

THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1994 - 99

HOUSE OF ASSEMBLY

Tuesday, August 25, 1998

Pursuant to the adjournment, the House of Assembly met at 11.20 a.m. on Tuesday, August 25, 1998.

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.),

IP.

Mr. B. M. TAITT, B.A. (Hons.), M.P.A., LL.B. (Hons.)
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, K.A., Q.C., LL.B.
Mr. L. R. TULL, Q.C., M.A.
Hon. Miss B. A. MILLER (Deputy Prime Minister, Minister of Foreign Affairs, Tourism and International Transport) (Leader of the House)
Dr. R. L. CHELTENHAM, Q.C., M.A., M.Sc. (Econ.)
Mr. J. O. TUDOR, J.P.
Hon. R. C. EASTMOND, J.P., B.A. (Hons.), Dip. Ed., LL.B. (Hons.) (Minister of Agriculture and Rural Development)
Mr. D. CARTER (Chairman of Committees)
Mr. G. A. CLARKE, B.Sc., Dip. Ed. (Parliamentary Secretary, Ministry of Public Works, Transport and Housing)
Mr. J. M. EDGHILL
Mr. F. J. STUART, B.A., LL.M.

Mr. W. C. C. CALLENDER, J.P., B.A., Dip. Ed., B.Sc.

Mr. H. F. LASHLEY

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

Mr. D. St. E. KELLMAN

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

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

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

Prayers were led by Rev, Canon Ivan Harewood.

Mr. SPEAKER: This House is now in session. Minutes of Tuesday, August 18, 1998.

MINUTES

Hon. Miss B. A. MILLER: Mr. Speaker, the Minutes of the Honourable the House of Assembly for its meeting of Tuesday, August 18, 1998 which Minutes have been circulated, I beg to move that they be taken as read, and confirmed, Sir.

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

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

ANNOUNCEMENTS BY HIS HONOUR THE SPEAKER

Mr. SPEAKER: I would like to take this opportunity to make a statement to Honourable Members and before this House proceeds with the business of today's Sitting. I would like to urge all Honourable Members in every way and in all

times to observe the Standing Orders of our Honourable House. I should expect that Honourable Members will conduct themselves with all dignity and decorum both in their speeches and otherwise while they are present in the House. It is fair to expect too that Members should be in their places as far as possible whenever the House is in session and they are within our precincts.

As Speaker, I shall endeavour at all times to be fair, objective and impartial in presiding over this Honourable House. Members must in turn be fair to each other and to the House. Standing Order No. 28 in particular should be a continuous guide to all Members. Unpleasant, personal and other references should at all times be avoided. I am calling on Members to desist from the loud asides and the cross-talk which characterised our sitting last Tuesday. I rely on the support and cooperation of the House and the respect of all Members of this House to each other and for its best traditions. We must move away from the attitudes displayed in last Tuesday's debate in personal and other references. But please remember that the cut and thrust of parliamentary debate in our House must continue and must be uninhibited.

Thank you.

PAPERS

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

1. The Delegation of Functions (Public and Police Services) (Miscellaneous Provisions) (Amendment) Order, 1998.
2. The Pensions (Pensionable Officers) (Amendment) Order, 1998.
3. The Civil Establishment (General) Order, 1998.
4. The Insurance (Forms and Fees) Regulations, 1998.

GOVERNMENT NOTICES

Mr. Speaker, I beg to give notice of the following:

1. Resolution to approve the Civil Establishment (General) Order, 1998.
2. The Mutual Funds Bill, 1998.
3. The Pensions (Miscellaneous Provisions) Bill, 1998.

4. The Civil Establishment (Amendment) Bill, 1998.

5. The Income Tax (Amendment) (No. 2) Bill, 1998.

FIRST READING OF BILLS

On the motion of Hon. Miss B. A. MILLER, seconded by Hon. D. A. C. SIMMONS, the following Bills were read a first time.

The Mutual Funds Bill, 1998. The Pensions

(Miscellaneous Provisions) Bill, 1998. The Civil

Establishment (Amendment) Bill, 1998. The Income

Tax (Amendment) (No. 2) Bill, 1998.

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.

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

GOVERNMENT BUSINESS ORDER NO.

15 - THE FIREARMS BILL, 1998

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, I would like to indicate that the Government would wish to withdraw the Bill that is before the House and substitute the other one which has been circulated. There were a few amendments that were done, arising out of some late comments from the Commissioner of Police and rather than circulate a sheet with the amendments, we preferred to incorporate the amendments in the Bill as one composite quotation. So if the House has no objection, I am asking leave to substitute the Bill that has been recently circulated in place of the previous one. I would like the ruling of Your Honour on that.

Mr. SPEAKER: If this be the will of the House, so be it. There are no objections.

Hon. D. A. C. SIMMONS: Mr. Speaker, the places where we have made the amendments, I felt they might have been highlighted for Honourable Members to see, but let me just state to Honourable Members first to indicate where the amendments are.

In the definition of firearm on page 6, we have put in the word, "firearm" means, "a gun or other barrel weapon".

So that is just the amendment. Then on page 7 in the definition section, put in a definition of, "prohibited weapon" or "prohibited ammunition". So that is new. On page 9, clause 3. (b) where we had, "upon the request of any police constable" the last two words of paragraph (b), we have changed that to say, "Police Officer". On page 11, clause 5, subclause (5) in (a) the words "gun or ammunition" are included. Clause 5, subclause (5)(a) and (b), before the words "or ammunition" put in the word "gun". It would be in your Bill but not highlighted, so I am highlighting them for you.

Now, on page 12, note licences in respect of firearms dealers and gunsmiths is new. The Commissioner wanted that in, and Gunsmiths. On page 14 the whole of clause 9. (1) to (5) is new, dealing specifically with gunsmiths' licences. We had made a provision separately for them. The Commissioner wishes a separate categorisation for gunsmiths, so it is all there in clause 9.

On page 16, clauses 12 and 13, the previous Bill spoke only of a rifle club and the Commissioner prefers, rifle and pistol clubs. So we have included the words, and pistol. Clause 14 there is a new subclause (3). There was no sanction in the previous Bill where a person refused to hand up a licence and what we have done really is to penalise him. We are saying that if you refuse to hand in your licence when you are required to do so, it is deemed to have been revoked. Clause 31 dealing with antique firearms, we put in a special provision. 11.35a.m.

Mr. Speaker, I am under the weather today and fighting the flu, but I am not going to be long on this Bill because much of the background to this was dealt with at length last week and that is to say the enactment of this particular Bill has to be seen in the context of an increase in the use of guns by certain elements in the society, a use of guns that is almost wanton.

Information in the hands of the police, and I think it is pretty obvious to members of the general public, is that there are far too many illegal guns in Barbados. All over the world, it is acknowledged that illegal narcotic drugs bring with them an increase in guns and gun crimes. I had a book in here last week where the point is well made. Professor Griffith's book on drugs and security in the Caribbean - Sovereignty and the Seige. He is a Guyanese professor and he quoted many statistics to show that in the Caribbean there has been commensurate with an increase in drug activity an increase in gun crimes. Much of the murder in Jamaica, for example, is gun related. Trinidad has been experiencing high levels of violent crimes involving guns, St. Kitts, the Bahamas, all over the Caribbean, Sir. Barbados is not singular or unique.

Faced with that, a Government has certain options available to it. One is to intensify the detection capability of the Police Force. That is being done. The second option, of course, is to intensify international cooperation, get information and share intelligence. We try to do that. But the fact is that guns are proliferating in the Caribbean particularly out of the USA and no government has been able to spend the time but it was in recognition of the fact that there is this proliferation of guns that in negotiating the plan of action for President Clinton's visit last year in May, we fought until a week before he came to get the Americans to agree to an international treaty dealing with the illicit traffic in guns and ammunition.

Only at the last minute they gave in and agreed to developing an international treaty to deal with this matter. I am pleased to say that such a treaty certainly to cover this hemisphere - it does not cover the whole world at the moment - was developed in Mexico last year November and it will be an ongoing struggle to try and get international harmonisation on this matter. It is not easy because some super powers, some large countries, themselves are big manufacturers and have not got adequate laws internally to control the gun business.

Now you have not got an effective international treaty and guns are still entering your country and people are using guns illegally. It seems to me that you have to have recourse to the other aspect of the law, that is, the question of crime prevention through legislation, what I called last week tertiary crime prevention. For the law's response to certain kinds of social behaviour can only be an intensification of the penalties to control that behaviour in the hope that a stiff penalty may act as a deterrent to persons who may be minded to engage in a particular kind of conduct which it is aimed at.

That, really, is the purpose of this Bill. To stiffen the penalties for me illegal possession and use of guns with a view to sending a signal to those who will keep guns illegally and use them, that if you persist in illegal conduct such as is proscribed by this legislation you will be visited with the full weight of the law.

I pointed out, Sir, that in 1990, in the face of a burgeoning drug problem the previous Government stiffened the penalties substantially for engaging in illicit traffic and use of narcotic and psychotropic substances. Barbados has the toughest drug laws in this region and the Judiciary took the previous Government at its word and started imposing very tough penalties for serious drug crimes. Again, Barbados is recognised internationally as having a judiciary that is the toughest on drug crimes. 11.45a.m.

I am not going to get into debates about long sentences and short sentences today, Sir. I am not up to it physically but, as I say, tough penalties are a form of strategy that are known to Governments to deal with certain types of serious crime.

Now, this Bill repeals the existing Firearms Act. We have taken the opportunity also to repeal the Ammunitions Act. What we are bringing before the House today is a very moderate Firearms Bill, comprehensive in its nature and scope, and modelled on the English Act and the Bermuda legislation.

The existing Firearms legislation in Barbados dates back to 1896, so it is 102 years later that we are really dealing seriously with the Firearms legislation in Barbados since it was first introduced.

They had very few amendments to that 1896 legislation. The legislation was amended from time to time by various amendments increasing the penalties until it was finally amended in 1987. But since 1987, there has not been any amendment to the Firearms legislation and rather than tinker with it again, it was the Government's view that we should bring comprehensive legislation and this legislation comes to the House by way of law reform.

The Ammunition legislation, Cap. 158, had its origin in the year 1919. There were a couple of amendments in 1971 and 1979, but nothing of any substance. Both of the existing pieces of legislation, therefore, are completely out of tune with contemporary Barbados and contemporary crimes. We did not believe that the legislation offered satisfactory response to the challenges that law enforcement agencies were faced with.

It could be argued, Sir, that the very antiquity of the legislation, 1896 and 1919, demands that it be modernised if only that it was rooted in colonial times.

Sir, if I could just give Members a brief overview of the Bill, the main purposes of the Bill are, first of all, to make comprehensive provision for the grant of licences, the revocation of licences, the creation of a new range of offences, a substantial increase in the penalties which can be imposed for offences and, of course, one purpose is to make special provision for ammunition.

I saw reference in a paper last week, or heard it on the radio, one of the stations was talking about a new Crime Bill. I am not aware of any new Crime Bill. I have no intention of bringing any new Crime Bill. They might have confused something they heard on the British radio because Britain is bringing a new Crime and Disorder Bill, but Barbados is not bringing any new Crime Bill.

Aside.

Hon. D. A. C. SIMMONS: They might have heard it on the BBC or something.

Now, Sir, just let me highlight, and I hope that the public will get the appropriate message. Clause 3 says, Sir:

"No person shall

- (a) use,
- (b) have in his possession,
- (c) import,
- (d) carry,
- (e) manufacture,
- (f) supply or offer to supply to another, or
- (g) be concerned in the supplying to another of any of the following:
 - (A) any firearm;
 - (B) any weapon designed to fire any rocket projectile and any other projectile;
 - (C) any explosive except a hand grenade manufactured for the purpose of extinguishing fires;
 - (D) any ammunition unless he holds a valid licence to do so."

You need to have a licence to use, be in possession of, carry, import, manufacture, supply or be concerned in the supply of any firearm. If you do not have a licence and you are found with an illegal weapon the maximum penalty is \$100 000, or 20 years, or both.

I explained last week that two countries Canada and Malta, represented by judges at the recent Judges Conference they had in Barbados, told me that those penalties are mild compared with what they have in Canada and Malta because it is mandatory imprisonment if you have a gun. They do not give a choice. We give a choice of fine or confine. In those countries you have a gun without a licence - jail, no fine. But that is not our culture and we are having the alternatives.

Sir, there are certain people who obviously are disqualified from holding firearms. Those are set out in

Clause 4 such as would be obvious. I am not going to detail them because they are all set out quite easily and understood in clause 4.

The procedure is set out in clause 5. You apply to the Commissioner for a licence on a form and he will grant or refuse a licence.

What is new, Sir, is that presently if you apply to the Commissioner for a licence and you are turned down, that is the end of the matter. There was a time when natural justice was thought not to apply until there was a case, I cannot remember the name of it, "Belle", I think that went to the local Court of Appeal and the Court held, following other jurisdictions, that where you were going to refuse or revoke a licence, natural justice should apply. 11.55a.m.

I have specifically put in this legislation as I am trying to do wherever I think it applies. We did it in the Police Disciplinary Regulations. I have put in a natural justice provision in there for policemen when they are going to be suspended to have a right to make representation why they should not be suspended and similarly in respect of gun licences. If the Commissioner is going to revoke or refuse a license, we have put in a procedure for him to let the applicant know and furthermore, if he refuses to grant a license, I have provided a right of appeal to the Minister. That is new, Sir.

I am aware that in certain legislation for example, insurance, you can appeal to the Supervisor of Insurance through to the Minister responsible. The Minister's decision is final. I think in this case it is fair because my experience has taught me that many people on the face of it, of good character, people perhaps who could, with good reason have a gun to protect their business, having regard to the nature and type of business are denied and they are not told why and they are just refused. It appears to be arbitrary because there are no guidelines that are known. It therefore appears to be arbitrary and people complain about it.

I think that it is fair that people who make application for guns and who are refused should have a right of appeal. As I have said, I have followed the procedure in legislation where the Minister of Finance can hear an appeal. He does not have to do it himself but there is a procedure for the person to have a right of redress.

Honourable Members will see in Clause 15(1):

"The Commissioner may refuse to renew or revoke a licence where he is satisfied that the holder of the licence

- (a) by reason of conduct, age or unsoundness of mind, is not fit to be entrusted with a firearm or ammunition;
- (b) is convicted of
 - (i) an offence against this Act; or
 - (ii) any offence involving the use of a firearm;
- (c) is in breach of any condition subject to which the licence is issued."

Clause 15(2)

"When the Commissioner intends not to renew or to revoke a licence, he shall give written notice to the licence holder of his intention not to renew or to revoke the licence as the case may be and shall require the licence holder to show cause why the licence should not be renewed or not be revoked as the case may be."

That Section there enforces the notion of the right to be heard and outlaws arbitrary conduct. That is new, Sir.

The appeals procedure is set out in Clause 16 of the Bill.

There are some new offences. Consultation with the Magistracy advise us to make provision for separate types of offences under Clauses 18 to 20. We now have a provision in Clause 18 for example:

"Where a person has in his possession any firearm or ammunition with intent thereby to endanger life or cause serious injury to property, or to enable another person by means thereof to endanger life or cause serious injury to property, whether any injury to property has been caused or not, that person is guilty of an offence and is liable on conviction on indictment, to a fine of \$100 000 or to a term of imprisonment of 20 years or both such fine and imprisonment."

Use of a firearm to resist arrest - Clause 19.

Clause 20:

"A person who has in his possession a firearm or imitation firearm with intent to commit an indictable offence, is guilty of an offence and is liable on conviction on indictment, to a fine of \$100 000 or to imprisonment for a term of 20 years or to both such fine and imprisonment."

Again, possession, possession with intent to resist, possession with intent to endanger life, are three serious offences carrying a maximum apart from having it without a licence. All four of those now carry \$100 000 or 20 years or both.

There are a lot of youngsters walking around with firearms in the second pants that they are wearing; some of them are wearing two pants and going into public places. Honourable Members will recall the raid at Le Mirage Club where guns were found.

I will read it- Clause 21:

"A person who without lawful authority or reasonable excuse, the proof whereof lies on him, has with him in a public place any firearm, whether the firearm is loaded or not, is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 5 years or to both such fine and imprisonment."

Carrying a firearm in a public place loaded or not is \$10 000 or 5 years or both.

I think, Sir, those are the main features of this Bill.

Under Clause 30, for a first offence under this Bill you can be sentenced to imprisonment for not less 5 years and not more than 15 years:

Let me read Clause 30(1):

"A person found guilty of an offence under this Act other than an offence under section 29 or an offence for which a penalty has been provided, shall

(a) on conviction on indictment

(i) in the case of a first offence, except as provided in subparagraph (ii), be sentenced to imprisonment for not less than 5 years and not more than 15 years; and

(ii) in the case

(A) of a second or subsequent offence; or

(B) of a first offence committed
person who, prior to

by a
the
commencement of this Act was
convicted of an indictable offence, or
an attempt to commit an indictable

of the offence, he used a firearm, be sentenced to imprisonment for not less than 10 years and not more than 20 years."

We are following some of the thought behind the Drug legislation where the penalties get tougher the more you commit the offences. This is the Democratic Labour Party legislation of 1990.

In the case of a second or subsequent offence or of a first offence committed by a person who prior to the commencement of this Act was convicted of an indictable offence, in the course of which or during his flight after the commission of the offence, he used a firearm, he can get not less than 10 years and not more than 20 years.

There are penalties incrementally for offences subsequent to any original offence under this Act.

Otherwise, Sir, I do not think that there is anything else. I think the Act is structured in a fairly comprehensible way and subject to any observations that Honourable Members will make, I commend it as a good effort in the area of law reform. I have great pleasure in moving that this Bill be now read a second time. I apologise to Honourable Members for the quality of my voice. Up to last night I had fever, Sir. I am really not feeling well but I wanted to do this. I am obliged to Honourable Members. 12.05p.m.

offence, in the course of which or during
his flight after the commission

Mr. F. J. STUART: Mr. Speaker, the Opposition is not opposing the provisions of this legislation. I think there is bipartisan consensus that the use of firearms is not the way that civilised human beings settle disputes and we on this Side deprecate the use of firearms as a means of settling disputes. We still believe that dialogue between human beings who have differences is the best and most civilise^ way to resolve disputes between them. Therefore we can find no fault with Government if it believes that the use of firearms is to be prohibited in those circumstances where firearms are going to be used to settle disputes.

In recent times there has been a rash in Barbados of firearm offences and the first point I want to make is that this rash broke out in spite of the fact that on the Statute Book of Barbados is legislation dealing with firearms so that we have to assume that the population knows that the use of firearms to commit criminal offences is outlawed. Yet in spite of the existence of the legislation, firearm offences have still been committed. This makes the point of course that as I believe the Honourable Member for St. Thomas acknowledged last week, legislation is necessary but can only go so far and it is of limited utility and it is precisely because crime is not a specifically legal problem it is a social problem and requires a socio-legal response.

There are circumstances in which legislation is necessary but legislation accompanied by other social measures would tend to respond more creatively to the crime problem than an exclusively legalistic response.

I believe the entire society has been in a state of something closely approximating panic for a little while now over the use of firearms in Barbados. I have heard the explanation often enough that there is a link between firearm use and the drug trade. This House acknowledged last week that in Barbados the drug problem manifests not as a problem of the production of drugs but more as a problem of the trafficking and the consumption of drugs and of course the motivations of the trafficker and the motivations of the consumer are different. The trafficker is out to make money. The consumer is usually out to solve some problem, real or imagined, to alleviate some pain, some distress, real or imagined. So that the response to the trafficker of drugs has to be slightly different from the response of the man who consumes it.

I think that what has been overlooked in the discourse on crime and drugs and drug related offences in Barbados is that this society has been caught in the transition from a traditional society to a modern society. In fact it was quite interesting to hear the learned Attorney General refer to this legislation as a modernising piece of legislation, bringing it in line with international and modern curbs. But we have to be careful not to want to superimpose on a society in the throes of modernisation, the norms and values of a traditional society. It is just not going to work.

Just 35 years ago the distinction between rural Barbados and urban Barbados was sharp and visible, easily visible. The rural sections of Barbados were identified with sugar cane agriculture for the most part and urban Barbados with commerce and a fledgling manufacturing sector. 35 years ago the influence of the church in Barbados was quite different from its influence today and for reasons easily identifiable because a short 35 years ago Barbados had a state church.

The Church of England was basically an extension of the Barbadian State, that is why the priest then, the parish priest in particular, wielded so much power. Of course this power went back many years. There were years, before the abolition of the vestry and the introduction of local government, the local government legislation of the 1950s, that the parish priest controlled the life chances of many young people in the parish in terms of scholarships, in terms of jobs and that kind of thing. So you had a strong church which was really an arm of the state and the priest, as disciplinarian therefore, flowed naturally out of that arrangement.

The concept of family also reflected the dichotomy between urban and rural and also the distinction between a

traditional society and modernising society, for the simple reason that the role of women in the labour force was much more restricted and subdued than is the case today and within the context of that traditional society there was an institutional outfit. The set of institutions which we had in the society then were resigned to prop up that traditionality. Today that is not the case. Barbados does not have a state church anymore. The society has now become much more secularized. The influence of the church is substantially different in 1998 than what it would have been, say in 1958 in Barbados. The society is a much more secular type of society. People still go to church but are less inclined today to solve problems by prayer and more inclined to respond to the march of science in the world wide. 12.15p.m.

A man who has a toothache does not kneel down and pray about it. He sees a dentist. So that we have a much more secular society. Virtue which used to define success in the society 40 years ago does not define success today. The successful family of 40 years ago is a family that was able to raise six children without any of them getting into trouble, to marry off the daughters and find work for the sons without event or without embarrassment.

But, all of that has now basically changed. The successful man was not the man who made a lot of money but the man who was able to keep his family together and as we used to say, in the rural areas, "keep your son's name out of the police records." What we have been witnessing in Barbados today, is a society being modernise and we certainly have been witnessing the enthronement of money. Success is now measured in terms of wealth and not in terms of what used to pass for virtue 40 years ago.

Now you accord centrality to money making you, really cannot be heard to complain if people do whatever they think is required to make money. I think it was J. K. Galbraith who said that if you elevate money making it to the status of a society's central purpose, you have to make peace with the consequences which will flow from that.

I am a little concerned about this. It is not a current that can be easily turned back but I am flabbergasted for example, walking through Bridgetown and it happens almost weekly. I do not understand why there is this sudden upsurge. Little primary school girls will walk up to you with a sponsored walk sheet. They do not know you and they are asking you to give them money, to sponsor them. Forty years ago, the ethic was that no little girl was to ask a man for money for whatever purpose, but now, little primary school girls can meet you and walk up to you, they do not know you, none of the traditional courtesies are observed. It is a bold question, "please Sir, I want you to sponsor me" and handing you a sheet. I have some difficulties with it.

Aside.

Mr. F. J. STUART: I do know. The point I am getting at is this that when they approach a man for money, they do not know the man and they do not know what he is likely to be up to either. He may oblige, but having regard for all the problems we have in the society with child abuse and that kind of thing, one never knows what he may exact in return.

I am just making the point that the institutions, and this now extends to the schools, have become money making institutions as well, and this speaks to the whole question of the centrality of money in the society's life. Now if money making is that important, the young man who cannot find work and who can only make money by selling drugs, will do it and will have no regard for whose or how many lives he destroys. He is satisfying the society's standards of making money.

I well recall in the late 1980s when there was a perceived rash of indiscipline amongst minibus drivers and so on, that callers to the call-in programme who defended what the society was complaining about at the time, defended it on the grounds that it is not a question of law, men must make a dollar.

There is this emphasis on money and so long as the objective is money, then all other values fall by the wayside. And this is where the drug pusher commands his niche and this is where he satisfies the norms of the society, his new values of the society. I am saying all of that to say that we cannot superimpose the norms of a traditional society on a society that is modernising itself. The good old days are gone forever. They are not going to come back. We can look back wistfully and wishfully at those days but the outfit of a modern society is quite different from an outfit of a traditional society and the norms and values of a modern society have necessarily to be different from those of a traditional society.

Therefore, we are confronted with the problem of guns and firearms. As I said, we on this Side of the House abhor the use of guns and firearms, especially as modes of settling disputes because we believe that civilised human beings have to invest in the virtue of dialogue. And to the extent that this legislation is intended to put a break on the use of firearms, it recommends itself to us on this Side. But I do not want the Government to bask too euphoric about legislation of this kind because as I speak there is firearms Legislation on the Statute Books and they had the problem. And it is only a question of our stiffening the penalties and broadening the range of offences but if you have elements in the society who believe that the society does not offer them enough through its traditional channels, they will not regard this law as binding, because the virtue of all law and the efficacy of all

law depends on the acceptance of those to whom it is intended to apply, as binding on them.

Therefore, one has to hope that the legislation achieves some of the objectives of which the learned Attorney General spoke earlier. 12.25 p.m.

We on this Side are not quarrelling about the legislation. We think that the firearms legislation has to be modernised and brought in line with the currents of our times. I am glad that the Minister pointed to the age of the two pieces of legislation which is intended to be repealed. These are pieces of legislation which were passed in traditional Barbados, Barbados of the traditional society. This is Barbados the modernising society, a far more secular, a far more urban and a far more money-centred type of society and we need to bring ourselves in line with these new currents.

I am not going to delay the House by getting into the specific provisions of the Bill in terms of arguing the jurisprudence of any of the provisions because I am sure that over time as the legislation attracts the attention of the court the jurisprudential issues will disclose themselves.

So with those few comments, Mr. Speaker, I would just like to indicate again to the House that we on this Side will not be opposing the Bill and we hope that it achieves the objectives which the Government has set for itself and the objectives which the Government has set for the Bill. It is no more than a modernising piece of legislation and since we have not been able to put our hands on the real drug barons in Barbados chances are that many of the people who are convicted under this legislation will not be able to pay the fines anyhow because they are not the ones with the money and will have to serve extended periods of imprisonment and be at the receiving end of the taxpayers' generosity anyhow.

The drug barons, the ones who really salt away thousands upon thousands of dollars have not yet made it to the courts of Barbados in any significant numbers. Usually, it is the village youngster who is trying to eke out a living for himself by these perverse means who ends up before the courts and who has to take the flack.

To that extent, I think we can expect the imposition of more periods of imprisonment than the payment of the fine of \$ 100 000. But as I said, it is the Government's response and we have no particular problem with it.

With those few remarks, Mr. Speaker, I am obliged to Your Honour.

Mr. B. M. TAITT: Mr. Speaker, my colleague, the Honourable Member who just sat down has put the position of this Side eloquently, succinctly and therefore that position does not need any amplification. There are a couple of matters related to the legislation which I would wish to just put on the record for what it is worth and for the consideration by the Attorney General and the Government generally.

As my colleague has said, Sir, we do not have any quarrel with the principle of the legislation but I want to take this opportunity to make reference to a couple of things. The first one is that it always occurs to me that, irrespective of which jurisdiction one is examining the issues, relating to guns and gun control and it is always the illegal guns which seem to create the most difficulty. This will not be the first jurisdiction where a massive attempt is made to eliminate guns from the society. One is sufficiently familiar with what happened in the days of prohibition in the United States to become aware that the more one seeks to control, it appears the more desperate become those who use guns illegally.

When I was quite a young fellow growing up in Barbados about 40 or so years ago, I always used to be fascinated when I used to be interested in becoming a police detective and together with a couple of friends one of whom has gone very far in policing, we would be privileged to go out with some of the police officers from time to time when they were going on patrol.

I have never seen but I always used to hear that the older policemen would advise the younger policemen that they had to walk with two sets of ammunition or a little protection for themselves which had nothing to do with any issue which had been made elsewhere. As I said, Sir, I have never seen it.

There was in my village a feeling that if you were going to do anything with a gun you should seek to do it with a gun that was not licensed. I have never quite understood the advice that was given in those days but I think all of us who grew up in villages would have heard some version of that in those times. Even so, the use of guns and weapons of that nature was so few and far between what crime we had in Barbados that it was not an issue to lead people to panic.

The fact does remain, Sir, that the more we bring gun control as we have seen in the United States and places like that the more it seems that illegal guns flourish and I want to put on record my own view which is contrary to a view that is expressed fairly frequently by some people in Barbados and which was popularised in calypso by our best calypsonian with the refrain, "Arm the Police!"

I have always believed when I was young and all through my life and even more so now that whereas the police must be proficient in the use of firearms and whereas a limited issue of firearms in certain circumstances for the police is desirable that it is undesirable in a society of this size or indeed in any society but especially in a society like ours that the police be armed in a continuing natural way as part of the issue of their equipment.

Mr. Speaker, I have come to the considered conclusion that violence begets violence, whether it is coming from one side or the other once it starts and it escalates there is never any end to it. The streets of Brooklyn and some parts of Manhattan and almost every major city in the United States bear testimony to that thesis where the gangs have guns, the police have guns and every year or so the calibre of material escalates so that you read of police issues in the United States where they are discussing higher and higher calibre ammunition for use in more and more sophisticated weaponry. Of course, as they increase, the people who sell guns increase their profits. The people who acquire guns for illegal purposes increase their stocks and the thing seems to go on forever and ever, world without end. 12.35p.m.

I want to put on record my own rejection of any concept that the police in Barbados and the police in the Caribbean should be armed as a general rule. That is not to say, and I want to repeat - I am not saying that in the proper circumstances under proper supervision that there ought not to be an issue of firearms. It is done. It has always been done and it will continue to be done. So long as it is done in a responsible way, no one can have any quarrel with that.

I am also very concerned that over time, especially in the last 15 years or so, there seems to have been a diminution in the concept of the sanctity of life. It is something which those of us who have had the benefit of exposure to certain kinds of teaching and training, we imbibe them and after a while we have a view, some of us - the Attorney General might say mine is extreme, but the sanctity of life seems to me to be at the heart of what we call civilisation.

Unless you can imbue into the psyche of the child that any life is sacred, that there is a sanctity about life itself, you will always get this very cavalier attitude which permeates many of our small villages now where young people under the age of 15 do not seem to have any concept of what constitutes life and the taking of a life appears to have no more meaning than the killing of a lizard.

It is very important, notwithstanding the very correct thesis which my colleague advanced that we are in a modernizing vein, it is still very important that within the context of that modernising vein we seek through the schools and through the religions to get the young children to begin

to understand, I will make bold to say again, the concept of the sanctity of life.

Mr. Speaker, one of the most illuminating conversations I have ever had in my life, was a conversation rather than an argument. It was a discussion, but it was one of the most illuminating conversations I have ever had in my life. It was on an occasion when the late Errol Barrow and I were travelling on what is now Highway 2A on our way to look for someone at the St. Joseph Hospital. We discussed the sanctity of life and I have never forgotten that because I had recently returned from the U.S. and when one goes to school in the U.S., contrary to popular belief, one is exposed to a lot of things that one is not exposed to if you go to Cave Hill, for example. It was enlightening to discuss various theories on the sanctity of life. But when all is said and done, it is still the fundamental training which the Honourable Member for St. George South, that I know of, and myself, received in Sunday School.

It is a strange thing, Sir, but pooh-poohing of institutions like Sunday School and the arrangement of...

Aside.

Mr. B. M. TAITT: I can only speak of what I know. If other Honourable Members over here and over there have been exposed to Sunday School, I am not in a position to speak with authority, but I know for a fact that the Honourable Member for St. George South, whatever might be his situation now, Sir, I know for a fact that he was exposed to Sunday School because we were in the same Sunday School together.

The point is that those very basic principles which were taught then have stood us in good stead over many years. I do believe that children should be exposed to some form of religion, and here, Sir, let me add that I consider atheism to be a religion. I may be peculiar but when I say "religion", I do not want to hear anybody saying to me now that I was in here pushing the Anglican religion. I am saying that people should be exposed to some kind of thinking about who they are, where they come from, how they got here and come to some conclusion about it.

I believe there are too many young children in this society who do not have that benefit anymore, for whatever reason, and really without seeking to bring back the good old days, because I agree with the Honourable Member that those days are past beyond recall, but there is some substitute that allows for the kind of training at that early age which is missing from our society to a large extent.

We are not going to be able to stop children from watching television. I think it is inhuman to stop a child from watching television if there is a television in the house

but we can determine what kinds of programmes our children watch. I think there are too many adults who abdicate their responsibility to assist their children in choosing what kind of television shows they watch and what kinds of books they read.

Mr. Speaker, I believe that every Honourable Member in here over the age of 40 can go back and recite with impunity the large number of books which he or she was required to read at first but which they then read voluntarily because that is what they wanted to do.

Mr. Speaker, they tell me now that it is not necessary to read books that you can have tapes, *et cetera*. My contention is that if children are exposed to the joy of reading as opposed to the drill of reading because again there are some adults who seem to feel that you must drill children and drive children in order to get them to do these things, but I suspect that the same kinds of inducements which led us to read as much as we did, those of us who did, can still be relevant today. If something is exciting, it is exciting and if, as Your Honour knows better than most people because of your long experience in this field, you expose any child to anything that is exciting, that child will return to it.

Now, Sir, if what it is exposed to is what is described as evil, it will return to it and if it is exposed to what is good it will return to it, as long as it is exciting. That is why, Sir, trying to curb people from having sex by certain means will never work because when once the excitement surrounding sexual activity has been discovered, all humans and certainly all animals will return to that excitement. The point I am making, Sir, is that it is what kind of guidance is given that will-determine, to a large extent, what happens.

It is still true that in villages like the ones that I represent, and Your Honour represents, that peer pressure is as important in those villages as it is on the streets of Manhattan or the streets of Brooklyn. It is true that in the same way we wanted to be able to pitch as weH as somebody else, in the same way that we wanted to run as fast as somebody else, or to do a number of things which we used to do when we were young, the youngster on the block is still guided by what his peers are achieving and with it the admiration which they get on the block. The result is that if youngster A acquires a gun or learns the art of making a pipe gun and if youngster A is able to demonstrate fire power with a home made weapon, young child B and young child C will aspire to be like that person. 12.45 p.m.

This legislation will not address that issue. This legislation cannot tell a child between 7 and 11 that you are going to get \$100000 fine or 20 years in prison if you are found with a firearm because it has no meaning to that kind of mind. What is required, therefore, along with the

legislation is a massive thrust by the Government of the day to get beyond the legal requirement or rather to add to the legal requirement a sociological if you will, impress. It seems to me that unless we deal with the sociological aspects of crime at a fundamental level, that is to say, we go back behind the acts of the individuals to find the causes, unless we attack that issue now we are going to be bringing more and more legislation, with stronger and stronger aims - that is to say, sanctions - 5 years from now or 15 years from now.

Mr. Speaker, we read and hear about terrorism in the world. To the people who perpetuate terrorism, it is not terrorism, it is continuing something which they either believe or have come to accept. It is as part of their evangelism. While it is true that those who say, if you live by the sword, you must die by the sword, are speaking a valid truism of the Old Testament, they tend to miss the very equal truism that you can fight fire without fire. You can fight fire with water. I am putting it that way, Sir, to avoid getting into any unnecessary antagonism with anybody, subsequent to what I say here.

Mr. Speaker, it is not necessary for every time there is a violent act on the part of one set of people that the response be equal force. It is not necessary in a society to answer guns with guns. It is necessary for the state to exert its authority and that authority has to be exerted not only in the legislation but it has to be exerted in practice.

Mr. Speaker, I have always been amazed how it is possible for a person to get seven years for manslaughter but 20 years for rape. The message of that, it has always seemed to me, is that it is better to kill than to rape, if you take that on its face value. Another way of putting that is that it is necessary therefore that apart from the legislation there must be on the part of the Government some attempt to coordinate their approaches to the dispensation of justice in the society. People must come to feel that when justice is dispensed in this society, it is going to be dispensed in such a way that any ordinary person observing it can feel that it is even-handed and that generally speaking the same sanctions will apply to the same set of people for the same offence.

Mr. Speaker, that is not a problem for Barbados only in case anybody thinks I am addressing the Barbados Judiciary. I am really addressing the whole issue of sentencing in a society.

In Britain there are now massive attempts to try to bring the whole question of sentencing within certain guidelines, within certain parameters. I think that the Attorney General would do well to pay attention to some of the reforms which are going on in Britain these days with regard to the question of sentencing and other similar matter. Because it is very

important that the people who look at society from the bottom up come to a reasonable conclusion about what they might expect.

The Attorney General referred to the need to put some natural justice into the modern legislation as it comes about and he knows that he will find great favour on this Side, certainly from me. Mr. Speaker, it must not only be in the legislation, it must permeate the practise and the people who have the responsibility must demonstrate it. The police at the highest level must demonstrate that fairness is the basic ingredient of their actions and their activity. Unless that can be seen by the society it is going to be difficult for us to pass legislation and get the desired result from the legislation.

Mr. Speaker, recently in the United Kingdom there was an article about the English police who put innocent men in prison. That is not to say that there is something new about that. In more recent times they are making a definite effort to change the pattern.

I am quoting from the Internet which comes out of the *Times*. I will make it a document of the House. Checks on more than 200 cases stretching back two decades, many of them armed robberies, have revealed allegations that detectives framed victims because they had weak cases or to enhance their careers. There are also claims that in some cases the investigators were paid by those who carried out the crimes to find someone else to take the blame.

This is in Britain which is the epitome of policing and some of the practices outlined in that article...

Asides.

Mr. B. M. TAITT: I feel that if I speak about Britain, it will get back to the Caribbean but I am much safer when I speak about Britain. I am on much safer ground. Somebody will accuse me of saying that the police of Barbados are corrupt. Let me speak about the English police so that the Attorney General understands when I talk about the English police.

The fact is that there are some ten men in prison who it is popular and confidently believed by police commanders will be released when their cases are taken to the Appeal Court by the authority because they have been put there wrongly.

Mr. Speaker, I only raise that to make this point. With this stiff legislation which is coming, it ought to be pellucid to the average person. I am not discussing those who are practising at the Bar and those who are familiar with these matters, I am talking about the people who have to roam the streets where I represent. Those people should begin to feel that this legislation while it is good in itself, it is intrinsically

good, that it is going to be applied in an even-handed manner because a person who is found with a gun on him because carrying will mean that if a person is found with a gun on him, he is carrying it and it is going to be very difficult for a fellow whose reputation is not too good to prove that he was not carrying the gun and that he has had never seen it before.

Sir, I represent some people who express these kinds of views to me when I ask them why they behave in certain ways. And I hope that the Attorney General as he winds up will send the signals which he likes to send, which he used to send when he was not the Attorney General, that he expects this legislation to be implemented in as even-handed a manner as possible and that he would be looking especially to the commanders in the police force to ensure that on all sides, whether it is in the granting of the licence or in the finding of evidence, that the people from places like the ones which I represent will have no reason to fear the draconian nature of this legislation. For 20 years is not a short time and for the persons who will be the early recipients of demonstration that the judiciary is taking the government seriously in this matter, it is very important that if they do suffer from this legislation that they deserve that suffering and that they are not persons who inadvertently find themselves in certain circumstances which are not unknown to many of us who walk these streets. 12.55p.m.

Mr. Speaker, Sir, those concerns do not in any way, I hope, suggest that we ought not to worry about what is happening in this society. We must worry about this society's degradation. We cannot fail to recognise that much of it comes from a culture that is alien to us until recently and there is no question that it is drug driven.

The only question, I will finish by asking the Attorney General, is that every time we discuss these issues and when we read the newspapers we get the feeling that the Customs are able to find a mule who is coming through. We recently had a poor girl, 17 years old or thereabouts, who ingested large quantities of cocaine, lucky to be alive to spend 5 years in Glendairy, had some little child somewhere. We never seem to find anybody who sends these people. If the intelligence is so good that we can catch this 17-year old as she comes through the airport, why is it that we never have the intelligence to capture who sent her or he who was to receive her? I am always amazed at the inability to identify the barons.

We do not have any real barons I am told. My fellows tell me that we do not have any real barons. We have a couple of baronets, little, small fellows who are intermediates. But the fact is that there is not one that has been apprehended. Perhaps there is not one that has been

comprehended. All I am asking is what people ask on a daily basis. When will somebody who is involved at the higher level be identified by the tremendous capacity which is demonstrated whenever a mule leaves Guyana or leaves St. Vincent or wherever?

Mr. Speaker, the reason why some people get protection is because they believe they need it. This is my last point. The Commissioner of Police in exercising his discretion who should have or should not have a gun ought really to be given some criteria, some guidelines, to assist in the exercise of that discretion.

I do not think that the legislation itself, and I am not suggesting that you try to substitute the discretion, but if a person is of good repute, has no conviction, does not fall into any of the categories identified here, and that person is a small businesswoman or small businessman and that person feels that he or she has the need for protection, I suspect that such a person ought to be able to get that protection without more...

Now, Sir, it will properly be argued that if you go down that road too far that rather than having less guns in the society you will have more. But for what it is worth it is something worthwhile.

Finally, Sir, I notice that the Attorney General has imported into the legislation a concept which I thought was going out. There is an appeal to the Minister and then there is a section in here where it says the Minister's decision is final. Now, I am taking that to mean, subject to the judicial review. I am not going to raise any question about it. I am going to assume that that is merely a way of saying, except for judicial review and it does not go any further than here.

There is one other thing here. Under section 27. The Attorney General could explain it when we go into Committee but I am a little concerned. It says if a person upon whom a demand is made under this section fails to produce the licence or to show that he is entitled by virtue of this Act to have the firearm or ammunition in his possession without holding the licence, the police officer may seize and detain the firearm or ammunition and may require the person to declare to him immediately his name and address.

I do not have a problem with the intent of this legislation, except this. No one who has a gun licence walks around with the licence. Unlike a car licence you do not walk around with a gun licence. You have it put down somewhere at home. So if for example when I leave here and I am going home and a police officer stops me, under this legislation, and he says where is the licence, if I do not have the licence the police officer and it is written here now, can seize the gun. As I said, I really did not want to get into reading the clause. I just made a note here. A police officer may demand

the production of a valid firearm licence from any person who is in possession or whom he believes to be in possession of a firearm or ammunition. I do not think that carries me anywhere. What I am saying, Sir, is that in the same way that a driver's licence has to be produced within a specified time it might have been more efficacious to ask that the person, even if the police has the power to seize the firearm, that the police can only seize the firearm until such time as the valid licence is produced. As it stands here now, seizure is seizure. The person would have to go through a whole elaborate procedure to get back a firearm that is legitimately his and no doubt provide a little assistance.

Aside.

Mr. B.M. TAITT: All right, Mr. Speaker, he says he will explain it in Committee so I will stop right there, Sir.

SUSPENSION

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

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

The question was put and resolved in the affirmative without division and Mr. SPEAKER suspended the sitting accordingly. 1.05p.m.

RESUMPTION

Mr. L. R. TULL: Mr. Speaker, Sir, I, like Honourable Members who have spoken before me accept that this Bill is no legal elixir. It cannot solve all the problems in relation to guns and violence in this country and it seems more to be the essence of penal. The emphasis is more on a penalty for those who would terrorise the community and make for all the inconvenience that is being caused in this country now through the escalation of the use of guns in social activity.

I, however, Sir, would like to look at certain aspects of the Bill which may, perhaps be more appropriate for Committee but generally, Sir, I would put them in the general framework. From my experience the amount of crime caused by violence and particularly murder is caused by the use of knives not guns. While the Attorney General was introducing this measure, I just drew my mind back from my own experience over the years and from my observations and some empirical evidence that the use of guns in Barbados although it obviously is increasing, is not wreaking the kind of havoc that some people fear that it causes.

It is a small comfort, but nevertheless it is a fact that firearms are used among a certain peer group who live on the fringe of the social order and who, from what we have heard from other speakers, are principally involved in drug activity. The guns are used by that group or that group only. It is a phenomenon that has bedevilled countries for many years, unlike crime. It was a problem in the United States where the evidence of black violence in urban areas was a phenomenon that could not be explained by the black social scientists. They felt that they would be working out their anger on the other Americans rather than their own but have never fully been able to explain it.

We have a same situation in Barbados where the anger is being worked by people principally in low socio-economic groups who live on the fringe of our social ladder and as I said, Sir, that is cold comfort. I am not using that as an excuse to get away from what is the problem in this society and which must be dealt with. Therefore, Sir, the bringing of this Bill before Parliament is another step taken by Government to deal with the problem that cannot be accepted by right thinking Barbadians. The penalty is stiff. But what I do fear, Sir, is that although this Bill, and we see it from the focus of the debate so far, is directed toward that group of which I speak that a number of other people, good, decent, law-abiding citizens get caught in this general web.

Before this Bill came, there were a number of Barbadians, good decent people, some of them old people, who found it necessary to keep a firearm because they were afraid of living in their homes because of all that is going on.

Aside.

Mr. L. R. TULL: I speak of people I know, Sir. I speak of one senior member of the clergy, for instance, who felt that he may use a firearm - that when he heard the dogs barking and noise outside - he could fire off a shot to tell them, "look there is a gun here so do not come". These people have not been getting gun licences with the ease with which one would believe that you would get them under the circumstances. This is the part of the Bill that I would like to focus on more directly.

I have never known what was the criteria used by the Commissioner of Police and I do not mean the current Commissioner of Police. I mean whomever held office over the last 25 years. I could never be sure about the criteria although in Chapter 179 the Firearms Act sets out in a general way what they were looking for. They were looking for a fit and proper person to have a gun licence. I never caught on. I was never sure what it meant.

This Bill, however, sets out a little bit more specificity what are the pre-requirements for the owning of a firearm licence, But it still leaves a lot of the subjective element in

the presence of the Commissioner of Police to determine who will get and who will not get. The very fact that this Bill, when it becomes law will make those whom we do not want to have guns, have guns that are licenced. I mean the persons who do not have licences would put additional pressure on the kind of person I am talking about. Because nowadays if you are caught with a gun, you are going through the court, you get a fine of between \$2 500 and \$5 000. With the kind of penalty that we have in this new Bill, 20 years in prison or \$100 000 fine, it is far more likely that these things have a way of triggering things. It is far more likely that those who use these guns legally, would use them with more devastating effect than is currently the case.

We have in this Bill, for instance, Sir, that a person who is in possession of a firearm who is not himself or herself a licensee that person can only hold the firearm of the person under certain circumstances. Let us look at a situation that is all too common and one which I am quite familiar.

You have a licensee, a man who has a firearm licence, he is not at home but his gun is at home. His wife or adult child who lives in the house meets a disturbance. Somebody tried to get into the house and the wife or the adult child must use the firearm to protect their own personal safety and the safety of the home. Maybe somewhere there is some provision for this and I would like the Attorney General when he winds up this debate to address that particular problem, because it is something that comes up over and over again. People say, "what is licenced, the gun or am I licenced? Can I use my husband's gun if he is not home and I have a difficulty?" More and more this question is being raised and I would like, Sir, some attention to be given to it. I know that it is not always easy to nail down every detail in the legislation, but it is my duty to bring problems of individual citizens in this society to the attention of Government.

We have also, Sir, the question of the appeal. This may be more appropriate in Committee, but I may not be here for Committee. There is a 30-day period for appealing a decision of the Commissioner of Police to refuse to grant a licence or to grant a renewal to anyone. But it is as final as that...

Aside.

Mr. L. R. TULL: Section 16, "The appeal must be made within 30 days of the date of the notice of the Commissioner's decision." I am submitting that that date is too short. People travel, they are ill and all sorts of conditions may arise that would make the period of 30 days too short.

Aside.

Mr. L. R. TULL: The Attorney General suggests 60 days, but I leave it to his discretion so long as the point is accepted. In respect of the decision of the Minister being final, I have no quarrel with that, Sir. The learned Attorney General did make reference during his presentation of this Bill to the fact that the powers of the Minister of Finance to do certain things are usually delegated to some fearless Public Officers in the Civil Service and it is difficult when the decision comes to understand the rationale or even how to deal with it. It happens in respect to matters relating to Customs.

Aside.

Mr. L. R. TULL: Appeals to Comptroller of Customs. It comes quite often in relation to questions of franchises and licences granted by the Ministry of Finance. And as I said, Ministers are busy people. These things are delegated and Ministers tend to accept the recommendations of the delegated authority in these matters and it poses a great deal of difficulty for those of us who have to deal with them on a day-to-day basis. Also aligned to this is the fact that the decisions are very slow in coming. Ministers make quick decisions and public officers sit on matters for months and months and on some occasions for years. 2.20 p.m.

I would like to think that just as a person who is refused a gun licence or renewal of a gun licence has a limited period in which to file an appeal to the Minister that without putting it in the legislation because I am not recommending that it be put in the legislation that we could expect that in this case that these matters be dealt with a greater expedition than many appeals in relation to licences are done in the public service.

I have a difficulty in understanding - again perhaps the learned Attorney General would make me feel a little bit more comfortable why it is necessary for the Commissioner of Police at any time between six in the morning and six in the evening inspect a place where you have a firearm. Does that mean that the police can walk into my house at any time - not me, Sir. I am talking about people who have gun licences not myself - that the Commissioner of Police can go into his house at any time between 6 a.m. and 6 p.m. to inspect his house to see where a firearm is? I hope that is not what is meant.

Section 16 (1)(b). Of course, Sir, the police should have full powers to go and inspect any premises if they are in search of a gun that is not licensed or the home of persons they suspect are in possession of an unlicensed firearm. The police should have full powers to go and search any time, day or night, and not even 12 hours but all 24 hours.

It would seem a little difficult to understand why in respect of a law-abiding citizen in full possession of a licence that the police may come into his or her house between 6 a.m. and 6 p.m. to inspect the place where you have your firearms and ammunition. Most people may have their firearms and ammunition when they are home in a drawer, in a cupboard, in a wardrobe or under the pillow and it seems passing strange that we should have this kind of power for the police to come in without warning, without warrant and search a place. That struck me as I was reading through the Bill.

There is a further point. In respect of the question of possession with intent to commit an offence, I believe the Attorney General did mention that he consulted with the magistrates. Consulting with the magistrates brought him to include in this Bill three sections, 18, 19 and 20. These are dealing with cases where a person has a firearm or ammunition with intent to endanger the life or cause serious injury to property, to resist arrest or with other criminal intent and the penalty is a fine of \$100 000 or a term of 20 years in prison or both, fine and confine.

How does this differ from section 3 which relates only to being in possession of a firearm without a licence, Section 3(3). It is (a) to (g), but (b) says no person shall have in his possession a firearm unless he has a valid licence to do so. Any person who contravenes this section is guilty of an offence and liable to imprisonment of a term of 20 years or a fine of \$100 000 or both.

So being in possession of a firearm without a licence visits on the person 20 years or a \$100 000 fine but yet later on in 20 it says that a person who with intent to assault, to commit some felony, the same penalty. I believe, Sir, that there should be a distinction because just as I am against mandatory prison sentencing for any offence I do not care what it is because I believe that a judicial officer should have a discretion taking all the circumstances of each case into consideration to determine what shall be the penalty within reason for that offence. That is why penalties vary according to the circumstances of a case.

I believe that a person who has in his possession a firearm without a license but unlike sections 18-20 has evinced no attempt to commit any offence to resist arrest, criminal intent or to endanger life to someone with intent to endanger them, the person who has in his possession a licensed firearm and none of those intents are shown like the same old man who had a gun in his house to scare off the young vagabonds in the district who would terronse him but who the Commissioner of Police says should not have a licence - he wants one. He lives with his 80-year old wife and he is 80 and he wants a little "pow-wow", a gun, Sir, to fire off to say don't come in here, we are protected - why should the penalty for him, because I am not excusing him,

be 20 years in prison and a \$100 000 fine but the young fellows out there on the street walking into *Le Mirage Club* and shooting about the place and terrorising it and do not care who they endanger and who they kill, why should they be put in the same category in relation to the penalty?

I also would like to raise the question very quickly because I do not want to deal with it as a crime debate but only to deal with the question of licence or non-licensing. This is what the Bill says it is all about, that it makes provision for "the granting of licences and for increasing the penalties for offences connected thereto".

This question of licence again everybody knows that a licence must be renewed and the old Act -1 do not have it to hand - which is valid even now as I speak says that if you do not renew your licence in two weeks after the date you are to renew it you are guilty of a criminal offence and to be fined \$5 000 or imprisoned. That was crazy, Sir.

A man has a valid licence granted by the Commissioner of Police and just because he misses through inadvertence to renew his licence for which he paid \$100 a year within 14 days after the last time he is deemed to be guilty of a criminal offence and can be fined and sent to prison. Something was wrong with that. I have raised the question in the past. Maybe when I was in a position to do something about it, I too was inadvertent and did nothing about it. But in this new Act, I am glad the old order is changing and giving place to the new. I am glad about that, Sir, but in this Bill before us, Section 10 refers to the renewal of licences and it says: "A licence issued under this Act may be renewed and the provisions that apply in respect of the application for the grant of the licence shall apply to the renewal." 2.30 p.m.

This is only setting out the general qualifications for renewal. In other words, if the Commissioner of Police granted you a licence for a firearm, and during the year, because you are granted a licence for one year only, something in your conduct impresses on the Commissioner of Police that rightly you should not be the holder of a licence, it should not be renewed. The same criteria will apply as those for a person who is applying for the first time. I understand that and I agree with it, Sir.

I do not see anything here to deal with the question of what is the penalty, what is the sanction for failure to renew. I am glad, Sir, because I know of one person I know intimately who from time to time does not remember about renewal and the police sometimes are good enough, if they know you, they call you three months later and say, "We are looking through here and we see that you have not paid for the renewal of your licence." Which is the decent and honourable thing to do, but with another person they may not

do that. They may say: "I have checked through here. I do not see he has renewed. This is a criminal offence let me go and get him, charge him, make him pay \$5 000 fine or put him in Glendairy for six months."

As I say, the new provision does not state specifically what is the sanction, but I would like the Attorney General to bear that in mind when he looks at this matter before we pass it, Sir.

Now, this question of the use of firearms is becoming a major worry to Barbadians. There are certain developments that I have not heard the Attorney General mention, but those of us who work out there and practise criminal law and deal with these fellows know that there are some very unpleasant developments. One, Sir, is the "rent-a-gun" business. That is a recent phenomenon, Sir. The fellows do not have to own any gun now. What they are doing is renting a gun for a night and they go out and do what they have to do and return the gun.

I am not saying anything that is not well known to the police in Barbados but I believe that a number of the people of Barbados are not aware of this new and interesting development. It is entrepreneurship gone wild, Sir.

The other point that I would really like to raise in relation to this new phenomenon is the kind of gun that is being used in Barbados now. One time you used to see the fellows with 32s and 22s. If you saw a 38, you knew it was a Police Sergeant on patrol. Nowadays, Sir, you have the Uzi and the AK47, the heavy guns, Sir.

As one young man told me recently the reason why he needed an AK47 was because he wanted to blow the bolts of the door off when he is going into some place. He said: "I want to blow off the bolts. I do not want any little monkey 38 and those things." So we are having these problems.

We also have the problem that is not quite new, Sir, but the sophistication is what is new and that is the people who are making guns. You know, Mr. Speaker, that I represent a constituency where they were manufacturing guns in the old days. They do not make them anymore because the person who they said was the chief manufacturer is no longer alive, but I understand that all across Barbados that there are persons who are making the pipe guns.

In the early days, Sir, they were extremely crude. When you saw one, you wondered what it was. Crudity was written all over it. Now they are getting better and they are not as crude as they used to be, neither in their looks, nor in their effectiveness. We have to look at these things because it is not only the question of the drug culture spawning gun activity.

I do not know whether the people who have now embarked on the manufacturing of guns in a less crude form are related to the drug culture. I really do not know, Sir, and I never speak out of turn. Quite often we get from our vantage point and pontificate on matters and causes that we really know nothing about. I really do not know much about that one.

I think these things need some investigation because if we do not work hard finding out the causes of these things and getting to the root of it and dealing with it, we are going to be a society in seige. We are far from that at the moment but we will become a society of seige unless something happens about it and, as I said, this piece of legislation is fine because it is telling a certain type of person that we will not allow you to get away with these things without punishment. We have to make sure that this kind of legislation is there but it does not deal with the other aspect of this problem.

We know that hanging people, capital punishment does not stop murder. Fines of \$ 100 000 or 20 years imprisonment will not stop people from having unlicensed firearms, just like the increase in the penalties in the drugs legislation of the early 1990s did not stop the increase of drug trafficking and use in Barbados.

The penalties brought in at the time were called draconian by many, where you could fine a man \$500 000 and send him to prison for life. That is the penalty. Half a million dollars in fines, prison for life, confiscation of his assets. That is the legislation passed in 1990 to deal with the question of the increase in drug trafficking and activity in Barbados.

I do not know, Sir, that we can say that we have succeeded because between 1990 and 1998 the proliferation in drug activity in Barbados, the use of drugs and the trafficking of drugs has increased, so we must not feel, not that I expect the Government is feeling that this will bring an end to the gun activity in Barbados, as I said it is penal, but we have to look at a number of other states and conditions in the society to see how we can work to eliminate those conditions that give rise to this kind of lawlessness.

Since you have intimated, Sir, that my time is up, I will raise one or two smaller questions, perhaps, privately to the Attorney General, otherwise in Committee.

I am grateful to you, Sir.
2.40 p.m.

Mr. D. St. E. KELLMAN: Mr. Speaker, sometimes it is very difficult to enter a debate like this. You can see a Bill and you can understand exactly what the Minister wants to achieve in a particular Bill but when you actually look at

the end result you sometimes ask yourself whether you are achieving what you set about to do. When I look at the Bill, especially section 18, this Bill gives me the impression, especially this section that this section is for the small man.

Asides.

Mr. D. St. E. KELLMAN: Mr. Speaker, I will continue. When one looks at the Bill one has to ask oneself what will happen when someone is caught, whether that person has the capacity to find the amount of money with which they are being fined or whether the people that we need are the ones who could easily find the \$ 100 000 and we could not get them where we want them. The person who sells the guns to other people finds himself in prison but the person who is able to import the guns, you can never get to him. Even when you get to him, you have a situation where he can pay \$100 000 and walk out of the court.

Sometimes, Sir, we pass laws with the best intention and that is why I said from the beginning, I hope what I have to say will not be taken in the wrong light. Sometimes, Sir, it worries me for the simple reason that you say things in this place with the best of intentions and everybody tends to take the political side of it without realising that you have an interest to represent and you also have the protection of the country to look after. What we are doing today is trying to solve a problem and in my honest opinion we are creating another problem. That is, we are giving people the impression that they can always look after the system. I could easily access that the way it is written it has left a lot of room for correction. If you look at it carefully, Sir, you will see that word 'discretion' is very much in section 18. We are getting at the stage, Sir, sometimes it makes you wonder whether you should contribute to certain things or not, Sir.

I want to deal with another aspect, Sir. In the early 90s you had a situation in Barbados where you nearly had the same problem and we have to be very careful how we come to conclusions. We should never believe that our opinion is the only opinion and you must be prepared to put your opinion out there so people can study it and question it and come to a conclusion sometimes.

In 1991 to 1994 the impression was given that crime equals unemployment. That impression was given right across Barbados. That the reason why the crime situation in Barbados was the way it was, was because unemployment was high so crime had to be high. Now we are getting figures which say that unemployment is down but we are seeing the reverse. Unemployment is down but crime is still going up.

Hon. D. A. C. SIMMONS: On a point of order. I am tired making this point but I am going to have to do it until

it is understood. Sir, the Honourable Member was not here last week and I forgive him. I took pains last week to read the criminal statistics which are the official police statistics that have been used every since the last 20 years. Those statistics show that for the first six months of this year, crime is down 5% on the equivalent period for last year. I am talking about reported crime. Since 1994 there has been a drop of 34% in reported crime. I pointed out that there are one or two areas where we are still getting criminal activity that we are not satisfied with. I said that up to June last year the north was reporting 31% drop. Up to July this year it is now 27% and on the back page of one of the newspapers today, I see the Superintendent for the North makes the same point. Are you going to call me a liar and he a liar too.

Mr. D. St. E. KELLMAN: Mr. Speaker, it is regrettable that sometimes in a developing country, one cannot understand that as a country develops that the type of crime with which one is accustomed, the criminal moves away from a particular level and one section decreases and the other section increases. We have had cases where we have seen, as a new phenomenon, people can walk in people's houses and do what they like. It is not something that I want to highlight but it is happening and that would have to be an increase. We are seeing it for the first time. We are not here to discuss and get involved in matters like that, we are here to deal with the principle of a particular action and we are here to find a solution to get around what is going on. We are here not to shout across and treat this as if it is a political issue but we are here to deal and find solutions to help solve the particular problem.

Mr. Speaker, no one who has the interest of Barbados at heart will be happy to stand in Parliament and discuss matters like these, Sir. We would like to see the day when we can put things like this behind us. I have no interest in serving a political need and discussing a matter like this. It is a matter that I deal with from the heart, Sir. I do not know why the Other Side feels that there is anything to be gained from a political point of view. I am sure that in the early 90s we had the problem and now in the late 90s we have the same problem. We as parliamentarians must find a solution to solve this particular problem. I am not happy to represent a constituency where people feel that there can bring in guns and drugs by boats and drop them off. I am not happy about that because even though we have a reduction in the number of crimes committed in a particular area, there are things happening within the particular area that no one would feel happy about, especially me as the parliamentary representative. That is why the police will always tell you that I will always take a hands-off approach and I feel that these are matters that must be dealt with in a particular way. I am not happy to represent a constituency that is surrounded by the sea on three sides and people feel they have a right to come and do whatever they want in that particular constituency. I am not happy, Sir.

I am telling you, Sir, I give the police my 100% support in this particular matter. If it is allowed to happen innocent people who have no understanding of what is happening will get injured and I do not feel that is right. That is why I am prepared to support anything but I am not one who is prepared to come into this Parliament and at the end of the next 5 or 10 years realise that what we have done five years prior has not achieved what we set out to do. That is all I am discussing, Sir. I want to make sure that when we leave this Parliament today that we are happy in our minds that what we set about to do we will achieve and that nobody will be able to take what we have done and misuse it in their interest. We are very happy sometimes to quote figures from other countries and talk about what happens in other countries. We know, Sir, that the same type that is adopted in other countries sometimes is adopted right here in Barbados. 2.50p.m.

Another thing, Sir, I want to say is this. We sometimes discuss crime and gun related activities and sometimes we do not ask ourselves why it happens. For example, Barbados is developing as a country now, Sir, where people are bringing their cultures from wherever they come from and sometimes we could do without them. People come into this country and they buy things and they bulldoze them and they behave like money is no problem, not realising, Sir, that that is impacting negatively on my people in this country because the impression is that money has no value anymore. You can just do as you like. Take for example, people are buying \$8 million properties, \$100 million properties and bulldozing the properties and creating a particular atmosphere in this country that I do not like and I think it is time we address this particular matter. Sometimes we ignore it and we talk about it not being related because we like to fool ourselves.

There are young people who have to sit and watch this atmosphere in our country and what do you think? The same way you used to say that they watch television and copy the styles on the television and try to adopt them in their country, what will happen when they see them right in front of their own eyes?

Now it is clear to those people that money is the thing they would do anything for the sake of that thing called the big dollar. I am saying, Sir, that with the development of the country we are developing some wrong habits too. We need to tell some of these people who feel they can fly in here, Sir, and float their money all about and behave as if that is the right thing and being immoral and having nobody's interest at heart, that we need to sit down with them and let them know that the time is ripe for a discussion with them to let them know where we are chartering Barbados.

These people come here, Sir, and they behave as if they are quite different from us and we must accept everything

because of the mighty dollar. I am saying, Sir, this type of example is not the example that you or I like, because at the end of the day, Sir, our children and grandchildren would live in a society that was easily influenced by a few people who took the wrong advice and did the wrong thing. We do not want to live in a police state, Sir, but we must understand that the policemen are human beings too and the day will come, Sir, when they will not be happy to go on the beat and face up to the type of things that are happening out there and feel comfortable the way they are going right now. Someday, Sir, we will have to take a serious decision because the same way you would not want to do it or I would not want to do it, they would not want to do it either. We are our brothers keepers and we must understand that, Sir.

Sir, as I said earlier we used to talk about the influence of the television on people. A lot of studies were done and they said, yes, the television is impacting. Even though we knew that the television was impacting negatively on people we seemed not to understand that if the television was so impactful on the people, what would happen when they actually see it in the real realm. We realise these things and acknowledge them but we forget them and then all of a sudden behave as if they happened overnight. When the report is laid and we are given a particular role we then tend to ignore them and then we believe that some Bill will solve everything.

We need, Sir, to get back to the classroom and we need to do it soon. The only way we can solve this particular problem in Barbados, Sir, is to teach our children that the basic things of life must remain and that everything that they see and what people want them to fashion their lives on are not necessarily the right things. If you ask everybody in the Parliament what they would like for their children, they would tell you the best things in life. When they start to name them you would hear most material things, not realising sometimes it is the material things that cause the particular problems within the country. I am not saying that material things are bad. I would be the last to say that but I say, Sir, that it must be a blend between the material things and what is correct for your children.

I am saying, Sir, that I support this Bill but at the same time that this Bill must not be seen as the end of everything, that we must be prepared to realise that we have work to do and that we need to change and educate the minds of the youngsters to let them know that just because a man might be able to come into Barbados on a yacht, behave the way he wants to behave, and do this and do that, it does not necessarily mean that we as Barbadians have to follow that particular life style. It has all to do with life styles, Sir. If you ask any guy who is caught with a gun tomorrow, why he has a gun and why he behaves the way he is behaving you would be shocked to learn what he is saying. It is fearful because sometimes they look at you and say you are not

packing anything. You would be surprised to hear what those boys are packing but yet still, Sir, you and I have to live in this same society with those guys who sometimes have no direction and we need to put some direction in them. We need, Sir, to make sure that the community groups can bring those youngsters back together and that the fatherhood of the community is once more there.

We will bring these bills, Sir I was told my Government brought one in the nineties and they had the best of fines you could think about but yet today, Sir, you still would not believe you are dealing with the same thing that the Government came to correct and you still have the problem. So it is not a political issue, because everybody who sets about to bring these Bills brings them with the best of intentions but at the end of the day we have to ask if we have put the machinery in place to correct the real problem. I thank you very much, Sir.

His Honour R. D. MARSHALL: Mr. Speaker, I join in the debate on the Firearms Bill, 1998. In fact, Sir, I strongly support the Bill before the House. Before I make my intervention, Sir, I just want to ask the Attorney General through you to look at section 3(1). Subsection (2) says "Any person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of \$100 000 or to imprisonment of a term of 20 years or to both such fine and imprisonment".

Now, I turn to clause 21. It states that a person who without lawful authority or reasonable excuse, the proof whereof lies on him, has with him in a public place any firearm, whether the firearm is loaded or not, is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 5 years or to both such fine and imprisonment.

Now my question here, Sir, would be what is without lawful authority?

Mr. Speaker, I believe that modern day legislation must keep pace with modern day crime if it is to be a deterrent to crime in Barbados. 3.00p.m.

Sir, when we work so hard and invest so much money in the tourism product and encourage people to invest money in Barbados, I do not think that we should stand by and let a few idle people destroy the product that we have built and put stumbling blocks in our way of encouraging investment in Barbados.

This recent upsurge in gun related crime in Barbados, Sir, is a very serious threat to our society. Long ago, in fact as a young boy you would hear that guns were found in a

particular parish in Barbados or were manufactured in a particular parish in Barbados. But nowadays you will find all kinds of weapons as though we are in the wild West or as though we were watching some kind of "Rambo" movie. I can say that the pipe gun has gone the way of the dinosaur because of today's method, the kind of gun being used as said by the Honourable Member for St. George South...

Aside,

His Honour R. D. MARSHALL: The AK47 and so on. Those are the weapons that are being used. I also know, or it has been reported that a lot of these crimes are being committed in the drug trade. Recently, we had a situation in one or two districts in the Christ Church area where there were complaints of drive-by shootings and people were accused of riding by on motor bikes and terrorising districts. It was reported somewhere that a lady said that she had just moved her young baby from one position, and two or three bullets came through the window and lodged in that same area where the baby was. These kinds of things must be stamped out.

Another thing that worries me, Sir, is the method how these guns are being brought into Barbados. Some people say that they are brought in by fisher folk, some say they come through the unguarded bays in Barbados at night, St. Lucy, St. Peter and so on. I would like to know if the learned Attorney General has any information on these gun related incidences and if they are connected to any of the deportees that came from North America. A naive person would probably say it is all right for these criminals to be destroying themselves...

Asides.

His Honour R. D. MARSHALL: ...but at some time I would not be surprised if, very soon, you find that these people start terrorising people in the heights and terraces. Somewhere in the Press I read the other day of a member from the Party talking about linking crime to poverty and poverty is nothing new to Barbados. People were always involved in crime but not to this magnitude. Sometime ago two youngsters were convicted of a shooting in which a guy who was buying bread was killed in the Hackett Hall area, and these two guys were employed. You say that guys are unemployed so they shift to crime. These were two guys who were employed and they took it upon themselves to go and kill a young man who himself was working.

The other point that I would like to bring to this House is that I do hope the Attorney General before he puts anything in gear for this piece of legislation, he would offer some kind of amnesty to those people who are in possession of guns without licenses and to give them an opportunity, probably two weeks to six months to turn in these guns and

then after that they will know what consequences they will have to bear. It is sad, in the past we heard of a rent-a-tent, rent-a-bike, but now we are hearing the talk about rent-a-gun. As I said, in this situation we should be in a position to try very hard to stamp out this kind of lawlessness that presently exists in this country.

With those few remarks, as I said, I do support this Bill before the House.

Rt. Hon. L. E. SANDIFORD: Mr. Speaker, I rise with a certain timidity to speak on this subject because there are Honourable Members in here who are closer to these matters relating to firearms and guns and gun play, Sir, than I am. Not that they are actors or users, Sir, but their particular work may cause them to be closer to those who use firearms, apply for licences for firearms or who may seek some kind of defence for some allegation against them.

I think it is sufficiently important that this House should give this matter its very deepest consideration. There is no doubt at all, Sir, that there is much concern in this country about the frequency of injury and the frequency of death that results from the use of firearms. Security is at the heart of individual activity and social life in this country. The people whom I represent in St. Michael South, the people in all of the constituencies- across Barbados are concerned about it because they see their security at risk.

Sir, so deep is this sense of security and insecurity that philosophers have speculated about the very origins of society and they have projected a time when life was nasty, poor, brutish and short in the words of Thomas Hobbes. And there are others who project a time that a social contract or compact was entered into in order to protect the lives of the innocent from those who would take up arms perhaps against a sea of troubles and by opposing end them, as Shakespeare would put it. 3.10p.m.

There are those who carry this idea of a contract or a compact so far that they are still talking about it. Some latter day persons still talk about a contract or a compact and argue that winning an election is like a contract or a compact.

Of course, Sir, that has no basis in anything, not even sound common sense, but there are those who still persist. The main point I am making is that security is at the heart of society and we go to extremes or go to considerable lengths rather than to set up a system that would give individuals, households and families, the comfort that they can go about their business and their recreation in peace and safety. It is the feeling of security that is at the heart of a tranquil society. Nothing upsets that tranquility more than if that feeling of security is disturbed and I am afraid, Sir, the

feedback from my constituency and from persons in other parts of Barbados is that there is a growing sense of insecurity which is different somewhat from the actual statistics on the incidence of crime resulting from the use of firearms or from other persons.

In my study of the comparative legal systems, and I have given very careful thought to this Bill which is before us and I have recognised and discovered that it is deeply rooted in the firearms legislation of the United Kingdom. I am told that before I entered the House today that the learned Attorney General did admit to that point.

Hon. D. A. C. SIMMONS: On a point of elucidation. I did not admit to anything. I volunteered to the House that the origins of this Bill may be found in the United Kingdom legislation and the Bermudian legislation.

Rt. Hon. L. E. SANDIFORD: That is an elucidation, Sir. He did admit but he volunteered and I accept his formulation for that. One thing we are agreed on is that it is rooted in the legislation from the United Kingdom. I am not familiar with the legislation in Bermuda but what I do know is that in the United Kingdom there is still a major and ongoing concern about firearms and the use of firearms resulting in injury and therefore they have tough legislation and tough penalties in order to deal with this situation.

But they have not solved the problem. The United States has not solved it, and I am really wondering and maybe the Attorney General can speculate on these matters if there are not other jurisdictions in which the use of firearms and the injury and feelings of insecurity that result therefrom are not at a lower level than in the United Kingdom whose example we are drawing upon or Bermuda for that matter.

I have a feeling, Sir, that there are other jurisdictions which have kept the injuries from firearms at a lower level but the Attorney General may be more learned in these matters. I am saying that I suspect that there are jurisdictions which have been able to keep the illegality and the injuries resulting from the widespread availability of firearms and the harm and injury that result from the use of firearms at a lower level than the United Kingdom, the United States or Bermuda. I am wondering if it would not help if we could identify those jurisdictions and see what it is that might give them more success in curtailing the outfall from firearms related matters.

Hon. D. A. C. SIMMONS: Mr. Speaker, on a point of elucidation. I think when I introduced the Bill and certainly last week I did make reference to the fact that in discussing this legislation with some judges who were here a few weeks ago, with the Canadian judges and the Chief Justice of Malta they expressed the view to me that this legislation was mild, what was being proposed for Barbados was mild compared

with what they have in their two separate jurisdictions. The point of difference being that they do not provide for fining. If you are found in possession of an illegal firearm it is jail. Full stop. But we give the alternative.

I never put to the Government the possibility of mandatory imprisonment. It has not been traditional in our culture and I am not yet ready to bring the country to that threshold.

Rt. Hon. L. E. SANDIFORD: I am grateful to the Attorney General for refreshing the memory of the Chamber about his statement last week. I heard the statement myself and I never formed the impression that this was a rigorous discussion. I thought it was a kind of a desultory, offhand, in the corridor kind of thing. I did not know that it was a serious thing. 3.20p.m.

I am not asking the Attorney General to go down the road of removing fines and instituting automatic imprisonment, or denying the rights which the citizen in Barbados might be entitled to. I was simply asking if he could find a jurisdiction which has a low incidence of firearms and whatever else, and if what happens in those jurisdictions is in any way instructive.

What would be the hope of all of us in Barbados that we could:

- (a) reduce the availability of firearms; and
- (b) reduce the use of those firearms in situations which are likely to cause some lethal outcome, or deadly outcome, or serious injury.

Sir, I am addressing the issue of the insecurity that there is, and there is a dilemma because on the one hand if guns are easily available...

Aside.

Rt. Hon. L. E. SANDIFORD: Mr. Speaker, I would be glad if you could protect me, Sir.

Aside.

Rt. Hon. L. E. SANDIFORD: Sir, I am being thrown off my line by the Leader of the House, the Lady in Red, Sir.

Sir, I am addressing this issue because of that feeling, a growing feeling of insecurity, and if guns are readily available, it means that the possibility or probability of increased injury resulting from the use or misuse of those guns and firearms can result in increased harm or damage.

On the other hand, if guns are not available to individuals and businesses, those individuals may feel a greater sense of insecurity because they have little means of defending themselves and answering fire with fire. So it is kind of contradictory and the one may feed upon the other. Those are the horns of a dilemma as it were between Scylla and Charybdis and that is a problem. How do you deal with it? Who is entitled to the legal use of firearms? On what basis? How do the firearms get into Barbados because in spite of what may have been said, I do not know there are any large-scale arms or ammunition industry in Barbados so they must come in somehow or the other. It is like the drugs. They have to come some way or another. I do not know how it is possible in a small country which should be very governable, no dangerous, difficult terrain as such, how is it possible that so many guns and so many drugs, and I am told there is a connection, can get into Barbados?

I think, Sir, that if the problem is rigorously examined that we would be able to reduce the incidence of crime resulting from firearms and misuse of firearms. I believe it is within our grasp but I believe this is where what is called "participatory democracy," and that is another term that is being bandied about without any full understanding of what participatory democracy means.

Aside.

Rt. Hon. L. E. SANDIFORD: This is not bringing together advantaged groups and saying this is part of participatory democracy because in this sense, the street sense is coming from right down at the bottom of the society. When I say the bottom of the society, I mean those who are in the lower economic groupings in the society. They would have a lot of information which could help in the solution and the reduction in the scale of the problem.

I know that the Attorney General has tried, I believe, he had a consultation or a series of consultations and that is a step in the right direction. The more consultations and discussions we have at that level and a more serious approach to these problems, I think, some pearl may emerge, you never know, out of the discussions and the consultations. In any event, the dialogue is good. I would like to think that in that particular regard the Attorney General might be on the right track although we are waiting for him to deliver in other areas. 3.30p.m.

Sir, I am basically calling for a reduction in the number of firearms that find their way into Barbados. I am calling, Sir, for a reduction in the number of persons who, without lawful authority, gain access to firearms. Above all, I am calling for a greater sense of respect for life and that persons in Barbados should pay greater attention to the golden rule, do unto others as you would they should do unto you.

I do not believe that there is any magic solution to this problem. It is a societal problem. We can talk from the Floor of this House, in consultations wherever anyone would listen to us, we can talk as the saying goes, until the cows come home but unless we do something very positive about the values that we instill in our people both through the formal educational system and the informal processes, we will keep wondering and we will keep pondering and we will keep asking the question perhaps rhetorical, what is our society coming to, it was not like this yesterday. That, Sir, is without asking too closely what used to happen yesterday. But that is the golden age that we look back upon that never really existed. There will always be those who will be accused rightfully or wrongfully of corrupting the youth. I believe Socrates was put on charges, trumped up no doubt, for corrupting the youth and there are others who corrupt the youth.

Asides.

Rt. Hon. L.E. SANDIFORD: Sir, I would urge this Chamber to take this particular debate to heart. This is not just about a cold subject, firearms. It is not a dead and dust subject. I cannot remember how Thomas Carlisle would have described that in his clumpy English expression.

Asides.

Rt. Hon. L.E. SANDIFORD: Sir, this goes to the heart of this society, it goes to the heart of Caribbean societies because it is a problem for our Caribbean people. With the ease of communication, with the call of closer relationships, those who deal in firearms and in drugs and in other criminal activities are also getting closer together. They are setting up their own networks and we have to devise ways and means of dealing with those problems.

I thank you, Sir.

Mr. G. A. CLARKE: Mr. Speaker, I am happy to support this Bill before the House. I am of the view that less than 2% of the population of this country really have guns. I do not believe that there are many Barbadians who really own guns. I believe that there are a few people, a few lawless people who really terrorise the society and who may be obtaining these guns by false pretense. I do not believe that there are many young Barbadians who have actually seen a live gun and who know about guns. There are, in my opinion, very few guns that are circulating in Barbados.

I want to make the point that I grew up in a society where a number of senior people in my young days had guns and they concealed those guns. They were never seen but you knew they had them and they were mainly used for protection. In my days growing up in a society in St. George many older people in those days had guns for their protection and their own security.

They were not brandished around and you scarcely saw them. Young people knew that their parents may have had guns or the older people like the watchmen on the plantation but guns were not to my mind as open as they are today. The few guns that we have around which are being used by a few lawless people are used, not for their own protection, but because of the drug trade and because of the criminal activity that they are involved in.

Therefore, Mr. Speaker, I want to say that we are not in crisis proportion at this time. It is not a crisis that we are at in this country but the legislation is important. It is important for us to bring this Bill to protect those persons in society who are now crying out. There are a number of people who because of a recent escalation in gun activity and so on - this legislation is important because we react to what the society is telling us. I maintain, Mr. Speaker, that the majority of people do not see guns and they do not know them but we have to protect those persons who are fearful.

Mr. Speaker, the legislation is important too because there are a number of criminal elements in our society. The Member for St. George South has pointed out that knives and other weapons are more widely used than guns in terms of self-protection and in terms of criminal activity. We have cases where a number of young people attend functions with heavy, big coats and big pants and they conceal weapons especially knives in their pockets more so than guns..

We hope that these people will be punished for the activities which they continue to do and scare persons who are lawfully attending these functions. 3.40p.m.

What is important, Mr. Speaker, is section 25 of this Bill which speaks to the lending, renting and hire of guns and ammunition which we have to guard Against. There are a few persons in our society who may be renting these guns, lending these guns out to friends and so on to terrorise the society and I believe that this is the section of the Bill which needs to be explained and which needs to be highlighted.

It is a new section of the Bill and it speaks to the fact where persons give, lend, sell or let on hire or in anyway part with possession of any firearm or ammunition to a person under the age of 18 years old, other persons whom he knows or has reasonable cause for believing to be under the influence of drink or drugs or of unsound mind.

Now, clearly, Mr. Speaker, there are a number of persons who because of criminal activity would encourage people and young people especially to rent these firearms to

be involved in the trading of illegal drugs and other criminal activities. Now this is wrong and we must send a clear signal to the society that we cannot condone this. I believe that for this section the punishment should be even increased because it is very dangerous and I made the point early that in Barbados, years ago, people had guns but they were always concealed. There are many people who keep guns but now the legislation is saying that they can be punished if they are caught. Imagine you have an older guy with his gun at home, ammunition well concealed, but he is not involved in the activity. Now he could be punished, and I am not saying it could not have happened before but the punishment is very heavy for a person who knowing that the law exists but is not involved in the criminal activity as those youngsters.

Mr. Speaker, one has to understand. We talk about punishment being heavy but there are lots of social activities which are being promoted to help bring back these people into the normal life of the society. There are a number of opportunities for young people to be involved in. There is the Samuel Jackman Prescod Polytechnic, there is the Skills Training, there are a number of new programmes that are now set up and established for the people on the block to be involved in so that Members must not feel that this legislation is only for the small man. I do not believe it is really for the small man. It is not for the small man.

Mr. D. St. E. KELLMAN: On a point of order, Mr. Speaker, I sat through this whole debate and I never heard anybody in this House say that this legislation is for the small man.

Mr. G. A. CLARKE: Mr. Speaker, I never said anything about the Honourable Member. I am saying that we must not believe that this legislation is mainly for the small man or for the persons on the block. This legislation is for all persons. Clause 18 of the Bill says: "Where a person has in his possession any firearm or ammunition with intent thereby to endanger lives or cause serious injury to property, to enable another person by means thereof to endanger life" so that this clause does not say a young person, an old person, a rich person or a poor person but we have to send a signal to those persons who pretend to be poor, who pretend to be young, who pretend that they are being ill-treated by society, who do not have any expectation of life, and despite social programmes are there for them, who would go through life, Mr. Speaker, without any hope, without any ambition and who would pretend. I must say, Mr. Speaker, that most of the time the media tries to promote the boys on the block as though nothing is being done for them. There are lots of programmes which both Governments have instituted for the boys on the block but it is the adults in the society who sometimes make these people believe that there is nothing out there for them and these few people terrorise the society,

and I want to make the point and I think Honourable Members will see it, that guns were always used as a means of security.

There was a society in which a king decided to arm the entire population. In the early part of the American Revolution, when the South was fighting the North, the society was armed as a means of protection. It was Henry VIII also that armed the citizenry of the society as a means of protection but that was a time when society did not come out to terrorise themselves. You do not find one class fighting among that class. There was a need for protection but today we find where most of these young people who are only there to terrorise themselves and that is important. We have a number of young people as someone said, in the flower of their youth, who are cutting down each other based on illegal drugs and guns. So we have, Mr. Speaker, to send the signal that we cannot condone this behaviour and therefore I want to make the simple point that it is my submission that there are not too many guns out there, it is just a few people who are terrorising society and we have to protect ourselves. We have to protect ourselves against the few who want to terrorise the majority and we will not say that the majority of people have guns.

I want to say that I support the Bill and I only hope, Mr. Speaker, that in certain parts, especially clause 25, that this part is important and we need to tighten up. I think the punishment should be increased in section 25. 3.50p.m.

Mr. W. C. C. CALLENDER: Mr. Speaker, I believe the Honourable Member for St. Thomas has good intentions and I have evidence to support the fact that he has good intentions when it comes to looking at the matter of crime. I recall that sometime ago when there was a passby shooting in Parish Land that the Honourable Member went to Parish Land with me to look at the matter and we looked at providing lights in that area and also for having a police presence in Parish Land. I must say, regretfully that there were other Honourable Members on that Side who did not see it that way, who felt that if there was crime in the area, they could kill themselves for all they cared, but the Honourable Member did not have that thinking.

Sir, in this regard I am minded to look at the comments made by the Honourable Member for St. George North when he pointed a finger at the boys on the block in which he sought to give us the impression, first of all that persons with guns were those on the block and that those to be targeted were those on the block. I strongly disagree.

Mr. G. A. CLARKE: On a point of order. I never said that persons on the block were the only persons with guns. I never targeted them. I made the point, Mr. Speaker, that there are a few guns in society and that was the main

argument that I used, that there are very few guns in society. If he was following my argument and I believe those Honourable Members who were following the line of my argument that there are a few with guns that are terrorising the society and not necessarily the ones on the block.

Mr. W. C. C. CALLENDER: Mr. Speaker, I do not think that my ears have deceived me. But I heard comments being made to the effect that there were boys on the block who had guns. Sir, I would not want us to focus on boys on the block because boys on the block are just like any other community. In any community you will find people who are academic, some who are sports people, some who are family oriented and some who are deviant. So in any group of people within a community, you will find a mix which would represent the community. And it so happens, Sir, that young men today like open spaces. They do not like to be closed into a room. They prefer to be outdoors and therefore they find it convenient to lime on the block.

Sir, when you go through places like Gall Hill and Parish Land you will find that most of those guys who are liming on the block are involved in sports. Some of them play football for Bayer Pride of Gall Hill. Some play for Parish Land, some play for Wotton, Paradise, some play for Pinelands and there are lots of people who are involved in football and who sit and discuss a lot of key issues. There are a lot of them who are entrepreneurs, Sir, and if you talk to them, you will find that they are people who have good ambitions, people who are making a contribution to Barbadian society, but who find it convenient to sit in an open space on the block.

It is therefore quite inappropriate for any of us to speak in such a manner as if to position society to look at boys on the block as being all deviant.

Mr. SPEAKER: The Honourable Member, please. I would like to advise you, Sir, as you prolong this point, that based on what was understood here, the Honourable Member seemed to have been using the term to describe, not necessarily, from what the Chair understands, to associate deviance to anything bad to boys on the block. I would suggest to you, please, do not distort the record of this House and prolong the point please. Could you move on please? I do not think that the House was given the impression by anybody who spoke here today that it was meant in any derogatory way, the reference to boys on the block.

Mr. W. C. C. CALLENDER: Sir, but I will speak of boys on the block because in this society people take the view that because you live in Parish Land or Silver Hill or Gall Hill and you happen to sit on a block that you should be targeted for prosecution by the public and by the police. And this is not the case.

Mr. SPEAKER: You are not saying that any Honourable Member here said that? That was not said by any Honourable Member.

Mr. W. C. C. CALLENDER: I have passed that point. I am not dealing with what any Honourable Member said. I am dealing with a larger principle that we cannot just target people on a block. It is easy to target those people whom you see outdoors. And I am saying that if you go into any group you will find deviance and if you go into any group you are sure I believe, to find somebody with a gun, whether it is licenced or whatever. It is because some people will use guns for their protection and some will use guns in the act of perpetrating crime:

So I am saying in effect, Sir, that we are dealing with a total social problem and that we need to look at it in a way which says that we are looking at the total protection of the society. The question is, do we protect the society simply by imposing the fines that we are imposing today on those people who are found with guns. Perhaps the answer could be that that is one way we try to terrorise people to the extent that they may not want to be found with a gun. The next scenario that we have to look at, Sir, is that because we put laws in place, would this mean that a deviant person would not still walk with a gun? That is the question we have to ask. And if he still walks with a gun, you cannot find it, most of the times you cannot find the guns that these deviants have. So is it not a case, Sir, at looking first of all at matters of detection? How do we detect these guns? And should we not also place emphasis on the detection of weapons used for crime? And should we not hear what is the police doing about that? How many guns have been found over the last year and what is the police doing about finding the guns that are being used in criminal activity? Those are the questions, Sir.

Sir, we have to look at the other end to the protection of the ordinary citizen. What about the protection of the ordinary citizen? What are we doing about that, Sir? We know that over the years the Police have been looking at the establishment of neighbourhood watches and community police outposts and so forth. What is happening to expand these services to get more neighbourhood watches established and to push them so that they can protect themselves? What is being done to link them with the police service? What is being done to bring the police more out into the community?

I recall that when the Police had a greater presence in Parish Land that persons who were tempted to come into the community did not come in because there was a police presence there and there was a feeling of peace and tranquility in that area. So that, Sir, we need to look more holistically on how we are going to approach dealing with the protection of our people.

Sir, I want to speak too about the protection of a large population namely the school population. What is being done about the protection of the school population? There are some schools with security guards and there are many others without. And then, Sir, apart from a security guard, what is really being done to protect this large population of people from violent intruders? We have had cases of people running on to the school compounds with various kinds of weapons. What is being done about that?

Sir, we have had laws imposed here to deal with weapons in schools, but what is really being done to protect the children in the school environment from violence? It is okay to bring laws, but we need to sensitise people about the protection of our citizens and I am looking particularly at the protection of children. It is very very, important.

I believe that there has to be some system where we have the Police readily available in case there is some emergency on a school compound. There should be Police who will be on standby in case there is any problem and there should be regular patrols near schools because in any one school you can have up to 1 200 children in one compound. What are you doing to protect them? Laws alone will not protect people. We have to look at modern methods, we have to look at more scientific methods of protection and we want this protection to be speedy. So I am particularly concerned about protection at schools. 4.00 p.m.

Sir, I also have a fear that if the average citizen does not feel that he is given the protection that he deserves he would want to protect himself. So it is very critical that we improve the police service in such a way that it can give the kind of protection that the average citizen can feel safer in his house.

What you will find today, Sir, is that some older citizens might have an old gun around for their protection. It is against the Law. But if these people get caught and are charged and fined \$100 000, you are looking to imprison them because these people cannot find this money to pay. You are looking to imprison these people who are trying to protect themselves. So it speaks to improvement that will be required in the police service. I do not know but we can talk about manpower and vehicles and in some cases we cannot find the vehicles to come to a scene of a crime. They take too long. We can look at all of these things.

We need to look at the communications network. All of these things we have to look at so we are not taking things in isolation and, I believe, that we need to look at the total protection of our citizens. This is the inland protection of our citizens. Of course, we also have to look at the protection of our citizens from external forces, people who are bringing

drugs into the island and so forth and we have had legislation which seeks to deal with that. I am particularly concerned about what we are doing in that protection.

Sir, we also need to look at the school system. I see Father Clement Paul is talking about bringing back religion in schools. I know that some four or five years ago there was a Value Education document which was prepared and there was supposed to be a thrust toward value education being done in schools. I have not heard anything about it in the past four years. I believe we need to look seriously at a comprehensive value education programme in all schools. That is very important.

We need to inculcate values in students so that when they leave school there will be less of a temptation to get involved in the kind of deviancy that we are seeing.

People who deal in drugs can only sell drugs if there is a demand for drugs and we cannot fool ourselves, we are into a stage where the drug culture has overtaken Barbados and we are now finding that a number of young people are using lighter forms of drugs like marijuana. This is no secret. Wherever you go, you find people using marijuana. It is widely used so that at that end I do not think I can provide the answers for that but I think it needs to be looked at. There is not a simple answer that you can give but the fact is that most young people seem to be. When I say most let me correct that. If you go to any public event - let me be specific - outdoors, you will find that there is much use of marijuana and I believe that we need to be bold enough to take a look at it and to make recommendations about it. I am not prepared to give the answers. I do not have the answers but that is a fact.

If we look at the harder drugs I do not believe that many of our youngsters are on hard drugs. We have to protect our youngsters from getting on to these hard drugs because these hard drugs are very damaging and they can leave them as paros.

So the emphasis now has to be placed on protecting our youngsters from hard drugs. That is a case for community development officers, the Ministry of Health, youth commissioners, all of us, because these hard drugs completely damage the youngsters and it is a pity to see them on the street but there are just a few. So now is the time to deal seriously and to look at a programme to prevent our youngsters from moving on to hard drugs.

I do not think just saying no is the answer. I know there are a number of churches who have been trying to get out there in communities to work with these youth and I believe that is the way to go. We need to get out there and talk to the youth, whether it be youth commissioners of the community or the parliamentarians. I know there are one or

two parliamentarians who tried talking to some of the youngsters but we need to get out there and talk to these people.

It is not just a matter of putting a message on TV. Who watches TV now anyway? You have to get out there and come face to face with these people and talk to them because we are in danger of people moving on to harder drugs and posing a serious threat to society. Indeed, in terms of the crimes they can perpetrate because of the state that they are in or because of the cost that they will impose on the community because in their state they probably have to seek medical attention.

I do believe, Sir, that the time has come for us to look at medical treatment, psychological treatment, etc. being given to those youngsters who are prone to be hooked on drugs who cannot help themselves. I do not believe the answer lies in sending them down to that place by the Psychiatric Hospital which makes people feel that they are just mad people. A lot of people would shy away from that kind of treatment because they do not think that they are for down there.

So there should be some arrangement being made so that people can be taken care of once they tend to get hooked on drugs. I listened to the call-in programme just last week and there were a number of mothers calling in and they were talking about how they could not get any attention for their children. They had not committed a crime so they could not be placed under the care of the Psychiatric Hospital. There was no way for them to turn. I think we need to look at some provision where these people can be given attention. 4.10p.m.

Mr. Speaker, I understand what the Attorney General is trying to do but I am saying that this alone will not be the answer. We need to dig long. We need to dig hard to find the answers. The Attorney General has to deal with the legal side of these matters, though I cannot fault him for looking at the legal side, but those who are responsible for the social side, the community side, need to get out of their slumber and come with some proposals as well because laws are just one side of this but I am not hearing anything from the Community Development people and those other people. They need to bring something to Parliament.

We have been here for four years now and I have not heard anything coming in that direction. We need to hear some proposal, some plan, some policy for social development of Barbados as we move into the year 2000, so let those who are asleep wake up.

Hon. D. A. C. SIMMONS: Mr. Speaker, I rise to wind up this debate with gratitude to all Honourable Members

who have spoken in the debate and who have made some very important contributions. Everyone who has spoken has made some point or other that has been of significance.

Mr. Speaker, I am glad that the Opposition approached this particular Bill in a non-partisan way and in recognition of the international reality that drugs and crimes are related and are two sides of the same coin. I said I am glad they approached it in a non-partisan way because in 1986 in their Manifesto at page 21 the Democratic Labour Party said:

"A Democratic Labour Party Government will, with the help of all citizens who care for this country and its young people, wipe this loathsome scourge, i.e. drugs, from the lives of all Barbadians. That is our solemn pledge."

I do not think they appreciated then the magnitude of the drug problem. It has gotten worse since 1986 and not better. It has brought along with it guns. We have to do something about it. I have explained in the opening what we are doing and why this legislation is here.

If I can refer generally to some of the points raised, I think it is clear that everyone feels that there should be a PR angle to this legislation. The public should be sensitised. There should be time for amnesty and so on.

I give the assurance, Sir, that the legislation will not be proclaimed until we have at least a Press Conference between the Commissioner of Police, myself and the Press to explain to the public how the legislation is going to work and what we expect of the public in return.

In my Budgetary presentation when it comes, I have a special message to say to the young people and it is going to be a little different from what anybody can anticipate, but that will come in due course.

Mr. Speaker, starting first with the contribution made I think by the Honourable Member for St. Michael West, I have explained that there will be an amnesty. Now the details of the amnesty will be announced when we meet with the Press to sensitise the public. There are a number of matters that are being considered now. I say consider, not decided upon. For example, should we not offer to buy some of the guns? It is done in some countries. In other words, if you turn in an illegal gun you get \$200. That is something that has been put to me last week and I am giving consideration to it. At the appropriate time the announcement will be made.

The Honourable Member for St. Michael West has reminded me that the implementation of this legislation, if I quote him right, must be done in an evenhanded manner. I will give him the assurance that when I meet with the Police,

they have seen it already but we have a formal meeting after the Bill passes, I will urge them to be fair and scrupulous about the implementation of the legislation.

Basically, we have this kind of legislation already in Cap. 179 which says nobody should have a gun unless you have a licence for it and if you do not have a licence then you are liable to a fine. The same kind of basic structure is here. The penalties are different.

In my experience I have not had too many complaints about how the police have administered the current legislation other than that people who think they deserve to get a licence have not got one, cannot understand why and had no recourse. I have tried to deal with that kind of situation by giving a right of appeal and asking if the Commission is going to revoke a licence or not renew it, he must give you notice and must show cause why you should be entitled to the licence. But I do not anticipate that, because we are strengthening the legislation, you will find the police coming and just searching people without good cause and so on. 4.20 p.m.

There has always to be a factual basis for carrying out a search such as is provided for in Section 21. The Honourable Member for St. George South did raise some question about that.

The Honourable Member for St. George South mentioned that the Commissioner had a discretion now. This is a first time piece of law, it was not in the old law. I wish to point out in Section 17(1)(b):

"The Commissioner may at any time between 6 o'clock in the morning and 6 o'clock in the evening, inspect the place where a firearm and ammunition, in respect of which a licence is issued, are kept".

It is a very good reason for putting that in. When you read the Bill, you have to understand how it hangs together. If you look back at the Section dealing with the grant of the licence, you will see that the difference between this legislation and the current chapter 179 is that this provides in Section 5(1)(3):

"The Commissioner, where he is satisfied that the applicant:

(a) is a fit and proper person to possess a gun."

You cannot spell out all of the criteria to what is fit and proper. It may be inexhaustive but he has to be satisfied that the person is a fit and proper person to have a gun and very

importantly that he is able to keep the gun safely in his possession. Those are the two criteria. If he is satisfied on those two then he may issue the licence. The Honourable Member for St. George South talked about people, we know them and we have heard about them who keep a little something on the side and they have it home. The Honourable Member for St. George South mentioned that they keep it in the wardrobe, pillow case or drawer. Now, that is inviting trouble and that is why we put in the criteria in there that you must be able to keep it in a safe place.

Let me give you a personal example. Two weeks before Gold Cup Day 1983, six rastas broke into my house. I had in my study built under the desk a safe which my uncle Dr. Tappin had given me before he died. A safe about that high.

Asides.

Hon. D. A. C. SIMMONS: No, Royal Dream was racing then and he won on Gold Cup Day. They broke into my house between 8.30 the night and 11 o'clock and carried away my safe. My safe had every piece of jewelry my wife had.

Asides.

Hon. D. A. C. SIMMONS: I gave her all. Whenever I travel I buy a piece of jewelry for my wife. She had no reason to wear it out the Saturday night. We had just gone to a little party up in Warrens at Gordon Greenidge. I took my neighbours' two children to a place called Skate Off with our two children and by the time we picked back up the children at 11 o'clock, they had carried away my safe with my certificates, my insurance policies and my gun, a Smith & Wesson RI 53024 that I had locked in the safe. They carried them away, broke open the safe somewhere down in the back of Neils in the Belle and the police found it the next morning at 7 o'clock.

You would have thought that the gun was safe in a safe but the safe was not bolted down to anything.

Asides.

Hon. D. A. C. SIMMONS: I was not walking with a gun on me because I was not concerned about personal safety to walk with a gun. I was going to a little party so why worry about a gun.

It is very important to have this condition about security for the gun because for two weeks it meant that Ian Gittens better known as Malik was walking about the country with my gun and was only apprehended two weeks after when he broke my neighbour Chally Jones' house and carried away a lot of things including all his wife's jewellery and was found the Saturday night there by the

Bridge & Harbour Police Station. They recovered my gun because he had my gun and that is how I got it back.

The problem that the police has is this. People can break into homes looking for guns and if they find one they will carry it away. If you have too many guns in circulation, legitimately, there is that possibility, like I had a legitimate gun, well paid for and everything and somebody can just break into my house and there is another gun on the loose.

Asides.

Hon. D. A. C. SIMMONS: It is negligence, it is incompetence. Those are some of the difficulties that you have in deciding how to grant licences. The Commissioner has to be sure that where you are going to keep the gun is safe and so on.

Since this legislation has been in the air, it has been represented to me that we should make it mandatory in the regulations that everybody must have a separate and secure place to keep a gun. Well, I do not know if that is practical but I had two phone calls last week telling me that, Sir.

Asides.

Hon. D. A. C. SIMMONS: No, the safe was mashed up. It was down under the CID steps for years, they had chopped it open with a cold chisel and the CID was using it as an exhibit in the case.

Asides.

Hon. D. A. C. SIMMONS: All were found and all went to prison. They all pleaded guilty.

That is a good point that has been raised because the Commissioner will impose a condition that you have to have training for the use of the gun. Indeed, there is another angle to this. Somebody asked, I think it was the Honourable Member for St. George South about having a gun and having your wife use the gun. Well, there is use, possess and carry. If the gun is licensed in your name as the person who owns the gun and uses the gun and you want your wife to have the right to use the gun, for example, when you go abroad. Then she has to get a licence to use the gun and I will tell you another personal story.

Years ago, when Douglas Agard was, I think, an inspector then, I had a gun, the right to use the gun, I want to mention and I think it was when my wife was first appointed a magistrate. The police told her that she should come over and fill up a form to use my gun and she did not do it. They sent Agard to interview my wife and she objected most strenuously. They explained to her that she could have the

right to use my gun. I have had no training but they wanted her to have training. She said that if I did not have training why should she have training and she refused to take a gun.

Asides.

Hon. D. A. C. SIMMONS: That was many years ago, Sir. 4.30 p.m.

Mr. B. M. TAITT: On a point of order, Sir, it just goes to show, Sir, how the quality of the forces either go up or down. When I came back in 1971 what the police did was that they took my wife to the range and trained her in the use of the gun and then they sold her a gun for her personal use. They did not take any chances so it just goes to show you that the Board of that vintage had a different approach to these matters. Maybe we need to get some more of that because based on what the Honourable Member is saying, Sir, his wife was perfectly right to insist on at least the same standards as he.

Hon. D. A. C. SIMMONS: Sir, a good point was made about renewals by the Honourable Member for St. George South. I wish to assure Honourable Members, Sir, that I am - going to insist that just as we do for driving licences and road tax licences we do for gun licences. The police have no excuse. The police force is computerised. They have just got another fifty something computers and printers from the 163 that we got from the US Government. It is an easy thing to put on computer all of the persons who have gun licences, the serial number of the gun, the date of issue of the licence, the date of renewal and before renewal just send a reminder through the post. Simple. So I do not think there should be any difficulty in that, so I am going to give instructions that it be dealt with because people forget.

There was some talk in this debate, Mr. Speaker, about the drug barons and so on. Obviously I have certain information that Members will not expect me to make public. I also wish to make a comment, Sir, in the light of my experience from both sides, both from the private bar and now in Government. There are some people in this country who are big drug operators but who have come from and still in some cases perpetuate the style of the lower socio economic classes. They have been described to me years ago by a then Deputy Commissioner of Police at the time, Mervyn Holder. There are some small men but big operators and without calling names I will give one example.

One Saturday night about 11.30, I was called to come to the CID. I was in private practice at the time about 10 to 11 years ago. The man came on the phone and explained to me that he was in police custody, that Mr. Elliott Mottley was his lawyer but Elliott Mottley was out of the island and

could I come down to Central. Now this man lived in a small house near to a shop in Church Village, just there facing the Central Bank car park. I would not go any further by way of identification although he is dead. I went down to the Police Station there by the long wooden building that runs back to the Registry and I saw a large number of policemen at various desks counting money and that was about midnight. I never left there until half past two. Do you know how much money they found on that man when they went home at him in Church Village and brought him down? He had \$29 000 in cash. Counsel had to be paid appropriately for coming out of his bed at that hour. They recorded \$29 000 that night.

I am telling you what I saw, my head was blown. You see this fellow and he was a big operator. There are others whom some of us know. I think it was in May last year when there was an attempt to land a large quantity of marijuana at Consett Bay. Some did get through and somebody got shot. A man from Neptune Road got shot and killed. The police thought that when they did that operation that they had destroyed an organisation of 60. Unfortunately the organisation has survived, even though persons are before the court, not with the same potency but it has survived. I would not go into too much about that, Sir, but I could speak to Honourable Members privately. It is because, Sir, the penalties in the existing legislation are so light, not a deterrent to big drug operators, that we have to increase these fines and imprisonment.

I cannot tell the Judiciary how to sentence people. Sentencing is a matter for the discretion of the court and I am a political Attorney General in that I am elected by the people unpolitical process but with a view to interpreting the legislation I can somehow signal Parliament's concern about the possession of illegal weapons by imposing heavy, heavy penalties. In other words, I would not like to see again a situation where you find you arrest a man for drugs, he has two guns, you fine him \$5 000 on each and let him go. I would not like to see that again in this country. I cannot speak directly to the Judiciary from here, Sir. 4.40 p.m.

Mr. Speaker, finally I think the Honourable Member for St. George North raised the point about renting guns. It is a fact that guns are rented in Barbados for criminal activity from time to time. It first came to my attention after the old man at Hothersal Turning, Mr. Blunt was murdered. It was arising out of that investigation that we got information that guns were in fact being rented. We are not going to allow the situation to continue especially where there is an abundance of evidence too that people involved in drugs used minors to commit serious offences. I am going to deal with it in a tough way, Sir, and I think that the legislation answers that challenge adequately.

Mr. Speaker, all of the Honourable Members who have spoken have emphasised that this can only be part of the solution to the problem. I said it last week on the other Bill. I said it again today, Sir. I am glad that Honourable Members appreciate it. I know the Honourable Member for St. Philip South has been very strong on this point, Sir.

Legislation can only do so much by way of social control but it has to be done. The Democratic Labour Party found that it could not honour its pledge in the Manifesto of 1986, that the problem was just beyond control. They responded by very tough legislation in 1990. Do not say that that legislation has not had an effect because people still peddle marijuana, so do not say it has not had an effect. I could tell this Honourable House that there are drug traffickers from certain countries who do not wish to hear about Barbados at all, who will not try to run any operation into Barbados because...

Asides,

Hon. D. A. C. SIMMONS: That is what I am saying, that people were saying we do not know how effective that legislation of 1990 was. It is defective especially at the level of sentencing, because as I said, there are people from large land masses who will not try to bring boat loads of marijuana or cocaine into Barbados because they fear the 25 years or life. And there are others from nearer who are foolish, who continue to do foolishness.

Aside.

Hon. D. A. C. SIMMONS: Yes, they would not come themselves, but they send the mules. They have over 30 women out there through folly...

Aside.

Hon. D. A. C. SIMMONS: Sir, with those brief remarks, Sir, I beg to move that this Bill be read a second time. There are a couple of small amendments in Committee, and I will deal with them as we come to them.

I am obliged to you, Sir.

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

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

COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

Clauses 1 to 10 were called.

Mr. F. J. STUART: Clause 3(2). Any person who constitutes subsection one is guilty of offence and is liable to a fine of \$100 000 or imprisonment of a term of 20 years in prison.

I heard you say that sentencing is within the discretion of the court. Does this section mean that in every case where you have been found committing an offence under this section...

Hon. D. A. C. SIMMONS:...indictable and not summary.

Mr. F. J. STUART: There is no flexibility here at all?

Hon. D. A. C. SIMMONS: No. Indictable because we are treating it as a serious offence.

Mr. F. J. STUART: Right. So, no discretion?

Hon. D. A. C. SIMMONS: No discretion. It is not a hybrid. It is on indictment only.

Mr. F. J. STUART: So the judge cannot impose a fine of less than \$100 000?

Hon. D. A. C. SIMMONS: Oh, no, no, no, no. Let me just explain. Honourable Members will be aware, Sir, of the drafting techniques. I remember raising that same point, Sir, when I sat on the Other Side around 1977 or 1978 and it was explained to me then that first of all it says, "liable to a fine of \$100 000 or 20 years or both." Liable to. It is not mandatory, but the point I am also making, Sir, is that it is an offence on indictment. Having an illegal gun, a pipe gun or any of these things, Sir, now not any magistrate, a judge and jury because we are treating these as serious offences.

Mr. F. J. STUART: Just briefly, Sir. The reason why I ask the question is because elsewhere in the legislation I see the language, "not more than, not less than."

Hon. D. A. C. SIMMONS: It is a pity that they did not standardise it. But "liable to that" means "up to". 4.50 p.m.

Mr. B. M. TAITT: Clause 3(4): "The exemption referred to under paragraph (c) of subsection (3) shall be subject to the following conditions:"

Now those conditions have been set out fairly specifically and in (5) you make the comment:

"An application under subsection (2)(a) shall be forwarded by the Ministry of Foreign Affairs to the Commissioner who shall not determine the application unless he has consulted the Ministers responsible for Legal Affairs, Foreign Affairs and Defence and Security."

Now I am just raising this question as a matter of policy. It seems to me that there is a certain clumsiness in requiring the Commissioner to consult with Legal Affairs, Foreign Affairs and Defence and Security. Presumably, it is going to be sent by the Minister of Foreign Affairs. So if it comes from Foreign Affairs why does the Commissioner have to consult with Foreign Affairs and then an application "shall be forwarded by the Ministry of Foreign Affairs to the Commissioner who shall not determine the application unless he has consulted the Ministers responsible for Legal Affairs, Foreign Affairs and Defence and Security."

Now presumably the Minister of Foreign Affairs sends it and recommends it. So you are saying in the legislation that even though the Minister of Foreign Affairs sends it that the Minister of Foreign Affairs has to be consulted and he cannot act unless the Minister of Foreign Affairs is consulted.

Asides.

Mr. B. M. TAITT: There is a certain absurdity there. What I really want to ask is that you are saying that the Commissioner must consult with the Ministers specifically and not the Ministries.

Aside.

Mr. B. M. TAITT: Okay. I just wanted the clarification. In other words, the Ministry's officials might send it in but the Commissioner has the licence of the Minister of Foreign Affairs, Minister of Legal Affairs and the Minister of Defence and Security before determining the matter.

Now, if the Ministers of Foreign Affairs and Defence and Security and Legal Affairs say to the Commissioner that this is in order and we think it is this, does the Commissioner still have discretion here?

Aside.

Mr. B. M. TAITT: He can decide? All right. I want to raise the question that you may be tying yourself. You are presuming that a Commissioner of Police is a reasonable person and ought to be but if Ministers have a dignitary coming.... Let me be more specific. We had a situation while

I am still in Opposition but in my other capacity with the WHO whereby I went to the Airport to meet with former President Nyerere who passed through Barbados on his way to Guyana. He was a member of my Task Force and I went to meet him at the Airport. Under Tanzanian law President Nyerere has all of the accoutrements of a Head of State. He travels with security and he has *et cetera*. He is a foreign dignitary coming through Barbados but not visiting Barbados and indeed he travels with his security and they had arms with them.

Through the usual snafus that happen with developing countries the information had not come through in sufficient time and there was a little problem as you know without going into great detail how the procedure goes. There was a small difficulty at the Airport which stood in the way of his boarding the plane because - this is on his way back from Guyana - the airline pilot is not going to take the equipment unless there is clearance on all sides.

What I am seeing here and I do not think there is going to be a problem if everybody is reasonable but the law as it is written means that unless the Commissioner or presumably his designee has spoken to each of the Ministers and received clearance from the Ministers that one of the Ministers not having been consulted a decision cannot be made. What it is saying here is that he shall not determine the matter unless he has consulted with the three Ministers.

Let us assume for argument sake the Minister of Legal Affairs is not available. He is not out of the country. With the system we have at the moment the Minister could be in Bathsheba. I do not think it is your intention to be as specific as the law has been written and I am just wondering if you have not tied yourself too tightly in this regard with the three Ministers must be consulted before determination.

Certain kinds of Commissioners reading the law as it now is expressed in this clause will say if I cannot speak to the Minister I cannot make a decision. You can see that that could result in some kind of embarrassment and I just draw it to your attention that the way it is written seems to me that not tomorrow, not next week but at some time it could create a problem.

Hon. Miss B. A. MILLER: Mr. Chairman, Sir, I have no difficulty with the clause and the sub-clause as it is. This is what obtains now. I do not think that we can be any less stringent about these matters. All kinds of delegations come here and you would be amazed at the equipment sometimes, plane loads of it. I really do believe that it has worked well enough in the past. There are always going to be occasions when you will have a snafu here and a snafu there but I do not think that you can do anything about it. In fact, the airlines have themselves tightened their

procedures where the section would have implications for them. Some airlines more than others and particularly airlines flying into North America.

I really have no difficulty with it and I understand clearly that the Ministry of Foreign Affairs can forward an application to the Commissioner and the consultation is really done at the level of officers not of Ministers.

I would not like to make this any less tight than it is and it really functions I think without too much of a problem to people.

The question that clauses 1 to 10 stand part was put and resolved in the affirmative without division.

Clauses 11 to 20 were called.

Hon. D. A. C. SIMMONS: Mr. Chairman, Sir, in moving that clauses 11 to 20 stand part I draw attention first to clause 16(2)(a) on page 18 of the Bill. The Honourable Member for St. George South made a very important contribution that this 30 days is perhaps a little too short. Let us put 60 days and call that a day. It gives more time for the person to file an appeal. You might apply, you get turned down and the letter comes and you are away on holiday or you do not see it and if you do not file the appeal in 30 days that is really hard. Let us put 60 days instead of 30. I will accept that proposal.

The Honourable Member also drew attention to the similarity in fines for the offences under Part 18-20 which carry intent and the offence is under clause 3 where there is no intent you just have an unlicensed gun and the maximum is \$100 000 or 20 years and he suggested that we should have a disparity in the sentencing and I accept that.

Honourable Members on the Front Bench have no difficulty in increasing these sections to deal with intent. Sections 18, 19 and 20 from \$100 000 to \$150 000 or 25 years. Leave section 3 as is at \$100 000 and 20 years but where you have a gun endangering life or resisting a policeman with intent to commit and then you have an attempt to commit an indictable offence we think that there should be a distinction in the level of the penalty. 5.00p.m.

I am not saying that a court is going to impose \$25 000 or \$150 000. We know that for a first offence the court will impose something stiff but they will not impose \$100 000 or \$150 000, not for a first offence. Therefore, just to mark down our concern about these types of crimes, the serious nature of them, I suggest that in clauses 18, 19 and 20 that the penalties be changed to \$150 000 instead of \$100 000 and imprisonment for 25 years.

Mr. B. M. TAITT: I have already spoken on the question to the Minister of 16(1) so I would not address that again.

I want to ask the Attorney General, quite seriously, it is not a frivolous question, if a licence has been revoked at the point of revocation it ceases to be a licence?

Hon. D. A. C. SIMMONS: Yes.

Mr. B. M. TAITT: What is it you have to return?

Hon. D. A. C. SIMMONS: What section you are on?

Mr. B. M. TAITT: Section 16(5). "Where a person whose licence has been revoked fails to surrender it within the time specified in section 15(3)." When a licence is revoked, that thing which you had is no longer valid. How can you then have an offence for not returning something that is revoked? Are you talking about the piece of paper? I would think seriously as to whether a person whose licence has been revoked has to do anything thereafter. I would like you to take this very seriously. When a licence has been revoked, the moment that licence is revoked it ceases to have any validity whatsoever. How, therefore, can it be an offence not to return that? I raise very serious questions about this whether that is possible. I am not sure. I have been battling with it and trying to figure out what is intended here.

Hon. D. A. C. SIMMONS: I know it is to prevent fraud and counterfeiting. They want you to deliver up the licence.

Mr. B. M. TAITT: It is not a licence anymore.

Hon. D. A. C. SIMMONS: What you are going to call it?

Mr. B. M. TAITT: I do not know. That is not my job. It is not a licence anymore. When a licence is revoked, from the moment the revocation occurs, it ceases to be a licence. Therefore, you cannot pass legislation which says that a person who fails to deliver something that is revoked is guilty of an offence. I submit with great humility that is not possible.

I know what it intends. You intend that whatever has been issued as a part of a licence that you wish that instrument to be returned, but you do not say so. You need to spend some time on this so that you can tidy it up because I would expect that the young bright lawyers...

Hon. D. A. C. SIMMONS: I will delete it. I am glad you raise it. It does not affect the Bill. It is a good point. I will move that it be deleted.

Mr. B. M. TAITT: Do not do it on your feet. What you need to do is say that where a licence has been revoked such instrument as has been issued by the Minister should be returned and failure to so return such instrument shall, *et cetera*. That might satisfy what you are seeking to do to prevent someone from showing the police a piece of paper purporting to have a licence. I understand what you are trying to do but I am drawing it to your attention that as it is drafted it does not do that.

The second thing is you say that the Commissioner may, without prior notice, require by order under his hand, the holder of a licence to produce for inspection the firearm in respect of which the licence is issued. As it stands now, in order to get your licence the Commissioner may command that the gun be brought in. In fact, I think they command that at all instances that it be seen by a police officer before he renews the licence. You are saying though that he may be able at any time to ask to see the gun, but is not that inherent in...

Hon. D. A. C. SIMMONS: As a condition of the licence?

Mr. B. M. TAITT: Yes.

Hon. D. A. C. SIMMONS: But if you look at the Act, it spells out the conditions in two Schedules. We do not do that.

Mr. B. M. TAITT: Okay. Does this mean that those of us who have gun licences now are going to be issued a new licence? All we get at the moment is a receipt for having paid whatever is the amount. I frankly do not remember the original licence being different from the receipt. So is there going to be a new certificate which I can frame and put up for thieves coming in and seeing that here a gun licence exists? I would like you to address that, please.

Hon. D. A. C. SIMMONS: Sir, the English legislation speaks of a certificate other than a licence. We call ours a licence. The old law spoke of a licence. We have a driver's licence and we will get a gun licence in proper form which will spell out the conditions that we agree to. We will have to get all these forms printed and so on but I would have thought that from early January we would be in a position to start issuing the new form and the new gun licence just like anybody else gets a licence which will contain the conditions of the issuance.

Sir, if Honourable Members would agree, rather than my deleting clause 5 now, I would wish to refer this back to the drafting people and let it go to the Senate and let them deal with it and if anything it comes back to us.

Clauses 11-20 were passed.

Clauses 21—30 were called.

5.10p.m.

Hon. D. A. C. SIMMONS: Sir, in Clause 21 the marginal note should have been amended. We discussed this with the Parliamentary Counsel and she agreed that the typist has not picked it up or I do not know where the instructions went wrong. It should be "carrying a firearm in a public place". Delete the words "with intent" and substitute therefor "in a public place" in the marginal note to Clause 21.

Subject to that I beg to move that Clauses 21 to 30 stand part.

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

Mr. B. M. TAITT: This whole question of carrying a gun in a public place has been one that always troubled me. Because if you have a licence, we as politicians for example, we go to public meetings and I have always understood the law to be that if we go to a public meeting while we have the gun, that we are guilty of an offence...

Asides.

Mr. B. M. TAITT: ...under the Public Order Act. That is right. It is one of those very strange phenomena that if you are given a licence to carry a gun, presuming the gun is for your protection, you travel from home through the quiet places where there is no gathering and you arrive at a place where there is a gathering that you are committing an offence, as the law is written.

Asides.

Mr. B. M. TAITT: What I am putting to the Attorney General as we have discussed only recently, when I drew it to the attention of some of my colleagues, that the law as it is written, that that is an offence, some of them were surprised. It presents a difficulty and while it is true that no one has ever been prosecuted the fact is that people are still amenable to prosecution under this or the Public Order Act but this as it stands, a public place is very clearly defined.

What use is the gun to a person if that person is liable to prosecution every time and any time he takes the gun into what is describes as a public place. My understanding of the original legislation is that in fact, if you went to a public place with an intent that that was the crime but that innocently walking with your gun strapped to your leg in a public place was not an offence. But as the law is written in

the old Act and in this Act and in the Public Order Act, when you go to a public meeting in Independence Square and you do not leave your gun home or at least 500 yards away, you are guilty of an offence.

Asides.

Mr. B. M. TAITT: I do not wish to hear any confessions, Sir. The point is that the Attorney General needs to be aware of this so that he can see if this is what is in the intention of the legislation because that is the basic fact of life.

One of the questions which I posed to the Attorney General for the sheer intellectual exercise is this. If a crowd gathers in front of your house and they have come with no bad intentions and you come outside to address the crowd, are you not in a public place.

Asides.

Mr. B. M. TAITT: Well, the road outside of your house is a public place.

Asides.

Mr. B. M. TAITT: It is more likely to happen in Black Rock than at Neils, that is true. Nobody would go up in Neils, anybody who goes up in Neils as soon as they turn the corner at Neils, more than tv/o people at a time, that is a mob.

If you come to Stanmore Crescent

Asides.

Mr. B. M. TAITT: It is a standing definition but I am not questioning whether it is a standing definition but the point is that we are writing modern legislation and you need to address this issue because if the Director of Public Prosecutions was of a mind to prosecute me on a given day, I could find myself with some difficulty because Stanmore Crescent is a public place even though it is an enclave. If I live on Black Rock Road, Highway 2 is a public road and if a crowd gathered outside to say happy birthday to me and I came downstairs with my gun in my pocket inadvertently I would be guilty of an offence. That is not the intention of the law.

Asides.

Mr. B. M. TAITT: It is not the intention of the law. I do not see how that could be the intention of the law. If we are going to political meetings and Honourable Members, those of them who walk with protectors, when they go to the public meetings and arrive on the platform, anybody who has been to a Barbados Labour Party meeting would see

them sitting on the platform. Those who wear straps, with their straps on. I have always found it amusing. But each one is guilty of an offence at that time and I do not think that that is the intention of the law. I would like you to address that.

Mr. F. J. STUART: Further to what my colleague is saying on the same Clause and in light of the difficulties raised, what is intended to be embraced by the phrase "without lawful authority or reasonable excuse"? If you have a licence, that is lawful authority or reasonable excuse so if you go into a public place then you are not committing any offence.

Mr. B. M. TAITT: Are you sure that is not portmanteau.

Hon. D. A. C. SIMMONS: Sir, he is asking me if I am sure. I would like to say as Sparrow said in Jack Palance, I am sure without any doubt.

Sir, I understand the problem and I gave the Honourable Member the assurance that I am going to have a study made of Section 32 of the Public Order Act because I remember that there is a little problem there.

That Section says this:

"(1) Any person who without lawful authority or reasonable excuse, the proof whereof should lie on him, has any offensive weapon at any public meeting or in any public place along the route of any public march or while taking part in any public march, is guilty of an offence under this Section.

(2) Any person who at any time when a public meeting is in progress has with him any gun in any public place from which any speaker addressing such meeting is visible shall be deemed to have had such gun while present at such meeting until he proves that his presence in such public place at such time was neither directly or indirectly consequent on the fact that such meeting was in progress at that time."

Well, that is a lot of foolishness and we have got to change that.

Asides.

Hon. D. A. C. SIMMONS: We are dealing with this Act. For the purposes of the Public Order Act, it gives you lawful authority and then comes back and takes it away.

Mr. B. M. TAITT: Since it is addressed in the Public Order Act, I would make bold to address, since the proof is on the individual, it would be hard for such an individual in

this Act, in the face of that legislation to come and prove that he has lawful authority. It seems to me you can only get lawful authority from the Police Commissioner. The only people with lawful authority in this are the soldiers, the police and anybody else who has been commissioned to go there. But you go to a public meeting to speak, you do not go there for any action to do with guns therefore lawful authority would have to come from the Commissioner. The Commissioner would have to give us each a certificate saying it is all right for so and so to have his gun with him at a public meeting in Independence Square. I do not think that any sensible Government is going to see that anybody is prosecuted for having their gun with them. But since the sense of Government seems to be reducing over the years it is a fact which you should put in the law to make it abundantly clear. 5.20 p.m.

Why would you want a gun at a public meeting? That is a good point but the fact is that if you have a licence to carry a gun, you have a licence to carry a gun wherever you go for your protection. You cannot protect yourself if the gun is at home. There is no point having a gun home, locked up in a drawer, and you are at a public meeting and when somebody comes and says, as almost happened the other day, what is the position and you cannot respond. Up in my gap the fellows would want to know if I gone mad. Now, fortunately I do not walk with a gun so it does not matter to me. My friends walk with guns so you and I know how we get protected. We do not have a problem. Seriously I think it is a matter which needs to be clarified and since the Public Order Act is specific, this Act will have to take its place behind it.

Mr. F. J. STUART: I am thinking, Mr. Chairman, in light of the difficulties raised if one is found in a public place with a licensed firearm the police then have the option of either deciding to charge one under the Public Order Act since to try to charge one under section 21 of this might fail. It seems to me that the Public Order Act would have to be brought in line with the Firearms Act to remove all the anomalies.

As far as I am concerned the words "without lawful authority or reasonable excuse" must mean if you have a licence.

Asides.

Mr. D. St. E. KELLMAN: Mr. Chairman, if you buy that argument, what is the reason for saying in a public place. Any person with an illegal gun should not have it in any place, Sir.

Rt. Hon. L. E. SANDIFORD: Sir, while the Attorney General is thinking about that I cannot clarify these issues

but I can raise some questions. Are we in a public place in here, Sir? Is it a private place? Apparently, Sir, some of us go to public meetings with something strapped to our legs. I do not go with my legs strapped or anything strapped to my legs.

I would really ask the question, Sir, why would it be necessary in conducting the discourse on public affairs to have a gun in a public place at a meeting? I have a good idea of what has gone on in elections in this country for a long time. I remember taking off at Brittons Hill. I think we should perish the thought, Sir, because we cannot really put those who are seeking to represent people in a different category from the people themselves who come to be part of the discourse and if we have both the public and politicians armed to the teeth or just armed to the leg, Sir, I think we would be going down a very dangerous road and we should think about it.

Mr. B. M. TAITT: I have another question to raise. This one now, Sir, is one of older vintage. Section 26(2)(a) and (b) "Where a police officer has reasonable grounds to suspect that any person is unlawfully in possession of any firearm or ammunition, the police officer may, without warrant

- (a) search that person, or detain him for the purposes of searching him;
- (b) search any vehicle or vessel in which the police officer suspects that any article liable to seizure may be found, and for the purpose require the person in control of the vehicle or vessel to stop it."

Now, Sir, I am sure that the learned Attorney General is aware that this has been an area of contention for some considerable time. It is a matter which I feel very strongly about. I appreciate that the police must have some assistance in its ability to rid the country of illegal arms, of drugs, etc. But the citizen has an equal if not higher right in relation to this whole question of search. I feel very strongly. I do not accept that even when we pass this in here that it will survive the well known decisions about search of vehicles.

The Honourable Member is fully seised of the whole question of a person who is driving along. The Police, I wish to submit, must have reasonable... but the Honourable Member must be aware that reasonable has been interpreted to mean that if the police stop you, you have to stop. My understanding of this and I wish the Attorney General would put in the record, his understanding of what this means. If the police have reason to feel that I am running a drug ring or a gun ring or some such thing and they know that I am driving the car M 58 and they have established with their

superiors that they have reasonable cause, that is fine. But if I am going home from my headquarters in George Street at half past two in the morning, I do not expect any policeman to put up his hand to stop me unless I am speeding or any of those things. When he stops me I look out and give my name and address, unless he has reasonable cause I am not making myself available for any search by any policeman in Barbados or anywhere else. I want you to understand very clearly, I do not know about the rest, but unless he has sufficient cause... 5.30 p.m.

Aside.

Mr. B. M. TAITT: When I was first in this House of Assembly, I had a constituent that lived in Gasolene Gap who suffered at the hands of the police. I spoke about it in this House of Assembly and a policeman of the day made the comment "you go home late." I then reported it to the Commissioner of the day that if I saw that policeman on the street that I would assume that he was coming to hurt me and therefore I would feel bound to defend myself. We have passed that stage. That was over 20 years ago, but this whole question of stopping vehicles and searching them is a matter which goes to the heart of the right of the citizens of this country and there are some of us who feel strongly about it and I am one of those.

I am not going to tell you not to pass this legislation, but you must define very clearly what you mean by "reasonable cause to suspect," because in the words of the Trinidadian, "it had some people in the police force who have all kinds of misunderstanding about what "reasonable cause" means". There are not many, but the few who do not understand "reasonable cause", they need it to be explained to them in very clear terms, because this does not mean that you can stop everybody willy-nilly and search and put up road blocks.

I remember Commissioner Durant and I had a long discussion on this, because one time I came and saw what is now the Frank Worrell roundabout, they had road blocks at three different points. That is not a reasonable search. A reasonable search does not include stopping cars in a long line as they come around the roundabout. You have to have reasonable cause.

Aside.

Mr. B. M. TAITT: That is right. You have the right to have somebody's wife in the car without the man feeling that he can use that as an excuse to stop there and beat the woman. I am very serious. I think the Attorney General knows that I take this matter of rights of the individual very seriously. I am not going to stand in the way if the police suspects some people in my constituency or in the

Honourable Member's constituency or in your constituency. They have the right to stop, but it seems to me that this must not be misunderstood that there is to be whole sale stop and search, big lines coming up. You are going up in a hurry and when you get there the big line, the police stopping people and searching them. Some of them, like some of the people in Customs do not understand that when you are searching a citizen that he is not yet a prisoner.

It has to be made very clear that when you are searching a citizen, the citizen is not a prisoner. The citizen has not been charged with anything and even if something is found, if they are arresting the person, the person has a right to know that he or she is being arrested. Some of the people in the force or in the public sector do not always understand that the citizen has basic rights and they have a way of saying that they are soft on crime and you are soft on this. But if you come from where I come from and if you represent the people I represent you have to be soft on some of these things because the law is very harsh when it comes to people...

Aside.

Mr. B. M. TAITT: While I am on my feet let me say to the Attorney General that I resent very much the fact that if the police have to search someone in Neils they would go in the morning with a search warrant, knock on the door and say, "Mr. So and So this is the position." But if they have to search someone in Alkins Land, or they have to search somebody down in Westbury Road, 5 o'clock in the morning when the grandmother is sleeping, they are pushing down the front door. They do not read any warrant.

Aside.

Mr. B. M. TAITT: Do not mind what they say, they do not read it. All they do is push down the door and terrorise the people. I do not mind they say that I curse the police. I am representing my people, but there are some...

Aside.

Mr. B. M. TAITT: The Honourable Member fortunately used to be a defence attorney, so he knows what I am talking about. We can have policing in this country that is effective without those kinds of terror tactics. It is not necessary and I resent very much the way in which poor people are treated in this country from time to time no matter where they go. They go to Puerto Rico and buy a few things and come back. When they get to customs, they have them stretched out like if they are dogs. But meanwhile people coming in from North Carolina with cocaine and they say, "Good morning, come through please." I have my views on that and they have some of them...

Aside.

Mr. B. M. TAITT: I have been ill-treated at the Customs even when I was a Minister. I do not mind when they ill-treat me because I can take that, because my mouth is...

Aside.

Mr. B. M. TAITT: Good. But when my people are being ill treated, I feel very badly about it.

I want the Minister to understand that this clause for me has some difficulty. I am not going to oppose it but I draw it to your attention so that the record will show that I took the same position I took 20 years ago and that I am likely to take 20 years from now.

Aside.

Mr. B. M. TAITT: Am I going to be here fellows? But 20 years from now I will be taking this position and I want the Attorney General to know who used to take these positions. Sir, I would not raise this question. If it was another Attorney General, but I know that this Attorney General when he was on the Other Side used to take some strong positions, so he understands where I am coming from.

In fact, most of the lawyers on that Side are liberal. You do not have any hard liners over there that I know of and I really think that it is important that we let the citizens know, let the public information that goes out, let the citizens know that this is not a draconian measure that is coming down on them where people can stop cars, stop people coming from church in cars and say that they have reasonable cause to suspect...

Aside.

Mr. B. M. TAITT: I understand stopping for the licence. If you have not paid your licence and you do not have your sticker, well, you know you have to try and deal with that. But this is a case of stopping the car and asking them to open the boot, open the inside, open the engine and especially if it is a person who, as they say, is not known to the police.

I put that on the record because I know, as I am sure the Honourable Member for St. Michael North West and the Honourable Member for St. Michael South East know. We represent constituencies where these people are not very lucky.

Thank you, Mr. Chairman.

Hon. D. A. C. SIMMONS: Mr. Chairman, first of all do not let us forget and I hope Honourable Members will keep reminding me that we have to amend section 32 of

the Public Order Act before the next election, because it was an Act that was passed in a great hurry. On the face of it Section 32(1) and 32(3) are in conflict with each other. So we have to do something about it.

In relation to Section 26 of this Bill, Sir, the speech the Honourable Member made just now reminded me somewhat of at least two possible speeches that I made from that Side, perhaps in the same chair.

Hon. D. A. C. SIMMONS: No. When there were some stopping and searching in the late 1980s, I think even the Attorney General himself was stopped and searched one night coming home from a party, I believe. However, I have been and I am pretty sure, Sir, that I would have introduced into the debate in this House, the decision of Mr. Justice Telford Georges in the Bahamian case, I think it is called "Smith", where he held that it is an unreasonable search if the example the Honourable Member gave, you start up at Warrens roundabout and you determine that every car coming from Jackson you are going to search. The law is that there must exist reasonable grounds for wanting to search. We put it in this law that there must be reasonable grounds to suspect. Those reasonable grounds have to be developed upon the basis of some information that is reliable and you would expect therefore not for the police to decide that we are looking for a red or white car and therefore you can stop every red or white car. That is an unreasonable search. You must know more. You must know that it is a white car. It is a Toyota. It is an X car let us say and it probably has two people. We have to have some factual basis to support the grounds. Otherwise, the search becomes arbitrary and unusual. 5.40 p.m.

I am sure that the police have been lectured about this aspect of the law in the several lectures that they get and I am glad that Honourable Members have raised it. I will take it up with the Commissioner. We know that earlier this year and from time to time in the past we have had searches of vehicles for guns. We have not turned up too many. I will remind him that it is a concern of Honourable Members and that he must make sure that when searches are done they are carried out on the basis of some reliable information which provides a reasonableness for their actions.

Aside.

Hon. D. A. C. SIMMONS: "Section 27(1) A police officer may demand the production of a valid firearm licence from any person who is in possession or whom Me believes to be in possession of a firearm or ammunition."

So if a policeman saw me with a firearm and he comes to me and asks where is the licence and I tell him it is home

he can come and go with me. You would not keep it on you. He can ask where is the licence for this gun.

Mr. B. M. TAITT: As the clause is written, if for argument's sake he does not accept your word and he does not wish to come and go home with you and he seizes the gun, there is nothing in the law which says that on production of the licence the gun will be returned. We expect that it would be but where for example, it has not been then you have to go through a procedure to get back your gun.

It seems to me that the clause would have been more efficacious if it said on production of a licence any gun that is seized would be returned. I do not expect you to do it now. I do not expect you to draft it, but I think to the extent that if you are going to make regulations you should include it in the regulations.

I do not have a problem if I come up the road with an Uzi in the back of my car and the police seize the Uzi because they are not sure. That is fine, but if I go home and produce the licence then I should get back the Uzi without more... and all should be well.

I think that the law should so provide.

Hon. D. A. C. SIMMONS: I will discuss this with the Commissioner and I have a marginal note for the regulation and to deal with the details of this, in the regulations if he thinks it is necessary.

Subject to those observations I beg to move that Clauses 21 to 30 stand part as amended.

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

Clauses 31 to 36 were called and passed.

Mr. B. M. TAITT: Mr. Chairman, I cannot help but be amused that under Clause 31(1):

"A person who is desirous of keeping any antique firearm, may upon obtaining the approval of the Commissioner in writing, keep such antique firearms at the premises specified in the document granting approval."

"For the purposes of this section "antique firearm" means a firearm that

(a) is not less than 100 years old..."

Sir, my late father-in-law had a firearm that was - I have to call it antique. I do not think it could fire a cap but he

loved it very much and he bequeathed it to me. He had no licence for it. I have been calling it a firearm but according to this legislation it is not 100 years old. Before I die it will be 100 years old. I think that 100 years is a bit long. I do not know where they got 100 as a bench mark.

I would think that there are ways to define antique firearms that would not necessarily make them 100 years or more old. Antique would seem to me would bear some relationship to the type of firearm. There were some Smith and Wessons that were made initially in the 1860s. They would be antique for purposes. They were still making Ball and something well into the 20th century. There is in fact as the Attorney General must know a gunsmith in the United States who specialises in making firearms that are defined as antique but which are only antique because they have the attributes of firearms that were made back in the 18th and 19th century and I just wonder if he would not wish to reconsider again not to hold up the legislation, but the definition which has been given here, it seems to me a little narrow and may deprive some quite legitimate antique holders of their prizes and their trophies and I am sure you would want to reconsider it.

Hon. D. A. C. SIMMONS: Mr. Chairman, I was abroad over the weekend so I did not have a chance to deal with this. I know this is one of the matters that the Commissioner wanted included. I saw the 100 years yesterday evening when I got the amended copy of the Bill and I was not able physically and otherwise to deal with that today. I want to suggest that we deal with that matter of the 100 years as we are dealing with Clause 20 that we are sending to the Senate.

I will raise with the drafters tomorrow this 100 years and the other.

Aside.

Hon. D. A. C. SIMMONS: Firearms of historic interest in the English legislation of 1968 say a firearm which was manufactured before January 1919. Fifty years. It seems to me such a small thing that I was wondering if we need looking at the English legislation now to have 100 years. Fifty years is adequate. Something tells me that we are doing some legislation to do with cultural heritage and we are providing for 50 years for antiques.

Let us do it now. Let us change it now to 50 years.

I therefore move that we delete the word 100 in clause 31(2)(a) and substitute therefor 50.

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

Hon. D. A. C. SIMMONS: Sir, I ask that you put clauses 31 to 36 as amended.

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

Clauses 31-36, as amended, were called and passed.
5.50 p.m.

Hon. D. A. C. SIMMONS: Sir, just before we asked you to report, just a general point, the first point that was raised by the Honourable Member for St. Philip South, where in section 3 we spoke of liable to conviction under indictment for \$100 000 or 20 years. In the Interpretation Act, section 22(5) it says:

"Where an enactment provides punishment for an offence against the enactment, the offence shall be punishable by a punishment not exceeding that so provided."

That is the answer.

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

On the separate motions of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER the Bill was read a third time and passed and cited as The Firearms Act, 1998.

ORDER NO. 11 - BILL TO AMEND THE REGISTERED SUGAR FACTORIES SMOKE CONTROL ACT, CAP. 355

Hon. R. C. EASTMOND: Mr. Speaker, many years ago, indeed, in 1961, the Registered Sugar Factories Smoke Control Act was passed principally to prevent sugar factories through their emission of smoke from polluting the atmosphere. In 1961, Mr. Speaker, I am sure that this country may have had up to about 12 to 15 sugar factories and in those days it was highly probable that if there were no mechanisms in place to control the wanton and indiscriminate emission of smoke then there would have been a problem.

Subsequently, Mr. Speaker, it has transpired that several sugar factories have been closed. Today, we only have three sugar factories operating in Barbados and there is some doubt as to whether this legislation should really still remain.

In fact, they are those who are of the view that with three factories operational which hardly present any problems, that this legislation should be made a thing of the past. Nonetheless, Mr. Speaker, it remains law and what we are doing here this evening is seeking to amend section 3.1 must explain why section 3 must be amended.

There used to be a time in this country, Mr. Speaker, when responsibility for the management of the sugar industry lay and rested very much with a body called the Barbados Sugar Producers' Association Incorporated. As times have passed, this organisation is, I would not say moribund but, certainly, is non-functional.

In fact, some years ago when this organisation had been declared in decline, and when the sugar industry was crying out for restructuring, the previous Democratic Labour Party Administration wisely introduced an entity called the Barbados Agricultural Management Company to take over the management of a number of estates that would have gone bust were it not for the intervention of the Government of the day.

Now, since, Mr. Speaker, the Barbados Agricultural Management Company has very much replaced the Barbados Sugar Producers' Association, what Government is proposing is that the powers that were given to the Barbados Sugar Producers' Association through section 3 to appoint two members to the Sugar Factories Smoke Control Board, be now transferred to the Barbados Agricultural Management Company and this is primarily what this legislation is about.

Indeed, Mr. Speaker, the legislation which is called the Registered Sugar Factories Smoke Control (Amendment) Act, 1998, this has just two sections and the import of these two sections is to allow the Barbados Agricultural Management Company to nominate two members to the Smoke Control Board.

I should as my duty, Mr. Speaker, indicate what the Smoke Control Board does. The Smoke Control Board which is not a busy Board at all meets no more than twice a year. They meet before the sugar crop starts and what they do is inspect the factories with recommendations to the factories how to ensure that their chimneys do not pollute the atmosphere. If as they inspect these factories, they have reason to believe that the factories were so malfunctioning as to create a nuisance they would recommend measures that the factory should take to make sure that such nuisance is abated.

Now, after that has been done, that Board can then entertain any complaints whether there have been any

nuisances. Over the years, the complaints for nuisances caused by sugar factories have declined markedly. Indeed, prior to 1990, I am sure one never got as many as two complaints a year. I believe year before last there was one complaint for Bulkeley that emitted ash somewhere close to a place called Neils.

Many years ago, Portvale had been guilty of some strange emissions, but by and large, we have seen a serious situation unfolded where this Board is reasonably inactive but still it remains a legally valid constituted Board. In light of the transfer of power from the Barbados Sugar Producers' Association to the Barbados Agricultural Management Company to manage the sugar industry, I am asking this Honourable House to move, by way of an amendment to the Act, that the proposed amendment be adopted.

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

Mr. G. A. CLARKE: I beg to second that, Sir.
6.00 p.m.

Mr. D. St. E. KELLMAN: Mr. Speaker, for years I have always wondered why it was so difficult to get an action against the sugar factory for polluting the atmosphere and also for interfering with the privately run business of people. Now, I clearly understand why it was so difficult. In a situation where the members are appointed by the same company that are operating the factories, I could now understand why people in St. Peter always have a particular problem of getting compensation from the sugar factory. I would like to take the opposite view, Sir. It is my honest opinion that these members should be appointed by the Minister of Agriculture and not by the BAMC. I think it was wrong for years for the Barbados Sugar Producers' Association, the organisation that ran the sugar factory, to appoint members on a Board to tell them that they were wrong.

Here it is, Sir, you are running a sugar factory, you are emitting dust on people and you are asking your own employees who you are employing to go and inspect. I am calling on this House to reverse that decision. It is true that you only have three factories and I think that these members should be members from an independent body and not the members who are either employees or past employees of that particular association. To me, Sir, what we are doing today is not making sense and I know that people are going to say that this is something that has been done for years but I am saying that it has always been wrong and I do not think that this House should adopt this particular policy and that we should call on the Minister to go and come again and bring a new proposal. I think these should be independent people, Sir.

Sir, let me give you an example. I do not expect it to happen but a good example would be Portvale Factory. If Portvale Factory has a problem and the people to the west of Portvale Factory ask them to investigate, it is the members of the BAMC that will go and investigate themselves and this cannot be fair. It means then that poor people will never be able to get compensation even though they have been unfaired. Sir, this is not a normal body, this is a body that has been formed by Parliament so it means that they has some legal authority. I am saying that to protect the interest of people as I have said, now I understand why some people who have made claims and it is known that there was a particular hotel in St. Peter which has been fighting now for years for compensation and it never got for the simple reason that the members of the Smoke Control Board were employees of the same organisation.

This is the first time in the history of any organisation that I have heard such nonsense. I am saying that I cannot be party to this and I will not support it this evening. Based on the reasons that I have just given I cannot understand after the Minister of Agriculture has listened to what I have said how he can ask me and ask himself to support a proposal like this, Sir.

I thank you very much.

Hon. R. C. EASTMOND: Mr. Speaker, at first glance there is some apparent merit in what the Honourable Member for St. Lucy was submitting but the checks and the balances on that come by way of two other members being appointed by the Minister who are independent and a Chairman. Really and truly, the Board in all is constituted of five persons two of whom would normally have been appointed before today by the Sugar Producers' Association Inc. and the other three by the Minister.

The Honourable Member for St. Lucy really and truly cannot be dismissed because clearly if way back in time the legislation of that day was of the view that people involved in a factory should be on a board investigating the factories, it is probable that the legislators of that day could have very well have erred. I would disregard what the Honourable Member for St. Lucy is saying. What I would do is look at the possibility of recommending to the relevant Ministry that we look at something in the form of a Clean Air Act that is good enough to cover all forms of air pollution including factories.

In any case I believe and Honourable Members in here who have legal training and who follow the law might be able to agree with this. I believe that if you do not succeed with an action under this Act, you could succeed with an

action brought under unlawful nuisance because clearly, if they are polluting the atmosphere in a way that brings discomfort to a section of Her Majesty's community as the old ancient common law expresses, the Tort of Nuisance, then I believe the Tort of Nuisance is sufficient. But in an era where we are very interested in the environment and protecting the environment, we might have to relook this whole Act including this amendment to see if the time has not come for Barbados to look at some form of Air Pollution Bill or Clean Air Act or something. Not at just factories but a whole range of other operations that could very well create nuisances.

Mr. Speaker in conclusion, I beg to move that this Bill be read a second time.

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

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

On the motion of Hon. R. C. EASTMOND, seconded by Hon. Miss B. A. MILLER the House resolved itself into Committee, Mr. D. CARTER in the Chair.

COMMITTEE Mr. CHAIRMAN:

The House is now in Committee.

Clauses 1 and 2 were called and passed.

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

On the separate motions of Hon. R. C. EASTMOND, seconded by Hon. Miss B. A. MILLER, the Bill was read a third time and passed and cited as the Registered Sugar Factories Smoke Control (Amendment) Act, 1998.

ORDER NO. 2 - THE PROTECTION AGAINST UNFAIR COMPETITION, 1998

Hon. D. A. C. SIMMONS: Mr. Speaker, when I brought the Copyright legislation earlier this year, I promised then to complete a suit of intellectual property legislation by the summer. There are three Bills on the Order Paper dealing with intellectual property which all fit together and have become necessary when Barbados became a part of the

World Trade Organisation in 1995. Upon becoming a party to the World Trade Organisation, Barbados is required to revise its existing laws as well as to introduce new legislation to comply with the obligations of WTO and what is called TRIPS, the agreement on trade related aspects of intellectual property. We are required to complete those arrangements by the year 2000.

The three Bills on the Order Paper were all sent to the World Intellectual Property Organisation (WIPO) in Geneva for their comments and to determine that the drafts are compliant and compatible with the TRIPS agreement. Such comments as were received from WPO have been taken into account in the drafting of the legislation and I want to make it clear that this legislation takes account of the Paris Convention. Under Article 10 BIS of the Paris Convention member states are obliged to provide protection against unfair competition. Of course, that obligation also exists under Article 2 of the TRIPS agreement.

The intended purpose of this first bit of legislation is to set out the industrial and commercial activities which are to be regarded as unfair competition and Section 4 of the Bill provides that any act contrary to honest practices in industrial and commercial matters will constitute acts of unfair competition. What is contrary to honest practices will in due course be a matter for the courts to interpret and determine.

Honourable Members will see that the acts of unfair competition are set out in clause 4(1) and then we have a series of elucidations in clauses 5, 6, 7, and 8. Confusion is dealt with, damage to persons' goodwill or reputation is dealt with in clause 6, misleading the public is dealt with in clause 7, secret information in clause 8 and so on and the penalties are also expressed.

I want to make it clear that the Act is in addition to and not in derogation of any law relating to prevention, trade marks or property rights. This is a very simple and straightforward Bill and I beg to move that the Bill, the Protection Against Unfair Competition Bill, 1998 be read a second time.

Hon. Sir HAROLD St. JOHN: Mr. Speaker, Sir, I am in favour of this Bill and I rise to second it. I am well aware of the need for us in the context of our obligation arising from our membership of the WTO to pass this legislation which aims to ensure that in all the countries who are members of the WTO, a similar bit of legislation is in force.

However, I would like to draw to the attention of the Honourable Attorney General that while this Bill operates at

the international level, I feel that it is necessary within the Caribbean and particularly in Barbados for us to have our own domestic anti-monopoly or anti-trust Bill because increasingly we are reaching the stage where it will be necessary for us to have legislation by which would protect the community in Barbados from a similar type of activity which the United States and other countries are protected - the Monopolies Act or by an Unfair Trading Act. That happens and you just have to realise that once you have no restrictions on Government that there will be a natural tendency for concentration and the potentiality of abuse of a dominant position.

In the Caribbean, it has to be an integral part of the Common Market, if you are going to get a single market, it has to be. I believe that there is a precedent in Jamaica in that Jamaica has passed a domestic Bill which deals with this matter. I am all in favour of us having legislation which is common in the area and therefore we do not have to look too far for a precedent in that direction.

I trust that that area will be attended to very soon because there is a lot of strong feeling in Barbados that we have to deal with the concentrations of economic activity in two small groups.

Hon. D. A. C. SIMMONS: Mr. Speaker, just to give the assurance that the Cabinet has authorised the drafting of Unfair Trade Practices legislation such as they have in Jamaica. I think they call theirs Unfair Competition too. I have my own copy of it and I am sure that CARICOM at the level of the Secretariat is also moving in that direction to harmonise the laws in this area. We have instructions to draft the separate legislation that would govern our relationship within the region.

With those remarks, I beg to move that the Bill be read a second time.

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

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

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

COMMITTEE Mr. CHAIRMAN:

The House is now in Committee.

Clauses 1 to 5 were called and passed.

Clauses 6 to 11 inclusive were called and passed. 6.20 p.m.

On the motions of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER, Mr. CHAIRMAN reported the passing of the Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER the Bill was read a third time and passed and cited as the Protection Against Unfair Competition Act, 1998.

ORDER NO. 3 - GEOGRAPHICAL INDICATIONS BILL, 1998

Hon. D. A. C. SIMMONS: Sir, this again is another piece of legislation to make Barbados compliant with WTO and TRIPS by the year 2000. Geographical indications are provided for under Article 22 of TRIPS and these are indications which identify a good as originating in the territory of a member state where a given quality, reputation or other characteristic of the good, if you talk about champagne or Rhine Wine something like that, it is in that kind of situation. So it is essentially attributive to its geographical origin.

Many of the principles underlying indications are themselves rooted in notions of unfair competition so this is a spin-off of the earlier Bill because it is all to do with trying to prevent misleading trade practices.

Now, the purpose of this legislation is to permit the registration or refusal or invalidation of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicating if the use of the indication in the trademark is of such a nature as to mislead the public as to the true place of origin. So that if you describe a rum produced in Barbados in such a way as to make it appear as though the rum was produced in Cuba then it would be a misleading geographical indication.

Now under TRIPS, member states of the WTO are to provide the legal means for interested parties to prevent the use of any means "in the designation or presentation of a good that indicate or suggest that the good in question originates in the geographical area other than the true place of origin in a manner that misleads the public as to the geographical origin of the good and also to prevent any use

which constitutes an act of unfair competition within the meaning of article..." of the Paris Convention which I mentioned earlier.

Now, under certain specified circumstances a citizen or permanent resident of Barbados or immigrant indeed, may continue to use in Barbados a geographical indication of another country identifying wines and spirits where they have previously used that geographical indication in a continuous manner before a certain date and in good faith.

I will just run through the elements of the Bill, Sir. The Bill is to be administered by the Registrar of Corporate Affairs as the Director and there are certain matters that are not protected which I dealt with in Clause 5.

Clause 6 deals with the prohibition against improper use of geographical indication. Clause 7 spells out the civil remedies that are available which are the standard remedies of injunction and damages or any other remedy that the court thinks fit for an account which somebody has made a profit on the misleading information. The balance of it, Part 11 deals with registration and the powers of the Registrar to examine and register or deny. Persons could apply to the Court to cancel or rectify a registration under Part 11 and Part 111 deals with special provisions concerning marks and misleading marks.

That really is the essence of this Bill. Again a very straightforward piece of legislation once you understand what geographical indication means, Sir, the rest of it follows naturally along the lines of property right, trade mark and patent law where you are trying to protect some kind of intellectual property and like in Copyright there are certain questions. You also have to find who is the owner. Once you prove who is the owner then you ask if there is an infringement. If there is an infringement what is the nature of the remedy to cure the infringement. The same structure in this case.

I therefore beg to move that this Bill be read a second time, Sir.

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

Mr. C. A. MASCOLL: Mr. Speaker, this particular piece of copyright apparently has its genesis in the whole desire on the part of the Californians and the European wine producers, particularly in France to protect champagne. The debate apparently centered around champagne where the

California wine producers for years had been producing champagne which is associated with France and have been, in fact, in many respects getting all kinds of benefits, especially economic benefits, whereas that particular spirit really has its connection with the European continent rather than in North America.

My reason for entering the debate is to try to ask a few questions as to whether or not we can apply this kind of information to the benefit of Barbadians. For instance, could we in a sport like road tennis which is supposed to be indigenous, in fact we are apparently the only country or region in the world that really plays road tennis...

Aside.

Mr. C. A. MASCOLL: I am saying that it is hard to digest it by way of geographical location but I am using that in a wider sense because I am saying that something like the road tennis net which can be made out of a local material and then ask the Association to apply for such right under the Intellectual Property Act. 6.30p.m.

Aside.

Mr. C. A. MASCOLL: That would be good. Although I introduced my argument by way of the game itself, I am saying that the road tennis racket can be made out of local material and the net which can be associated with Barbados itself, can be so presented as a product of the mind and as a consequence become part of intellectual property to the benefit of Barbadian road tennis players.

So that something like that perhaps is another example of what we have been struggling with, this one for a long time, the black belly sheep, to determine whether or not black belly sheep can be associated with this location in the Caribbean. And if so are we now entitled, that is the region on a whole, to try to get some kind of rights and consequently into economic benefit from being associated with something like the black belly sheep.

Aside.

Mr. C. A. MASCOLL: Cotton, that is the sea island cotton which is believed to be grown only on an island with coral. Perhaps we can try again to translate this esoteric thing into something practical and for the Barbados people. So, I have really gone that route to ask another question of the Minister, having identified that this Intellectual Property Legislation is very important, several aspects of its standard trademarks, patents, geographical location, industrial designs, the works, how is the Minister proposing to translate this legislation into something practical for the Barbadian?

That is to go there and promote it and market this legislation as an economic opportunity for the average Barbadian? Perhaps that is the next step which we will have to take in terms of marketing the legislation on Intellectual Property as an opportunity in itself for the average Barbadian.

In this regard, is it not going to require of the Minister to improve or to increase the staff at the Corporate Affairs and Intellectual Property office? Because, I recently attended the Intellectual Property Seminar last week, the lecture and then the panel discussion where there was a very emotional presentation on the part, I think of the head of the organisation, asking for further support to get rid of the backlog of work in the Corporate Affairs section, which would then allow the staff to be more focussed on this more recent development of intellectual property and what it has to offer for Barbados.

So, on that score I really am just introducing myself to the debate to ask how we can translate this legislation into something more practical for the Barbadian. And while I appreciate all of the opportunities that it may present, I am also very cognisant of the fact that this legislation in its entirety is going to also create several challenges for us in the region.

Yes, it is important, but yes, does it also make it so demanding for businessmen and for all products to enter into the international arena that we really must be thinking in terms of identifying the several challenges that will be present with this legislation coming into force. We have already discussed the whole question of property right and what it offers and that perhaps is the major area of opportunity for local artists and authors and the rest. But these other areas of intellectual property require of us to get a fuller, deeper understanding of those challenges up ahead.

On this final note I wish to suggest that we quickly try to get on board in Barbados people who truly understand the implications of intellectual property rights and what the new global arena will really be for us, not only in Barbados but in the wider CARICOM Region. It is important to note that of the 130 members of the World Trade Organisation that 100 are developing countries and from that standpoint as a group we stand to exercise a fair degree of clout in terms of having our case put to the wider body at the World Trade Organisation. But my main focus would be to ask of the region whether or not other countries in the region outside of Jamaica, Trinidad and Tobago, have in fact been given consideration to the importance of this legislation and what it means for us in CARICOM. If we are going to be talking about integrating at the several levels which we are now hearing across the region, then these kinds of matters are extremely critical.

Only recently we heard of St. Lucia not permitting Trinidadian drinks into St. Lucia. We cannot be speaking of all of these new arrangements, all of the integrations talk, the establishment of fair trade and fair competition and yet still as a group and subgroup within the CARICOM Region, we are putting all kinds of stumbling blocks in each other's path to prevent the economic benefits that can be derived from integration.

So on that score, all I am saying is that yes this move toward intellectual property and what it has to offer is inevitable. We have to be on the band and we have to be on the journey, but that we get it in the minds of the rest of the region, especially the LDCs that they too must come on board and not be expected to be outside of the sphere of influence that this kind of legislation will exercise on them, because they are deserving of the special treatment.

It cannot be like that into the 21st century so that the challenges for us really are beyond the shores of Barbados and into the wider region for us to be able to influence what benefits we can collectively derive from the new Intellectual Property Legislation that is world-wide. And what we can derive as a group and not as individuals because this new environment will present us with many challenges, though I must admit that they have several opportunities as well.

I thank you.

Hon. D. A. C. SIMMONS: Mr. Speaker, I wish to thank the Honourable Member for St. Michael North West for a very constructive and thoughtful speech.

This whole area of intellectual property, Sir, as he said will provide Caribbean people with great challenges after the year 2000 and also great opportunity. I have to tell him that regrettably I am not so sure that all of our brethren in the Caribbean...we have to be careful what I say because the Press will write it down. I do not want to send the wrong message to the Caribbean, but all brethren are not at the same stage of developing the legislative infrastructure. What we are hoping is that some of us who make the running, such as Barbados in this area, will provide a statutory model which can be brought on by other countries in the Region.

Every September we have to report to CARICOM on legislation passed and indeed we send them copies of legislation so that every country is able to see on a document what the other country has done or another country has done in the preceding year, and in that way there is some basis for collaboration. Very often I find at the meetings in September after you have presented your speech other AGs come to you and say they want you to send them copies and they take them and use them as models. 6.40 p.m.

I have no doubt when we report on these in the Bahamas, week after next that we will be getting requests although I am not sure that everybody is as sensitised to this whole area of intellectual property as we are in Barbados. It may be that we are more dominant in the area of services and this is a natural corollary to all the services that we offer but there are some countries that do not attend WIPO meetings and let me say that WIPO is one USA organisation that has a lot of money.

The Director General was here last year and he told me money is no problem. Having said that, I said that you have to bring some workshops to Barbados and he is coming here in October. WIPO is coming here with some workshops in October. They were here earlier this year and I had a dinner for them and invited some members of the private bar. What I would like to do is to have some Barbadians both in the public sector and private sector trained in Geneva. There are one-year courses where you get a Masters in Intellectual Property and there are Barbadians who can be trained. All of that I am working on with a view to creating some opportunities.

Having said that, this is not my special area. It really falls under the Ministry of International Trade and Business and they sponsored a meeting last week a synopsis of which was written in today's newspaper very rudimentary but I agree with the Honourable Member that we are into a technical area, almost an esoteric area and it can only redound to the advantage of the country if those of us who are involved in this kind of legislation first of all reduce it to simple language notions and concepts and secondly disseminate the information.

I keep saying that - I am not responsible for the Ministries or the organisations - this is an area where GIS can play a useful role. We pass legislation- in here every week. Somebody just has to come and say explain to me what this is about and let it come out as a public service by way of the information. I like to see it after the News, and it does not have to be the Attorney General. Let somebody who knows about legislation, it could be a draftsman, if it is to do with the police, put a simple case there for the public to understand. I can only make the suggestion.

In respect of the Corporate Affairs Registry that has come a long way but it is still behind. There were many years of neglect particularly in keeping the trademarks up-to-date. A crash programme has been embarked upon by the Ministry within the last year. There was even an officer from my Ministry seconded to work specifically on those matters. They are catching up but they are still behind.

Fortunately the Corporate Affairs Registry was the first registry that was computerised and they are quite contemporary but I believe they have a problem with

capacity and they need additional equipment. They were even trying to get some of the computers that I got from the Americans but they had been otherwise allocated. There were 63 that came.

I have no doubt that with additional staff - the staff would not come necessarily from my department, they can recruit from the private sector. They do not have to get from the Attorney General's Office - I believe in a couple years certainly by the year 2000 when it, if you like, trips in, and having regard to FTA and so on Barbados should not only be compliant in terms of legislation because this brings us right up-to-date, two years away from the date, but I think all of the necessary support structure would be in place.

This is an area which is going to be of increasing importance in the next century and we must not let this area slip away from the grasp of Barbadians on the grounds that it seems very esoteric, far-fetched and very intellectual. It might be intellectual property but a lot of it has implications for the small businessman and I welcome the suggestion that we must now PR this properly so that everybody at all levels of the society has an understanding and appreciation.

There are a lot of people out there doing very good work as entrepreneurs for whom these things would be important. When I went to BMEX, I was given a cake marked Barbados Great Cake, a lovely tin, beautifully packaged. I have no doubt that sooner or later somebody will claim a geographical indication for that. As I said, I have not tasted it. Somebody was at my house on Friday evening. That is just an example of the kind of things that can be done with these things,

With those remarks, Sir, I beg to move that this Bill be read a second time.

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

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

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

COMMITTEE

Mr. CHAIRMAN: The House is now in Committee.

Clauses 1 and 2 were called and passed. Part I,

Clauses 3 to 7 were called and passed.

Part II, Clauses 8 to 19 were called and passed. Part

III, Clauses 20 to 22 were called and passed. Part IV,

Clauses 23 to 24 were called and passed.

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

On separate motions of Hon. D. A. C. SIMMONS seconded by Hon. Miss B. A. MILLER, the Bill was read a third time and passed. 6.50 p.m.

ORDER NO. 4- INTEGRATED CIRCUITS BILL, 1998

Hon. D. A. C. SIMMONS: Mr. Speaker, this is the last of the Intellectual Property Bills so that we will have Copyright, Unfair Competition, Geographical Indications, Integrated Circuits. That is a whole set of new Intellectual Property legislation for 1998.

This Bill, Integrated Circuits, provides for protecting lay-out designs of integrated circuits. Funnily enough, they call them topographies. Those who are familiar with the ordinary use of the word "topography" would have some difficulty in understanding this but this is a technical use of the word "topography". This is to do with the advancement of technology and the dissemination of technological progress through acquiring foreign technology.

Now, under the Washington Treaty there is something that is familiarly called "reversed engineering" and enterprises in places where a product containing integrated circuits become available, have that opportunity to analyse, evaluate and thereby acquire a knowledge of the layout design incorporated in a product and the techniques by which the layout design was created. So if the creator of a layout design can be reasonably sure that his creation will be protected, he is perhaps more ready to part with his creation allowing reproduction of that creation or other use in return for payment so that the system for the protection of layout designs for integrated circuits is comparatively recent in the domain of intellectual property but is now considered to be part of the intellectual property.

We are following the majority of countries which recognise intellectual property in integrated circuits and some countries provide for a kind of *sui generis* protection of layout designs of integrated circuits.

I will therefore move that this Bill be read a second time. This is really a technical Bill dealing with technology, and I have much pleasure in moving its reading the second time.

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

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

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

COMMITTEE

Mr. CHAIRMAN: This Honourable House is in Committee.

Clauses 1 - 20, inclusive, were called and passed.

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

On the separate motions of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER the Bill was read a third time and passed and cited as the Integrated Circuits Act, 1998.

ORDER NO. 16- THE INTERNATIONAL TRUSTS (AMENDMENT) BILL, 1998

Hon. D. A. C. SIMMONS: Mr. Speaker, this is a very simple piece of legislation. The Committee which advises the Government on the Offshore legislation has recommended that there be this amendment to the International Trusts Act of 1995. The International Trusts legislation exists as another vehicle in Government's offshore legislative infrastructure. It is a matter that is of considerable importance, particularly in offshore jurisdictions.

I had the occasion a couple weeks ago when I was in London to discuss some of this, to be taught really by my daughter who is doing this area for a Masters at London. I learned a lot that, as it were, blew my mind. But we have had one or two cases where the Act seems to have worked

hardship and has restricted foreign International Trusts wishing to use the provisions of the principal Acts.

The Act of 1995 says that it applies to: "Any trust created after the commencement of this Act which comprises of paragraph (c) of subsection 1 of section 2 where it is declared an instrument created in trust this Act applies thereto and any trust created before the commencement of this Act which complies"... *et cetera*.

The difficulty with the present section of the International Trust Act is that as it is presently drafted a trust which was created after 1995 but which did not declare in the instrument setting up the trust deed that the Act should apply to the trust, would not be able to utilise the trust and gain the benefit of the provisions of the existing legislation. The difficulty with the present section of the International Trust Act is that as it is presently drafted trusts which were created after 1995 but which did not declare in the instrument setting up the trust deed that the Act should apply to the trust would not be able to utilise the trust and gain the benefit of the provision of the existing legislation. So we are moving to remove that impediment in the existing legislation so that trusts created after the passing of that legislation will now not be penalised and settlers will have the opportunity for taking the benefit of the Act. That is all the Act is about, Sir, and I beg to move that this Bill be read a second time. 7.00 p.m.

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

On the motion of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER, Mr. SPEAKER left the Chair and the House resolved itself into Committee, Mr. D. CARTER in the Chair.

COMMITTEE Mr. CHAIRMAN:

The House is now in Committee.

Clauses 1 and 2 were called and passed.

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

On the separate motions of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER the Bill was read a third time and passed and cited as the International Trusts (Amendment) Act, 1998.

ADJOURNMENT

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that this House do now adjourn until Wednesday, 2nd September, 1998 at 5 o'clock in the afternoon at which time it is proposed, Mr. Speaker, Sir, that the Minister of Finance, the Right Honourable Prime Minister will deliver his financial statement and budgetary proposals.

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

The question was put and resolved in the affirmative without division and Mr. SPEAKER adjourned the House accordingly. 7.03 p.m.

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