THE

SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2004

THE SENATE

Wednesday, March 8, 2000

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, March 8, 2000, at 11.20 a.m.

PRESENT

His Honour Senator Sir Fred GOLLOP, K.A. (President)
His Honour Senator C. L. BOLDEN, C.B.E. (Deputy President)
Senator the Hon. P. C. GODDARD (Minister of Public Works and Transport) (Leader of the Senate)
Senator the Hon. G. S. H. MURRAY, J.P. (Minister of State, Prime Minister's Office and the Civil Service)
Senator Miss C. Y. FORDE, J.P. (Parliamentary Secretary, Ministry of Education, Youth Affairs and Culture)
Senator T. E. BARKER (Parliamentary Secretary, Ministry of the Environment, Energy and Natural Resources)
Senator the Hon. Miss O. P. SYMMONDS, G.C.M.
Senator Miss J. C. ODLE
Senator J. E. D. WILLIAMS
Senator G. E. N. BROME
Senator Mrs. J. P. ALLEYNE
Senator D. D. MARSHALL
Senator C. A. MASCOLL, B.Sc. (Econ.) (Hons.), M.A. (Public Finance)
Senator Ms. C. S. THOMAS
Senator Mrs. P. E. RICKINSON
Senator Sir John Stanley GODDARD, K.A.
Senator B. R. COLLYMORE, C.M.G.
Senator the Rev. L. W. B. ROCK
Senator Mrs. V. E. NEWTON, S.C.M.

Prayers were led by Rev. Father Errington Massiah.

ORDER NO. 1 – CRIMINAL APPEAL (AMENDMENT) BILL, 2000

SENATOR THE HON. P. C. GODDARD: Mr. President, in moving the Criminal Appeal (Amendment) Bill, 2000, the Attorney General wrote to the Chief Parliamentary Counsel, the Honourable Chief Justice and the DPP and drew to their attention that under the existing legislation there was right to appeal against an unduly lenient sentence. This situation has arisen because of several sentencing which have incensed the general public, have frustrated law enforcement officers and has sent, in the Government opinion, the wrong message to the community. We believe that this Act will bring greater discipline to the issue of sentencing in our community.

Sentencing is an important aspect of law enforcement. Crime problems in the society should be tackled by a combination of strategies including economic policy, social policy, educational policy, environmental policy, leadership by example and sentencing policy. Strong sentencing policy can support the intent and purpose of legislation.

As this Honourable Senate well knows the present Government is in the process of reforming the penal system of Barbados and we have already had the Penal System Reform Act to provide a broad range of new and custodial sentencing options. The purpose of these reforms is to make offenders pay for their offences by giving back something to the society, a kind of restorative justice. The reforms also speak to reserving imprisonment to the more serious offences thus reducing cost and overcrowding in our prisons. Within the new sentencing structure, courts are to decide upon the severity of the penalty and will decide upon the weight to be

attached to both aggravating and mitigating circumstances in each particular case. The Penal System Reform Act therefore lays down a basis framework for sentencing. The Criminal Appeal Amendment Bill 2000 is to be read in conjunction with the Penal System Reform Act of 1998 as part of a package to reform sentencing policy in Barbados.

As I have mentioned, the public has frequently been incensed by the sparsities in sentencing. This Bill will introduce an element of discipline because it will allow for the Director of Public Prosecution to appeal against a sentence that in his judgement was too lenient or show a lack of equity in sentencing when compared with other cases of a similar kind. Under existing law a convicted person can appeal against a sentence and it is considered appropriate that where a sentence appears unduly lenient, the prosecution should have the same right to have the sentence reviewed by the Court of Appeal. The Bill does not take away the discretionary power of a court to impose a sentence, it merely provides that if a sentence appears to have been unduly lenient the DPP may refer the case to the Court of Appeal for the court to review the sentence. It might be noted too that when an individual appeals to a sentence the appellant court has the right also to increase the sentence as well as reduce it. On such a reference the Court of Appeal may quash the sentence and in place of the sentence pass such sentence as the court thinks appropriate.

Quite frankly, Mr. President, I believe that this will send a message to the judiciary at all levels that sentencing will be reviewed or will have the capability of being reviewed and, therefore, it will impose that discipline and structure to the sentencing of the offenders which, in the view of many in our society, seems to be lacking. Even where a sentence is considered to be unduly lenient the Court of Appeal still have a discretion whether to exercise its powers or not. In cases were the Court of Appeal does increase the sentence it will bear in mind that the offender has undergone additional stress of having to be sentenced twice over.

It must be remembered and stressed that the Penal System Reform Act of 1998 was a recommendation of the Steering Committee on Penal Reform whose report has been laid in Parliament and which has had wide public discussion.

Secondly, the new Penal System which comes into operation in April 2000 was a recommendation of the Task Force on Crime Prevention whose report was also laid in Parliament and also had wide public discussion. The evidence is unfolding that the recommendation of those two reports are being implemented.

The present Government is in the post independence area which is tackling the crime problem on a wholistic and strategic basis. The Bill before Parliament is only one of the strategies for dealing with crime.

Mr. President, I wholeheartedly support this Bill and move that it be read a second time.

SENATOR Ms. C. S. THOMAS: Mr. President, this Amendment to the existing Act was seeking to give the DPP the right to appeal against a sentence if he considers that the sentence has been too lenient. It is a Bill that really has nothing for the Opposition to oppose.
11.30 a.m.

However, I have to draw to the attention of the Chamber that we are of the view that this legislation has been brought before the House on a false premise and this false premise, Sir, is that the judiciary in Barbados has been simply giving offenders mere slaps on the wrist for serious offences where circumstances in fact warrant a heavier sentence.

I am suggesting to you, Sir, that in recent times particularly with the change in the criminal environment in this country where there has been an increasing trend towards violent crime, particularly gun related crimes and crimes such as rape, serious assaults and drug related crimes, the judiciary has taken note of the prevailing environment in the society. In the supreme court particularly, there has been a serious effort on the part of the judges to ensure that the sentences that are meted out are serious enough sentences to send a message both to the perpetrator of the crime and to the wider society that this type of crime will not be tolerated.

I am asking Government, Sir, to produce the statistics to show that the courts have been handing down in the majority of cases, light sentences where the circumstances of the case clearly call for a much higher sentence. I will concede, Sir, that in the magistrates court, there have been occasions where we have had cause to question the sentences that were handed down by magistrates in particular cases. But I am suggesting to you, Sir, that this has not been the norm, and there are certain cases that have been highlighted by the media.

SENATOR THE HON. P. C. GODDARD: Sir, on a point of order. Nowhere in my presentation did I say that this was the norm or that this Bill was intended to redress a widespread lenience of the courts. It is just, as I have said from time to time that there were startling instances of leniency which it is clear that the Honourable Senator also agrees with. I am not talking about widespread abuse.

Mr. PRESIDENT: That is no point of order.

SENATOR Ms. C. S. THOMAS: Sir, I am suggesting to you that the comment of the Senator makes matters worse because if there is no widespread problem in Barbados with light sentences being handed down for serious crimes, then I fail to see why there was a need to bring this piece of legislation before Parliament.

I am making a call again, Sir, for Government to produce the necessary statistics to show that the trend by the judiciary, over the past few years, has been lenient. Because if we have circumstances, under which the sentences that are being handed out are appropriate, why would we need to make a provision for the Director of Public Prosecutions to have a right of appeal at this time? It must be that there is concern on the part of the Government or on the part of the public that the judiciary is not exercising its discretion properly when it comes to sentencing. If that is not so, there is no need for us to take up the time of Parliament with this particular amendment.

Sir, I also wish to make a comment on recent statements that were made by the Attorney General which suggested that the judges are part of the problem with the smooth administration of justice in this country. I am saying that a possible interpretation of the comments by the Attorney General is that some or all of our judges in some instances, or our magistrates, are not competent.

Asides.

Mr. PRESIDENT: Order, please.

SENATOR Ms. C. S. THOMAS: I am saying, Sir, that the Attorney General must be supportive of the judges that he played a part in appointing. I am saying, Sir, that in the current environment in Barbados where there is little respect for any of the institutions in this society, that it is irresponsible for the Attorney General to make any public statement which may tend to cause the public of Barbados to show or develop a disrespect for the judiciary.

I am suggesting that if there is any problem at all with the manner in which the judges are exercising their discretion in the law courts, the Attorney General should deal with that in a private forum with the Chief Justice or such other persons as he deems appropriate. The judges must be respected and the public of Barbados particularly in our current environment must not lose respect for the persons who hold that very precious and important office.

Sir, with this amendment, it seems that the Government is tending towards support for longer sentences in cases that they may deem serious and I am asking, in those circumstances, a few questions:

1. Is the Government moving away from its recent suggestion that we should re-examine the widespread use of incarceration as a punishment and move more towards alternative forms of sentencing? Is the Government moving away? What is the message that the Government is sending to the judiciary? Is it sending a message to the judiciary that we should use imprisonment and longer sentences as the desired mode of dealing with most of our offences? Or is it moving towards penal reform where a discretion is exercised by the courts where they deem appropriate to offer an alternative form of sentencing?

2. The other problem that would arise, Sir, from this Bill – not a problem that would arise because it is already here, but the question I want to ask the Government is whether it has addressed its mind to the problems at Glendiary Prison?

11.40 p.m.

If we are looking at longer sentences with a trend toward an increase in first time offenders at the courts – and we have had recent statistics released by the police to show that we have a serious increase in first time offenders – I want to know whether the Government is prepared at this time to address the problem of overcrowding in Glendairy Prison.

We have a Prison that has long outgrown its original capacity and there is a burning need for an alternative facility both for imprisonment and a half way facility for persons such as first time offenders to keep them away from the negative influence that may be imposed upon them with an association with hardened criminals in Glendairy Prison.

There is also the problem of inadequate staffing at Glendairy Prison and we are asking whether, with these changes in the legislation, the Government is prepared to address the problems of plant and personnel at Glendairy Prison to accommodate what is seemingly going to be a very great need in the future if the current trends in Barbados are not arrested.

Finally, we on this Side are of the view that we need to go beyond pieces of legislation such as this and get to the root cause of crime in Barbados. Until we get to the root cause of crime and understand what exactly is responsible for the widespread negative change in the behaviour of our youths, we can pass as many pieces of legislation as we choose in this country and we will see little change in the society.

We need a coming together of the churches, the schools, the media and parents who are led by legislators to find the reasons why we are continuing to have this deterioration in the social fabric of our society. We need to sit down and develop a concerted plan both by way of legislation and by social and economic means to tackle this problem that is before us. That plan must also include improving the terms and conditions of the police officers in this country.

I am going to repeat what I have said earlier in this Chamber on another occasion and that is, that the answer does not lie in bringing the Barbados Defence Force (BDF) into the equation but rather the answer lies in equipping our police officers adequately by giving them adequate training, proper salaries and preparing them to meet the challenges that are ahead out there in law enforcement.

Senator Goddard, in laying the Bill before the Senate, stated that it was hoped that with this piece of legislation there would be greater discipline in sentencing, but I fail to see how this piece of legislation can bring about greater discipline in sentencing. If that is the objective of Government then perhaps Government needs to look more closely – I know it was touched in the Penal Reform legislation – at guidelines for sentencing in Barbados. The problem with this legislation is that it pre-supposes a problem and then it gives the right of appeal.

I am suggesting to you, Sir, that if discipline is the problem then perhaps the way to go – because we have the legislation in place where there is a discretion by the judges and by the magistrates to give harsh or light sentences as the circumstances of the case dictate – would perhaps be speaking to the officers and the magistrates and perhaps providing training for them so that they can understand better what their role is, so that we would not have such a problem arising in the first place which would lead to the Prosecution having to then go and ask for an appeal. There should be some sort of guideline which will be the framework from which magistrates and judges will operate. This right of appeal cannot assist if there is a problem with discipline.

I reiterate, as I started that I am not satisfied that there is in Barbados a problem with widespread lenient sentences being given by judges in this country.

Thank you, Sir.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, I never intended speaking on this Bill, but hearing what the last Senator has said, I find it necessary for me to speak.

The Senator is a trained attorney-at-law and I believe on this occasion that she has forgotten all of her legal training and has taken this as a political issue. Yes, it has certain political connotations. It is here because it is political but we must stick to principles if we need to show to the public of Barbados that we all are honest in what we are doing, and that we are doing it for the general good of this society.

Mr. President, we still follow the English legislation and the English law. In all of our cases whether they be civil, criminal or domestic, every one of us practicing and non-practicing attorneys-at-law constantly refer to English decisions to come to a final conclusion. The right of appeal has always been inherent in the English law. It is not there because politicians want it to be there. There are certain fundamental grounds why it is there. We must remember that Judges, Magistrates and Presiding Officers are human beings. They are not mechanical objects and they do not operate by the pressing of buttons. So despite all the training and despite all the meetings that you have and a particular officer wants to do a particular thing, he is going to do it irrespective of what you say.

All of us as lawyers know that Justice Denning was a Judge who went outside of the general realm of things because he had a decision and a philosophy. No matter how many judges' or magisterial conferences you hold, a Judge or Magistrate who wants to go astray will go astray. Therefore, the question of training and conferences cannot resolve the problem which exists in the law if you do not have this right of appeal. What does this right of appeal do? It brings consistency in sentencing. Therefore, there is nothing wrong in stopping a loophole in our law which should not have been there from the very beginning. It has been there so it has to be corrected.

Let me show you something. There are several courts in every country and that is the basic reason why you have a court at first instance, a court of appeal and a further court of appeal.

11.50 a.m.

In the United States, you have several courts of appeal, and that is the reason why they are there so that either party, whether it be the police or whether it be a defendant, has the right to appeal if he is dissatisfied with what the presiding officer has done.

In Barbados, we have 5 magistrates courts: 2 in District A, 1 in B, 1 in C, 1 in D, 2 in E now amalgamated into one, and 2 in F. What has been happening is that people have been saying I want my case to be tried at District B, Boarded Hall. The police have been saying that

certain people are caught at the airport with drugs, they are put in quarantine at Oistins Court, and next time they are put at District B because they are figuring that the presiding officer in a particular court is either lenient or not.

All the training you give cannot rectify that. If you go to District E in St. Peter and a fellow says he was convicted at District E and he had 20 pounds of marijuana, or he chopped a man in the head and the magistrate gave him a CRD, and then you come to District A with the same kind of offence and the magistrate at District A sentences him to 18 months imprisonment, there is a disparity. So how do you get consistency in sentencing? If you do road traffic, check the road traffic laws and you will see how many chief prosecutors or chief constables have appealed against a decision, and the appeal is not only against sentence because you can do a no-case submission. Now a magistrate will hold the no-case submission and if the prosecutor feels the magistrate is wrong, he appeals to the Court of Appeal and the Court of Appeal gives a direction to go back and continue the case because the magistrate erred. Those are the grounds that are already in our law books. So I cannot see how you can say that.

If you look at Archbold on Criminal Practice, there is a whole section on sentencing and there are comparable sentences for particular offences. They list the sentences taking place in parts of the United Kingdom to show how the sentence becomes a comparable sentence and why the sentence is so. Why should we be so different? I am one who constantly says that we have to develop our own jurisprudence. We are moving away from the United Kingdom.

By developing our own jurisprudence, it does not mean that we should go into it in a disorderly fashion and not have the right of appeal. How can we be in here or out there calling for a court of final appeal in the Caribbean and then I am told in here today that we cannot have the right of appeal for the Crown in criminal matters where they do not now have the right? We would be the laughing stock of the world. They will say that you get in Parliament and say you do not want this and yet you talk about setting up a jurisprudence court of your own. We have to be rational. We have to think deeply on what we are doing.

SENATOR Ms. C. S. THOMAS: On a point of order, Mr. President. I hate to interrupt the Senator, but my interpretation of the last words of the Senator is that he is suggesting that I said that there should be no such right of appeal. I started by saying that there is nothing in this legislation to oppose. I also went on to say that the point is if the objection is based on a premise, if the premise is that the judges in Barbados are giving a slap on the wrists, then this legislation is based on a false premise.

I am saying it was unnecessary but I did not say that I was opposing it.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, we do not talk about "if". You either know or you do not. It is either so or it is not so. We have had cases in which a man was convicted in the Court of Appeal and got a very light sentence for an offence against a young child. The law said it was only 2 years. In an offence against a big adult, the man could have got 15 years.

We are either saying that we agree with the legislation or we don't. Is it putting our law in order or not? If we are going to criticise it politically by saying if the judges are giving people slaps on the wrists, what is the "if"? We have to satisfy a whole community and we cannot come in here and hide under the blanket of privilege and criticise magistrates or judges or anybody else when they seek to bring our jurisprudence in line with the normal jurisprudence that exists in the world.

If you read any of your law books, you will see that prosecutors have appealed against decisions and against sentences etc. I have a current case in which a driver of a vehicle caused an accident in which 26 people were hurt, and he went in court and got a CRD and was put back on the road. I am not saying that the magistrate was wrong. All I am saying is that we must have consistency in the sentencing. We must have a jurisprudence so that when lawyers sit down in their Chambers to advise clients, they can say you may attract a sentence of x years because of this or you may get a CRD because of this. At the moment nobody can say that. It depends on where you go.

We say one thing on one side and we come back and say something on the other side. We talk about improving the lot of the policemen. We talk about looking at Glendairy Prison, but if you walk around the courts – I do not see the Honourable Member there too often so she would not know – if you walk around the police station you will hear the policemen themselves saying they are out there all night catching criminals and stopping them, and when they get before the magistrate he sends them out. What are we working for? If the policemen themselves figure that things can be done differently, let the police have the right to appeal. If the Court of Appeal says something, let them quarrel with the Court of Appeal, not with the Attorney General nor with the magistrate. Let them carry their case to the end and satisfy their own desires.

I believe, Sir, that it is a good piece of legislation. It follows traditional law. It does not break any new ground whatsoever. You have to bear in mind that the presiding officers see matters in a different light to the prosecution. If you are on the defence, you see your case in a different way than the prosecutor sees it.

At the end of the day, when I leave one jurisdiction and go to the next and I say to the presiding officer in that jurisdiction that So and So up the road has done something, he is not bound by it. Therefore, if the prosecutor feels that this presiding officer has been too lenient, and in the same way, if the accused or the criminal feels that he has been too harshly dealt with, they can appeal. There is nothing wrong with standardising the law.

Therefore, I support this amendment wholeheartedly.

SENATOR THE HON. Miss O. P. SYMMONDS: Mr. President, since this legislation is linked with the Penal Reform Act and the First Offenders which have already been discussed, I am not going to go into that.

I wish to say from the beginning that I think everybody in Barbados knows the reasons for the decline in standards, and I am concerned with those reasons which contribute largely to crime. I also wish to say first of all that I support this legislation which I think will eliminate any possibility of disparity that might occur and give some people the reason to feel that justice is not being done. I understand that care will be taken to ensure that hearings are not deferred unduly because that can be a problem or that the procedure of the appeal does not delay the process unnecessarily.
12.00 p.m.

Sir, we are facing progress – a thriving economy, access to television, EDUTECH and a relatively high standard of living. We are tackling poverty alleviation and eradication and there is the recognition that every one has a right to a decent standard of living. Unemployment which can contribute greatly to crime is at its lowest since statistics were kept and it is down to single digits. However, we know that progress has its disadvantages. As Wordsworth once put it:

"The world is too much with us,
getting and spending we lay waste our powers,
little we see in nature that is ours."

We lament that, Mr. President, but we cannot go back because we are going forward. We have to adapt and make things better. Legislation like this and legislation that has been passed recently in the Penal Reform, these are all things that will help to make things better. It is generally acknowledged that there has been a decline in morals and behaviour especially amongst some of our youths. Admittedly too, something that I have always stressed in the classroom at Speech Days and in other forums that some values are timeless and absolute. Things like courage, respect, self-respect, respect for others and discipline but how are we going to instill these.

Again, I will stress something which I have said before in this Honourable Chamber and which I know that Senator Forde would support me in, that we must have values education and it must be values education across the curriculum. Values education should be undertaken by teachers in every subject. One must be careful about the exercise of corporal punishment. I am not against it wholly but one has to use it discreetly and sparingly remembering that violence is a learnt response. Then there is settling of disputes nowadays called conflict resolution, and discretion has to be exercised and that too has to be stressed.

Yes, it is agreed generally that indiscipline is permeating the society - on the roads, at sporting events and generally with garbage disposal habits. I think too that greater attention should be paid to the enforcement of the anti-litter legislation. We might ask ourselves how do we as a nation recapture self-discipline. Discipline has to be the nation's main focus and as the Senator who spoke before Senator Bolden mentioned, and it has been mentioned in here again and again, that it requires all social and national institutions, the home, the school, the church and the police whose job everyone acknowledges is extremely difficult. All these institutions have to be even more in touch with their communities.

I have mentioned it recently in here and what I am going to stress that I do not think has been stressed enough is that they have to be in touch in a prescient way. We have to stop crisis management. When I say we, I mean the church, the school, the home and start preventative management. They have to be far more visionary and proactive and general law enforcement has to understand the subtle changes in society's behaviour and have certain plans in place. That is what I mean by being prescient. Not waiting until things have got out of hand but as you see certain trends starting, to deal with them. It applies to schools, home and church as well. They should all set up response teams to act when they see trends. Again, in our school, I think we have to stress the value in labour. The lesson that there is value in labour, that there is dignity in labour, that there is salvation in working. We have to start at two levels.

As I said, we know the reasons for the decline, the breakdowns in the home and the disappearance of the extended family. All those have been documented. Social workers know it, educators know it and people are all aware of that so that we start at two levels. Begin with those young people whom we can still reach because they are many fine ones. They are some who have gone astray but they can be reached. Then we have to curb those who are hurting and at the same time, those who are not only destroying themselves but destroying the society. As I have said, this feeling of injustice sometimes to sentencing is something

that can also cause problems and therefore, again I think that this Bill, along with other Bills is very important. The Attorney General is to be commended for introducing it.

With those words, I thank you, Sir. Again, I say that I support the Bill wholeheartedly.

Thank you, Mr. President.

SENATOR Sir J. S. GODDARD: I rise to support this Amendment to the Criminal Appeal Act because it seems to me only fair and just that the State through the Director of Public Prosecution should have the same right of appeal as the convicted person. I must admit, as one not trained in the law, I am surprised at times when I see sentences that appear to be too lenient. I am also surprised when I see sentences that are imposed to run concurrently rather than consecutively. Now, I may be getting into fine points of law but as a layman, I am surprised.

As we know, Sir, the causes of crime are many and there are varied. They include envy, greed, deprivation, lust, passion, dysfunctional family life, alcohol abuse and illegal drugs. Sir, the list goes on and on and on.

12.10 p.m.

We know that punishment is the penalty inflicted for an offence. We want that punishment to be fair and reasonable and to fit the offence in the circumstances. The proposed amendment that we are dealing with today deals with punishment, and as I said already, Sir, I consider it to be appropriate, timely and sending the right message at this time. However, Sir, I think it is equally important that we deal with the root causes of escalating crime in this society. I think we could agree on this as we look around.

I would like, Sir, to do a very brief social assessment, as I see it, of what is going on in this society. There is a growing concern among Barbadians over the accelerating rate in decline in both the social behaviour and moral standards. We hear this discussed in homes and wherever people are gathered together. The evidence indicates that there are increases in violent crime, in disregard for religion, in disrespect for lawful authority and in the use of illegal drugs and firearms. While our economy has continued to expand each year, since 1993 and that an approximate rate of 4% per annum has been mentioned, our rate of unemployment is now at the lowest ever, below 10%. In spite of all that, the standards in our society are in decline and continue to decline. The voices of concern have started to demand that we take back our country from the irresponsible elements that are both disrupting and corrupting it, and people are calling for less talk and more action.

Mr. President, the $350 million that this country will be spending on EduTech for the benefit of our young people over the next seven years, a programme which I support, will largely be a waste of money if the negative influences that are currently undermining our society are not dealt with swiftly and firmly.

It has been reported that 70% of our children leaving school leave without any certificates. If that statistic is true, how can this be explained satisfactorily?

I would like now, Sir, to focus on what I see as the most serious social problems in this society. There are many. Each of us, I am sure, will probably focus on different aspects of crime. I think however, we need a rifle approach rather than a shot gun approach. Let us identify the more serious crimes or influences and start to deal with them.

In my opinion, Sir, I would start by focussing on the pornographic and highly offensive lyrics in songs especially but not exclusively, in Dub and other forms of rap music which have a very strong influence on young and vulnerable minds. Those minds are impressionable. They absorb what they hear. This is not a condemnation of all Dub music as I have heard songs that do have positive messages but too often, Sir, they encourage violence, crime, disrespect for lawful authority and the church. They encourage indecent and immoral behaviour and I can assure you, Sir, the use of illegal drugs.

The Conference on heightening awareness of HIV/AIDS which was held on February 24th and 25th at Sherbourne Conference Centre revealed that 41% of the young people in this community, between the ages of 15 and 29, have no religious affiliation. The lyrics of the two Dub songs that were played at that conference were displayed on a screen for all the participants to view. The names of those songs were:

"Weeping and moaning" by Bennie Man and
"Latest News" by Mr. Vegas.

I feel it my duty to share this information by making transcripts of the lyrics of those two songs documents of this Senate. I have listened to both of them, Sir, and I have listened to several other Dub songs and I had Mr. Richard Carter, the Director of Youth Affairs in the Ministry of Education and a sociologist, interpret for me what the lyrics meant. I think that is probably true of most people in our age group. We hear the song, we are attracted to the beat, to the rhythm, that is the hook, and we disregard the lyrics. The youngsters, Sir, know the lyrics. It was a shocking

revelation to me, I have to confess, to listen to the lyrics describing violence, sexual activities, promoting the use of illegal drugs, encouraging attacks on the Police, on the Pope and on the Vatican. I heard that, Sir.

I will not attempt to read the transcripts of the lyrics, as the language is certainly not parliamentary but much of it can be described as indecent, vulgar, sexually explicit and violent. This society can do without that, Sir. I was going to appeal to the local newspapers to carry those lyrics, but I see one newspaper has done that already, with editorial comment.

Sir, in my opinion the present unsatisfactory situation means that the more mature and responsible elements of this society would be severely shocked out of its present state of unawareness or complacency or even denial. For us to be effective in this community, we have to know what is going on. And I submit many of us, myself included, are not as fully aware of what is going on as we need to be.

Sir, I am not suggesting that we throw up our hands in despair, not at all, but that we identify a problem and see what is the strategic option for dealing with that problem. The first option to deal with the present situation would be by legislation, but we all know that morality cannot be legislated for. However, there is a need for more control over the kinds of music that can be played in public. The second option, Sir, would be self-regulation by the offending parties, but experience indicates that this would be very difficult in such a complex situation.
12.20 p.m.

The third strategic option is informed and aroused public opinion. It is my belief that this will be the best option if it is combined with more control.

We now move on to an action plan. What are we going to do about it? These are my suggestions. I am sure others would have better suggestions. We can start off by approving the amendment to the Criminal Appeal Act today. That is a positive action and it sends a strong positive message, but we have to go beyond that.

Responsible persons in this society, including all parliamentarians, should be encouraged to focus on informing and sensitising the public through better use of the media and other forms of communications. It is a responsibility that we have. We can constantly remind this community how our children and our young people are being brainwashed. This is a strong word, Sir, but I use it deliberately. They have been brainwashed and in that process they have been exploited. Those children need our help. We can remind businesses in the private sector – of which I am proud to be a member – of their social responsibility for both the quality of their advertisements and the total content of the programmes and events that they sponsor. We can encourage the formation of media watch groups to monitor programmes on both the privately owned and publicly owned radio stations, especially those stations that cater to young people. I have two in particular in mind.

Sir, I took up this matter with senior management of the radio stations and I have received assurances that they have strict broadcasting codes. I am not going to question their integrity, but I believe when you trust, you must also verify. I have to ask how effective are those internal monitoring processes? With the best of goodwill in the world, I find it hard to understand how a young inexperienced disc jockey will have a full understanding of the social responsibility of the job he is performing as a disc jockey, and can resist effectively the encouragement and the incentives of whatever form to play music that goes well beyond the levels of acceptability. Mechanisms may be there in place but unless we go beyond mechanisms to control, the airways will continue to be polluted.

Sir, we can encourage people to monitor the taped music played on public service vehicles (PSVs)in this island. I have been reliably informed that that taped music is banned in nightclubs and in other places of public entertainment in Jamaica. Why can we not ban the playing of taped music on private sector vehicles in Barbados also? Since I have been looking into this matter, I have been listening to this type of music on the two radio stations especially when I am driving my car. I do not know how school children can listen to that type of music – I am not speaking purely about the beat and the rhythm; I am not talking about the lyrics right now - on their way to school and really focus on their work, or listen to it after school and focus on their homework. If someone can explain that to me, I will be very grateful.

I am suggesting as part of this action plan that whenever possible music with unacceptable lyrics should be taped, the name of the song and artiste noted, the time and place that it was played and any other pertinent information. Transcripts of that information could then be sent to the daily newspapers. The media has a serious responsibility in dealing with this problem by letting the public know what is happening such as what was revealed in one of the daily newspapers yesterday. Unless we shock this society out of its complacency, unawareness and denial, nothing is going to happen.

Sir, if necessary, let us encourage letters to the managing directors of offending businesses and media companies to express our dissatisfaction with their advertisements and the contents of their programmes. We

can go further; we can also encourage calls to the call-in programmes and encourage them to get after their parliamentary representatives. We can encourage people to complain in writing to the Government-appointed Broadcasting Authority, if the radio stations are broadcasting material deemed to be in violation of their licences.

Only this week, Sir, I heard the Chairman of the Broadcasting Authority say that the Authority is being flooded by complaints about the 'smut' – that is his word – that is now being played on the airways. He also went on to say that the Infocom Report was submitted to Government some four years ago requesting more power for the Broadcasting Authority to deal with this problem, but today nothing has happened. Sir, more legal authority may help, but I submit that that authority has the power of moral suasion, and if they use that judiciously with the offending parties and let the public know – I have great faith in public opinion – what they have done, we will see changes.

Sir, failure by this society to take corrective action now on the declining standards to which I have referred would lead inevitably to a social crisis right here in Barbados. Sir, examples already exist elsewhere in the Caribbean, and I do not want to point a finger at any other country. We live in the Caribbean, we know what is going on. There are early warning signs and they are clearly evident. There is growing local concern but it is not too late to act. We have to start acting now.

The social and moral deterioration in this society has to be tackled on many fronts by both Government and the people with a sense of purpose and urgency. There is much that Government can do like amending this Criminal Appeal Act today, but it cannot and should not be expected to do it all alone. Citizens must face up to their civic responsibilities and I am talking about all Barbadians in that regard. The decline in social and moral standards is a national problem which must never be allowed to become a partisan political issue. All sections of this community need to be involved in the solution.

Sir, the people can start right now to remove the scourge of offensive lyrics from our airways; highways and the local scene. Let all of us work together to restore pride and industry in ourselves. We are losing it. All is not lost. Only yesterday afternoon a group of fifth and sixth formers from a cross section of secondary schools appeared before the Committee for National Reconciliation of which I am a member. Obviously, I cannot discuss what was discussed but I can report on my impression. Sir, there are a lot of fine young people in this country both male and female who carry themselves with confidence. They are so articulate. They knew what is going on. They could see the dangers and their focus was entirely on the future. I felt very proud of them and to see that they would be taking over from us in time.

This morning, Sir, Senator Forde and I went to the Stakeholders Conference on Human Values. There were very many fine speeches on human values, but I want to highlight that there were two young students there from our secondary schools who spoke extremely well on upholding human values and the damage that is being done in this society and what we are doing about it.

Sir, I predict that if we go about this thing together constructively, success in this endeavour will be achieved.
12.30 p.m.

I am an optimist by nature and it can be done. Our combined efforts will give us the confidence needed to start tackling other serious social problems which are also plaguing this society. Sir, we owe it to this society. We owe it especially to the children and the young people who will be taking over from us in due course.

I thank you very much.

SENATOR B. R. COLYMORE: Mr. President, I am much impressed with the presentations of the two previous speakers. One was dealing with the "why", philosophically, and the other one was dealing with the "how"; how we can deal with this matter.

This is the fourth Bill, I think, since I have been a member of this Chamber that I have heard debates on that deal in some way with this whole question of the penal code and so forth. While there can be nothing intrinsically wrong with the Bills, and therefore no good reason to oppose them, I think I have not heard sufficient to convince me that we have tackled in any great way the question of administration of our laws. It is one thing to pass laws; it is another thing to administer those laws. A mechanism has to be in place before you pass a law to ensure that that law is feasible.

I have heard, and on good authority, that there are almost 10 000 cases backing up in the Magistrates' Courts. At each Assizes, 75 or 60 cases are traversed to the next Assizes. If you increase the demand on the total legal and administrative system, this will have the effect of further cluttering up the whole business of administration of the laws.

While there is every merit from what has been said in here for having this piece of legislation included in the criminal appeals procedure, I am fearful that unless we tackle this basic question of administration of the laws that we will still not advance very far in our efforts to cope with the danger that has been facing us for some time.

Now, the point I make here is that administration of the law and passing the law are not the same. Senator Symmonds made reference to self-discipline and that triggered in my mind something that I have, over the last few years, been very keen in expressing myself on.

In our society indiscipline seems to be the way to go. I do not know how many of us are aware that it is against the law to ride a bicycle on the Spring Garden Highway. Every day I see any number of bicycles on the Spring Garden Highway and our young people do not know that it is against the law.

It is very important, therefore, that we keep before the public's eye these little prohibitions and deal with them when they are broken. How many of us remember that there is a Coroner's Act? When last have we had any inquest or enquiries under the Coroner's Act? The last I can remember is Grantley Farmer about 8 or 10 years ago.

It seems to me that is an element of indiscipline in the society. If the present Coroner's Act is not operable, then change it. But if you have a Coroner's Act, and we have had dozens and dozens of deaths that have had around them some suspicion, and we do not hear about a coroner carrying out an enquiry, is it that the procedure is unwieldy?

When people were appointed as magistrates, they used to have in their terms and conditions of service the requirement of a coroner's duties in their particular district. I do not know if this is still done.

I think that the riding of bicycles without lights is another thing. That is a breach of the law! What has happened is when people have been fined in the Magistrates' Court and three years after they have not paid the fine you probably only know about it when they come back in. Something is wrong with the administration of that system.

I think there is a total disregard therefore for even the decisions of the Court. Perhaps the one that hurts me most is what we call the ZR culture. If you know the background to the ZR, you can see that was an example of a most undisciplined decision.

For the record, let me say I am not here accusing any particular person, but the conclusion which any reasonable person can draw is that you have introduced a new system of ZR taxis without having any regulatory framework in which these should operate, and two years after they have created chaos and havoc we start doing deregulation.

There was a problem in the bus stand between a driver of a bus and an official. The official demanded that the bus driver be disciplined and dismissed. The union got into it and he could not be dismissed. Suddenly 200 permits were issued for new taxis in Barbados. That was an official decision which had the effect of creating the chaos that we now have. How can we therefore say that we do not know why there are problems with the ZR people?

I think we are now trying to shut the door when the horse has bolted, and things that are ill begun make strong themselves with ill. You started wrong and therefore what has now happened is that error after error has occurred. It is not easy.

Aside.

Mr. PRESIDENT: Order, please.

SENATOR B. R. COLLYMORE: I am not accusing. I can go back. I know I will get somebody to talk. I can go back and say that even the minibuses that were introduced were introduced in circumstances when there was no clear mandate from the people who have to carry out the monitoring of these things. So we do these things at all levels and we do not know why there is this indiscipline in the society.

12.40 p.m.

Let me say something that will touch on everybody. The governance of this country becomes more complicated when people in leadership positions do not do the things they should. The governance of this country looks as if it is a play-play thing; Parliament refuses to answer parliamentary questions. A tenet of democracy is that you must answer parliamentary questions.

There was a time when we were given two weeks in which to produce the answers as civil servants. Six years would have elapsed and you do not have a parliamentary question answered. That is severe indiscipline. The point is that we used to be given instructions that within a month of a parliamentary question being asked, the Cabinet must have a response. You were told that in two weeks you had to get something to your Minister. What has happened over the last six years?

In my long career as a civil servant there was always a mid-term speech from the Throne when the effect was to give parliamentarians the opportunity to review the performance of the Government from the first speech of the Throne when they set out a programme for two or three years. There has been no mid-term speech from the Throne, no review, since 1989 when the Queen came.

Now all the conventions, all the laws, all the good practices that we used to have we are ignoring, and if we are ignoring them and are in leadership positions, we are creating an atmosphere of indiscipline which is being so readily followed by the worst elements in our society.

I am not trying to cast the blame on any one particular agency. We are all in it. The point that has to be made with some emphasis is that self-discipline as put forward by one of the previous speakers has to begin with us. We who have been in leadership positions have to set the tone for that self-discipline.

Therefore, whilst I would support this because there is nothing in it not to support, I think we are not touching on the real problems in our society, the causes of those problems, and dealing with them as we should. We are tinkering every now and again with some amendment to the law which in itself is ineffectual in dealing with the problem. Laws are necessary. Laws have to be made. Laws that are not enforced are a waste of time. That is my contribution, Sir.

SUSPENSION OF SITTING

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg to move that this Sitting be suspended until 2.15 p.m.

The question that the Sitting be suspended until 2.15 p.m. was put to the Senate and agreed to, and Mr. PRESIDENT suspended the Sitting accordingly.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

SENATOR Miss C. Y. FORDE: Mr. President, I rise to give my support to this Bill. I would like to touch on a few areas that I consider to be useful, and I will try as best as possible not to duplicate what was highlighted earlier. As a member of the public, I, too, am concerned for what as a lay person I consider to be lenient sentencing at times.

Some people in Barbados may be of the view that some sentencing for certain crimes is harsh, but when you look at some countries like Iran and Saudi Arabia, for rape and drugs people lose their lives. I am not going to advocate that Barbadians or any person who commits rape or felonies of that nature should be put to death but, indeed, I would like a proper balance to be struck in order to deal with such harsh crimes.

When one examines the situation in Barbados at present where gun play seems to be the order of the day, one has to lend support to this legislation. I recognise within the last few months where individuals were brought to the court for serious drug trafficking or for possession of guns and other related incidents, and the attorneys-at-law who have their work to do to represent their clients have been asking for bail for some of them, even though they know that already they have been put on probation or are awaiting the outcome of charges for other crimes or felonies they would have committed before. I have a tremendous difficulty with that.

Over the weekend, I became aware of information to do with over 700 first offenders within the last year or so. That is a great deal of cause for concern for Barbadians at all levels of the society.

I noted with concern the details of shootings from October, 1998 to February 1999 where there were a maximum of 6, 2 in October, 1 in November, 2 in December and 1 in February. As compared with gun play incidents from October, 1999 to February, 2000 – 3 in October, 5 in November, 6 in December, 6 in January, 5 in February. I have not mentioned March because March was not included but up until yesterday you would have heard of incidents of crime and violence.

There are families in Barbados who grieve as a result of injury or loss of property or life of loved ones. When one gets maimed by an assailant and the sentence in a court of law is for $2 000, when the victim can no longer use that arm or loses an eye, while the accused person gets what we consider to be a pat on the back, I would have difficulty with the sentencing in such instances.

In November 1998, the Attorney General asked for a gun amnesty and less than 100 guns were handed in. Today we are hearing from very high officials that guns are for hire. It means that any individual who wants to get a gun can hire it, commit whatever felony he has to commit, and then you cannot trace where the gun has gone.

I think that those are some of the things of concern to the public. We live here and we are not going to run to go anywhere. The same way Barbadians are making a case against walls built on the seashore, and all the other things they consider important, I think that this concern is of great importance to all of us.

Mr. President, this Criminal Appeal (Amendment) Bill, 2000 is to be read in conjunction with the Penal Reform Act, 1998 as part of a package of the reform of sentencing policy in Barbados. I share the concern of all those who made mention of the disparities. I mentioned two

just now but there are many others. I do not want to tread on legal grounds and therefore I would not want to make mention of any others since individuals may be able to identify them, and I would want to be the last to run afoul of the law.

I would like to think that not only attention is paid to the request of the Chief Parliamentary Counsel and to the Director of Public Prosecution, but also to the lamentations of the public. People are asking what is going on at the courts. What startles me sometimes is to look into the newspapers and see a particular magistrate sentencing someone and the photograph of the magistrate is put next to it. Are we in Barbados going mad when we know there are violent video tapes that show how to kill a judge, because he is the person who sentences the person to be hanged? It seems to me as though we have really gone overboard. I have a tremendous difficulty with the highlighting of photographs of persons whom we have entrusted to look after our legal affairs in this country.

Mr. President, I support every effort that is being made by this Government and other non-governmental organisations to tackle crime in this society. There are a multiplicity of angles that have to be used in order to deal with it and it cannot be done in one piece of legislation or in one programme. It has to be approached at different angles. A combination of strategies should include economic policy, social policy, educational policy, environmental and sentencing policy. The Government made a conscious decision to reform the penal system in November 1998 and efforts were made to provide a wide range of new non-custodial sentencing options. These include suspended sentencing, curfew orders, community service orders, combination of orders to do with community service and probation, amelioration and so on. I know, Mr. President, that there was a magistrate about two or three years ago who started to give community sentencing but, of course, I got the impression that that was not legal then and I saw how the public reacted to it then although people liked it.
2.05 p.m.

I support any form of sentencing for first offenders and for others who would have committed things that would have happened when we were children and you got a hard slap from your parents or neighbours but it did not go as far as the court. I support that kind of sentencing. Send those young people out there to help to clean around the old people's houses, send them out there to work in the community doing a number of other activities or have them linked up with the youth development programmes and other activity to help them rather than send them to prison. We have already spoken extensively in this Honourable Senate about these kinds of sentencing.

The Bill does not take away, Mr. President, the discretionary power of the court to impose a sentence. It merely provides that if a sentence appears to have been unduly lenient, the Prosecution also should have the right to have the sentence reviewed by the Court of Appeal. I am aware that there are a number of things that we as citizens in Barbados can do to help to bring about change in the society.

As I mentioned before, some of the small things that young people do that some of them only need guidance, some of them only need the home support or the community support to help them to turn their lives around. I am going to say it again here in this Honourable Senate, Mr. President, too many of us have removed ourselves from the community that served us well in our time and we have gone to live in other communities but we are not looking back to help our young people in those communities to identify role models, to know what served well for us to help us to reach the stage we have reached even though we were all raised in poverty. That is the thing that bothers me. We were poor but we had good spiritual groundings, we had good moral standards, we all had lots of food to eat even though most of us would have been half naked, we did little wrong things but there were persons in the community as a cohesive group who did the chastising to make sure that we followed that straight and narrow path.

Many of us pass and see children and young people doing wrong but we do not want anybody to scratch our car, we do not want anybody to burn down our house, we do not want anybody to shoot at us, we do not want anybody to come and curse us, all kinds of things I hear Barbadians saying but they are other individuals who do it. We see young children going to school looking untidy and we can say: come back, tidy yourself. All of them will not comply but most of them will because they always tell you: nobody ever told me anything about it. Even though we know that we expect them to be ordinary looking when they go to school, they still buff over the shirt and roll down the socks and use abusive language but somebody has to say something to them. It is not a task for the teachers alone. It is also a task for the parents and for all other Barbadians to play their role in helping to mould and to shape the young people who will be the future of the country. Therefore, I think it is important that we make it our business to guide and speak to our young people to help them to be able to follow the straight and narrow path.

We have many delinquent parents who, knowing that they children are into the drug business command and demand the money that the children bring in. We have parents who encourage their children to prostitute. We have parents who tell the children: you did not bring enough money today, make sure you bring more tomorrow for the house rent, braids and jewelry. That is the kind of immoral

upbringing that our children are being exposed to. Therefore, they do not mix the choice with the consequence. I will say that until I die. We must teach our children about the good choices and the bad choices but let them know what the consequences are at the end of the day. Every Barbadian must make it their business to enforce what is the law, to write the Commissioner of Police when the vehicles are on the street doing as they like – some of us do but not all of us make it our business. It is our duty to speak to others when we see them do wrong whether they are adults or children. Those are the small things that are lacking that we grew up with that is causing the moral standards that have built the society to fall into the ground.

Mr. President, if Mayor Guilliana can clean up New York, we can clean up Barbados. All of us have a right to make sure that Barbados belongs to us. This is our territory. The neighbourhood watch will not be enough. We need to have programmes set up within the communities and pay attention to the ten, fifteen and twenty-year old. Too many of our young people are in prison; too many of our young people are now down with AIDS or carrying the virus. Too many of our young people are following the negative route, they are not going to school so that would help to contribute to many of them not being able to reach fifth form to write the CXCs. There should be measures put in place by all of us as a cohesive group of individuals to help to save Barbados. I will continue to play my part and I encourage other Honourable Members to do their part.

Mr. President, we need to get back to the church, we need to get back into the communities. We need to identify more role models in the communities where we live. In other words, we need to get back to basics to make sure that courtesies are still in our children's mouth and that we live by example. Many of us are acting out do as I say but not as I do and it is destroying this society. Too many of our adults set the wrong example and uphold the wrong.

A parent one day came to the school because her son was gambling and she was asked to speak to the child and help him to overcome this problem because it is against the schools' rules. When the parent looks at the child she said: why did you have to gamble at school? When a parent asks a child: why did you have to gamble at school, it says that the parent thinks it is O.K. to gamble.

Those are the kind of things that are eroding this society. She did not chastise and say: you must not gamble because this is the reason or that is the reason so the choices and consequences would come but she asked: why did you have to gamble at school? Almost every neighbourhood we see gambling. I, as a child, knew that gambling was against the law. When men were gambling in the neigbourhood where I lived as a child men would run when they saw the police. Now, everybody is gambling in little corners near the house and in their own gallery and under the tree. It is against the law but we pass by and we ignore. We must come together and stop playing as Levi and as the other person did in the good Samaritan story. We now have to play the part of the good Samaritan and live by setting those examples.

I support the idea, Mr. President, that crime prevention can be proactive and must not necessarily always be a reactive situation. We need not only to look at the young people and at the mistakes that they are making and try to correct them but we also need to look at development of good work ethics. We must remove mediocrity. We cannot expect to go to lunch for four hours and the young people not want to copy what we are doing. Those are some of the small things that will lead the young people down the road of crime.

We must look at positive attitudes. Too many of us are operating in a snobbery environment. We treat people differently because of their colour and because of their status. I do not want to go to any place in Barbados and be treated differently because of who I am. I want to be treated in the same way that any other individual is treated because we are all Barbadians seeking a service. I think it is very very important that we develop good positive attitudes towards our people and towards our children and towards everybody despite their colour, class or creed.

2.15 p.m.

I support what I call "operation give back." This is a theme that I have been working on for the last three or four years where I encourage those who have already passed through the system and those that have been able to develop the good moral values to share them with the children in the schools, in the nursing profession, in the police force and wherever possible to go back to the neighbourhoods and share those skills with the young people to give them hope. We always read stories that inspire us about individuals who thought there was no hope, but who found the way through the help of a teacher, through the help of some individual in the communities where they live or through the help of a business person; and those persons have become more prominent in the societies where they live.

We have too many young people with great potential, whether they are good at drawing, painting, sewing or becoming vendors or whatever, but who do not get the necessary support from the rest of the community to help them to do something useful, and therefore many of them see an escape route.

"If I cannot get assistance to become a good artist, if I want money, I have to get it at all costs".

Then they get involved in the negative activity, particularly in Barbados today, of selling or dealing with drugs, and that

is not the route we would want our young people to go, because it destroys them physically, mentally and otherwise.

We know that when those kinds of problems come about, then it falls back on all the other social services. We have to get more police officers, we have to get more probation officers, we have to get more health practitioners, because the impact that it will have on the system is tremendous. Therefore, I support, "operation give back" where you highlight the role models and let them be the guides for our youths. I encourage and admonish the media to give more positive coverage of news so that it can help to enlighten our people.

I am one of the persons who would support any exercise by CBC to carry more information that is positive. I do not want every night I turn on my television to see blood splashed somewhere. This is not what Barbados has ever represented and I do not want us ever to be portrayed in that light. When that has an impact on our tourism sector, we know that all is lost. There is more positive news going on in Barbados. Let us deal with the positive. I am not saying that we should ignore incidences of that nature, but they do not have to be splashed on the front page of our newspaper.

Mr. President, I heard mention made by the Honourable Senators of the ZRs and the negative lyrics and so on. I am not going to touch that, but in closing, I want to say that it is as a result of the upward, social mobility of many of us and the opportunities that were given to us. We seem to give our children the message that life is a bed of roses, therefore, everything is free and on a platter; you no longer have to work hard, you no longer have to be thrifty, you no longer have to show respect. Once you can get into the most prestigious school, or you can get the most prestigious job or drive in the fussiest car, then you have made it. That is what I think is destroying our society.

We have stories to tell at all levels; from the stage of senior citizens down to those persons who are under 20 and 25 years of age, in this Honourable Senate, in the Government and in the Opposition as well. I think we are the ones who have to tell our children and our grandchildren that life is not a bed of roses. We have to make sacrifices as human beings to be able to achieve. We have to learn to be grateful for whatever we have, and we do not have to be grabbing and grabbing, even if we have to do it in a negative way. I will not support that at all. It is incumbent upon all of us to play our part in helping to bring about a change.

Therefore, Mr. President, I want to lend my support to this Bill and to encourage other Honourable Members to please give their support because, when we do the things we have to do here, it is going to help to temper the fear that is creeping into the hearts of many, many Barbadians who have never, ever seen crime and violence and all the other negative things reach such a high level ever in the history of this country, even though there was poverty. There will remain pockets of poverty. We do not have to engage in negative activities because we want to get the almighty dollar.

It is with those few comments, Mr. President, that I want to give my support to this Bill.

SENATOR THE HON. G. S. H. MURRAY: Thank you, Mr. President.

Sir, I join this debate by first of all seeking to commend the Government, not only for this Bill in particular, but for its overall thrust in its efforts to deal with the crime problem.

I am glad that this Bill fits into the mold of what has largely been a well-thought-out cohesive plan on the part of Government with a studied, reasoned, reasonable approach and not just an emotional knee-jerk overreaction in many instances to a subject which has tremendous emotive impact on people's sense of well-being, people's sense of safety and people's sense of security.

In the same way that we have worked systematically and rationally to deal with other issues in Barbados like unemployment, where we have now got it down under 10 per cent. When other persons thought it could not be done, we have seen the proof of a studied, reasoned, cohesive effort. We have adopted similar efforts in the fight against poverty, Sir. We are doing the same thing with HIV/AIDS, consumerism and many other of the serious and major issues facing the Government and facing Barbados. Therefore, this Bill has to be seen in that context.

Where this Bill is concerned, Sir, sentencing has to be seen in human terms, and I think Senator Forde was just referring to it as part of the system of reward and punishment that characterises human behaviour and individual activity. If you do well, you are rewarded. If you do badly, you are punished, whether in the home, at school, at work or at play.

There are some persons who would seek to make us believe that there should be no punishment, but that runs counter to the whole grain of human personality and human attitude towards how they deal with each other, and we know, Sir, that rewarding or punishment is essential to the instilling of discipline and for there to be an organised system of human behaviour.

There might be debate, Sir, among persons, among behavioural scientists as to the severity or the type of rewards and punishment, but there is no doubt among the social psychologists or whatever that there is room for reward and punishment, because without reward and punishment social chaos and social disintegration would ensue, and the society would be the worse off for it. Before I delve further into the merits of this Bill and to give the reasons why I have sought to commend the Government for this studied approach, I must, Sir, take issue with some comments made by some previous speakers beginning with Senator Thomas.

Senator Thomas was positive, Sir, among other things that the Bill is based on a false premise and bemoaned the fact and sought to chide Government for the fact that Government had not produced statistics to justify its rationale for seeking to amend the law to allow for there to be judicial appeal of sentences which were considered to be unduly lenient. I would have thought, Sir, that if there was going to be a question of the Government's premise and the premise on which this amendment is based that it would have been incumbent on the Honourable Senator to give these statistics to disapprove it. I think it weakens the argument considerably to think that no statistics have been induced. Therefore, in her presentation she fell victim to the same issue which she criticised.

The fact is, Sir, that the Bill is not part of the Attorney General's or the Government's effort to in anyway show disrespect for the judges. As a matter of fact, this measure emanates from the advice and from the support coming from the highest levels of the judiciary in Barbados. We are therefore seeking to qualify a wish and a determination by those who preside over our judicial system at the highest level which would help to ameliorate conditions where punishment is concerned.
2.25 p.m.

There is no doubt that we have not sought to show any disrespect to Judges. I am objecting to the imputation that we were so doing by having stated that there were some concerns over some instances of unduly lenient sentences, because we do not have within our history as a Government or as a party an instance where anybody has ever referred to a member of the Judiciary or the Magistracy as fools. That is a matter of public record.

The Magistracy at one time was characterised by one of the leading spokesmen of the Democratic Labour Party (DLP) as foolish people. When you lump that to the fact that as part of the political record of Barbados there was an attitude toward crime and punishment where in our attempt to stamp out the prevalence and use of illegal guns one member of the Honourable Senator's party characterised guns as being the tools of trade for young people. We do not have that ambivalent or contradictory situation or history about crime and we have been systematically working to remedy that situation. We have taken good steps to move in that direction.

The Honourable Senator also said that she would like to know when we will be moving away from the whole system of alternative sentencing. We have already passed a Bill in 1998 to make that possible.

Senator Collymore said that this was about the fourth item of this nature since he came into this Chamber which would have been just over a year ago. I am glad to see that in that time we were able to produce at least four or five – I forget the exact count – measures which would aid and indicate Government's seriousness in tackling the whole question of crime in a very cohesive and consistent manner.

Apart from that, in 1995 we set up a task force on crime that produced a document which is now a document of the House. It is called "Report on criminal risk factors," June 1997, prepared by the National Task Force on Crime Prevention. The Honourable Senator to whom I referred said that we need to go beyond pieces of legislation by getting to the root cause of crime in Barbados. We have already begun that process. It has not been completed.

The objective of the terms of reference of the task force included:

3. to examine and analyse by use of appropriate sentencing or criminological methods the incident of crime in Barbados;

4. to identify the factors which predispose to criminality;

5. to examine, analyse, and review the existing methods and our systems use for collecting and collating statical data concerning the incident of crimes in Barbados;

6. to determine the adequacy or otherwise thereof and to make recommendations for improving the said methods in our system; and

7. to advise the Attorney General on all or any of the foregoing by way of interim report to advise etc.

This Report came up with a number of recommendations and findings which I do not want to read what it says *ad nauseam*. In fact, there is a track record where we have gone about seeking to get to the ethology of crime. I think that is what the criminologists call it. This is part of the process that we are talking about.

The Honourable Senator also said in very lofty tones that we need a coming together of the church and the media *et cetera* to deal with this question of crime. That will be seeking to reinvent the wheel. We have already done that. We had a national consultation on crime which was attended by some 500 persons, but the only noticeable absentees were the members of the Democratic Labour Party (DLP). Therefore, we have gone through that process. Again, it would be unfair and uncharitable to seek to make it seem as though we have not sought to get any scientific basis on how we tackle crime.

The Senator also questioned the desirability and the wisdom of utilising the services of the Barbados Defence Force (BDF) to work alongside the Police Force. This is in contradiction of the attitude of her party in the Lower House where they gave their support to this measure which backed Government to the hilt. They even called for a closer meshing of the resources and the programmes of the Barbados Defence Force (BDF) and the Police Force because they realised that the Police Force is not equipped enough and cannot stretch their resources enough.

Apart from that there is the broader issue. The inclusion of the Barbados Defence Force (BDF) is all part of a new outlook in western democracies where they are seeking to integrate the military into civil societies by not just having them posted in barracks and having them parade on major occasions, but they are finding ways and means of letting parts of the civil society function so that there is not as great a dichotomy between the military and the civil society. Therefore, when we integrate the Barbados Defence Force (BDF) into that, that is one way of making greater use of the expertise all in the interest of the betterment of the society.

We need now therefore to be very careful and to be very conscious of what we are doing as a Government. That apart, I think the police themselves are to some extent responsible for some of the attitudes of a certain perception that exists in society as to how effective they have been in carrying out their duties. We know that when there is an incident such as a shooting, a murder or whatever, there is usually a great splash across the front pages of the newspaper, on the television news and the radio about this incident, all in keeping with the journalistic credo and the tabloid belief that if leads, it leads. So if there is blood, mayhem and murder involved, it leads to a leading story.

So while that received the maximum publicity, I do not recognise a commensurate attempt by the police to show their success rate in apprehending the perpetrators or the suspected perpetrators of those events. The police are not responsible for the sentencing. However, when they chase, catch and interview a person and have enough evidence to charge a person, I find that that is one part of their armoury that they are not exposing to public consumption as readily and as widely as they should. Therefore, in the same way that there is a great deal of exposure to the committal of the offence or offences, I think there should be an equivalent approach when the police do their good work which is largely within hours and in many cases within less than a week. The success rate of their apprehension of suspected persons is quite impressive.

Sir, I also want to deal with the question of the investigations into the causes of crime. The 1995 Task Force Report to which I alluded, while it is useful to me, is rather limited because it is based largely on already criminalised persons who are already in society and persons who are already in Prison. As a matter of fact, it was based on a sample of the inmates in Prison.

I think that this whole approach to the question of crime needs to be broadened beyond that. This could be something that the University of the West Indies (UWI) and its respective departments of social sciences could investigate to find out why crime is more widespread beyond and outside the walls of Glendairy Prisons, and also why people become criminals. If there is a wider and deeper probing of the society, a lot of useful information could be garnered which could then be used to formulate the Government policy, or to enlighten society's attitude toward crime.

I must frankly admit that I am quite baffled as to why there is so much crime in Barbados – although crime of this nature is not restricted to Barbados because it is within the Caribbean and is really an international phenomenon – at a time after we have produced a generation of persons who have had free secondary and university education.

There are lots of opportunities existing in the society which many of my age and many of us in here did not have the good fortune to have been exposed to when we were growing up. In spite of these multiplicities of opportunities for persons to improve themselves to lead productive lives, people are still falling prey to susceptibilities of crime and criminality.

2.35 p.m.

I believe, Sir, that we are really experiencing a phenomenon of what perhaps could be called "low expectations", where people are no longer driven by the pursuit of excellence.

I, for example, Sir, do not remember the last year I heard a phrase which was very popular when I was growing

up referring to certain persons as "poor-great" people. Nobody seems to be talking about poor-great these days. Poor-great people were referred to as those people who lived in a particular neighbourhood, an average village, but they were intent on seeing that their children went to a secondary school, got a better education to improve themselves above and beyond the lot of their parents. Because they would have behaved differently from others in the neighbourhood because they might have spoken differently and sought to use standard English moreso than their neighbours, they were referred to as poor-great people. Nobody hears that now because everybody seems to be intent on pursuing the lowest common denominator, where anything goes in behaviour, speech and attitude, and to be popular you indulge like I said, in the cheapest form of behaviour, the most demeaning aspect of behaviour to be considered popular, to be considered that you have arrived, so to speak.

To me, Sir, that has done Barbados a lot of harm. Barbados has progressed because those poor-great people wanted to see that if they had not enjoyed a certain level of education, at least their children did. Therefore, they were motivated to move onto higher heights, to let their children achieve at a higher level than they themselves were prepared to because they had certain values.

That, to me, Sir, is all linked to the whole question of the use of this music to which Senator Sir John Stanley Goddard referred in graphic detail early this morning. The music reinforces these attitudes. The music not only exposes but reinforces because we should never underestimate the power of music to condition the human mind. Music creates a certain attitude, a certain mood. That is why, Sir, if you are getting married you play a certain type of music. If there is a funeral you play a certain kind of music, *et cetera*. Therefore, this dub music or whatever persons refer to it as, I refer to it as noise, because while all music is noise, not all noise is music. I refer to it as dub noise rather than dub music.

Sir, this reinforces a certain behaviour. Sir John Stanley Goddard rightly talked about brainwashing, and it really is a brainwashing. When you get young people with a certain attitude, a certain form of behaviour going into a confined space to what used to be called a dub fete, but now is called a bashment, bashment from what the younger people tell me is a more extreme form of fete than what would have been a dub fete before so you are supposed to behave wilder and looser.

If you get those personalities confined in a space and you have this same hypnotic music, the same base line, the same drums, the same thing over and over again and the music itself is reinforcing that hypnotic approach with a certain type of lyrics, people will behave in a certain way. It is known as conditioning in psychology. People do it with animals. People do it with cats to get them to behave.

The Germans used that to great effect during the Second World War when they were dealing with a prisoner, so it is not as far-fetched as people think. It has repercussions on people's behaviour. That is why when the children get to school they are not interested in learning because they are on a totally different plain and are not focussed on the kinds of things we need to talk about.

Apart from the music, Sir, I think we also have to be concerned with the use of language on the radio. As a person who listens more to radio than I watch television, because I like to listen to short wave radio *et cetera* – I think that radio is much more interesting than television, especially for the imagination – it really is very painful to hear some of the language being used on the radio, not so much profanity, but the whole destruction of the English language as we know it.

Part of the problem, Sir, is both the use of the music and the competition that exists among radio stations to come out favourably in the surveys that are done periodically in Barbados, although the whole basis on which some of these surveys are conducted has been challenged from time to time.

If, therefore, Sir, in order to get ratings you go out in society and hire a person who might have been known for playing at bashments or dub fetes, you acquire a certain name, which name might have been used on radio itself advertising a fete, and then you select that person without any training, without any orientation about standards of speech, diction, elocution or standard of behaviour, or without giving any sort of orientation whatsoever as to what is expected of them on the radio, and you put them behind a microphone and murder, not in the literal sense, would break lose. That is all part of the process that is destroying the attitudes, values and the standards of people.

I think it is unfair to the public for some of these unschooled, untutored, untrained and inexperienced persons to be picked out and plugged out of society. We would not do the same thing to a doctor, a priest or a teacher, just pull them out because they are well-known and tell them to go and perform. This is the same process through which there is a lack of respect for the public sensibilities. I think the public deserves better.

Part of the problem, too, Sir, where that is concerned, is that you are able to select these persons who are not trained and prepared to offer them less salary than you could if you were to select a person with more training.

The Community College has a Mass Communications Programme that produces dozens of people every year with at least Associate Degrees in Communication. They go on to Jamaica to do a Diploma, Degrees *et cetera*. There is the material there if it is sought out, and if people are prepared to research it. It really is very shameful on the Barbadian society, at a time when other areas of the Barbadian society are going for the highest trained persons, that an area as important as communications and journalism, if you want to use that broad term, are not producing. There are persons who are well-trained in the area and their services are not being utilised to the fullest, and they are not rewarded in the way they could.

Sir, we face certain challenges in the society. I think, psychologists will tell you that males are more inclined towards aggressive behaviour than females and that is why they send us out to fight wars and what not, while the women stay at home. That is not equality of the sexes which is probably a better subject for another time.

Sir, the point is that women are not generally as aggressive as men. It is something built into the genes, something built into the whole structure of a male's being that causes certain aggression. That is why, for example, part of the problem is co-education. Boys at a certain point in their lives need to have certain rough and tumble and physical exercise.

With respect to the amount of the aggression that now goes on into criminal behaviour and criminality, I am asking particularly the males to use what could be a positive attitude, put it to good and productive usage into sport, put it into creativity, use it in opening businesses or whatever, and stop allowing themselves to become full-blast victims of crime either as perpetrators or as victims themselves.

Therefore, I am calling on them and all of us, like some of the other Senators said, to join hands and work with whatever agency towards the eradication of crime. We must all be our brother's keeper and every time we make a dent in crime we make it not only for ourselves personally but for the betterment of society.

I therefore give my wholehearted support to this measure. I look forward to continuing to be part of a government which will bring more such measures, not to be seen as tinkering, but as a studied, rational, careful approach to what we are seeking to do.

I thank you, Mr. President.

Mr. PRESIDENT: Before I call on you, Senator Williams, I would just like to remind Honourable Senators that the question before us is the passage of the Criminal Appeal (Amendment) Bill. While I have tended to give latitude in matters relating to crime because of the high level of public interest, it seems to me that we are extending the debate to a point where I must ask you to bear the terms of the Bill in mind.

2.45 p.m.

SENATOR J. E. D. WILLIAMS: Mr. President, like all other Senators who will speak after I have, we are obliged to you for your caution. Of course, needless to say a Bill of this nature and issues like these present opportunities for reflection and introspection by people of a society. In essence, what you were hearing this morning is people trying to put into context what has been happening in our society, and seeking by way of explanation to say that things did not happen by accident. They were caused to happen by a number of circumstances, and it is certainly not an attempt by people like myself to rush to judgment, but to say that the issue before us today and the consequences are things that affect each and every one of us, and we are all in it together.

I believe that in Senator Forde's presentation she did make the point that people must understand the choice and they must also understand the consequence. This measure is one which tends to send a very clear message that people will not get away with light sentences. I think Senator Bolden went the extra mile to explain to us the circumstances that would have brought this measure before us, and he also sought to explain that it was not an attempt to create an environment where we would try to speak unkindly about the judiciary in the way they seem to apply justice. It is rather a way of sending a message to criminals and would be criminals.

I believe that over the years we have all sat back and accepted changes to our behaviour, changes to our culture, changes to our way of life all in the name of that same word, "culture". There are a number of things that certainly, and I speak for myself, I would find unacceptable, but in the name of culture we sort of cast a blind eye, and what we would have done would be to lower the benchmark that we would have established for ourselves in the past as reference points below which we as a society should not go.

However, we sought to embrace both the good and the bad. In essence we are now reaping the fruits of that experience. We all know the kind of upbringing we had. As a youngster growing up, my parents would ensure that I was in church at least two or three times on Sundays. We have moved to a situation where Senator Goddard could give the startling statistic about the large percentage of young people who attend no kind of church and have no kind of religious

belief. It is a startling statistic, but it did not happen like that. As the society develops, we pay less attention to things that are important to ourselves. I speak specifically of the Church. The role of the Church has changed. Our attitude to Sunday has changed. I have lived to see every possible thing being done on Sundays.

Ten to fifteen or twenty years ago you would not have all these cricket matches being played Sunday after Sunday for a 3 or 4 month period. Anytime you do not have a first division match it is because you have another match. It is our attitude towards things like the Church, towards Sunday. We are sending a bad message to young people and to be honest they are getting the message loud and clear.

When you look at the crimes committed, we are talking about an age group where some people are saying that we have lost this generation, and we can do nothing about it. I share the view of Senator Sir John Stanley that we are never too late. There is a lot that we can do. We can assume our respective roles of leadership in these matters and not rush to judgment, or at the same time seek to take an issue like the one before us and use it for narrow political gains.

People talk about the dub music, and Senator Sir John Stanley has shared with us the lyrics that I quite frankly never knew about. Whenever I hear a dub song I cannot differentiate one word from the other. Therefore I will have to listen carefully to understand what goes on our airwaves.

We talk about dub songs, but what about the videos that children watch? Are we able to put a handle on the content of those videos and determine the extent to which those videos are impacting on the psyche of young people? We have a set of young people who have no regard for human life. It did not just happen like that. It is my understanding that some of those films they watch are of the worst kind. We talk about the lyrics, but, Sir John, I say to you through you, Mr. President, you should also focus your attention on the things young people watch. I think it would be revealing and startling the information you would gather in that respect.

I, like Senator Goddard who introduced the Bill, believe that leadership in all of this will make a difference. It is the sort of example we send that will make the difference to our young people.

Senator Murray in passing alluded to an incident that took place last year in November. At the same time that the Government was seeking to encourage all those holders of unlicenced firearms to hand them in, we had the unfortunate experience where we had on a political platform of the Young Democrats, in support of their Party, someone saying words to the effect that if the Government is talking about encouraging you the young people to hand in your firearms, what do they think that you will replace them with? What will they give you in return? Do you expect a carpenter to give up his tools? Do you expect a school teacher to go to school without his or her books? What are they telling you about giving up your guns?

The point here, Mr. President, is this. It hit at the root of the point Senator Goddard was making in the introduction to this Bill, and that is, leadership. That is when decisive leadership would have come out and said it disassociated itself with that kind of thinking; that is not what we stand for.

I am saying that in issues like these you should not use them for political gain. Remember that these things come back to haunt us. People would want to get up and grandstand in March of 2000 as to what we ought to be doing or ought not to be doing with respect to crime, but when it is your turn to make a difference, you have to show leadership. That was one occasion that sadden me as a Barbadian. Our leaders must understand that we might be in Opposition today and will find ourselves in Government tomorrow. Whatever seeds that we sow will come back to haunt us. Remember that leadership is equally important.

Mr. President, I do understand that you spoke to the whole question of the extent of latitude in this matter on the Bill before us but I too feel that even within the workplace the messages that we send some times are mixed messages. We cannot have in our society when people do things that are wrong, you are getting the leadership and the support of their unions simply saying that they are going to back them and support them notwithstanding that they are wrong. Remember it is no one single thing that causes us to have the kind of thinking, belief and culture that we have. It is a multiplicity of a lot of things. The point I want to leave with this Honourable Chamber is that this is a matter that speaks to leadership. It is one that ought not to be put in a political context but recognise that we are all Barbadians together. We want to be able to leave for our children and our children's children the kind of society and environment that we can feel happy when we go to the great beyond. We have to do something about it. It is about us being involved.
2.55 p.m.

I was very pleased, to be quite honest, Mr. President, to hear the contribution of Sir John Stanley where he was able to say that this is the sort of strategy that we should adopt in order to get a better Barbados for tomorrow. In all of it, Sir John, it will only happen if we have positive and decisive leadership in every respect and in every sector of our lives and in our environment. No one person can do it.

Last Christmas, our Prime Minister in his Christmas Message spoke to the whole question of going back and reflecting on the old Barbadian values and traditions. You will find that you will have leadership on one hand speaking to these issues. All I am saying is: let everybody speak in the same voice. Let us remember that we are all in it together.

I am so obliged to you. I do support this Bill.

SENATOR C. A. MASCOLL: Mr. President, it is not often that I get the opportunity to bat so late in the order but indeed, I must admit that with one exception and perhaps two others that this debate has been taken down the line of what are the causes of crime which is not what it appears to be about here. In fact, this has nothing to do with the causes of crime. It has to do with the sentencing that occurs. It is somewhat like a student, who, having sat an examination and he or she has been graded feels that she has been unfaired for one reason or another because she expected a 'C' and got an 'E' or failed. This discussion really is about the capacity to appeal, the right to appeal when a sentence has been brought against the individual. So, what are we on to then?

If we check the crime statistics in Barbados over the years there are quite a number of crimes over the course of a year. There may be thousands according to the information that I have before me. The thing is that in any given year in Barbados, the courts are able to pass a sentence on somewhere between 1200 and 1500 cases in any given year. In fact, what happens in the courts in a given year bears no real relation to the crimes that would have been committed in that given year because of the lag in the hearing or coming to court and everything.

Let me then, having established that, try as best I can to look at the whole question of sentencing according to the information. For the most part, most sentences come in the form of fines according to the information given by the Royal Barbados Police Force. Then there is the imprisonment part which is minor in relation to the total amount of sentences that would occur in any given year. In fact, the evidence does suggest that the whole question of fines constitute well over half of the kinds of sentences that occur in Barbados. Then we may look at the whole question of imprisonment. It may vary according to the reports for many things from a couple of months to one year to three years or over. What is most important here is that in very few cases do we get sentences imposed on the individuals which are major in terms of the period of the imprisonment. You may have a crime against property with violence, in a given year in Barbados you may have individuals of the magnitude of thirty or so who might have been sentenced for that particular category of crime. You may have larceny, the handling of stolen property, you may have drug related crimes in terms of the sentences of imprisonment which may only range from five to ten in which people are sentenced for in excess of twenty years in Barbados in a given year. For the most part, sentences for the wide range of criminal activity that would occur which can vary substantially, as I have said, fraud, drug crime and larceny and malicious injury against a person, that for the most part, people are in fact, sentenced for between one to three years in Barbados.

It is important to note this kind of information in a debate of this type because it is important to be able to determine whether or not the sentences are lenient to the extent that they do not serve to be a deterrent to crime.
3.05 p.m.

Are we saying that in amending this piece of legislation that in fact magistrates and judges have been so lenient that the sentence does not serve to be a deterrent to a would-be criminal? If we have established that they have been lenient, then there appears to be good reason for the amendment. Since we cannot establish or we have not established, even in this debate today that there has been any perceived leniency on the part of the judges and the magistrates, then one queries why this amendment has come. Unless the amendment serves the purpose of deterring people or individuals from committing crime, then this amendment really has no place in this battle against crime in Barbados.

No one has as yet established that in fact it serves to be a deterrent. No one has established whether or not there has been a significant increase in first timers in Barbados in relation to the committing of crime. If recent reports are correct, then there has been, according to the police, a major upsurge not only in crime but in first timers committing crime. Is it a case therefore that this amendment, if passed today and implemented tomorrow, would in fact provide the Director of Public Prosecutions with the capacity to appeal against a particular sentence, if it is perceived to be too lenient?

Since it appears to me that this amendment purports to do that, and that is all good, the more important issue here is if in fact those persons committing the crime can be deterred from committing crime some time soon after they have re-entered this free world, having been in prison for a shorter time period than was perceived to be necessary to act as a deterrent. This is what I am gathering from the amendment to this piece of legislation, that it is in fact saying that we have in some way been too lenient, we have only been slapping people on the wrist in terms of sentencing, and that there is a need for harsher penalties and punishment to be placed on these individuals who have

committed crime in Barbados and which more importantly will serve in the longer term to deter individuals from returning to prison or returning to court to be sentenced one way or the other.

Sir, this amendment therefore has little to do with causes of crime. In fact, it has nothing to do with that. It appears that in Britain where we take our precedence from, the sentencing occurs in a separate court. After you have been found guilty, then you come back for a separate and distinct court to determine sentencing; and in the United States it does happen for sure. So there is precedence in the United States where there is a separate and distinct court that deals not with the case itself, because you cannot repeat the causes or the issues in that initial case, it is just a question of what kind of sentence should be imposed on the person found guilty.

This does not seem to be that because, again, there seems to be some degree of confusion with the Attorney General since this amendment goes counter to the whole question of penal reform, which was only recently discussed in these same Chambers where the discussion really centered around alternative forms of punishment for those committing crime.

In fact, the general gists of that debate were that there is absolute need for alternative forms of punishment, especially for first timers, so that they would not become part of the hard core, which is very evident and obvious at Glendairy.

I heard all kinds of recommendations made in these Chambers only a couple of weeks ago, I think on the 26th of January, now, we are hearing all kinds of support for the need to amend this piece of legislation, such that they can be an appeal by the Director of Public Prosecutions when it is believed that there has been excessive leniency on the part of the judges and magistrates.

I am beginning to see some kind of contradiction where, on the one hand we are saying that the society needs to move more and more towards alternative forms of punishment, and on the other hand we are saying that there seems to be an aura of suspicion around this because we are being too lenient. I have not been able yet to reconcile in my mind what the other side is saying about this whole question, because we are pushing one form of penal reform and we are now saying that we need to reinforce what we have in place because we have been too soft on the criminals, when in fact, to my mind, penal reform is all about getting soft because it is all about finding alternative methods.

Aside.

SENATOR C. A. MASCOLL: That seems to be the case if you are saying that over the years we have found imprisonment to be an appropriate form of punishment, and we can now seek community service and other areas as a means of punishment where we are in fact attempting to minimize incarceration. Now you have a piece of legislation which is saying that there needs to be longer incarceration which seems to be, to my mind, a contradiction.

Asides.

SENATOR C. A. MASCOLL: There is a contradiction of sorts. There is a total contradiction, so where does this Government stand in relation to this whole question of sentencing and the application of alternative forms of sentencing, because these two things seem to contradict each other.

Asides.

SENATOR C. A. MASCOLL: They do seem to contradict each other. Sir, we have also heard from the point of view of sentencing that there has been overcrowding at Glendairy and there are all kinds of reports suggesting that there is in fact overcrowding at Glendairy. A jail that was built for only 300 people, we are told now has in excess of 1 000 people. All kinds of information was brought to the public to show that we need to do something about this question of imprisonment, because Glendiary has become too small and therefore we have to find other ways of dealing with criminals. Now we are being told that on the other hand, offenders need to be there much longer.

Sir, this amendment does suggest that. In fact that is the case. It is that.

Asides.

SENATOR C. A. MASCOLL: There is no need to look at the other way at all because, according to what we are being told, there never seems to be a case in which the sentence is too harsh. It is never perceived to be too harsh. This discussion has not even gone there.

3.15 p.m.

One of the chief spokesmen on that side said that there are several instances in which there is lack of consistency. They are saying that on one hand someone could be given six months in one place and then in the other place they could get two years or five years, and that there is a concern for consistency. What does consistency do?

Then there is the whole question of appeal. The persons who preside over the Court of Appeal are human beings as a Magistrate and as a Judge. What they are saying is that in this small society you can have a Court of Appeal

comprising three individuals who can then remove themselves from the society and from being human beings. Therefore, when this appeal goes to the other side for judgment to be passed, it will be done independent of all the issues that informed the initial decision to impose a sentence, because we will now have three extraordinary persons coming from Mars to preside over the Court of Appeal. So the human component is now stripped. They are not persons who intermingle. They are not persons who will be socialising in this society because they are now three separate and distinct individuals specifically designed as presiding officers in the Court of Appeal who are completely stripped of any human element, so that the decision that you get at the Court of Appeal would not contain or be contaminated by that human condition. This is what Senator Bolden said. In fact, when you go there, you would not have those issues to deal with any longer because those persons are separate and distinct.

What that sounds like to me, is that we will never have the Court of Appeal or the Carribean Court of Appeal that we are seeking to implement in the Caribbean because all of a sudden now, we are seeking to get rid of the English way of doing things. We are saying that we have concerns with the sentences being handed down by our Judges and Magistrates because they are too much a part of the society. Well, could you imagine then when we strip ourselves of the British system and the ability to go to the Privy Council what would happen? I cannot understand this argument. Are you therefore saying that we would not be in a position at all to impose an independent sentence free of this form of contamination? That seems to be the discussion here. This has nothing to do with headlines because this debate is not about politics. This debate is about the capacity to sentence fairly and to be consistent across the board in the sentences that we impose. I have a lot of difficulty in understanding why there is a need at all for this amendment.

By the way, Mr. President, the reasons given for all the crime committed that I have heard in this Chamber today do not at all square with the Report by the Task Force because the desire to have money was given as the major reason why people commit crime in Barbados. You can have a situation in which even if you are fully employed and dissatisfied with your lot in life you can still commit crime because you are not satisfied. In fact, when one talks about crime and the upsurge in crime, one should not consistently connect it with unemployment because there would now be all forms of contradictions in this community in which we live since as we speak we are hearing about the lowering of unemployment to record levels, while at the same time crime is going up.

In fact, that information about Barbados was supposed to be over the years when the reason for the increase in crime was related to the fact that people had become unemployed and that only the unemployed commit crime. This has been the information widely disseminated across Barbados. Therefore, there cannot be any explanation now for the increase in crime because nobody is looking for a job any longer; every single Tom, Dick and Harry is fully employed and earning good wages and salaries. There is no need for any crime because nobody is suffering for anything in Barbados, not even a plate of food. We are now living in Paradise. We are living as close to the Lord as we can be, fully stocked with all the riches, all the juices and all the milk and honey we need. We do not need anything else at this stage. Everything is well with my soul and all the other souls in this Senate.

Mr. PRESIDENT: Senator Mascoll, you are on record.

Asides.

SENATOR C. A. MASCOLL: In all fairness, I would not be fooled that there is no need for this legislation. There is always a reason for amending legislation but I have not yet heard a proper reason for the amendment to this legislation. I can afford to support it because it makes no difference to anything, so not to support it, is to support it. I am indifferent because it will make no difference to the process. It is just another exercise in public relations. We have an Attorney General who specialises in public relations, who is all about talking pretty and doing all kinds of things, but when you check the records, John Public is no more impressed today than he was in 1994 with his performance.

The other thing, Mr. President, as simple as it looks, there is the question of cost involved. Here we are saying that there is a backlog of cases in Barbados, that the process is too slow and that justice limps along. The lawyers go to court early on mornings around 8 o'clock to have cases heard – I have been told – and then they do not get anything done until 11 o'clock, and then they have to go back the next day, so that the process is costly.

Mr. President, do you really feel that a Director of Public Prosecutions (DPP) would have the time to be concerned about whether a sentence of six months was appropriate compared to a sentence of a year, and therefore he has to be concerned when a judge or whoever imposes it. I do not know anything about any law. Do you really feel that a Director of Public Prosecutions (DPP) would have the time to be concerned about a sentence of $500 on a person or whether it should be $750? Does he have a scale in his office where he looks through the facts and will say 'listen you know something, according to my scale, this fine should not be $500, it should be $750' and therefore, he has now to appeal to say that this sentence has been too lenient, that

this person should be fined $750. How would he be able to determine whether or not a year will be appropriate as a sentence?

I am the only person apart from the other person on this side who is speaking to the point which is about sentencing. I do not know why this amendment is so necessary. What would we use in determining the length of the sentence or the adequacy of it? Who is going to determine that? When you listen to Senator Bolden, sometimes I wonder. Perhaps some lawyers whose track record may not be too good may be very willing to have this piece of amendment here so that they can have an appeal, especially those who have not been able to defend their clients well enough. Then again he might be a defence lawyer, so they may be looking for that.

What I am saying is that I cannot understand why we have to put so much emphasis on this thing here.
3.25 p.m.

It is going to cost money to do what has to be done to make these appeals. I do not understand the real relevance of this piece of legislation. I do not understand the need to have this legislation because it is really an indictment on the ability of the judges and the magistrates to impose a sentence. It really does speak to that.

Are we satisfied with the sentences presently being imposed, and who gives us the right, since we are not present in court to listen to all the evidence, to be able then to say whether a particular sentence is adequate? I think we all know that even though the evidence may be presented, the circumstances in the case may be very different and, therefore, warrant a different kind of sentence.

You cannot say that there should be the same sentence for all rape cases, neither should you say that there should be the same sentence for all murder cases, neither should there be the same sentence for a similar theft because it has to be that the particular circumstances and evidence in the case will determine what the judge does in terms of the imposition of a sentence.

You speak about consistency? It is miraculous to hear that there must be consistency. Each and every case must have different evidence, therefore it must be tried on its own merit. That is a general principle, I suppose, or tenet of the law because there is no case that is going to be the same as another case, even though it may be a rape, murder, or whatever. It has to be different.

As I speak, this particular amendment is about sentencing and nothing else. It is not about causes of crime. It is not about the particular crime. It is about imposing a mark just like an examiner imposes a mark on a piece of paper after the student has sat. It is like imposing a mark where the examiner, in this case the judge, determines, according to his expertise, what that sentence should be. I cannot see any one individual, whatever name he is called, DPP, CPP, or NPP, being able to come and override the decision of the individual or to seek some alternative form of appeal imposed by three other persons. That cannot be the case and therefore I am indifferent to this amendment. It makes no difference one way or the other whether or not it is supported or not supported by this side.

Thank you.

SENATOR MRS. P. E. RICKINSON: Mr. President, I rise to support this Criminal Appeal (Amendment) Act. In my humble opinion, and I am not a legal person, sentencing could be in the form of custodial, being sent to prison, or it could be in the form of community work, *et cetera*, but different types of sentencing. I am looking at it from that point of view, but before I say anything more about that, I would like to call on the legal profession itself to intensify the self-regulation of that profession to ensure quality in performance and to be assured that the public is not incensed by what they feel to be lenient forms of sentencing.

Why I am calling for the legal profession to get more involved in self-regulation, Mr. President, is because as a lay person, I feel that Parliament has given that profession the authority to police itself. They have also given the nursing profession power and authority and have placed a certain amount of trust in us, although it is different.

I did read the Legal Profession Act and noticed that one will have to report to the Disciplinary Committee. The Bar Association has powers in which they can put pressure on the members of the society and as I understand it, everyone has to be a member of this association. They can put pressure on their members to try and self-regulate themselves regarding the different types of sentences, *et cetera*.

Why do I feel that way? I feel there is a form of social contract between the professions and the society. This includes the legal profession. I feel that there are expectations on both sides. I will just mention three types of expectations in this contract.

8. To provide at least an acceptable standard of practice.

Mr. PRESIDENT: Senator Rickinson, I am not sure where you are going, but, perhaps, I will give you a further

opportunity to explain the relevance of what you are saying to what we are debating.

SENATOR Mrs. P. E. RICKINSON: Yes, Mr. President. I would like to refer to section 36B(1) of the amendment to the Act which says:

> "Without prejudice to anything in Part I related to appeals in, or references of, criminal cases or matters to the court, the Director of Public Prosecutions, if it appears to him that the sentencing of a person in a case to which this Part applies has been unduly lenient, may refer the case to the Court for the Court to review the sentencing; and on such a reference the court may...."

Then I will refer to section 36B (2):

> "The condition specified in subsection (1) may be satisfied if it appears to the Director of Public Prosecutions that the judge, or as the case may be, the magistrate erred in law as to his powers of sentencing."

This is the part that I am referring to, the magistrate or the judge erring in the powers of giving the sentence. This is my interpretation. I do not know if it is correct, but as a layman this is how I see it. If you are performing an acceptable standard of practice, then as a human being you might err, but the erring would not be as much as if it is not an acceptable standard.
3.35 p.m.

I would also like to say briefly that I feel that the profession itself should impress on its members that they have to behave with integrity which goes to the heart of values in the legal practice and includes ethical codes of conduct. I am not so sure if the length of sentences is written anywhere, but from the debate today it came through to me that there was a request to standarise some form of sentencing. In this respect, I feel that not only is this legislation appropriate but there should be a sensitising of the legal profession to give sentences that are acceptable and in keeping with the evidence more or less presented here. We are not lawyers. We cannot do it. It is only the legal profession that can police itself properly.

We can comment on what we think is fair or unfair regarding a sentence meted out to various persons, but it is only persons who have studied the law and know what they are talking about who can bring pressure and, indeed, the Court of Appeal in this Act will be given the power to look at cases and review them and either quash the sentence or reduce or increase it. That is what I am talking about as a lay person. That is what I see as a social contract with any profession. In other words, the profession is given legal powers to carry out its mandate, and I feel that we should be satisfied with what has been done regarding the profession.

Mr. President, I also feel, and I have called for it before, that radio broadcasts of such debates in the House and Senate would help to throw light on the concerns of Parliament on these matters. I do not think it should be difficult to broadcast Senate debates. I am not talking about TV. That is another matter which is a bit more difficult. Radio should be very easy.

In the case of different types of sentencing I am not so sure if sentencing in this amendment refers just to custodial sentences at Glendairy. I hope that sentencing will also refer to different types of community service, which you are hoping to introduce, and if the community sentence is too lenient that you will be able to expand it because it is done in the United States where some people are sentenced to one year's community service. They can cook and teach. There are different types of community service to which people are sentenced. The punishment should reflect the level of deviance from the norms of society that we desire.

I am not going through all the contributions made by various persons, because I think they have been very lengthy and good. What I would like to say, and I think I have said it several times but I cannot say it enough, is that we should not wait until they reach the stage of sentencing and increasing the sentence. We need to teach the young children what is right and what is wrong at an early age in the pre-schools and the primary schools.

One will find that if you teach a child something and he or she goes home they will say, "Mummy, that is wrong. Teacher says so and so, so don't do so and so; it is not right." We found that that was very good in the area of nutrition and tobacco smoking, and it worked very well with children who went home and insisted that their parents change certain types of behaviour.

I feel that we need to spend more time with the very young people and do not wait until they reach a certain age where it is more or less very difficult to correct their deviations.

With this, Mr. President, I think that is all I will say for the moment.

SENATOR THE HON. P. C. GODDARD: Mr. President, in wrapping up this debate, which has been extensive, it is clear that the total issue of crime is a very

complex one, although this Bill is a very clear simple portion of the overall strategy in combatting crime. I can understand the great concern that many Senators have over the wide and complex issue of crime, though I would say that Senator Mascoll certainly can excel at confusing himself over the issue of sentencing. It is very clear that this Bill will go a long way towards bringing equity, and will encompass the whole range of sentencing. It will encompass custodial and non-custodial sentences and there is no way in which we should have a conflict with bringing greater discipline to sentencing while at the same time giving greater opportunity for different types of sentencing that takes place by the introduction of non-custodial sentencing.

It is a very simple, very clear issue and it is patently obvious that this Government has done a tremendous amount to address the issues of crime through massive investment in the Police Force with equipment, buildings, stations and a continual upgrade of the facilities and conditions of work as well as the introduction of significant legislation to improve the situation. Not only that, we have improved the discipline within the operation of Government by adherence to the financial rules of Government, and therein lies the example which was really not a shining one prior to 1994.

So, Mr. President, with that, I recommend that this Bill be read a second time.

The question was put and agreed to.

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

COMMITTEE

Madam CHAIRMAN: The Senate is in committee.

Clauses 1 to 4 were called and passed.

On the separate motion of SENATOR THE HON. P. C. GODDARD the Bill was read a third time and passed and cited as the Criminal Appeal (Amendment) Act, 2000.
3.45 p.m.

ORDER NO. 2 – RESOLUTION TO APPROVE THE VESTING IN THE NATIONAL HOUSING CORPORATION OF LAND AT BRERETON, ST. PHILIP, TO ASSIST THE CORPORATION IN ITS CAPITAL WORKS PROGRAMME

SENATOR THE HON. P. C. GODDARD: Mr. President, this Resolution refers to a small piece of land found to contain 197.3 square metres abutting and abounding on land of Herman Wiltshire on two sides and a public road leading to Edgecumbe in one direction and to Highway 5 in another direction. This land is a disused public bath and it is proposed that we approve the vesting of it in the National Housing Corporation so that it can be used in its capital works programme.

I beg to move that this Resolution do now pass.

The question was put to the Senate and agreed to.

ORDER NO. 3 – RESOLUTION TO APPROVE THE VESTING IN THE NATIONAL HOUSING CORPORATION OF LAND AT WALKERS, ST. GEORGE FOR HOUSING DEVELOPMENT, HARD COURT AND DAY CARE FACILITIES

SENATOR THE HON. P. C. GODDARD: Mr. President, in moving this Resolution, this land that we are discussing, 28,876 square metres which has been purchased from Mr. Frank Odle and abounding on land of Mr. V.B. Parravicino, on a plantation road and on the public road leading to Gun Hill. This is the land just to the north of Mr. Parravicino's house and other extensive areas of wooded land. It is proposed that this land be vested in the National Housing Corporation for the provision of a housing development, a multi-purpose hard court facility, a day care facility and other recreational areas.

I move that this Resolution do now pass.

The question was put to the Senate and agreed to.

ADJOURNMENT

SENATOR THE HON. P. C. GODDARD: Mr. President, in moving the Resolution to adjourn, I must advise Senators that we will next meet after the Estimates. It appears as though the next meeting date will be Monday, March 22nd, 2000, and the Senate will sit for Monday and Tuesday and if necessary on Wednesday to discuss the Estimates. With that, Mr. President, I move that we now adjourn *sine die*.

The question that the Senate do now adjourn sine die was put to the Senate and agreed to and Mr. PRESIDENT adjourned the Senate accordingly.
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