworthy. In the context of Vagrancy, we have to examine it in those terms.

I do not believe that anything we do here is going to speed up the process of the elimination of harassment any more than it has been going. I believe, however, that if we are not careful we can make a decision here that could create another kind of difficulty for some members of our society. In that context, Mr. Speaker, we have an obligation not to do so. We have an obligation not to press forward if by pressing forward we are going to create a difficulty for a single person. But there is another point.

During an economic difficulty, more persons than usual become involved in what may be called economic activity. I have been to Jordan, Sir. I have been to London. I have been to New York. I have been to a number of cities where, as you walk along the street, there are private sector people who are on the side of the street, who are pushing their wares in what may be described as an aggressive manner. You know, Sir, in the United States being aggressive is a virtue. They push their wares in an aggressive manner and many of us who come from Barbados are very shocked at how they behave. These are people on the street. It is a cultural shock for us. But the fact is that they perceive themselves as doing what comes naturally to them, as private sector people.

When you see certain of the people in Barbados who are now in the ascendancy functioning as they compete for certain profits in this country, they are very aggressive. It stands to reason that, if you have 5 vendors selling fish - it does not happen now as much because we have a market and we make the people go into the market, and they have to wait until people come in - but the Honourable

Member would recall when you would pass by where the market is now, Sir, and there would be 10 women selling fish and each one of them would rush you to buy the fish from them because they had an interest in selling out their wares and getting food and raiment for their children the next day and the days to come. Those women were very "aggressive" in their manner. But never were they offensive when they were dealing with us, because we took it as part of the culture of our society.

Some of those people who come here as visitors do not wish to be treated any differently because they are accustomed, in their own societies, to being "attacked" for their custom. We need to be able and the police need to be diligent. The Commissioner of Police is doing a brilliant job by bringing new methods of policing. The police have always tried their best. But we need the police to be a little more creative in finding out who are the real aggressors and use the existing Laws to deal with them, while the Attorney General and the Government are putting a modern version of the criminal law to effect these changes into place.

I submit to the Honourable Member for St. Thomas that we, on this side, are against the Vagrancy Act, as it stands. We understand the purport of the Amendments. And we recommend that these Amendments *form* the basis for a much better piece of legislation than what we now have.

We are not going to be against this from a political point of view but we have to be against it from a social and historical perspective because we understand, as we believe many of them over there, understand to what uses legislation like this can be put, in the wrong circumstances.

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

Hon. Sir HAROLD St. JOHN: I am going to be very short, Sir, because I have sat here, right through this debate and I have listened to the several contributions of the members of the Democratic Labour Party. It is clear to me, that is there is one significant thing about the contributions, it is that they are contradictory, to a large extent, of the principal spokesman for the Democratic Labour Party, when he spoke and, indeed, of the speech of the Leader of the Opposition.

Since the Honourable Member for St Philip South spoke who was philosophically against the Bill and the Honourable Member for St. John, the Leader of the Opposition spoke, nearly every other Member who spoke indicated, quite clearly, that they understood and agreed with the intent of the Bill, of the force of the Bill, but that they preferred these Amendments to be placed in another vehicle.

I happened to have held the portfolio of Minister of Tourism, for some considerable period of time, and I am aware of the complaints that emanated from visitors to Barbados of all colours and of all social classes about, what they regard as, conduct on the beaches which annoy them, which harass them and which prevented them from enjoying themselves. So persistent were these complaints in relation to the beaches that in 1979 the then Government introduced an amendment to the Parks and Beaches (Amendment) Regulations which in essence sought to prescribe as criminal, much of the conduct today which is being prescribed by the particular section 2 of this amendment. 5.00 p.m.

Honourable Members forget that since 1979 it has been an offence to abuse, to insult, to assault or molest any authorised person or any person who is lawfully using any park, garden or beach or in any other way conducts himself in a manner likely to cause a breach of the peace. So that as long ago as 1979, it was an offence to molest any person on a beach.

Now, what this Bill seeks by this section to do, is to carry the offence or molesting into the area of a street, a highway or public place. It is very interesting, Sir, that those words are used because I have searched the Highways Act, I have searched the Road Traffic Act, and I have searched *a number of other Bills where one would expect to find these offences placed, and I have been unable to find in those Bills, the offence of molesting or threatening or accosting or harassing a person. So that this Bill in principle seeks to do two things: It seeks on the one hand to introduce into the law, in relation to a street, a highway or public place, that which under the existing Parks and Beaches Regulations is an offence on a beach.

I have a number of technical, legal difficulties with some of this Bill and in Committee I will explore those difficulties. I will just advert to one of them now and that is to the use of the word "annoy" because to me, I do not see why there is the need to use the word "annoy" when we have in our existing law under the Parks and Beaches Act a word "molest" which when I looked at the dictionary means "annoy". So that, to me, I do not believe that there is any virtue in passing the legislation which in essence uses different words for the same species of conduct.

Secondly, Sir, there may be some difficulty with the word "harass". I want to say, Sir, that I understand the principle in trying to put in legislation, an offence of "harassment". Only recently I came across, in a context other than the Domestic Protection Act, a decision in the United Kingdom, reported in the All England Reports, in which the issue of the meaning of harassment was

dealt with. It is interesting because it occurred and the allegation was that the harassment took place by the repeated use of the telephone. At a particular period of time the habit of a person was to ring another person, use the telephone and one of the constituents of harassment was the repetition. The essence, the Judge held of harassment was that it was not a casual, it was not an ordinary business thing, it was a deliberate repetitive act causing annoyance to the other person. That is it.

Now, if one looks at the dictionary it is very, very clear also that in the dictionary it is precisely the repetition and harassment is defined as repetitive conduct. Now, there is no doubt about it at all that anyone who has had conversations with both locals and foreigners about what they regard as undesirable conduct on the beaches, will recognise that one of the things that there is a lot of complaint about is the repetitive action of constantly when people are lying or sitting on the beach, constantly coming to them and offering the same goods or the same services and that is what causes the offence.

I have no problem at all about the concept of making harassment an offence. So what are we left with, Sir? And this is where again in Committee, Sir, I think there is some scope for looking at the last section of the Bill of offering to sell goods or services of any kind.

Now, Sir, I want Honourable Members to also take into consideration that it is not only the offering of goods that causes problems, we have a new phenomena that has developed now that is also causing problems and it is phenomena of people trying to sell time-sharing in Barbados. It used to be on the beaches until it was pointed out that under the National Conservation Act that the attempt to sell time shares on the beach was an offence, and now if any Honourable Members are aware of what is going around in all of the tourist areas from St. Lucy, right up to St. Philip is that there is a mass of information booths being set up in which all kinds of offers for sale of goods and services are taking place.

Now this is not a development that is not unique to the Barbados Tourism Authority. Honourable Members who study the tourist industry and its social impact would recognise that this was a serious problem in countries such as Hawaii and other parts of the world and specific legislation had to be brought to deal with this question of the sale of time shares. I am speaking of this to show that we have genuine problems in relation to new types of activity which arise as the tourist industry develops. Some of it is desirable and some of it is undesirable so I cannot see how we can have any problem with an attempt to regulate that.

We go further, Sir, there is no doubt at all that there are a number, a significant number, not two or three, there are a number of people who go up to visitors and locals alike and attempt to place goods around their necks or sell them aloes, or indeed in some areas to sell them small coconuts so as to obtain money to feed their habits. I know of at least 10 starting from right here at this House of Assembly right up to Silver Sands and I see them everyday of my life at least ten of them. These are people who have a habit that needs to be fed and they are unable to do that. There are at least ten of them. I can take you to a number of the shopping centres and I can point them out to you. I can take you to a number of fish markets in the area and I can point them out. I know exactly who they are. The police know who they are and, when you ask the police to deal with them, they will tell you that they do not have any legislation to deal with these people. They will tell you that. We have tried to explain to them that when they are trespassing that perhaps they could use the Petty Trespass Act or the other Act. They say oh, no! But I say that we know that they are in need of help from the Psychiatric Hospital or from agencies which deal with drug rehabilitation. They tell you that their understanding of the law is that unless they commit an offence, you cannot force them to remain in there. That is what they tell you.

So that we do have a problem which there is no point of us trying to minimize the problem. We have a problem in which we have social dropouts and social misfits or people who are offensive to other members of the society by reason of the fact that they have peculiar needs which they need to have to be fed daily and the only way they can do it is by resorting to some kind of activity which is an attempt to extract from other people. 5.10p.m.

Therefore, we cannot turn a blind eye to this. What we must do is to ensure that such legislation that we pass is couched in such a form that there is clarity of what conduct we are trying to prescribe. That is something that in Committee we must deal with. I am going to make a contribution in Committee on that because I am not sure in my mind that one or two of the words used in this section are appropriately circumscribed that a magistrate or other people who have to administer this law could not possibly cause unnecessary discomfort to people who wish to ordinarily carry on the activity of selling of goods and services.

That is a difficult one for me. I have been trying through all of these books for many days trying to research what is the law that prohibits in Barbados the selling of goods and services on a street, highway or public place. There used to be a Hawkers Regulation Act which said that it was an offence in 1905. That was repealed. We have a Public Order Act, we have the Highways Act and we have a number of other Acts. The nearest thing that I see is

the Market and Slaughter Houses Act which prohibits the selling of goods and services within a prescribed area in Barbados and that prescribed area consists of an area surrounding Fairchild Street, Eagle Hall, Six Cross Roads in St. Philip, surrounding Oistins and Cheapside. It is interesting because I would like to know other than this legislation what would prohibit, I am trying to find it, the vending along a highway so to speak. I do not know, Sir. I know in the old days under the Hawkers Regulation Act it would cover it, but that Act has been repealed. So if it is our intention to make that an offence, I would wish to see that the same safeguards that were in that Hawkers Regulation Act remain in this Act. That is a technical problem that we have to deal with.

So that, Sir, when I look at this legislation on a whole, I would say quite clearly to me, Sir, that the other sections of the Bill are highly desirable because they removed from the Vagrancy Act many of the features that we regarded as highly undesirable. All of those sections that dealt with saying that a person is an idle and disorderly person are repealed. All of those sections dealing with a rogue and a vagabond are repealed. So that the Bill itself contains many, many highly desirable features. We all agree that it would be very desirable in the future to place all of the offences which we want to retain in the Vagrancy Act into their respective places in the Highways Act, National Conservation Act and in the general legislation of the law because of the historical connotations of the Vagrancy Act. But that would take some considerable period of time and we really must plug this gap.

There is no doubt about it at all that there is conduct today which is carried out along the beaches and on the highways and in other places of Barbados which is highly undesirable and which should be an offence. It is the duty of the Government to deal with it. This Government has nothing to be ashamed of in passing this legislation and all of the attempts to distort the record, such as contained in the speeches of the Honourable Leader of the Opposition in particular about the Labour Party Government being against small businessmen, should deter us. Because in reality the record of the Labour Party in helping small business people in Barbados is far better than that of the Democratic Labour Party. There cannot be any doubt about it. So that we need not be afraid to pass this legislation.

When we had to pass legislation in relation to beaches in 1979, there was a lot of distortion. The calypsonians went mad, one in particular.

Aside.

Hon. Sir. HAROLD St. JOHN: Well, he tried to be a politician and thank God the people of the City with the able assistance of the Honourable Member for the City

were able to deal very effectively with his attempt at being a politician.

Now, Sir, that leaves me with just one problem in relation to this Bill and I have already spoken to the Attorney General about my fears concerning it. When we come into Committee, I will express very clearly what I think would be an improvement in the text of the Bill. But on this second reading, I want to assure the Honourable Members that they will have my support in the passage of this Bill which I regard it as necessary, desirable and in the best interest of preserving law and order for the vast majority of Barbadians. I am one of those who believe that we should not allow a small tiny section of the Barbadian community to affect the overall interest of the vast majority of Barbadians. 5.20 p.m.

Hon. D. A. C. SIMMONS: Mr. Speaker, I have been perhaps unusually quiet today. I have listened carefully to every person who has spoken in this debate so far and made notes of what I consider points relevant for comment in this winding up speech. I want to say, however, that when I moved the Second Reading of this Bill I took 70 minutes of this Honourable House's time, I thought carefully to explain each and every aspect of the Bill, even to deal with the historical development of the vagrancy laws from 1350 in England, quoting from Sir Herbert Greaves' speech on 25th May, 1897 when this Act was amended, and I was very careful to explain the types of conduct that were causing offence, the types of conduct that prompted the bringing of this Bill, and having listened patiently today to all that has been said, it is as though Members in the succeeding weeks since I last spoke have forgotten everything that was said and I do not have the time to repeat what I said when I moved the Second Reading last time.

I wish to say that it was only today that I received from a concerned citizen, in the House, he sent this letter to me in the House, a former Federal MP, his comments about this Bill. I forgive him because he obviously did not hear what I said when I introduced the Second Reading, and perhaps more than that I am not sure, from reading his letter, that he has in fact read the existing legislation or the amending legislation.

I want, for the benefit of the public, to go back to Cap. 156, Section 2(g), the Vagrancy Act, and to deal with what is the existing law of Barbados today. The law of Barbados in this big blue book says this, Sir:

2. "Any person who

(g) in any street, highway or public place, without lawful authority or excuse

(the proof whereof shall lie on the party accused), accosts a passenger or follows him about;

shall be deemed an idle and disorderly person within the true intent and meaning of this Act..."

From 1840, coming through to 1897 when Sir Herbert Greaves moved an amendment to Section 2, that has been the law of Barbados. It still is now. We have not passed the amending legislation yet. The amending Bill before us today uses the same words as have been in this law for 100 years, and adds the following after "accosts":

"annoys, threatens or harasses"

and then at the end it also says:

"or person offering goods or services of any kind."

So that there are a number of additional offences added to what presently exists. Those new offences are the offences of annoying, threatening, harassing or offering goods or services. All of those offences are subject to the words: "without lawful authority or excuse". In other words, if you can show, however you can show that you have lawful authority or excuse to annoy me or to harass me or to offer me goods or services for sale or to threaten me, then you have not committed an offence. So that it is a little disconcerting when I hear comments on both sides suggesting that the amending law is purporting to do something that was not provided for in existing legislation.

One outstanding comment has been from the Leader of the Minority Opposition last time, the Leader of the present Opposition and others that the burden of proof is shifted and placed on the accused and to that extent it is a very dangerous trend. I have heard lawyers deal with this matter without reference to the law, and it bothers me.

I will start with the Constitution of Barbados. Section 18, subsection 2(a) says:

"(2) Every person who is charged with a criminal offence-

- (a) shall be presumed to be innocent until he is proved or has pleaded guilty;"

Fine. Presumption of innocence. Turn now to Section 18, subsection 11 (a):

"(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of -

- (a) subsection (2)(a) to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;"

In other words, Section 18(11) (a) in the Constitution of Barbados, the supreme law of Barbados, provides and admits of a circumstance where legislation can properly and constitutionally place the burden of proving any particular fact on the accused. That is the Constitution of Barbados.

I go further. The Magistrates Jurisdiction and Procedure Act, Cap. 116, Section 97, says these words:

"97. Where the accused or defendant to an information or complaint relies for his defence on any exception, exemption, proviso, excuse or qualification, whether or not it accompanies the description of the offence or matter of complaint in the enactment creating the offence or on which the complaint is founded, the burden of proving the exception, exemption, proviso, excuse or qualification shall be on him, and this notwithstanding that the information or complaint contains an allegation negating the exception, exemption, proviso, excuse or qualification." 5.30 p.m.

The Law of Barbados.

The Government is not breaking any law. The Government is not doing anything unusual. The Government is bringing legislation which already makes provision for casting the burden of proof in certain cases where you have to prove a qualification or an excuse, where as the present law says "without lawful authority" the burden is on the accused person.

All we are doing is adding a couple of words to create new offences, something which is well recognised in the law as a legitimate shifting of the burden of proof having regard to the circumstances. It is the whole issue because the whole issue is one about regulating conduct in a disciplined way, in public places, the highways, the streets, the beaches. It was put in deliberately.

I don't remember if the Honourable Member for St. Michael West was here when I spoke last time. I don't think so. We added those words "including a beach" to make it clear that a beach was a public place because of certain conceptions or misconceptions by some people

that they have rights of ownership of a beach and to that extent they are entitled to certain parts of the beach as their private property. We wanted to make it clear that in Barbados all parts of beaches are public. That is why the words "including a beach" were particularly added to put it beyond doubt.

The mischief at which the legislation is aimed is that type of conduct that has been proven to be offensive to local people as well as foreigners. Conduct which manifests itself on public occasions and on public beaches in Barbados.

There can be no doubt - Mr. Speaker, I gave examples last time - that there is a certain element in the society that has little respect for regular behaviour, for proper and disciplined conduct and they act out this aversion to doing what is right in public places. I gave an example of March 4 - Gold Cup night at the Garrison. The show by Square One had to be cut after 45 minutes because of the behaviour of a set of rowdies. Thereafter, they went to the stadium, to the Spectacular Show. There were certain weaknesses in the security arrangements and they took over and brought that show to a premature end.

I hear Honourable Members making the point, and in this I want to say first of all that I am indeed grateful for the very strong cogent and heartwarming speech delivered by the Honourable Minister of Health who continues to amaze me by the sharpness of her intellect and the quickness of her mind and the way she has settled. I am deeply grateful to the Minister of Health for the speech she made this morning.

I want to say, Mr. Speaker...

Aside.

Hon. D. A. C. SIMMONS: I can't say the same thing for the former Prime Minister. He didn't speak long enough. I am very grateful for what the Honourable Minister of Health said and how she put the matter.

There are arguments about the repetition of offences in this amending legislation that may exist elsewhere. Take for example the question of threats. It is true that you can get a binding over order under section 98 of the Magistrates Jurisdiction and Procedure Act in respect of threats but have members considered this kind of scenario: The Saturday night at the Spectacular Show, youngsters with bottles and one fellow says, "I am going to kill you." He cannot be arrested for saying, "I'm going to kill you", with a broken bottle in his hand. Show me how he can be arrested for saying that.

Do you know what would have to happen? The person threatened will have to go and find a lawyer and as

the vernacular goes "go and swear your life against him". Under this law...

Aside.

Mr. SPEAKER: Let's do it orderly, please.

Hon. D. A. C. SIMMONS: Sir, what we are doing is making that kind of threat in a public place arrestable. I think Honourable Members will agree in the kind of scenario that I have given that that is conduct which ought to be proscribed by the criminal law and the person ought to be taken away from there, arrested and taken out of the Stadium. If a policeman hears him, you don't need any witness. The policeman is the witness. He doesn't want any more witness. You don't need two witnesses to prove a case. Some types of offences you need corroborative evidence.

That is the kind of conduct that we want to deal with in public places. That is why the word "threats" is now made an offence under the amending legislation whereas up to tonight it is not a criminal offence to threaten. It is what is called the quasi criminal hybrid offence.

I don't accept that the legislation must create a definition section for words used. Remember the Police Act You have "obstructs" a person is liable for obstructing a policeman in the execution of his duty. You don't define what is meant by obstruction. Over time new offences will be explained as a result of judicial interpretation of the particular words, having regard to the conduct that is alleged. It is up to the policeman. How do you know whether somebody has obstructed you? It is not every type of conduct that results in an offence of obstruction or resisting or whatever. You have to give evidence of a series of facts, evidence of conduct as a result of that evidence the Court will determine whether you have molested the person, harassed them or whatever.

We have "annoys". Evidence will determine whether there has been annoyance or not. 5.40 p.m.

Annoyance is judicially considered, in the "Words and Phrases" book, conduct less than nuisance. But it is a matter for judicial construction. It is a matter for the courts ultimately to determine and it certainly will be a matter for the police initially to determine on the evidence that they have been given by the complainant, or it may be from the police's own observation because these offences do not depend only upon a complaint from a person. It is possible for a policeman or special constable to see what has been happening to warn the person and to try and get from the person who is being harassed evidence as to what has

been happening. The policeman may well be able to give the information himself. I am not saying that that is the perfect situation but I am saying that it is not necessary that in every case there must be a complainant lay person.

There will be a variety of fact situations which will give rise to offences and this happens in any kind of activity that is proscribed by the criminal because we must never forget that so much of the criminal law is the result of parliamentary action that at various points in time Parliament determines that a particular type of conduct ought to be rendered criminal and legislation is passed so that to a large extent a lot of crime is as a result of being a legal artifact. Conduct today that is now an offence of, let us say, harassing yesterday you may have got away with it because it was not a crime but today we are saying that a particular type of conduct is worthy of being considered offensive to the criminal law and ought to be punished.

Now, in relation to harassment, when I introduced the Bill I mentioned that the only definition there was of harassment was to be found in the Domestic Violence Act of 1992 where a definition of harassment is, in fact, provided in the Interpretation section.

" 'Harassment' includes

- (a) the intimidation of a person by
 - (i) persistent verbal abuse;
 - (ii) threats of physical violence;
 - (iii) the malicious damage of the property of a person or;
 - (iv) any other means; - (That is very wide).
- (b) the persistent following of a person about from place to place;
- (c) the hiding of any clothes or other property owned by or used by a person or the depriving of a person of the use thereof or the hindering of a person in the use thereof; or
- (d) the watching or besetting of the house or other place where a person resides, works, carries on business or happens to be, or the approach to the house or other place."

So that we have some indication already in the statute law of 1992 as to what kinds of language or conduct may amount to harassment for the purposes of the civil law. I do not think that it is beyond judicial ingenuity to interpret

other conduct under the Vagrancy legislation as being similar to that provided for under the Domestic Violence Act. In other words I am saying that even without admitting, a judicial officer would be entitled to look at how harassment is defined in the Domestic Violence Act and apply similar concepts to harassment under the Vagrancy Act.

Now, Mr. Speaker, the whole question of the Vagrancy Act itself. Within the first five minutes of a 70 minutes speech last time, I said that this amendment was a temporary measure, that the whole question of the Vagrancy Act, what existing offences we continue to keep and which we abolish, the whole business will be referred to a Law Reform Committee. I believe I even announced the membership of the Law Reform Committee the same time. That is still Government's position and solemn pledge to this Honourable House.

The Law Reform Committee had its first meeting last Wednesday. I did not address it because I had the 'flu' and I had to beg off. I could not attend the meeting. The Law Reform Committee will be given some areas of legislation that the Government would desire them to consider without prejudice to their own research or their own interest in reforming other areas of law not specifically referred to them.

The matter of the Criminal Law I mentioned last time was one that we were going to look at urgently. I said then that I had in mind something like a Minor Crimes Act where we would collect a lot of these types of misdemeanours and put them all in one basic Act and clean up by amendment or repeal other areas.

Now, let me show you what happens. In 1982 the Barbados Labour Party brought to Parliament the National Conservation Commission Bill, Cap. 393 of the Law. In section 31 they created an offence of assaulting, resisting, obstructing and intimidating a member of the Police Force. They made it punishable by a fine of up to \$10, or 12 months, or both. At the same time they did that they had Cap. 167, the Police Act, which has identical offences other than intimidating. So there is a lot of overlapping. In time a law reform exercise will try and rationalise some of these things.

Aside.

Hon. D. A. C. SIMMONS: For this particular thing? Law reform? Law reform is ongoing. It will be ongoing for the next four and a half years. I would hope to have this remedy within a year.

Aside.

Hon. D. A. C. SIMMONS: You mean the Vagrancy Act? The Vagrancy Act will be within a year. Do not worry. I wish to assure Honourable Members that I have ample precedence. I have here the Small Charges Act, Cap. 75 of St. Kitts and the Small Charges Act, Cap. 1039 of Dominica. I have the Vagrancy Act from England still in force - the Honourable Member was looking at it today - the Bahamas Vagrancy Act, Cap. 82, Trinidad and Tobago, Cap. 1102, Vagrancy, Jamaica - the Vagrancy Act, ample precedence. I am going to give all of them to the Law Reform Committee to look at in conjunction with all of them. 5.50 p.m.

I did not think that the Honourable Member was hallucinating because that would be an offensive remark to make about the Honourable Member. I just wish it to be recorded that I rose in this House at eight minutes to six o'clock and that you gave me an assurance that, within 2 years, you said 1 year, I am going to stretch it to 2 years that this Vagrancy Act will be removed from the Statute Book of Barbados and some other more civilizing and civilized legislation will replace it, because that will determine how I vote, on this matter.

Aside.

Hon. D. A. C. SIMMONS: As one of the wealthiest people in Barbados, I would like you to go a little further and have me a bet on that. Why not bet me on that? I keep my commitments. When I give my commitments I keep them.

Mr. Speaker, Sir, the interesting feature on that exercise that I just went through, looking at all of these bits and pieces of legislation is that, in virtually every Caribbean country, for which I have the legislation, there exists in their Laws either a Vagrancy Act, properly so called, or a minor charges or small charges Act which embodies many of the offences which presently exist in the Vagrancy Act of Barbados. But I understand the historical context of the Vagrancy legislation.

I understand the Carrington Village problem, the Peterkin problem and the colonial hangovers that do not sit well with Barbadians. I adverted to that in my opening. It is indeed interesting that, in the vicissitudes of life, it falls to some of us to have to deal with problems of clean up.

The way I heard Honourable Members speak today, you would not believe that the Vagrancy Act has been on the Book since 1840 and, more particularly, 1897 and that it was amended in 1958 by the Labour Party. It was amended in 1968 by Law No. 8 of 1968 by the Democratic Labour Party. It was amended again in 1969 by Act No. 37 under the Democratic Labour Party. It was amended indeed in 1992 by Act No. 17 under the Democratic Labour Party.

The Democratic Labour Party had an opportunity three times to remove this from the Books after they became a Party in 1955. On 3 occasions, the Democratic Labour Party refused to remove this, a relic of colonial antiquity. What did they say? Virulent, gross, crass, all those things I heard today. I heard all kinds of things about this legislation.

As recently as 1992, and I heard a Member from the other side say today that it was the intention of my predecessor to abolish this. They had an opportunity in 1992, 3 years ago. The only thing that was done to the Vagrancy Act was to change the word "felony"¹¹ into "arrestable offence". The Honourable Member for St. Michael South was Prime Minister. He did not speak on the worst features of this.

The Honourable Member for St. Michael West who had knowledge of the problems of the people in Peterkin never saw, 3 years ago, the need...

Mr. B. M. TAITT rose.

Hon. D. A. C. SIMMONS: What can you say, now?

Mr. B. M. TAITT: If I may elucidate, Sir? I do not wish to interrupt the Honourable Member. The Honourable Member can search the Record and find; that, on each occasion the Vagrancy Act has been brought here, whether I was in or out of Government, my position has been consistent.

I said here today that I do not understand why the Vagrancy Act has not been repealed. The fact that it was not repealed by the Democratic Labour Party is no excuse for the Attorney General not to repeal it now. It is his watch and he should repeal it now.

Mr. SPEAKER: What is your point of elucidation?

Mr. B. M. TAITT: I was elucidating my speech, Sir, which he obviously did not understand or forgot that I spoke.

Mr. SPEAKER: Let us continue, please.

Hon. D. A. C. SIMMONS: I heard every word he said, Sir. Nothing, of any great moment, registered with me. It can only show us, as recently as 1992, if you were so strong in your Party against the Vagrancy Act that your voice counted for little with your friends.

I have to deal with the matter because in 1984, when there was an Amendment made to the Offences Weapons Act, the late Prime Minister, the Right Honourable

Errol Barrow asked for the penalties, under this Act, to be substantially increased. Nothing was done.

The penalties are being increased now. They were \$5.00 in 1984. In 1992, when they came and amended it again, it still remained at \$5.00 despite anything the Right Honourable Errol Barrow had said.

Asides.

Mr. SPEAKER: Okay, please. Let us hear the Honourable Member, please.

Hon. D. A. C. SIMMONS: I am going to give the House the assurance that this Government, having removed some of the worst features of the existing Vagrancy legislation, by this amending legislation, is going to repeal this and bring a proper, modern bit of legislation, removing some of the worst elements of this legislation, I said within a year. You gave me 2. Okay. Thank you. I am not ungrateful.

Mr. Speaker, the final point I wish to make is in relation to those who had concerns about offering goods and services for sale. Section 31 of the National Conservation Commission Act says this:

"Any person who sells or offers for sale any goods or services in a public park, in a public garden, on a beach or in a cave without obtaining a licence under this Act is guilty of an offence."

What the Parks and Beaches legislation was doing was requiring you, if you were going to sell or offer for sale goods or services in a park or a public garden or a beach or a cave, it was requiring you to have a licence.

All that this amending legislation says is that you must have lawful authority or excuse. If you have a licence then you have lawful authority. Do not use the word "licence", use "lawful authority" or "excuse" which is presently within the Law, as it existed there from 1840.

Aside.

Hon. D. A. C. SIMMONS: If you have a licence...The words, "without lawful authority" which presently is in the law. Those govern every offence. In other words, if I come up to you, as a licensed vendor, and offer to sell you something...

Aside.

Hon. D. A. C. SIMMONS: No.

Mr. B. M. TAITT: If the Honourable Minister would give way, Sir, on a point of elucidation, because I addressed this point. The Section (g) as it now exists deals with accosting, being there without lawful excuse has to do with accosting. You have now introduced new offences of annoying and harassing. Lawful excuse...What excuse can you have for harassing? What excuse can you have for annoying? This is the whole point. You have changed the tenor of all that appears in Section 2. The tenor of Section 2 is relating, primarily, to wanderers and common prostitutes. You have now introduced persons who are going to be selling and you are attempting to make a licence the basis on which you could annoy, harass and/or the other offence.

If the Honourable Member is saying that, once you have a licence you can annoy and harass, that is okay.

Hon. D. A. C. SIMMONS: What we are saying is that when you are challenged, you would say, but I was not annoying the person or I am a Parks and Beaches Warden and I was talking to the lady, whatever. The policeman says he observed you talking to this person, you were annoying them or whatever. You say I was not annoying them, I was carrying out my job as a Warden. I was enquiring of the person, whatever, and you give your lawful excuse or authority. 6.00 p.m.

Asides.

Mr. SPEAKER: Let us be orderly, please.

Hon. D. A. C. SIMMONS: The Licence relates to the Parks and Beaches Act All I am saying is that a licence would give you lawful authority to offer for sale under the Vagrancy Act. If you have no proper excuse you can still be dealt with.

I think, Mr. Speaker, that I have dealt with most of the concerns. I could not obviously in half an hour reply to every single concern. I think a good point was made by the Honourable Member for St. Michael West and it is this: I am glad that he has drawn it to the attention of the House. In my almost 20 years, I think I have heard it in here twice and it is that people who have to exercise power ought always to remember that the exercise of power carries with it a discretion, a discretion to act reasonably in the circumstances. Any law can be abused by indiscriminate conduct by ruthless unscrupulous persons.

I remember when I was in practice some years ago, not most recently, I used to do a fair amount of criminal law up to about 1980 and it used to worry me how on a Saturday morning in that period before 11.30 when

the District "A" functioned, a number of persons would be picked up and brought to court and these would be the charges: obstructing the police, resisting, assault of a police officer and indecent language. Not one person. I am talking about 5 or 6 every Saturday who would find themselves over in District "A", all charged for the same 4 offences. There are 52 Saturdays in a year. I have my own views as to how it could be that 6 of us would be out, I in Baxter's Road, you in Country Road, somebody else in Nelson Street, they grab us up and all, each one of us, bused a police officer, resist, assault and obstruct a police officer. It does not sit well with the legal profession. And where that kind of conduct has taken place I think it has been abused and all I am saying is that those who have to administer this Act and if the Honourable Member was not here last time let me make the point again. One of the corpora of this legislation is to invest the police and the special constables with law enforcement powers that even though they have them under this legislation, history has shown that the Parks and Beaches Wardens have been neglectful, reluctant, afraid or whatever, but have not been enforcing the legislation under the Parks and Beaches Act with the same degree of seriousness as was required to help us to maintain discipline and order on the beaches.

This legislation will give the authority to police officers and special constables and hopefully we will see a more determined law enforcement on the beaches and in public places generally. But I warn, as the Honourable Member for St. Michael West was so careful and sensible about today, I wish to say that those who have the powers to exercise must use them reasonably and it is not every little thing that you hear you are going to arrest a person for and embarrass them.

Beyond that, we as legislators can do no more than to create the framework for the operation of the law. The execution of the law is now in the hands of others and I hope they will heed our warnings.

Mr. Speaker, Sir, with those remarks I beg to move that this Bill be now read a second time.

The question that the Bill be read a second time was put and resolved in the affirmative the House dividing as follows:

Ayes: Hon. Miss B. A. MILLER, Hon. D. A. C. SIMMONS, Hon. Dr. R. L. CHELTENHAM, Hon. G. W. PAYNE, Hon. R. C. EASTMOND, Hon. Miss H. E. THOMPSON, Hon. Miss M. A. MOTTLEY, Hon. Sir Harold St. JOHN, Mr. W. C. C. CALLENDER, His Honour R. D. MARSHALL, Mr. G. A. CLARKE, Mr. L. R. TULL, Mr. J. M. EDGHILL, Mr. D. CARTER and Mr. R. St. C. TOPPIN - 15.

Noes: Nil.

Abstentions: Mr. D. J. H. THOMPSON, Mr. B. M. TAITT, Rt Hon. L. E. SANDIFORD, Mr. J. O. TUDOR, Mr. L. A. WEEKES, Mr. D. St. E. KELLMAN and Dr. R. C. HAYNES - 7.

Mr. SPEAKER: Fifteen Honourable Members having voted "yes", no Honourable Members having voted "no", and 7 Honourable Members having abstained, the Bill is now read a second time.

On the motion of Hon. D. A. C. SIMMONS, seconded by Hon. Dr. R. L. CHELTENHAM, Mr. SPEAKER left the Chair and the House went into Committee, and Mr. W. C. C. CALLENDER took the Chair.

COMMITTEE

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

Clause 1 was called and passed.

Hon. D. A. C. SIMMONS: I beg to move that Clause 2 stand part.

Hon. Dr. R. L. CHELTENHAM: I beg to second that, Sir.

Mr. B. M. TAITT: Mr. Chairman, is this part being televised? Before I go any further, can I know whether this part is being televised or not, Mr. Chairman?

Aside.

Mr. B. M. TAITT: The Leader of the House has no parliamentary etiquette in this regard. I just wanted to be certain because we were the victims in here of a situation in which we were under the impression that matters were not being televised and it turned out that they were. I need to know because it would help to conduct my performance. Yes. You know how it is when it comes to performance. I know you know how it is when I get up.

Mr. Chairman, Sir, I want to draw to the attention of the Attorney General because I am not sure if he took the argument. If you look at Section 2 of the whole Chapter 156. It begins by stating: "Any person who...". Now from (a) through (i) deal with persons who apply to the Chief Welfare Officer being able either by labour or by other lawful means to maintain himself or herself or his wife or his or her children or child and who wilfully refuse or neglects to do so. Section (c) says: "Being a common prostitute, wanders in the public streets or highways or in any place of public resort and behaves in a riotous or indecent manner, and (d) in any street, highway or public place accosts a passenger and offers to take him to the house of residence of a prostitute, that is to say a

person who is torting. Section (e) any person who being a common prostitute or nightwalker, loiters in any street or highway, etc., (f) wanders abroad or places himself in any public place, street or highway, (g) in any street, highway or public place without lawful authority or excuse, the proof whereof shall lie on the party accused, accost a passenger or follows him about."

Now, Sir, it is clear that the policy of Section 2 is related to a certain kind of behaviour. Okay. A person who tells the Welfare Officer lies in order to get some assistance or who refuses to do something that he should do in order to get allowance from the Government, or who as a common prostitute either touts for or is a common prostitute, etc.

Now there are two aspects of this that I want to relate to. The first one is that the Attorney General is using that section to introduce an entirely different kind of behaviour. This is "accost" here in the context of getting someone to go home for custom or go to a place for custom. That is how "accost" is used here. The Attorney General is now bringing in "annoys or harasses" in any place. I want to suggest that there are two different schemes. A criminal behaviour that has nothing to do - well, I do not want to say seduce them because it is not exactly on all fours but it is the same kind of concept. That is why in the penalty which you are now imposing you have not realized two things. The penalty which you are imposing with the amendments which you are bringing does not properly belong with what has been retained in Section 2 (g).

You are now saying that anybody who being a common prostitute that used to get a \$5.00 fine now they will get a \$2 500 fine. It cannot be that you want to fine them \$2 500 for that sort of behaviour. So now you are acquainting what used to be common prostitute behaviour with the behaviour of harassment and vendors. Okay. You are bringing the vendors into that crowd now. So you are saying that the vendors belong with the common prostitute and those kinds of people. That is what you are doing.

Aside.

Mr. B. M. TAITT: I am not saying that you intended to do that. Let me start from scratch. One possible interpretation of what is about to happen is precisely that. Using the *ejusdem generis* rule, you would have to include vendors in the class of people who are here with the welfare people, common prostitutes, and the vendors. You would have to, according to what you are doing. I draw it to your attention as a matter of policy.

Asides.

Mr. B. M. TAITT: Yes. But if what the Honourable Member for the City is saying and if that is what you intend, then I have a clear picture of what you intend. If you are saying that it is the selling of services and that they all fall into that category, then I understand that is your clear interpretation which makes what the Honourable Member for Christ Church East was saying much more potent and much more worthy of re-examination. Because there is no vendor in Barbados who by virtue of being aggressive ought to be classified with common prostitutes. All crime is not crime in that context I would like the Honourable Members to really think it out. You do not intend that.

Hon. Miss B. A. MILLER: Mr. Chairman, Sir, on a point of order if I can help the Honourable Member. He has a very archaic and Victorian view of what he calls common prostitutes. Nowadays these persons are of all sexes and are called sex workers and they offer services for profit. They offer services to the public and that is the context in which you see this here. It is a fact of life.

Mr. B. M. TAITT: Unlike other Members who laughed, I have no difficulty with that interpretation if that is what you mean. But I do not think that the Attorney General's posture suggested at any point along the way that he is regarding the sex workers of Barbados in the same category as the person who would harass people on the beach. 6.20 p.m.

Hon. D. A. C. SIMMONS: On a point of order, Mr. Chairman. Last time, I think it was even carried in the Press, I spoke about people who offer services, particularly sexual services, to people on the beach and drugs. I talked about that last time.

Mr. B. M. TAITT: This is now a Bill for prostitutes.

Aside.

Mr. B. M. TAITT: Because you cannot sneak it in here through the Vagrancy Act That should have come with a different piece of legislation. The first time that has emerged in this debate is now. Are you saying that this legislation was intended for all the men who offer sexual comfort for those women who come from Canada? Is that what you are saying? The legislation is intended then for the male prostitutes, so the fellows who walk up and down on the beach, who do not offend anybody except that they look good, they can now be accused of annoying? I understand now. I now can vote against it.

Hon. Sir HAROLD St. JOHN: Mr. Chairman, I would like a few explanations. I have a difficulty with one

point in this Section and it relates to the last part of Clause 2 which appears to me to create a separate and distinct offence from annoying, from threatening, from harassing, from following about and the offence that is created is offering goods or services of any kind without lawful authority or excuse. I understand that one can have lawful authority or excuse and if you are selling pursuant to lawful authority or excuse you will not be guilty of an offence. But my understanding of the position is, quite apart from that, that annoying is a separate and specific offence.

I have already spoken on the fact that I would have preferred, for consistency, if we had used the same words that are in the Parks and Beaches Regulations which have stood the test of time. That is one point. The point I am in great difficulty about is that hitherto there was a Hawkers* Registration Act in Barbados. That said that you could exercise the calling or trade of a hawker, peddler or itinerant vendor, once you went for a licence. Once you went to the Colonial Treasurer in those days with two character references, you were entitled as of right to get that licence. That Act has been repealed. We have spent a lot of time trying to check it. According to the Consolidated Index that Act has been repealed.

We have been trying to find what is the replacement Act which empowers anybody to give you a licence today. We have found that under the Market and Slaughterhouses Act, the Chief Supervisor of Markets can give you a licence, but when we look at that Section it appears to us that he can only give you a licence for what is called permitted marketable commodities and permitted goods. None of them includes services. I have a technical problem here, Sir. I am constantly trying to remind Honourable Members that the services we have in the tourist industry are not only sexual services, there are the services of selling Jolly Roger tickets. There are people who make a living selling Jolly Roger tickets, there are people who advertise After Dark, Harbour Lights. They have an information booth and I have been trying to find what is the authority for them to have a licence, and they are building some very attractive booths too. I would like to know, and I cannot find the law, what is the authority for them to exercise that calling, not on a beach.

In my opinion, the offering of goods and services is too wide. The offence that is really created there is that it should be an offence to offer goods and services to the annoyance of a person. I would have no quarrel with that. If the offence is constituted by not only offering the goods and services, but to the annoyance of the person, then I would say it is legitimate to have that as an offence. The act of offering the goods and services, if there is no authority for them to have a licence, because no law similar

to the National Conservation Commission Act, or no law similar to the Markets and Slaughterhouses Act is in existence, then I find there is a difficulty. I cannot find a general area of law which allows it. One would have then to rely on constitutional rights and freedom to trade.

I know that there are many Magistrates who say that they are not paid to understand the Constitution. The late Dick Walcott has always said that he was never paid to understand the Constitution, so do not quote it to him. We also have it on record of as very prominent Judge saying that a Judge has a constitutional right to be ignorant, because you cannot get rid of him unless you go through a special procedure, but we are dealing here with reality. Quite apart from the offences in relation to the beach, that is covered, in my opinion, by the National Conservation Commission Act. You can go and you can get your licence, but I am talking now in relation to people who are setting up...

Aside.

Hon. Sir HAROLD St. JOHN: The Honourable Member for St. Michael South Central is well aware of that. Right outside property with which he is very familiar there is an information booth.

Aside.

Hon. Sir HAROLD St. JOHN: On the property, with his permission. I just want to draw this to the attention of the House, because it is a problem that is worrying me and I cannot find the law. Tell me where it is.

Hon. D. A. C. SIMMONS: I will accept that kind of amendment which would delete these words: "Or offers to sell any goods or services of any kind." I will tell you why. In the National Conservation Commission Act, Cap. 393, Section 31(e), it says:

"31. (1) Any person who

(e) for the purpose of selling goods or services or for any immoral or unlawful purpose, solicits in a public park, in a public garden, on a beach or in a cave,

is guilty of an offence ..."

I would argue it is that kind of thing that is covered here so we don't lose anything by deleting. 6.30 p.m.

Hon. Sir HAROLD St. JOHN: I accept that 100%, but there is just one point in that that will not be on

a street, highway or public place. If you are going to tell me that you wish to follow those words in relation to a street, highway or a public place, I am 100% in favour of that because that creates the position in those 3 areas as the same position as on the beach.

Asides.

Dr. R. C. HAYNES: Mr. Chairman, it is of interest to note that the Honourable Member for Christ Church South very forcibly advised the Attorney General in the not too distant past not to accept any amendments on the Roor of the House like that I think that the Honourable Attorney General should be very wary of accepting amendments on the Floor of the House like that, because all of a sudden he changes his mind, having made a point, saying that it cannot apply to highways.

The point I want to make, Sir, is that the Honourable Member for Christ Church South did not have the courage during the Second Reading which was televised.

Hon. Sir HAROLD St. JOHN: On a point of order, Sir, I specifically said that on the Second Reading. The Honourable Member was not in here.

Dr. R. C. HAYNES: Mr. Chairman, I listened very carefully to the Honourable Member. I always do. I was listening to him quietly, undisturbed in a secluded place, and I heard him say that there was one thing he had reservations about and that he would raise the matter in Committee. He did not specify so that the public of Barbados could hear that he had a fundamental objection in this particular area. When he raised that particular point, I read the Bill again and I assumed that that was what he had a problem with and that he did not have the courage to speak on it during the Second Reading.

Sir, my particular difficulty with this, and I also have a problem with lawyers generally on this particular type of matter. I listened to the Attorney General very carefully. I had no choice, Sir, I was in my car alone. It was raining and the radio was on. I had to listen to him very carefully. I was a bit surprised. I had always assumed that in this land of ours that every accused person was presumed to be innocent unless proven to be guilty. For the first time ever, I heard that there was a constitutional position which in certain circumstances can deprive a Barbadian of that right.

Asides.

Mr. CHAIRMAN: Please address the Chair.

Dr. R. C. HAYNES: You are telling me that there are certain circumstances in which the burden of proof is

shifted to the accused and that in fact is implicit in one section of the Constitution as quoted in this Honourable House by the Attorney General today. I understood him very clearly when he said that. He also went on to say that there are other bits of legislation which in fact shift the burden of proof on the accused and therefore, since that is the case, this particular clause that shifts the burden of proof on the accused is not offensive. I understood this to be the line of argument in that the Attorney General was not changing anything; that it was in the previous Act and that in point of fact people like myself were profoundly ignorant because we do not understand the Constitution nor did we understand that there was other legislation that makes similar provisions. This is what I understood to be the argument.

I thought he was crystal clear, he was precise and I assumed legally correct. I hardly ever question. The point I want to make is that. That is okay for lawyers. My reaction to that, Sir, is very simple. What you need to do is to change the Constitution to change all those bits of legislation that shift the burden of proof on the accused...

Hon. D. A. C. SIMMONS: Sir, on a point of elucidation. I don't want to get this debate bogged down in legal technicalities. We are talking about burden of proof and we can get very technical about the burden of proof and the burden of adducing evidence. The burden of proof never shifts from the prosecution. The burden of adducing evidence in some cases - insanity and so on - rest on the accused to present some kind of evidence to show.

Asides.

Dr. R. C. HAYNES: Let it be clearly understood. I do not intend to get into any niceties of legal argument. The point I wish to make is that I want to see a Constitution in Barbados which at all times places the burden of proof on the prosecution and not on the accused; and that any legislation that we have in this country which shifts that burden of proof on the accused that that should also attract the attention of the Law Reform Committee. In other words, what I want to say is that it is offensive to me and should be offensive to all freedom loving persons in this country to have legislation in Barbados where an accused person should have to prove his innocence. That should be the responsibility...

Do you know why I say this, Sir? I say this for this reason.

Asides.

Dr. R. C. HAYNES: A man can be accused of murder and if he does not have an alibi. He didn't

kill anybody - are you trying to tell me that he could be found guilty on other evidence that he can produce? I consider this fundamental to our judicial system and to our Constitution. I raise the matter as a layman. I am not getting into any legal niceties. I am clear in my mind as to what I understand should be the case in terms of enlarging and enshrining the freedom of Barbadians now and forever.

This is one of the reasons why I abstained in the vote on the Second Reading because this is very fundamental to me. I want to know that in this country we do not have legislation on the Statute Book that shifts any burden of proof on the accused. 6.40 p.m.

Asides.

Dr. R. C. HAYNES: I can understand a situation where an individual may choose to produce evidence to establish his innocence whether it be a licence or whatever but the obligations should not be on him. The obligation must always be on the person making the accusation to prove that he is guilty, not the other way around. It must be with the prosecution.

Asides.

Mr. CHAIRMAN: Order please. Members will have a chance to speak.

Dr. R. C. HAYNES: Mr. Chairman, I sincerely hope that the point has been made. I often make these points because I find that lawyers no matter how they try to remove themselves from the law very often cannot see these simple straightforward points that someone like myself would see in a flash. That is why I was hoping that somewhere along the line that the Law Reform Committee would include lay persons, people who could ask simple, ignorant questions that might turn out to be of significant importance for the jurisprudence of this country.

I sincerely hope that as we review the laws of Barbados that we would address that very fundamental principle and that the lawyers would recognise, and should recognise that that issue is one that goes beyond legal considerations. It is fundamental to the human rights and fundamental to the civil rights of the citizens of this country. I certainly have a problem with any legislation of any kind that removes that fundamental constitutional right from the people of Barbados.

I do not want to repeat the point which the Honourable Member for Christ Church South has made about offering to sell goods and services. That is another

point. Now he is an outstanding lawyer. From all reports the Honourable Member for Christ Church South is a good lawyer. He has seen this point from a legal point of view but I was going to raise it from a simple, commonsense point of view because it seems to me to be all wrong. I do not know what the remedies are. I do not know what is in all the other Acts and these kinds of things that he can raise. The point is that the lawyers in this House, if they would listen from time to time to the laymen, would end up with much better legislation.

Aside.

Dr. R. C. HAYNES: I think the point I have made is very significant. I do not wish it to be addressed in legal terms. I want it to be addressed from the point of view of a fundamental principle. You know why, Sir? Because it is usually the poor, the oppressed, it is usually those people who are not in a position to provide evidence of innocence...

Aside.

Dr. R. C. HAYNES: You know, Sir, that is a very interesting observation. I have always taught medical students that if by the time they have finished listening to the patient, if they listen to them properly and they have not made the diagnosis, they are unlikely to make the diagnosis, if they listen to them properly because they come with a message. They come and tell you what is wrong with them. The problem is that people do not listen and that is why I want the lawyers to listen today. That is why I am hoping that the phrase in brackets (the proof whereof shall lie on the person accused) be removed. That is my suggestion on this case.

Thank you very much.

Hon. Miss M. A. MOTTLEY: Mr. Chairman, I just want to clarify one or two points that I think that may have been obfuscated in this debate. In respect of the comments of the last speaker, the Honourable Member for St. Michael South Central, it is unfortunate that he has gotten himself into a bundle in terms of understanding the law because there is a clear distinct thrust as to what is the legal burden of proof and what is the evidentiary burden of proof.

For the proper and effective administration of justice one needs to have a section that provides that persons, once they have a peculiar knowledge as to a particular fact, that they are better capable of proving that fact than the Crown. That is not an area of law that is peculiar to Barbados. It is known in every common law jurisdiction and it is accepted as a basic principle of the criminal law. It is commonly referred to as peculiar negative averment It

is a question of being able to effectively manage the administration of justice because if you left to the Crown the job of proving certain facts you would be unable to complete cases in some instances and you would end up with a backlog of serious cases and not be able to effectively implement the law against the persons who you would wish to effectively implement it against.

The fact that it is enshrined in the Constitution is testimony to the fact that...

Dr. R. C. HAYNES: On a point of order, Sir. The Honourable Member started off with a presumption that I was in some way confused. I am in no way confused at all. I am talking about the civil rights of the people of Barbados. You are talking about ways and means of locking them up. There are two different things we are talking about.

Hon. Miss M. A. MOTTLEY: Sir, with respect. I have never assisted in locking up anybody either as a criminal lawyer or as a Minister of Government. But the Honourable Member for St. Michael South Central would know about making criminals out of people because his financial policy in the Budget of 1987 made criminals out of people and they had to end up in court

The point I want to make is a really serious point, Sir. It is not a question of criminal law and locking up people. There are some laws unfortunately which require you to prove an exception or exemption. I would state on record, for example, the law of Unlawful Possession. I am going to prey upon the Attorney General that that law be stricken from the law books of this country because it is a heinous piece of legislation. It was never implemented in the United Kingdom and it was put on black people in particular after the abolition of slavery to prevent them from owning property.

The point I am making is, Sir, a driver's licence - if you are charged for driving without a driver's licence, it is easier for you to prove that you have a licence than for the Crown to prove, particularly in instances where there is no computerisation. You have to prove it and there is a clear distinction between a legal burden of proof in which the whole offence is passed and an evidentiary burden of proof where you are only being asked to prove one fact or a particular fact on the balance of probability not even beyond reasonable doubt...

Dr. R. C. HAYNES: On a point of order, Sir. You see it is in this kind of society that is dominated by injustice that you hear this kind of argument. Let me tell you what happens, Sir. In the United States if someone is

arrested and accused of not having a licence, far from producing a licence you turn around and sue the person for false arrest and probably get half a million dollars. That is what would happen in the United States where there is freedom.

Hon. Miss M. A. MOTTLEY: If the Honourable Member knew anything about law here he would also know that you can do that here too. Very seriously, Mr. Chairman, the point is this that in the American legal system as well there is also a recognition of what is known as the peculiar negative averment, the exception/exemption qualification rule. So as usual, it is my contention that the Honourable Member for St. Michael South Central is seeking to obfuscate the issue by his ignorance of the particular issue and he may be better off listening to those who know what the issue involves rather than seeking to obfuscate and fly...

Aside.

Hon. Miss M. A. MOTTLEY: The other point is this, Sir. In respect of the Honourable Member for Christ Church South's point as to offering to sell goods and services without lawful authority or excuse, and the fact that only the National Conservation Commission Act and the Markets and Slaughterhouses Act, so far as we have found, make provision for the requirement of licences in certain conditions and certain places, it therefore means that to sell as an itinerant vendor outside of those areas is not against the laws of this country. 6.50 p.m.

If it is not against the Laws of this country, then you will be doing it with lawful authority or excuse. You have an excuse because it is not unlawful authority. It is not against the Laws of this country. This Section does not create any offence for anybody selling on a highway because it is not otherwise against the Laws of this country for them to do so.

What I think, however, this Section perhaps needs to address is the persistence of so doing. You can either do it, as the Honourable Member for Christ Church South, by saying, to his annoyance, or if any person offers to the annoyance of the other person to sell him goods and services of any kind, or you can do it by putting in the word "persistently". But I would not seek to amend on the Floor of the House and I accept the Attorney General's proposition that we deal with the other Sections and that we defer these Sections until his Chambers can deal with it.

But the fundamental point is this, because much was said in the Second Reading, about us trying to stop itinerant vending in this country. It is significant that all

of the other Opposition Members took a different position from the leading spokesperson for the Opposition who, on the last occasion, said he was fundamentally and philosophically opposed to the Amendment.

But the point is this. This Section does not make a criminal out of anybody for selling lawfully. If you came within a defined area and sold without a licence, you would be unlawfully selling. If, however, you went on the Highway, which was not a defined area. *which is not a beach, you are selling lawfully. That is the fundamental point, it does not make criminals out of anybody for selling who have lawful authorities or for people who are highway selling, *et cetera*. That is really my contribution, at this stage, Sir.

Mr. D. J. H. THOMPSON: Mr. Chairman, I would not be very long but I heard from the seat, that the Honourable Attorney General may be considering some further Amendment based on the comments of the Honourable Member for Christ Church South. That would make sense, because this Section is the Section out of which the gravamen of the Opposition's concerns in relation to this Amendment, apart from our concerns about the Vagrancy Act

The issue of the burden of proof was raised and we do not need to degenerate the debate into a technical argument about legal or evidential burden of proof. Where a Government brings legislation either to shift the evidential or legal burden of proof, in any matter, it is a policy decision. It is not a technical, legal exercise. There is no Rule of Law...

Hon. Miss M. A. MOTTLEY: On a point of order, Sir, lest my contribution be misrepresented because I spoke specifically and the evidential burden of proof. I understand, Sir, that Second Reading speeches are for broad policy statements, that speeches in Committee deal with legal and technical matters pertaining to the particular Clause. In that Clause, there is a statement relating to shifting the burden of proof. I was only making the statement that the burden of proof being shifted there was not a legal burden of proof relating to the offence but was an evidential burden of proof relating to a peculiar fact.

Mr. D. J. H. THOMPSON: But, Mr. Chairman, I am not disputing anything the Honourable Member is saying. I do not know what the hostility to this view is about. I am merely saying that, whenever an Act seeks to shift that burden that that is a policy decision. And if the Attorney General is saying that it is the Barbados Labour Party's policy that, in relation to matters of this sort that the burden should shift, the Honourable Member for St.

Michael South Central is entitled, as we are, to say that, as a matter of policy, that in relation to offences of this kind which impact most on people who come before the courts, unrepresented, who may be suffering from some kind of social or mental disease, rather than being criminals, and for the other list of reasons that have been given in this debate, by us, and by the Honourable Member *for* St. George South that the shifting of the burden of proof, in those circumstances, is undesirable. All we are saying, as an Opposition, is that as a matter of policy, we will not be supporting legislation brought to this House which seeks to shift the burden of proof on those persons who are the most vulnerable in this society and who cannot afford the kind of representation which is going to make the distinctions which the Honourable Member for St Michael North East quite rightly made. That distinction, if she were a private practitioner would generate a fee which, not even I, would be able to pay.

All I am saying is, that we have to be conscious, that when we make policy decisions which are subsequently buttressed by legislation that it does not further affect and impact on those who are least able to understand. That is the point.

If the Attorney General is saying that that is the Labour Party's policy, all we are saying, on this side, is that we disagree. We are not saying it is unconstitutional. There is nobody who has spoken on this issue more in Select Committee, when we did the Proceeds of Crime legislation, when we did the Misuse of Drugs, I think that is what it was called and the Honourable Member for St. Thomas was there and the Honourable Member for St. Joseph. I have always argued that I do not like the concept of the burden of proof shifting either in small evidential matters, whether it is the production of a licence or otherwise or in relation to those American inspired pieces of legislation, the drugs legislation, the proceeds of crime that the burden of proof shifts entirely on to the accused. I believe Honourable Members on that side expressed concern but we understood that we were seeking to follow some trends which were emerging, in the world, and which powers greater than us were seeking to force upon us. That has happened on several occasions. It was acknowledged in the debate that this was a testy area.

But we are talking about a Vagrancy Act Nobody in my house is going to be arrested, under the Vagrancy Act, or in anybody's house, in this Chamber.

Asides.

Mr. D. J. H. THOMPSON: The people...

Dr. R. C. HAYNES: On a point of order, Sir. I believe that the Honourable Member for St. John

should check the Honourable Member for St. Joseph, as to the veracity of that particular statement.

Mr. D. J. H. THOMPSON: That is a matter peculiar to him, the facts of which he should prove and the burden of which now shifts to him, Sir. That is the first point

The second point is that the Honourable Member for Christ Church South, quite cogently, pointed out some of the concerns we had, about the legislation. They were not raising the specifics. The point being that I asked the Honourable Attorney General, in the Second Reading, to tell me what the policy is. Because it is only when we know who are the kinds of persons who are to be affected by this legislation that we can say whether the legislation is relevant. That does not mean we will support it. What it means is that we may be able to assist the Attorney General in achieving the objects which he says are part of the policy of the Government. In that regard, the Honourable Member for Christ Church South has pointed out the major gaps in the Law.

A simple scenario. Is the Honourable Member for St. Thomas telling me, as I asked, in my Second Reading Speech, that under Section 2(g) that because a taxi driver has a taxi permit and can produce that permit that this Section then does not apply to him at all? Does that permit give him the right to do any or all of the things specified, under this? Now I understood the Attorney General to be saying, once they produce this permit, lawful authority, this Section does not cover them. That was my understanding, that this is not to deal with persons who have the permit or the lawful authority. That was my understanding, or licence.

Aside.

Mr. D. J. H. THOMPSON: But the licence itself...

Aside.

Mr. D. J. H. THOMPSON: Does having a taxi licence mean that you can offer to sell goods on a street highway or public place? I am now totally mixed up, Mr. Chairman on this issue. I am saying that whatever legislation we have before us does not support the policy objectives as set out by the Government. I need to know when we return to this section what are the policy objectives so that, in relation to that, we can have an amendment of the legislation, not that we would support it, but which falls into conformity with those policy objectives. I understand that to be the case. 7.00 p.m.

I am not certain at this point what categories of persons are to be covered by this section. It is perhaps too

broad and there are other considerations which arise from it which when we get to the amended version we can deal with. This is why, as we said in the second reading stage, this particular section of all causes us the greatest concern and that it is not just a legal matter that unless we know what the policy implications are and what are the social economic and political factors which go in to the decision to make this legislation, then we would not be able to support it.

I want to say that there are persons who hold licences or permits who are guilty of exactly the same things that the Government is saying it wishes to control in relation to persons who do not hold those licences and permits. The Honourable Member says it is the persistence of it. Well the legislation therefore would have to reflect that point, if not what you are doing is entrenching a class of people in Barbados who, because they have a permit can do as they like. Precisely the scenario which the Honourable Member for St. Lucy has raised in which competition is not at its best. Another class of people, who because they do not have a permit are in a much more vulnerable position even if their conduct does not rise to the level of the person who has the permit. I do not think that is what the Government intends and this is the basis of the kinds of concerns that we raise in relation to this piece of legislation. That is all I wish to say.

I know the policy objectives. I can talk about the draft, not that we will support the provisions.

Hon. Sir HAROLD St JOHN: I do not want any confusion, Sir. I fully support the words "in any street" in subsection 2.

"in any street, highway or public place, including a beach, without lawful authority or excuse (the proof whereof shall lie on the person accused), accosts, molests, threatens or harasses any person or follows him about;¹¹.

My position is, Sir, the offering for sale of goods or services of any kind. I was not able before to find out where you would get a licence from other than under the Market and Slaughterhouses Act within a prescribed area. We have now found that there is a replacement Act, the Hawker's Regulation Act and that Act is the Professions, Trades and Business Registration Act. But that Act said that a person who is exercising any calling has to apply for a licence to the Chief Labour Officer because it is not among the categories set out in the section L. That also created an offence and this is the point I want to make. That also created an offence - \$500 for carrying on the calling without a licence. I just want to have it clear. I understand in the context of this Act that it is quite desirable to have an offence where you are authorised

by some law to sell goods and services but the manner in which you are selling the goods and services is in such an offensive manner* to another person that that is what constitutes the offence.

Now, it would seem to me, Sir, that if you took out these words you would still be able to catch a person for harassing because the harassing would consist of the persistent selling and offering of the goods. You would not run into the difficulty of it ever being held by some person that the mere offering of goods and services would be an offence under this Act because you did not go down to the Labour Office. I do not even know whether the Labour Office has the register now.

Sir, my point is that Section 2 is a good piece of legislation except for those last words.

Mr. B. M. TAITT: Sir, at the moment sex workers do not operate on the basis of licence. When the Honourable Member spoke of sex workers she said that I took a position on sex workers. I do not have any position on sex workers. I think sex workers should be licensed, frankly. It is the only way you prevent the spread of the killer diseases but to say that in here in this country it would now stand off a whole new long thing but if sex workers were licensed they would probably be better off than our pretending they do not exist. We pretend that sex workers do not exist and as a result sex workers have to run and hide and duck from the police and therefore they do not get regular health checks. Nobody gets arrested. They get sick. Let me just make my second point. On the question of annoy and harassment, the citation by the Honourable Member - I think that "annoy" constitutes a new category of offence which is going to be very difficult. Molest is known to the law in Barbados. Molest instead of annoy is okay with me. Do you want to bring legislation to stop harassment? Because I heard the Honourable Member talk about it as a definition by a judge in a particular set of circumstances. But harassment in relation to the beach, is that now to be different from harassment? Do you want to bring a category of harassment? If you are going to make harassment an offence, you have to define the harassment. You do not have to define it in here. 7.10 p.m.

The Honourable Member cited the police and said "if you obstruct the police". But obstruct was known to the common law.

Aside.

Mr. B. M. TAITT: In Barbados? I am saying harass is not known to the common law.

On the motion of Hon. Miss B. A. MILLER, seconded by Hon. Dr. R. L. CHELTENHAM, Mr. CHAIRMAN reported progress to His Honour the SPEAKER and asked for leave to sit again and Mr. SPEAKER resumed his Chair and reported accordingly.

Aside.

Hon. Miss B. A. MILLER: If you are prepared to work in here without dinner until 10 o'clock, tell me that now. There is no dinner ordered. Are you prepared to work without it?

Aside.

Hon. Miss B. A. MILLER: Are you all disposed to finish with it?

Mr. B. M. TAITT: No! We are not disposed to finish with it at all.

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I am asking for further consideration of this Bill to be postponed.

Hon. Dr. R. L. CHELTENHAM: I beg to second that, Sir.

The question that the Bill be postponed for further consideration was put and resolved in the affirmative without division.

Hon. Miss B. A. MILLER: At this time I would wish to ask for the Item Papers to be recommitted.

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

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

PAPERS

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I am commanded to lay the Public Enterprise Investment Fund Receipts and Payments Account for the period 31st March, 1994 to 31st December 1994.

QUESTION TIME

Hon. Miss B. A. MILLER: Mr. Speaker, I beg to move that Question Time be now taken.

Hon. Dr. R. L. CHELTENHAM: I beg to second that, Sir.

The question that Question Time be now taken was put and resolved in the affirmative without division.

Hon. Dr. R. L. CHELTENHAM: Mr. Speaker, Sir, I had intimated earlier in the day that the responses to the questions asked by the Honourable Member for St. Michael South of the Minister of Tourism, International Transport and the Environment are now ready. The Honourable Member for St. Michael South who has spoken to me and regrets very much that he cannot be in his place. But I did intimate to him that in the circumstances, Sir, I would beg to lay the responses. I have already passed them on to the Clerk.

ADJOURNMENT

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that this House do now adjourn until Tuesday, April

25, 1995 at 4.30 p.m. It is expected that the Honourable Prime Minister and Minister of Finance will present his Budget at about 5 o'clock of that day.

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

The question that this Honourable House be adjourned until Tuesday, April 25, 1995 at 4.30 p.m. was put and resolved in the affirmative without division, and Mr. SPEAKER adjourned the House accordingly. 7.15 p.m.

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Kellman, Mr. D. St. E. (St. Lucy) Miller, Hon.
Miss B. A. (City of Bridgetown) Mottley, Hon.
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