
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 2003 – 2008

HOUSE OF ASSEMBLY

Tuesday, January 20, 2004

Pursuant to the adjournment, the House of Assembly met at 10.15 a.m. on Tuesday, January 20, 2004.

PRESENT

His Honour I. A. ROETT, G.C.M., B.A., Dip. Ed. (Speaker)

His Honour J. M. EDGHILL, J.P. (Deputy Speaker)

Rt. Hon. O. S. ARTHUR, M.Sc. (Econ.) (Prime Minister, Minister of Finance and the Civil Service)

Hon. Miss M. A. MOTTLEY, Q.C., LL.B. (Deputy Prime Minister, Attorney-General and Minister of Home Affairs) (Leader of the House)

Mr. D. J. H. THOMPSON, LL.B. (Hons.)

Mr. L. R. TULL, Q.C., M.A. (Oxon.)

Hon. Dame Billie MILLER, D.A. (Minister of Foreign Affairs and Foreign Trade)

Hon. G. W. PAYNE, LL.B.

Hon. R. C. EASTMOND, J.P., B.A. (Hons.) Dip. Ed., LL.B. (Hons.) L.E.C. (Minister of Labour and Social Security)

Hon. G. A. CLARKE, B.Sc., Dip. Ed., J.P. (Minister of Public Works)

Mr. R. D. MARSHALL (Chairman of Committees)

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

Mr. D. St. E. KELLMAN

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

Hon. Miss C. Y. FORDE, J.P. (Minister of State, Ministry of Education, Youth Affairs and Sports)

Mr. T. A. PRESCOD, B.A.

Rev. J. J. S. ATHERLEY, B.A., B.Sc., J.P. (Parliamentary Secretary to the Attorney-General and Minister of Home Affairs)

Hon. N. A. LYNCH, B.Sc., M.B.A. (Minister of Tourism and International Transport)

Hon. A. P. WOOD, J.P., B.Sc., M.Sc., M.Phil., (Minister of Energy and Public Utilities)

Hon. R. R. FARLEY, B.Sc., J.P. (Minister of Education, Youth Affairs and Sports)

Mr. C. A. MASCOLL, B.Sc. (Econ.) (Hons.), M.A. (Public Finance) (Leader of the Opposition)

Dr. W. F. DUGUID, B.D.S. (Comm.), F.D.S., FDRCS., J.P.,

Hon. K. D. SYMMONDS, B.A., LL.B. (Minister of State, Ministry of Foreign Affairs and Foreign Trade)

Hon. D. D. MARSHALL, LL.B. (Hons.), L.E.C., (Minister of Industry and International Business)

Mr. R. D. JONES, B.A. (Hons.), M.A. (Ed.), J.P.

Mr. M. A. LASHLEY (LL.B.) (Hons.)

Dr. D. C. ESTWICK, B.Sc., M.B., B.S.

Mr. R. L. SEALY, B.Sc., M.B.A.

Prayers were taken by Canon Father Ivan Harewood.

Mr. SPEAKER: The House is now in session.

MINUTES

Mr. SPEAKER: The Minutes of Tuesday, January 13, 2004.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I beg to move that the Minutes for the Honourable the House of Assembly for its meeting of Tuesday, January 13, 2004, which Minutes have been circulated, be taken as read.

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

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

PAPERS

Hon. Miss M. A. MOTTLEY: I am commanded to lay the following:

Nation Commission on Sustainable Development –
The Barbados Sustainable Development Policy
Document.

SUSPENSION OF STANDING ORDERS

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

Hon. Dame Billie MILLER: I beg to second that, Sir.

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

GOVERNMENT BUSINESS

ORDER NO. 6 – TO MOVE THE SECOND READING
OF THE JURIES (AMENDMENT)
BILL, 2004

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I rise to move an amendment this morning to the Juries Act, in relation to the desire of the Government to improve the quality of our criminal justice system by ensuring that those persons who are charged before the court are availed of the opportunity of having a fair consideration of the case which the State has brought against them.

Mr. Speaker, our system is now one where a person or persons once charged is/are subjected to a consideration of their case or cases by the jury, to a maximum of two hours. Mr. Speaker, this has brought great hardship to those accused persons who have been jointly charged, and who by reason of the numbers of accused together charged, are faced with the fact that the jury can no longer have enough time to treat to the case, in circumstances where there might be a complex set of issues or facts, upon which the jury has to reach a verdict.

Mr. Speaker, over the last ten years in particular, we have known circumstances where five, six, seven, and even nine accused at once, have all been charged before the court, and there has been a general feeling commented upon that the appearance of justice has suffered, largely as a result of these persons not benefiting from the appropriate consideration of the issues, in circumstances where the law, as it stands prior to this amendment, would not have facilitated it.

Mr. Speaker, we looked at other Commonwealth jurisdictions, in particular Canada, where a jury may not be discharged until it has tried to reach an agreement for at least six hours and the maximum time in which a jury should be permitted to deliberate is normally at the judges discretion. We have also looked at New Zealand where the initial period of deliberation is four hours so the amendment we are proposing is not without precedent in the Commonwealth.

This amendment seeks to carry that minimum period to three hours unless the judge determines that a longer period is required or that at the end of the three-hour period an application is made to the judge with the concurrence of the majority of the jurors sitting that there shall be further time given to them.

Mr. Speaker, in any event, the amendment also seeks to empower the judges where they are satisfied that there is no reasonable probability that the jury would arrive at a verdict, that they may discharge the jury at any time after the expiration of three hours from the time of their first having retired. If it is clear that there is no reasonable likelihood that the jury will come up with a verdict, the judge is now empowered to discharge the jury at any time after the three hours.

The three-hour threshold is simply meant to be a minimum time period for deliberation, as previously it was two hours. Sir, when there are only two hours to consider all the facts against a single accused, it is not an issue but it is an issue if there are four, five, six, seven or eight accused. You would appreciate that if there were six accused that you are talking about less than 20 minutes per person and once the overall evidence has been looked at, you then have to determine whether the State has proved the case against each and every one of those accused persons. In those circumstances we believe the two hours to be unduly short and we are recommending, through this amendment, that it be increased to a minimum of three hours and also to empower the jury to ask for more time if they want or the judge to order more time on his own volition, if it is clear that it is a futile exercise after three hours to allow the judge to discharge the jury and start again.

Mr. Speaker, we have brought this matter before this Honourable Chamber because we believe that it will improve the quality of our criminal judgement system. It has been the subject of discussion with the judges, judiciary, the judicial council, prosecutors and we believe across the board that our administration of criminal justice can only improve.

Mr. Speaker, this leads me to treat to a few issues with the wider criminal justice system. It is opportune for me to be able to update this Parliament and by extension the country on a number of initiatives that we have been working on. Honourable Members of this Parliament are aware that

this Government in 2002 established a National Commission on Law and Order chaired by the eminent Sir Roy Marshall with a distinguished group of Barbadians of all backgrounds, reflecting our desire that on all initiatives treating to justice, peace and security that we have the opportunity to have the best possible advice given the range of expertise available within that Commission.

It is no secret that the Commission went to the length and breadth of Barbados seeking to engage the public on their concerns and seeking to treat to this draft national plan on justice, peace and security, which I now make a document of the House, so that they might give the best possible feedback to the Government on a range of initiatives reflecting the seven platforms which the Government would like to see broad action on in order to improve the criminal justice system.

The seven platforms are crime and culture, recognising that you cannot seek to treat to the issue of crime without treating to the issue of the culture of the country and people, the question of strategic intervention with young people at risk; strengthening of law enforcement with the police, immigration and customs; the question of the modernisation of the criminal justice system in relation to the courts; the question of victims, how best we can approach the issue of victims and reducing the delay in the court system. Sir, the Magistrates' Court is a summary court because such courts are expected in a summary jurisdiction to hear matters within a short period of time. Therefore, any case taking longer than one year to be heard in the Magistrates' Court we want to bring back within that time frame, recognising that this has been a problem affecting this jurisdiction for over twenty years now.

There is also the question of effective penal reform and building on the Penal Reform Act of 1998 regarding how best we can continue to modernise our prison system, how best we can modernise our criminal justice juvenile system and whether there should be the introduction of parole in our system of probation. We must consider how best we can treat to the issue of punishment while at the same time treating to the issue of rehabilitation and reintegration, given that the average length of time that someone spends in prison is a considerably short period of their lives.

Mr. Speaker, we need the legislative framework to underpin all of this because all that we do in the pursuit of justice, there must be transparency and certainty and hence the guarantor for that is first the legislative framework which reflects the philosophy and which we feel should underpin the criminal justice system.

Finally, Mr. Speaker, while the State accepts responsibility for a lot of these things there is also

responsibility on the individual to reduce opportunity for crime. The responsibility that the individual must bear, must never be cast one side in the belief that the State or the police can do and be everything to all people.

Mr. Speaker, this plan which we have produced and which was circulated across Barbados was the subject of townhall meetings and walkabouts because the Commission took the view that not everybody may wish to come to a townhall meeting and they, therefore, went into a number of communities across Barbados to meet with a number of residents of the communities, in particular boys 'on the block'. They met with the Evangelical Association, the Chamber of Commerce, a number of sectoral groups and interests in this country and really, Mr. Speaker, from the report received by me, they have carried out the most comprehensive and detailed consultation that I have seen anyone carry out in Barbados.

The Chairman has requested of me an extension of time. He had hoped to be able to submit the report by the end of 2003 but because of the volume of work as well as the volume of written submissions, separate from their consultations, he has requested an extension. I anticipate that within a few weeks I shall have the report in my hand on the draft National Plan on Justice, Peace and Security.
10.30 a.m.

Mr. Speaker, there were a few things in the Juries Act that we needed to pull out that were non-controversial and be able to advance the process, and this has also been the subject of discussion between the Commission and myself. There is an acceptance on the part of Government that our last major reforms of the courts system came in the 1950s with the establishment of the magisterial jurisdictions and the Supreme Court of Judicature. The time has come where we have to seriously address the issue of reform, not just the criminal justice system but, indeed, the entire justice system recognising that Barbados has changed substantially in the last fifty years, in terms of the volume of economic activity, the type of social transactions and the nature of social behaviour. In order for us to maintain the quality of life that we would wish for as a nation, there had to be a concomitant reform of the justice system to ensure that at all times our transactions and relationships underpins with one another and with other entities outside of this region.

Mr. Speaker, in the beginning of the 1990s, we would have seen reform of some of the criminal system legislation, for example, the Offences Against the Person's Act and the Bail Act and Evidence Act. Over the years, in the last decade, there has been an incremental approach to the question of reform of the justice system and in particular the criminal justice system. We hope to be able to expedite what

has been an incremental approach. Sir, we are satisfied that a well functioning justice system is the *sine qua non* for a functioning democracy for the benefit of all its citizens.

Mr. Speaker, people in a country cannot expect to improve their quality of life, to be treated fairly and to uphold the values and tenets of social justice if we do not have an independent transparent and functioning system to guarantee what happens when those persons within the society who have alternative motives or the subject of behaviour that would otherwise be described as deviant and unacceptable. Sir, when they feel that they must breach the law, there must be a mechanism in place to bring them back on track. There must be transparency, fairness and democracy.

Mr. Speaker, while we await the report from the National Commission on Law and Order, there are certain amendments which we feel that are not contentious and we can bring to this Parliament, this Juries amendment is one of them. Sir, anyone practising in the criminal justice system would know that once you have more than one or two accused, the minimum time period of two hours would not be sufficient for due consideration of all of the facts that are before the court.

Mr. Speaker, I want to use this opportunity to update this Honourable House on some other things. The National Task Force on Crime Prevention has been a critical entity in the office of the Governor-General which we hope to upgrade to a planning and research unit on criminal justice, because a task force is associated with something of a specific time frame. It has been our judgement and experience that this Unit has offered us tremendous insight in the formulation of policy to treat to issues in a way that inured to our benefit.

Sir, this National Task Force on Crime Prevention would have been of a salacious debate a few years ago when a consultant was brought into the Ministry of Home Affairs, Mr. Nuttal, who, may I say on record of this Honourable House, performed outstandingly in relation to the advice rendered, not only to the state but to all of the other agencies.

We live in a time where the question of security and justice is uppermost in the minds of almost everyone across the globe. Sir, for some people, the main reason is terrorism. Mr. Speaker, for us here in the region, while we must continue to be sensitive to the threat of terrorism, our major concern in the region has been crime and security. A high-level task force on crime and security at a regional level was established by the Heads of Government approximately four years ago at the instance of the then Prime Minister of Trinidad and Tobago, Mr. Panday, which has been reporting

to the Heads of Government on a periodic basis based on research, consultation and work that have been done.

Indeed, the decision to establish a national commission on law and order emanated from a recommendation made by the Barbados Government, and that recommendation was then accepted by the Heads of Government. Hence, we feel that no society across the world can treat properly to the issue of crime and security unless it is treated to as a societal issue and not just as a criminal justice problem or issue.

Mr. Speaker, there has been a series of meetings and the Heads of Government have established a ministerial subcommittee of Attorneys-General and Ministers of National Security, chaired by Minister, Peter Phillips of Jamaica. I also sit on that subcommittee. We met recently because we are trying to settle the regional plan of action which will focus on the sharing of intelligence, port and security in the region, particularly with the heightened problems of terrorism and our vulnerability and day-to-day cooperation of the various law enforcement agencies. Currently, we have a better relationship with North Atlantic countries in relation to law enforcement agencies than we have among ourselves in the region.

It is impossible for us to be successful in the establishment of the Caribbean Single Market and Economy that would facilitate the movement of people and money, if we do not address the issue of the security implications for freeing up that movement. Sir, while there is a desire to free it up, there must also be an understanding of how best we can put systems in place to ensure that there is no negative impact on our security in the region.

Sir, as a result, this subcommittee is treating to these issues in serious ways and we hope that we will be able among ourselves, within CARICOM, and in consultation of other law enforcement agencies from the developed world, to be able to develop a framework that can protect the interest of the region in a way that we would wish it to be so protected.

We speak at a time when Trinidad and Tobago has called in the former Mayor of New York, Mr. Giuliani, and a team of advisors because that society is being gripped daily by the most abominable criminal offences, kidnapping, robberies and murders. The average person in Trinidad is gripped with a sense of fear. We speak at a time when Guyana was forced into a state of emergency last year for similar reasons. There are those who would want to suggest that we have seen a level of criminal activity in Guyana that would cause others to feel that they were on the brink of complete civil instability. We speak at a time when the

Government of Jamaica, at the end of 2003, reflects as an achievement that there were only 973 murders in that country.

Mr. Speaker, we speak at a time when those within the OECS countries know what it is to say to you that their societies have been so influenced by the subculture of crime, drugs and corruption . . . that it becomes difficult to govern effectively, because of the insidious impact of corruption, drugs and crime in small societies where economies are already facing difficulties. Therefore, the attraction of fast money is there to spur on additional involvement of people, not just young people but people throughout the society, in the drug trade and in the criminal justice framework.
10.40 a.m.

Mr. Speaker, I have always been very clear, even before coming into this office, that statistics do not measure a country's sense of fear, because one is an emotional reaction and the other is a quantitative judgment of a historical period. Sir, having said that, it would be wrong of me to feel that we should not reflect the fact, that in 2003 Guyana was forced to announce a state of emergency, or in 2003 Jamaica was happy that it only had 973 murders, equally, Sir, when in 2003 Trinidad was 'pulling out its hair' and going extra-regionally, in order to determine how best to treat the issue and spate of kidnappings, drive-by killings which mercifully, Mr. Speaker, are still largely unknown within our geographical landscape, in the numbers that it happens within Trinidad. We in Barbados have seen a 17½ per cent reduction in crime, down to the end of November 2003.

Mr. Speaker, it would be an act of the most significant ingratitude for me to stand in this Chamber and not thank all Barbadians, but particularly the law enforcement agencies, for ensuring that this country which we love, has not gone the same route as our sister countries within CARICOM.

Mr. Speaker, this is a serious issue because when we look at our statistics, not to say that there is no fear of crime in Barbados because any society will have a fear of crime, the fact that robberies are one-third today of what they were in 1991 and 1992, that speaks of the general population and their behaviour. It also says that the determination in this country, of the young and old, rich and poor is that this is not the way by which we would wish, as a whole to conduct our affairs and that there are laws and there must be a respect for our people and their property.

Mr. Speaker, do not get me wrong. This is not to suggest that we do not have problems which we must confront. Once we have a society whose values are changing, and where more information is generated from outside than

from within the society, then we have variables that we cannot control. All we are saying is that we must at some point also, stop and take note and thank the Barbadian population.

Clearly, in the same way that we have been able to reach a social compact on other issues by our behaviour, actions and our words, we have a situation which could see, even with robberies and burglaries below what they were in 1992, a 17½ per cent reduction in crime over the year before.

Mr. Speaker, in addition to the Barbadian community, I said the law enforcement agencies. In 2002, the Commissioner of Police and senior members of the police force met with me. They indicated that they were about to follow suit in relation to a project which the National Task Force on Crime Prevention had implemented called the Gazettes Anti-burglary Project, and that burglary, even though it was down, was in their view still a problem, though, we wanted to develop a framework for dealing with burglary.

Mr. Speaker, in this last year, burglaries to dwelling houses in Barbados, in the first period ending December 2003, dropped by some 26.5 per cent. The combined programme of the Task Force on Crime Prevention, the combined programme of the Royal Barbados Police Force, and the behaviour of the Barbadian community saw us achieved a drop in burglaries from 2 031 burglaries in 2002 to 1 492 burglaries in 2003.

In the case, Mr. Speaker, of commercial burglaries, the percentage drop was even higher, it was almost 40 per cent. Mr. Speaker, at the same time I told you there was a 17½ per cent reduction in the commission of crime in Barbados last year, there was also an increase in the clear-up rate of the Royal Barbados Police Force from 34 per cent to 43½ per cent. I believe that those indices by anyone's judgement require this House to be unanimous in its gratitude to the members of the Royal Barbados Police Force and to say to them that while we do not say that all has been done, we take note of the continued excellent work and effort, which has been put in, and that we have a long way to go, but we wish them to know that we are grateful for the work which is being done.

Mr. Speaker, there was a 7 per cent reduction in robbery. This year we have determined that we want to see a greater reduction in robberies, similar to what we have seen with burglaries. The dedicated project in Gazettes, Long Gap, White Hall and Bush Hall has seen a reduction in those areas which is higher than the 26½ per cent that I quoted earlier, suggesting that the additional measures which we put in place in those locales worked so well, that they bear replication across other districts which have higher than a national average incidence of burglaries.

Mr. Speaker, as I said, we will add a dedicated programme to treat the issue of robbery.

This Government has already announced, as well, that we would incorporate in addition to human intelligence, close circuit television cameras in St. Lawrence Gap and Bridgetown. I would have brought statistics to this House showing that the majority of robberies in Barbados in fact took place between Bridgetown and Highway 7, from Bay Street to Oistins.

We believe, Mr. Speaker, that with a better deployment of law enforcement officials, with the assistance of technology and with stronger detection from capabilities through forensic means, as well as human intelligence, talking to people, that we can see a further reduction in the incidence of robberies in this country. We have equally felt that there is a need for us to recommend the continuation of programmes in the society that can lead to a diminution of conflict. What I mean by that is that people who get into arguments do so in circumstances where their inability to reason a problem may lead to serious bodily harm or in some instances death. I am happy that in the last year there was a 18.2 per cent reduction in serious bodily harm cases in Barbados.
10.50 a.m.

Having said that, Mr. Speaker, I do believe, as I did when I was Minister of Education, that we can improve considerably how we as Barbadians resolve conflict among ourselves. When I was practising law, there were many cases of neighbours who were quarrelling over a line, about whose water runs unto whose line and whose breadfruit tree is hanging over whose line.

Mr. Speaker, it is not the nature of the conflict that is the problem, it is how we resolve the conflict that becomes the problem. To that extent, When I was Minister of Education, I argue then and still argue now, that mastery of the English language, the ability of a person to deal with their own sense of self-esteem, and the ability to reason things and to articulate them properly are key to our capacity to reduce conflict that leads to criminal activity in this country. I remain a fervent believer of that.

Mr. Speaker, the first two chapters in the National Plan on Justice, Peace and Security speak to culture and to strategic intervention, at an early age, of young people at risk. I do not believe that the only way to treat to a reduction in crime is by a vigorous enforcement policy. Vigorous enforcement must always be combined with an understanding of the underlying causes of the problem and an ability to treat to these causes.

Mr. Speaker, the Task Force on Crime Prevention has recently concluded a study of court delays for criminal cases in Barbados. Mr. Speaker, I am prepared to make this a document of the House because it is interesting that this report speaks to the fact that for the most part between 40 and 50 per cent of the criminal cases in Barbados are dealt with in the Magistrates' Courts in less than a month. That is what a court of summary jurisdiction ought to be.

The study found that the cases were generally simple cases that could have been disposed of and cases in which the accused person pleaded guilty. The more serious cases would tend to take longer, in some instances six months. Our concern arises that because of the length of time, some of them were discontinued or non-pros for lack of appearance of witnesses or for the Prosecution failing to move forward expeditiously *et cetera*.

Mr. Speaker, we also show in this study that there is room for improvement. It is the intention of the Government, through its agencies charged with the responsibility of prosecution and administration of justice, to work with attorneys-at-law and others related to the court system who come as allied entities, probation officers and doctors, to treat to serious cases because when a person commits a serious crime there must be the certainty that the case against them would be heard in quick order. That in itself acts as its own deterrent.

In relation to murder cases, since the Pratt and Morgan ruling, we have done a good job as a country for ensuring generally that no more than 24 to 27 months, on average, would elapse from the point of the commission of the crime and charge to the point of the disposal of the matter by the Court of Appeal.

Mr. Speaker, I will shortly address and update the Chamber on matters relating to the Judicial Committee of the Privy Council. Suffice it to say at this time that what we have been able to achieve in murder cases must also be achieved with all other serious crimes, be it rape, robbery, burglary, aggravated robbery or arson, so that anyone who commits a serious crime in Barbados will know that they would have a determination of innocence or guilt within two years. Barbados is small enough for us to be able to achieve it.

Equally, Mr. Speaker, those cases that are genuine summarily should be dealt with in under six months. This Government has committed, we are in the process of implementing it now and coordinating access to accommodation, that it will bring about an increase in the number of magisterial posts by two, hopefully from the April Sitting in the new financial year and that there should also be two additional High Court judges and one additional Court of Appeal judge.

Mr. Speaker, it has taken us some time to settle the issue of accommodation because as you are aware, we are building a new Hall of Justice because the arrangements now are woefully inadequate and need to be treated to with a sense of urgency. However, there is no room for expansion on the present site even if temporarily. There were at least two landlords whom we have approached in the last few months who were not prepared to rent their accommodation in Bridgetown to courts for the staging of lower courts because they did not want the kind of traffic they believe to be associated with lower courts in and out of the building.

Mr. Speaker, we have a tentative agreement which is now subject to the Ministry of Housing processing it through the Cabinet. Once it is approved by Cabinet, there are some minor works that would have to be done that would facilitate our being able to have those additional High Courts functioning by the beginning of April. All of these things are in train. The most difficult part of it, the decision to increase the size of the magistracy and the size of the judiciary, has already been taken and we are now trying to pull all of the strands together to ensure that they become fully operational by the beginning of April.

I must confess, Mr. Speaker, that I would be less than truthful with this Chamber if I said that I did not feel that there ought to be a lengthening of the hours of the judiciary at the high courts in terms of Sittings on afternoons in Barbados. Barbados is the only jurisdiction in the region where it does not happen, and it used to happen. I understand the difficult conditions and I have put a proposal before the Chief Justice to see how we could better seek to expand the working hours because, whether one is a lawyer, a practitioner, a judge, a public servant or a private sector person, all of us have work to do when we go home on evenings. That is the nature of work today. It takes up a larger part of our lives, but we are not capable of affording ourselves for much longer the luxury of not having High Courts meet beyond lunch time unless there is an emergency. That must be the order of the day both at the magistrate court level and at the High Court level.

I am working with the Chief Justice to see how best we can treat to this issue recognising that the accommodation issues are not the most commodious, but the Government is working to treat to that. The White Park site has been cleared. We anticipate as it is a public/private sector partnership that the major contracts with the private sector entity would be completed within the next six weeks or so. They are awaiting the working drawings which have not been fully completed largely because when you have designs, you need to have a clear vision of what should happen in a project that says that you need the most carefully detailed working drawings to ensure that you can better control your cost and the execution of the project. The project is at that stage now.
11.00 a.m.

Equally, we have before us the recognition that attorneys-at-law who continually ask for adjournments, have to understand that it has a negative impact on the court system, and that while judges might want to accommodate them in some instances, those attorneys-at-law cannot and must not always ask for such adjournments. Sir, what happens is that there then becomes a series of persistent delays in the court system, and any lawyer who is worth his or her salt and has had a good practice, must eventually learn how to juggle his or her court load. If this is not done then the court would be held up because of the fact that every accused person would want such attorneys-at-law to represent them and, therefore, no cases would have been done, which would have led to a whole load of cases being constantly adjourned.

Mr. Speaker, the study also reflected the fact that there is a need to improve the summoning of witnesses, and we accept that. Sir, the days of police officers or court marshals going to warn people for court appearances at 8.00 a.m. or 9.00 a.m. that same day must stop because people must be able to plan their business better. Persons must now be given between 48 and 72 hours notice of their need to appear in court, because of the fact that they face a serious penalty and would be liable to contempt of court, if they do not appear.

We, therefore, believe that system of warning and summoning witnesses must improve. We believe also that the prosecution must do its best to start the case in good time, and that there must not be adjournment after adjournment.

Mr. Speaker, like in all things, we could also seek to improve the methodology for pre-trial disclosure. Indeed, when I was practising at the Bar, paper committals came in during that period of time, and it does not always work in the best way. Therefore, working with the Judiciary, the Barbados Bar Association and members of the Prosecution, there needs to be a review of paper committals to see how best it could be improved.

There are cases too, where the accused does not come to court, particularly where there are multiple accused persons where, in the absence of one, it constrains the court's ability to move forward but those instances are becoming less and less, particularly in serious crimes, because judges tend to remand many of those accused persons who do not appear.

Mr. Speaker, we would have also brought amendments to this Honourable Chamber to allow the magistrates to remand accused persons for a period of 28 days, once it was not the accused person's first appearance in court, so that the commencement of the case could be planned with a greater degree of certainty.

Mr. Speaker, recently we have also tried to introduce plea and direction hearings so that we could better plan out the work of the assizes.

Mr. Speaker, these initiatives speak to a desire for the improvement of the criminal justice system in Barbados. I say to you, that we remain committed as a Government by ensuring that those persons who must face the law, must do so in fair and independent tribunals, must do so in quick time but that if they are to be found guilty, they must also be treated to, in quick time as well because the victims must expect that there be certainty in the system by treating to persons who have harmed them or have taken from them.

Mr. Speaker, we will continue to use a combination of methodologies to first understand the problems that the system faces, and to seek to work on towards a consensual framework for how we should improve the system.

Mr. Speaker, I believe I have said sufficient here to show you Government's commitment in working in that light. Sir, the fact that I believe we should work for longer hours does not mean that there is a problem between the Executive and the Judiciary. It simply means that we are working with the Chief Justice, to see how best we could lengthen the hours of both the Magistrates' Court and the High Court, while recognising that at the moment, we are not working at full capacity.

Mr. Speaker, we do understand that there are difficulties that the Government is working to treat to by way of the provision of appropriate accommodation in this regard. Sir, we feel there needs to be a fuller utilisation of the sentencing options that are now available to the court under the Penal Reform Act. The Sentencing Study which has been done by the National Task Force on Crime Prevention has shown that there has not yet been the full utilisation of sentencing options by the court, in relation to accused persons.

Sir, there is a view that it makes no sense in sending a person to prison for less than two years, and where this person has not been a habitual offender, that the person should be the subject of a suspended sentence or some other appropriate type of sentence. These are the types of things that we need to be able to discuss and to reflect upon. Indeed, I have noticed there has been a determination on the part of the court to say through sentencing guidelines and directions, that those offences which the court feels should be the subject of serious sentences, for example, the possession of firearms, for which we have also seen a reduction.

Mr. Speaker, in relation to matters such as these, only last week the Court of Appeal has increased the sentence of

a person who had been found guilty of manslaughter and who was sentenced to four years only for the death of a taxi driver. The Court of Appeal has reflected that, in its own view, the sentence that should have been given was 13 years and it, therefore, has replaced the four-year sentence with a thirteen-year one.

Mr. Speaker, therefore, this is not a case of using the Penal Reform System to make it easier for convicted persons. On the one hand, there would be persons being treated more harshly but equally there is going to be more options for treating persons in such a way that facilitates the appropriate rehabilitation into the society, while ensuring that those persons face the just punishment for the crimes that have been committed.

Sir, if we could approach these matters case by case, while bearing in mind the nature and the fact of the crime, then I believe that we would go a long way, as we have been doing, towards keeping our problems within a certain level framework.

Mr. Speaker, since we are treating to an amendment to the Juries Act dealing with criminal justice matters, I had indicated that this would have been an appropriate time for me to update the Honourable House without getting into the substance of the matter of the appeals before the Judicial Committee of the Privy Council because they are still *sub judice*.

Mr. Speaker, Honourable Members may be aware that there was an appeal against the death sentence in the Criminal Appeal cases Nos. 7 and 8 of 2001, *Lennox Boyce and Jeffrey Joseph v Queen*. While it is a criminal appeal, it has unique characteristics in that the criminal appeal against the sentence sought to address the issue of the death sentence as being mandatory in Barbados.

Mr. Speaker, the history of this is that over the course of the last two years, there were three judgments that came down from the Judicial Committee of the Privy Council, after the number of cases that would have flown after the *Pratt & Morgan v Queen*, 1994, that said that while the death penalty is not unconstitutional to apply in the various States within the Caribbean, the mandatory application of the death penalty in the case of St. Lucia, *Spence v Queen*, in the case of Belize, *Reys v Queen*, and in the case of St. Kitts, *Burton Fox v Queen*, the mandatory application of the death penalty is unconstitutional.

What the Judicial Committee of the Privy Council was saying was simply that, first of all, to apply a death penalty in the way that we do it, where the judge is not given any discretion as to what sentence to impose when a person is convicted of murder, is a cruel and unusual punishment. This

was held in the Belizean case of *Reys v Queen*, and it is an amazing thing that the Belizean Government did not seek to defend that case.

Sir, in both cases where the Judicial Committee of the Privy Council and the Inter-American Court held that a mandatory death penalty was unconstitutional because it was a cruel and unusual punishment, neither the Trinidad and Tobago Government, in the Inter-American Court, nor the Belizean Government, in the Judicial Committee of the Privy Council, had defended the cases.
11.10 a.m.

The assertion that because a judge does not have a discretion to sentence when a man is found guilty of murder became cruel and unusual punishment without anyone on the other side opposing it.

Sir, having determined that it was cruel and unusual punishment, the Bill of Rights in Caribbean Constitutions for the most part, upon the settlement of the Constitutions, were accompanied by savings clauses so that something could be in breach of the Bill of Rights. A provision could be in breach of the Fundamental Rights Chapter but if it were a pre-existing law or in the case of St. Lucia, if it were a form of punishment existing at the time of Independence, it could continue even if it was a cruel and unusual punishment.

The Privy Council in the St. Lucian case said that the St. Lucian's savings clause only saves those punishments that were authorised at the time of independence but not those punishments that were required. Sir, because of the difference between the words "authorised" and "required", a practice that existed for over a century in St. Lucia was found to be unconstitutional.

Mr. Speaker, it is true that the OECS Court of Appeal was the first to make that judgement and the Privy Council simply confirmed it. In the Belizean case, there was no longer an issue of savings clauses because Belize at the passage of their Constitution determined that all pre-existing laws would only be saved for a period of five years and thereafter anything in contravention with the Bill of Rights would be held to be contravention with the Bill of Rights and could not be saved.

The next case to come before the court was a Trinidadian case. It was a case in which the Judicial Committee rendered a judgment in November, three weeks before our case was scheduled to be heard. In the Trinidadian case, three judges out of five held that a mandatory death penalty was in breach of their Constitution because you had first to see whether you could adapt anything that was in breach of the Bill of Rights first and only if it could not be

adapted then you would see if it had to be saved. Sir, that logic is unknown to us because we came along reading our Constitution with what it says that if there is a law that existed at the time of Independence that is in breach of the fundamental Rights provisions, the law is saved whether it is written law or Common Law. For those who may not be aware, I have done research and discovered that at the time of Independence, the Democratic Labour Party wanted subsidiary legislation also to be saved and the Barbados Labour Party at the time was arguing for the fact that there should not be an open-ended savings clause, that the savings clause, like Belize, should be time-bound to five years, ten years or whatever. In the end that was the *quid pro quo* between the Barbados Labour Party and Barbados National Party on one side and the Democratic Labour Party on the other side.

The Government of the day, the Democratic Labour Party, dropped the requirement for subsidiary legislation to fall within Section 26 of the Constitution to be saved and the Barbados Labour Party and the Barbados National Party dropped the claim for the savings clauses to be time-bound.

Sir, the fundamental point is that our Constitution is very clear that if a law existed at the time of Independence and still exists or if it has been re-enacted without changing the substance of what existed before, it is not in breach of the Constitution. Sir, in the Trinidadian case a minority judgement was given and that is why the law of Trinidad and Tobago has changed.

Mr. Speaker, I have taken the time to go into this because while what is before the Judicial Committee in our instance is a criminal appeal because it involves an interpretation of our Constitution which has implications wider than the mandatory death penalty being constitutional or unconstitutional and because I have a responsibility to defend the Constitution because I also have a responsibility within the Constitution insofar as Barbados' international obligations are concerned, it was determined that I should apply to be an intervenor in a matter that would normally be handled as a criminal appeal. The rules of the Privy Council so allow, and I applied to intervene to treat to the international obligations and to the issue of public policy and in the defence of the Barbados Constitution. If in any way they rule that the sentence for murder as provided by the Offences Against the Person Act is cruel and unusual and as a result is not saved in our Constitution by Section 26, then this has implications not just for the mandatory death penalty alone but for the emergency power legislation, sections of the Police Act, Customs Act, Prisons Act and Government Industrial Schools Act.

Mr. Speaker, this is without the benefit of the most comprehensive analysis of all thirteen volumes of our laws because we have limited resources. We have only been

preparing for this case for the last three months and it would be reckless for any Government, as the Right Excellent Errol Barrow said on Independence, to just simply legislate away the savings clause without knowing what legislation would fall because you need to know the consequences of your actions.

Therefore, for an arm of the Judiciary to be confronted with the possibility of legislating away the savings clause overnight would be, in my view, an act that would catapult us into a period of serious constitutional chaos and it would be difficult for us to recover from it.

Mr. Speaker, there is also the more fundamental point. It is a point which I know most members in here are in agreement that if it is the judgement of the Barbadian people that they would no longer wish the sentence of murder to be the mandatory death penalty as it has been through the period of modern settlement, since 1627, not 1966, once a person has been convicted of murder, then it is for the people of Barbados and the Parliament of Barbados to change those matters of fundamental social policy.

11.20 a.m.

Mr. Speaker, this is a principal which the Law Lords, sitting in the House of Lords, have accepted when they have to deal with issues like the capacity to create mental intent in a criminal case. They say that this is not a matter that the House of Lords should interfere with but a matter that should be reserved for the Parliament of the country because the fundamental social concerns are too great. Sir, in the case of *The Queen vs. Kleg* to determine whether mandatory life imprisonment ought to be changed by the courts, they said that this is not a matter for the courts to deal with because it is a matter of fundamental social policy for the Parliament of the country.

Mr. Speaker, this is the assertion of this Government which the courts should be treating to. This is the legitimate law of the land of Barbados and if it is to be changed, for whatever reasons, then it must be the Parliament of this country that should seek to change it and not the judiciary.

Sir, I reminded them in London that the Judiciary Committee of the Privy Council is simply the final domestic court of Barbados at this stage. It sits at the same level as this Parliament sits, at the apex of one of the arms of Government in this country. It is no less nor no more than those who sit in this Chamber as the Head of the Legislature. It is no less nor no more than the Cabinet of Barbados which sits at the apex of the Executive.

Mr. Speaker, while there must be the separation of powers and while our Constitution speaks to the separation of powers, there must not be the separation of powers to the point where each arm of Government goes on its own

without reference to the overall quality of governance of the country. Sir, as I would have said on that occasion in London last month, there must be the separation of powers only in the context where there is a symbiotic relationship that is recognised among the three arms of government.

I also reminded them that in the office of the Attorney General, in a way, I am forced to interact with the three arms of Government on a daily basis. As the Leader of the House and a Member of Parliament, I am a Member of the Legislature. As a Member of Cabinet, I am a Member of The Executive and as Attorney General I am Leader of the Bar. Therefore, for there to be a separation of powers such that it denies the need for a unity of purpose, would be a nonsense in the governance of this country unknown to those who have been charged with the responsibility of maintaining stability of governance in developing and developed countries.

Sir, today that Section 49 of our Constitution charges each one of us for passing laws that preserve the rule of law, peace and the good governance of Barbados. Therefore, there must be an understanding that the Judiciary, the Executive nor the Legislature should not seek to behave in a way that imperils the good governance of this country. Mr. Speaker, for the savings clause to be abolished overnight without an understanding of what laws that would be effected, the 13 volumes of the laws of Barbados, would be an act of recklessness that would cause a government, in my view, to be not worthy of the confidence being placed in it to run the affairs of this country.

I make no comments about the judiciary or the matter relating to the substance of the appeal. I simply say that at the end of the two days of arguing a case in London, the court put us on alert that we may be required to reargue the case. On December 19, 2003, we received correspondence from The Clerk of The Judiciary Privy Council and our Solicitors in England indicating that the court has set the case down for March 22-26, 2004. They have also asked for a case from Jamaica and one from Trinidad and Tobago, and two other petitions, to be heard at the same time of the Barbados' case. This hearing is going to be heard before an expanded Board of Law Lords. Sir, we argued before five Law Lords. It is known in the past that when there are serious cases of legal difficulty or historic cases that sometimes, seven or nine but very rarely eleven Law Lords would sit. For example, the Pinochet case was one in which there was an expanded Board of Law Lords sitting.

Mr. Speaker, all of this is taking place where, at the same time I have to go to Jamaica to meet with the Preparatory Committee of the Caribbean Court of Justice, and the Regional Jurisdiction Legal Service Commission meets this week. There will be the issue of the appointment

of a President of the Caribbean Court of Justice. We hope that by next week we would be able to set the inauguration date for the Caribbean Court of Justice. Sir, Parliament of Barbados has already passed the Caribbean Court of Justice Act and it is awaiting proclamation upon the court's inauguration.

There will be an amendment to that Act that we would bring to this Parliament because since the passage of that Act in April 2003, the Heads of Government signed a Protocol amendment which reflects a few new obligations which we have to put into our domestic legislation, and that will come shortly before this Chamber.

Suffice to say that we are satisfied that there must be a final Caribbean court. The existence of a final Caribbean court first has to do with the settlement of our independence, not the *Pratt & Morgan* case in 1994 or the Caribbean Single Market and Economy because this was in 1989. The Heads of Government took a decision in 1986/1987, in Antigua, to settle its agreement for the establishment of a Caribbean Court of Justice, this was done before the Grand Anse Declaration in 1989 and the determination of a Caribbean Single Market and Economy.

Sir, seven years early the Judicial Committee issued its first decision in relation to the line of cases that led to the public's perception that the Privy Council is trying to restrict the capacity of Caribbean Governments to apply hanging as the legitimate punishment for murder. Therefore, those who argue that we are establishing a Caribbean court only because we want a hanging court understand neither the history nor the facts of the matter and in circumstances fail to remember that it was the OECS Court of Appeal that first ruled against a mandatory death penalty in the OECS and not the Judicial Committee of the Privy Council, so it holds no water.

I used the opportunity only to update this Honourable Chamber that the time is drawing near when we will set the date for the inauguration of the Caribbean Court of Justice. The Regional Judicial Commission for that court is meeting this week to advance the process of a recommendation for a President of the court which will then have to be agreed upon by all Heads of Government.

Mr. Speaker, I have taken a long time to treat to issues wider than the Juries Act, Amendment, because it is not always that one gets the chance to brief this Honourable Chamber on matters pertaining to different elements of one's portfolio. I believe that the matter pertaining to the Judicial Committee of the Privy Council is one, even though I held a Press Conference, that merits my updating this Honourable Chamber as the . . . Sir, I believe that the matter pertaining to

the Judicial Committee of the Privy Council is one, even though I held a press conference that merits my updating this Honourable Chamber, as the highest court of the land.
11.30 a.m.

Indeed, Mr. Speaker, I must say that it was one of the better Press Conferences because the journalists and I engaged for almost two hours, but because it was the 20th of December, I did not see certain senior journalists there. I saw others who were drawing the night shift, so to speak, but they were completely engaged on the legal issues and I have promised to continue to treat to them on it because, more than a Press Conference, it was a Press briefing.

Asides.

Hon. Miss M. A. MOTTLEY: I believe that at 11 o'clock in the morning, the senior journalists could only have been Christmas shopping.

Mr. Speaker, this is an issue which we must ensure in Barbados, Jamaica, Trinidad and the wider Caribbean that all of our citizens are seized of the issues, because it will be a fundamental import to the governance of our countries, both in terms of the precept of Parliament sovereignty but also in defence of the Constitution of our countries.

Sir, whether you oppose or support the death penalty, the issue is wider than the death penalty. The issue is about our very Constitution and our capacity to have the Constitution remain the supreme law of Barbados. If the court were to rule against us, they would in effect be saying that a United Kingdom ordering council has greater prominence in Barbados' legal system than the Constitution of Barbados.

Mr. Speaker, you know that our predecessors in this Chamber did not pass a Constitution that suggested to anyone that the United Kingdom Ordering Council should have greater prominence than a Constitution of Barbados. These are the matters of fundamental importance which I say are necessary for us, on All Sides to continue to repeat, so that the public understands what we are facing as a nation.

Mr. Speaker, the amendments, as I said, are one small matter at the stage that we bring before this Chamber to seek to improve the Criminal Justice System in relation to the conduct of jury trials. Sir, having said that, I look forward eagerly to the receipt of the report from the National Commission on Law and Order, and indicate that we would continue but, hopefully, at a far greater pace on the receipt of that report to bring about that reform of our criminal justice system, as well as our general court system, in circumstances where the last major reforms took place some 50 years ago in this country.

Mr. Speaker, this is a matter to which this Government is committed. As I said, our secret in my view, to the quality of life that we enjoy today has not just been access to education or wanting to own land and respect for each other, but it has also been a reasonably well-functioned judicial system, which has ensured that where there are breaches of rights or examples of people disrespecting or offending people's rights, person or property, that we have a mechanism which can treat to it, without the country falling into the kind of chaos and anarchy that have befallen other societies in other parts of the world.

Mr. Speaker, I look forward therefore to a vigorous debate on this matter because I really truly believe that Barbados has a vested interest in preserving its quality of democracy by ensuring that our judicial system and our criminal justice system keep apace with the other social, economic, cultural and political changes that have taken place in this country over the last 50 years.

Mr. Speaker, I thank you.

Mr. M. A. LASHLEY: Mr. Speaker, I rise to make a contribution to this debate. I have a particular interest in this matter because, as a practitioner, I have a hands-on experience of the goings on in the criminal justice system in this country.

Mr. Speaker, first of all I say that we must accept that the jury system allows the ordinary members of society to participate in the administration of justice. This is why we must admit that the jury system, or trial by jury is a fundamental part of the criminal justice system. It is a well-known fact that juries decide on facts and that the person who is in charge of the court will direct them on the law.

Mr. Speaker, the amendment, I must submit, is timely because, as the learned and Honourable Member for St. Michael North East and Attorney-General said in this Chamber, it is beneficial in cases where there are more than one accused. In fact, I can recall doing cases where there were 11 accused persons and that case took more than four weeks to be completed. Sir, we also had *voir dire* because we challenged the statements that were given by these accused persons. We wondered whether the jury had enough time to sit and actually go through all the evidence pertaining to the 11 accused persons.

Mr. Speaker, you will always question whether or not they had sufficient time to go through the prosecution witnesses or the defence witnesses. We must submit that it enhances the fairness of trials, because we know full well that the fairness and the conduct of a trial are guaranteed by the Constitution.

Mr. Speaker, the question is whether this is sufficient to further enhance the fairness of the retrials in this country. There were many cases in this country which received massive pretrial publicity. One is the case of Paula Bridges. In fact, we must also submit that there were some reports in the newspaper and when persons were being interviewed on television, they gave evidence sometimes, and we have potential jurors in the society that would be listening or watching television.

Mr. Speaker, we must ask ourselves, whether the person who is subsequently charged would have a fair trial. Some time ago, jurors were sequestered. I recall that one person said to me that they were placed in the YMCA and if the trial was in three or four weeks, they would be placed somewhere. Therefore, this matter which has so much pretrial publicity, they would have time for their minds would be purged, so that they would not have some inherent bias in reaching a verdict in the particular matter at hand.

We must submit, Mr. Speaker, that this is a small jurisdiction. Although it might add some additional cost, we cannot only look at cost when we are seeking to ensure that justice is not only done but seen to be done.

Mr. Speaker, I would respectfully submit that we look seriously at the issue of the sequestering of Jurors.
11.40 a.m.

I want to submit, as a practising defence attorney, Mr. Speaker, that attorneys acting on the instruction of their clients would sometimes ask for an all male jury, a mixed jury or an all female jury, so defence attorneys make certain objections without any background information or any data whatsoever on a particular juror.

In some jurisdictions, Mr. Speaker, attorneys have a right to cross-examine jurors and they have a right to even question the whole panel of jurors so that they can ascertain their views on a particular subject. For instance, if it is a case of murder, defence attorneys should be able to cross-examine jurors, but that is not in the law here.

In the Dole/Chadee case in Trinidad and Tobago there was extensive cross-examination of the jurors because they needed to protect, ensure and enhance the administration of justice in the country. In Barbados when a murder trial is being done, the jurors are selected and defence attorneys make their challenges, but they do not have the right under any statute to question a particular juror on his or her view on an issue like capital punishment so that they can further enhance the fairness of the trial.

Mr. Speaker, I am not casting any aspersion on the person or persons who select the jurors, but I am saying that attorneys-at-law should have a representative or a say in the

selection of the jurors who are to sit at the assizes because I came across persons who sat in the January Assizes and when I went back to the court in the April Assizes, I would see some of the same persons from the January Assizes sitting in the April Assizes. Therefore, I have a particular problem in seeing particular faces coming back all of the time. So far this year I have gone around to the courts and have had a look at the panel and I have not seen any familiar faces, but I am saying that we should not allow that situation to happen again.

Asides.

Mr. M. A. LASHLEY: The Attorney-General is saying that has not happened for quite a while and we are hoping that it would continue to be so.

Mr. Speaker, the jurors are called on the morning of the assizes and are then instructed and informed of their roles. It is like on-the-job training. What I want to submit is that two or three weeks before the start of assizes we can have that panel and do a thorough job – I am not saying that we do not have a thorough introduction on the morning of the assizes – of informing and instructing them as to their role so that they would not have to come on the morning of the start of assizes then to have now to learn their job. That is why some defence attorneys sometimes would not start the assizes with the first case but would wait until some time after, as one attorney said, to see how the ball is bowling or how the wicket is playing. That situation is an area that we would want to see some improvement.

Some time in Britain there was some debate as to whether we should limit the role of juries particularly in complex cases of fraud because of the complex evidence and whether at some point in time the jurors would be able to sift through all of the evidence or whether they should be assisted by persons with expertise so that they can properly deliberate on the matter.

In some jurisdictions, out of a sense of justice, jurors are sometimes asked to give reasons for their decisions. I would like the day to come in Barbados where out of a sense of justice, jurors can be requested to give reasons for their decision.

Sir, we speak about the system of jury selection and about the fact that it involves lay persons to participate in the criminal justice system. The amendment to the Juries Act is timely but we should go further and give attorneys the right to ask the jurors questions about their beliefs and concerns. There is one particular case that is *sub judice* which respectfully confirms to me that we need sound reforms or further reforms in trials by jury in this country.

The Honourable Member for St. George South, who is a Queen's Counsel, would obviously agree with that because having 11 accused persons, three accused persons or five persons in one case and about 50 to 60 witnesses, it would be asking too much of a jury to sift through all that evidence in two hours and present a verdict.
11.50 a.m.

Mr. Speaker, while I submit that the jury system is an important component in the criminal justice system, I want to digress by submitting that the other components of the justice system must be improved so that the trial by jury could be further enhanced.

We know that in some criminal trials, all there is before the trial is a written statement from the accused, and therefore the jury would have to assess the evidence to see whether or not that statement was voluntarily given, or was forced.

Mr. Speaker, there is an Evidence Act in this country, there is a particular section which was suspended which speaks about audio-taping and video-taping of statements of accused persons. Mr. Speaker, that is an area of concern because we must look at justice in its totality.

Mr. Speaker, if the Government of the day is serious about promoting and enhancing fairness and justice, and ensuring that justice is not only done but is seen to be done, then that is an area on which the Government must work as soon as possible because it is extremely dangerous in relation to statements.

Mr. Speaker, I am not casting any aspersions on the Royal Barbados Police Force but what I am submitting is that while there has been much talk about advancing that section, that section has been suspended.

There was also talk about training officers in this particular area. Yes, I know there has been some training of officers in this area but I would ask the Honourable Attorney-General what is the status of the audio-taping and video-taping of confessions by persons when in police custody.

Mr. Speaker, as I said, the components of the system must be looked at as a whole. Sir, there are some questions over that long-awaited Police Complaints Authority. The Honourable Attorney-General went far and wide on other matters in her portfolio but this is a matter that is of some concern and falls within the portfolio of the Honourable Attorney-General.

Mr. Speaker, I want to know the status of the Police Complaints Authority. Was there a meeting? Is it functioning? Sir, I am not speaking on the behalf of any accused persons, I am speaking to promote the concept of natural justice because a man must not be a judge in his own cause, and there must be a fair share of justice for all.

Mr. Speaker, the Royal Barbados Police Force and the ordinary citizens of Barbados would like to have answers to these questions. They want to know the status of the Police Complaints Authority.

Mr. Speaker, the question was asked in this Honourable House, and the answer was that they were looking for some physical space for this body to function. Sir, there are approximately ten competent persons in this authority, and we have to look for comfortable parking facilities and proper housing accommodation for them. There are landlords who are willing to give Government space. Is that the true reason for the lack thereof in relation to the functioning of the Police Complaints Authority?

Mr. Speaker, there are a number of matters which are of further concern to me. There are lots of debates in this country about the backlog of cases, about cases taking too long, and about attorneys-at-law dragging their feet. Sir, some time ago I had indicated to the President of the Bar that where we have continuous assizes... In Barbados, we have assizes in January, April, July and October.

It is my submission that with continuous assizes, we can rid ourselves of the backlog. Some time ago, in one particular assize, there were three courts in operation. This was stopped and I had asked the question why were the three courts not functioning when there was such a large number of cases that were set down in that Assize. In fact, members could see in newspapers that sometimes cases go as far back as 1992, 1995 and 1996. Therefore, I am submitting that the reason in the other jurisdiction for the continuous assizes, is to make sure that there is some smooth administration of justice.

Mr. Speaker, I am submitting that we could look at having continuous assizes and certainly we could still have the summer break for judges and attorneys, so that we would not have all-year-round work.

Sir, the other improvements, I would submit, is that trial judges in the high court should have a staff with research assistants, who are legally trained, so that the assistants would be able to assist them with research and with the preparation of judgments.

12.00 noon

Sometimes we send letters for pre-trial disclosures and it takes eight months or a year to get back pre-trial documents. Mr. Speaker, trial lawyers sometimes have to ask, plea and beg for the pre-trial documents to be produced. I submit that if Attorneys, the Commissioner of Police and magistrates work together in relation to disclosure we can have the backlog of cases removed.

Mr. Speaker, in my personal experiences, I recall a trial where I requested pre-trial documents and it took one year for this matter to get off the ground even though the person was on remand. I am suggesting that there be some sort of cooperation and communication between the three entities so that the issue of pre-trial disclosures can be sorted out.

Mr. Speaker, there is also the issue of victim compensation in this country. At some time persons will be assaulted or be the subject of grievous bodily harm from some individual and when it comes to the time of compensation, the accused might be a man of straw. The victim might sustain injury and be no longer able to work. We must ask ourselves whether this is the time that Government should intervene. I am not saying that we should open the floodgates so that all victims can rush forward and collect whatever they want from the Government but something must be in place to support the victim, to look at the standard of life the victim may have after the unfortunate and untimely incident.

Mr. Speaker, it is my submission that all the backlog of criminal cases should be looked at and that the magisterial component of the criminal justice system must also be looked at. I am on the side of magistrates because they work hard. Sir, the accused man is charged with an indictable offence and the first person to try that case is the magistrate. The volume of cases at the High Court also depends on the magistrates because they conduct the preliminary enquiry into the matter and commit it to the High Court.

Mr. Speaker, we must improve the conditions of magistrates. We have increased their jurisdiction but what about the security of tenure for them. I submit that we improve the conditions of work for magistrates in this country. We also need to look at the other component of the criminal justice system.

Sir, we need to examine the juvenile system. We need to look at the institutions of Summervale and Dodds, the Government Industrial Schools. What is the point of a person going to one of these institutions, being released and there is no structured after-care programme for that juvenile to ensure that he would not go back to the community and engage in illegal activities or breach the law of this land again.

Sir, we must look seriously at structuring an after-care programme at those institutions so that the juvenile can come back to the society and make a valuable contribution to this country. We must look at advancing community education programmes, involving the community in the fight of crime and at improving the conditions of the police force because they work hard, are part of the system and are special people to the Democratic Labour Party. This is why in our Manifesto we have a comprehensive programme to improve the conditions of their work. We also have a comprehensive programme for the training of police officers and for the payment of better salaries commensurate with their work. We also have full-time stress management for them and this is a clear manifestation that we view police officers as special people and not like other people who believe they are not special and do not matter.

Mr. Speaker, we ask if there is a system that promotes justice. The answer is yes because the jury system has served us well. We have gone historically from the idea of trial by ordeal to trial by jury but there must be some improvements. There was debate for some time in this country about placing legally trained prosecutors in the Magistrates' Courts. I submit that we can move those persons who graduated as lawyers from the police force, place them in the Magistrates' Courts, improve their conditions.... place them in the magistrates' courts, improve their conditions when it comes to salaries. We can also look at contracting attorneys-at-law to prosecute cases.
12.10 p.m.

Sir, I want to speak to the issue of domestic violence. Many times we have matters of domestic violence and I always wonder whether we should not have a special unit in the Royal Barbados Police Force to deal particularly with domestic violence. Sir, not everyone can deal with or resolve domestic matters. I would like to see the day where we have a special unit that will deal with domestic violence. Mr. Speaker, sometimes the dispute starts in the home where there is a fight and then it escalates to murder, that is why we should be looking at establishing such a unit to deal with domestic violence.

Sir, when the Bail Act was passed, it gave persons the right to bail in the event of committing murder. In a case where a person commits murder in a crime of passion, we must ask the question whether that person should be treated in the same manner as a person who committed a deliberate crime of murder on a stranger. We must also look at the separation of persons who fall into such a category, although the penalty for murder would still be the same.

Finally, we are supporting this amendment but we would like to see further improvements in the administration of justice by giving other persons the right of participating in it.

I thank you, Mr. Speaker.

Hon. D. D. MARSHALL: Mr. Speaker, I am delighted for the opportunity to speak on this amendment of the Juries Act. In my early days of practice I spent sometime as a defense attorney. I must say that I am happy to know that Members of the Opposition signed on wholeheartedly to this amendment.

However, I notice that the Honourable Member for St. Philip South referred to the Democratic Labour Party Manifesto which caused me to refer to it myself. I believe that it was an oversight on the part of the Opposition not to engage the Honourable Member in his writing. When I look at the Democratic Labour Party's Manifesto, it makes no reference to an improvement of the justice system. It makes no reference to an improvement to the jury system, community policing, penal reform or broad-based consulting with members of the community. I believe that the contribution of the Honourable Member could have been adapted by the Honourable Member of the Democratic Labour Party for inclusion in their Manifesto. It is bereft of any ideas or positive concepts on the matter of tackling crime and the improvement of justice in Barbados.

Sir, I also believe that this amendment to the Juries Act is an important one, even though it may seem minor to some people. I was involved in a murder case which included seven accused persons and there were several days of trial, that case is commonly referred to as the 'Garnes Murder'. I have to agree with the Honourable Member that the challenges to conducting a proper defense are difficult to meet but moreover, any gains the defense makes when the prosecution presents their case could easily be lost in circumstances where jurors need more time to give proper deliberation to the evidence.

Today's jurors are, perhaps, different to jurors of the early 1900s. We are now talking about more educated Barbadians and individuals who are more inclined to look into the evidence that is presented before them. We are also talking, I am proud to say, of more lawyers with great skill, who are now confronting jurors with complexity of argument that may not have been presented to them previously.
12.20 p.m.

We are also dealing with a more sophisticated type of crime and, therefore, the complexities that present themselves to a juror, are really far different to former years. It is therefore critical that at this juncture in our development, we give a new meaning and new vibrancy to the concept of trial by one's peers. Of course, I well remember many debates as to whether or not you could truly have trials by one's peers.

Sir, in any society, one is bound to find people with different levels of education, different levels of social interaction, people falling on what we perceive to be different rungs on the social ladder. Therefore, an individual who comes from a particularly well off background, may find that he or she is confronted by a juror or jury who did not experience those levels of comfort growing up. The reverse is also equally true.

I think we recognise, Mr. Speaker, that within the Jury system there are one or two inherent flaws. It is a system which has served not just Barbados well but it has served the world very well. It is a system that I feel comfortable with and I believe that most, if not all the Honourable Members of this House are comfortable with also. I think that when one examines the logic of it, the chances of coming out with the truth are much greater, when you have a gathering of people who examine an issue, than perhaps if you just had one judicial officer, determining fact.

In my view, it is a good and just thing that an individual who is charged with a criminal offence has the opportunity to be heard by his peers. It is perhaps seen as a defect that today, the concept of a jury trial in the civil courts is now something that has fallen into abeyance, for the same reason that trial by one's peers is something that is supported.

Mr. Speaker, at the end of the day, we well recognise that not long ago, the benches of the Opposition were heard repeating a mantra, 'crime and violence', as they went into the 1999 Election. Therefore, one wonders, and I have to come back to this, why it is that we see nothing at all of crime and violence in the Manifesto which was presented to the public, just a few months ago.

It occurred to me, Mr. Speaker, that the reason why Her Majesty's Opposition is no longer focussing on crime and violence is the fact they recognise that not only are the lives of Barbadians qualitatively different to how they were under their Administration, but that statistically, the level of criminal activity in Barbados has been significantly reduced.

In fact, the analysis of crime in Barbados for the period January to December 2003, as presented by the Royal Barbados Police Force, shows that the total number of criminal offences for that period, January to December 2002 as compared to the corresponding period of last year, has declined by more than 17 per cent. The crimes of serious bodily harm have been significantly reduced. Robberies have also been significantly reduced. Burglaries are down by more than 25 per cent. Crime against visitors is equally down. Therefore, one thing that this Barbados Labour Party Administration is able to speak on with some authority, is the fact that we have shown credible success in dealing with

the criminal element in Barbados, and trying to ensure that Barbadians live in a society which is safe and secure.

It brings great pride to my heart to know that Barbados today has one of the lowest crime rates in the world. We, as a Government, are not content to sit on our laurels. We have launched the work of the Commission of Law and Order. I want to laud the work of that Commission because it is not sitting in an air-conditioned room pontificating on matters of law and order. This Commission is going out into the highways and byways of Barbados and speaking to the people who were affected by it, speaking to the people who are influenced by it and speaking to the people who may easily fall into the snare of criminal activity. This is what I call being proactive.

Mr. Speaker, the work of this Law and Order Commission is going to be feeding into the larger plan that this Government has, especially for the young people of this country. I am always concerned when I see young people falling into criminal activity but as an MP for a rural constituency, I am perhaps more concerned when I see young people from constituencies in the country going before the court for drug offences, firearm offences and other offences.

Sir, it concerns me, particularly because as a man who was born and bred in St. George, I recognise that there is a certain protection which comes from growing up in a rural constituency. There is a certain socialisation that occurs when you grow up in the bosoms of a village in St. George, St. Joseph, perhaps St. Philip or St. Thomas.

Sir, we have always operated on the principle that it takes a village to raise a child. This principle is always seen, country people looking out for younger ones. It is always seen, rural people trying to ensure that the youngsters who may be so easily led astray in other areas, hearken to such things as the Bible, the elderly and they sit and learn at the feet of their parents and grandparents.

I, therefore, am concerned that there may be a movement away from these standards seen in the rural constituencies. It is important that for any political party or any social group to be relevant, to recognise that tremendous store has to be placed in those values which we grew up by, and in those values that have governed this community and has brought many of us to where we are today.

I, therefore, want to make a call for each and every one of us to help our young men and women to go back to the fundamentals, go back to those things which would have influenced the way in which our parents and grandparents developed, and go back to those things which have given them a sense of pride, self-sufficiency and moral fortitude.

At the end of the day, it is not going to be penal reform that is going to take this country into the future. It is going to be a conscious effort on the part of all Barbadians to ensure that our young people stay away from criminal activity. The issue is not just a moral one. It is really a community imperative that faces us because we have to ask ourselves whether the leaders of tomorrow.

12.30 p.m.

The Honourable Member has recommended certain features to be brought in by our trial by jury and has spoken almost eloquently on such things as cross-examining jurors, but I would want to caution against this kind of thing. It sounds very modern and almost like O. J. Simpson's case.

In the United States of America such things as the cross-examination of jurors are paths of the course, but I do not support those kinds of manipulations of the jury. I do not support an environment which calls on jurors, who were called on to do their civic duty, to be subjected to investigations into their background because the fundamental qualification for being a juror is that you have to be a citizen in good standing. Truth is not something that we can scientifically measure and therefore an assessment of an individual to determine whether or not they have sufficient intellect or whether or not they support the death penalty, are things in my view which would really tear away at the root of the system and will destroy the public faith in the system.

Sir, notwithstanding that we see it every day on CNN, I would want to caution us not to be too attracted by it. Perhaps it works in a North American environment but I would shudder to think that the day would arise when, in Barbados' 263 000 people, some of our adults are called up to do jury service and are told that a private investigator is going to be investigating their background to see if they might have stolen mangoes as a child or to see if they might have broken cane out of somebody's cane ground or if they might have had a harsh word with a neighbour in recent times.

I do not believe that kind of intrusive dealings with a juror would be beneficial to our system and I believe that it would cause people to shy away from doing jury duty, when we need to encourage Barbadians to do their civic duty. If we are going to intrude into the private lives of Barbadians to investigate into their backgrounds as to whether or not in the view of a defence lawyer that individual is suitable to be a juror, will mark the end of a functional and legitimate jury system in this country. Once again, I do not support it and I am calling on all right-thinking Honourable Members not to support it.

I agree with the suggestion that jurors may find cases today to be more complex, but so do our judges and our lawyers. We are dealing with an educated population and we

must avoid thinking that these kinds of things are beyond their ken. We have spent millions upon millions of dollars every year trying to make sure that Barbadians remain at the cutting edge of intellectual capacity and now that we have been successful we must not start to doubt them and their talents.

Equally, I also do not support the cross-examination of jurors. I believe that the system of selection is one which has worked for us and will continue to work for us and we should tinker with it as little as possible. However, if we feel we need to tinker with it, it must be in exactly the same way as we are doing with it now, an amendment that is workable and that will assist the jury in doing their duty and an amendment that ultimately would prove to be beneficial to the accused.

Mr. Speaker, there are still too many employers who feel that having their employees called up to do jury service will take away from their business and will resort to threatening the employees and taking money out of the employees' wages. I am happy to see that the judiciary has spoken about this in no uncertain terms and has called for it to stop. I do concede that there are circumstances where to have an individual do jury duty may cause some harm. I know of one particular case where the employee who was called to do jury duty was critical to the functioning of a company at a very difficult time. I am aware that that individual made representation to the Registrar of the Supreme Court and as I understand it, an exemption of some kind was granted.

Mr. Speaker, we cannot have a situation in this country where employers believe that jury duty is a nuisance and that they should try to penalise employees for doing their civic duty. I know many people who have served on juries who have said that they have never before had an opportunity to serve in this way and consider it a great honour, hence the fact that some people would come back and serve on juries. I think that speaks volumes about the importance of this particular form of civic duty.

This amendment, the Opposition agrees, is timely. I believe that it would assist the jury in deliberating. It ultimately would be for the benefit of the accused because as long as the jury is able to adequately consider the facts, they are more likely than not to come up with a decision which represents and unhurried assessment of the truth.

I therefore support this amendment. I support all efforts to improve the jury system, all efforts to ensure that our confidence in the jury system remains intact and all efforts to ensure that justice is not only done but is seemed to be done.

This Barbados Labour Party has shown tremendous results over the last few years in bringing down the level of crime and it deserves to be congratulated for its efforts. This community has benefited from a whole raft of initiatives...

Mr. C. A. MASCOLL: On a point of order. Mr. Speaker, I rise to correct the Honourable Member...

Mr. SPEAKER: You do know that a point of order is not a point of correction. What is your point of order?

Mr. C. A. MASCOLL: The Honourable Member was misleading the House earlier when he said that the Democratic Labour Party did not have anything on crime in its Manifesto. In fact, the Democratic Labour Party led the debate on finding solutions to crime when the candidate for St. Michael West produced a document, held a Press Conference and had it aired and it was summarised in the Manifesto of the Democratic Labour Party. It was felt that the document was too large to put in the Manifesto at the time, it was a 20-page document, and therefore we summarised it but we contributed to the debate on crime in this country.

Asides.

Mr. SPEAKER: Honourable Member, are you concluding now, Sir?

Hon. D. D. MARSHALL: I am indeed, Mr. Speaker. I thank you very much for facilitating me and with those comments I reiterate my support to this amendment.

SUSPENSION OF SITTING

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I beg to move that this Sitting be suspended until 1.45 p.m. today.

Hon. R. R. FARLEY: I beg to second that.

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

RESUMPTION

Mr. SPEAKER: This Sitting is resumed. The Honourable Member for Christ Church East Central.

Mr. R. D. JONES: Thank you, Mr. Speaker. Let me first compliment my Honourable colleague from St. Philip North, who in his speech before the Honourable House on the Juries (Amendment) Bill, 2004, quite succinctly placed many of the concerns which we on this Side have, relevant to the particular Bill. The Honourable Member for St. Philip North has set within a context, many of the issues that we believe that should be addressed by the Honourable Member on the Other Side.

Mr. Speaker, it was through his posture, tone and language, that we thought that those who rise after him, particularly from the Other Side, would have recognised that we have taken a strictly non-partisan view on this matter, and would have followed within the same trajectory, to elevate the level of debate and discussions on matters such as this which, must always be taken quite seriously.

Sir, I know the Honourable Member for St. Joseph still carries with him a certain level of juvenile behaviour and as such, I would not want to bring him before the rod of correction, recognising as well...

Mr. SPEAKER: Honourable Member, I am going to ask you to withdraw that statement about the conduct of the Honourable Member for St. Joseph.

Mr. R. D. JONES: Mr. Speaker, so withdrawn. Nevertheless, the point I am making is that one would have expected that a legally trained mind, recognising the posture that we have taken on this Side, would have followed the direction which was so carefully laid down by the Honourable Member for St. Philip North, the Member of the Democratic Labour Party.

Mr. Speaker, this matter does not only speak to the issues that were raised by either the Honourable Member for St. Philip North or any of the Honourable Members who have so far spoken but it speaks to the foundation of democracy on which this country is built. Sir, even though we expose persons who fall short of the constraints of the legal system, we have to provide a certain measure of protection to them under the law. That is one of the fundamental tenets of a democracy. Sir, if as a nation, as a people, and as those who sit in the design of policy, then it is our responsibility that on each occasion, we seek to address issues such as this, and the many other issues which speak to the development of the people and of the country, then the notion of democracy must inform whatever we say or do.
1.50 p.m.

Therefore, our support for the amendment to the Juries Act is contingent on the whole recognition and support for the continual evolution of democracy within our country,

particularly among our people so that their intellects and minds can be focussed on enhancing democracy for themselves and future generations of Barbadians.

Mr. Speaker, there is a view that many persons who come from working-class backgrounds feel deprived relative to the systems of this country and are victims of the judicial system of this country. Sir, regardless of what tinkering we do with the judicial systems and with matters handled by the police, there will still be the strong belief that those persons are highly disadvantaged. In fact, there is an argument which suggests that our prisons and institutions like the Government Industrial Schools and other quasi penal institutions carry an inordinately high number of persons who come from backgrounds which are deprived. Therefore, there is the view that nothing is being done by any of the systems for those persons.

Regardless of how we feel about those who, either by their own acts or the actions of others, stand on the periphery of the existence of the economy, community or social life, we have to practise an all-inclusive philosophy of bringing those people more and more toward the legal and judicial centre where they feel their rights are being protected and preserved within the system.

Sir, the legal profession is filled with jargon and the kind of language used is lost on many. We ask persons who do not have knowledge of simple constitutional issues or the processes of courts because they have stayed away from them to go and judge their peers. We believe that is sufficient to justify the existence of a jury system in Barbados and that the rights and privileges of persons charged are protected. We know that they function under the direction and guidance of judges and under the persuasive language of the prosecution and successful defence attorneys. Therefore, they are caught in the push and pull of arguments from left, right and centre of the prosecution and the defence. Sometimes one wonders, regardless of the extent of their intellect, if they can be detached from that kind of barrage. To me, in many instances, it is about success of the individual prosecutor or defence attorney and many times justice seems to be missed by most because it is about either filling the intellectual coffers, building a practice or letting people know about the reputation of the defence or prosecution because those who are lawyers in this country are heralded as good, bad or indifferent.

Sir, I am not at all comfortable with many of these systems. I applaud and appreciate the need to make these kinds of adjustments. I know they cannot be made in a single leap, that it will take time to bring about the kind of society we want and the kind of judicial process that is important to our country.

We agree with the Attorney-General, who piloted this Bill, that there is a need for a longer period of time to allow persons to search their own intellect and deal with the issues placed before them. It is almost an impossible task but, nevertheless, because of the impediments which may be there most persons who have served as jurors have done so under the conviction that they have served their country and that it is for the good of Barbados.

Mr. Speaker, earlier I spoke briefly about the question of the disadvantaged of this country. If persons do not listen carefully to what I say next, some may say I have an anti-security or anti-police posture. I have always been concerned that the notion of power in the hands of anyone, if not used wisely can become a power that drives citizens away from co-operating with the police and legal persons in the country. There are persons euphemistically referred to as 'boys on the block' who believe they are specifically targeted by many because these people believe that their presence on the 'block' is a harbinger of all the vices present within any society. People also believe that where they cluster you would be able to find those vices and that there must be constant interruption of their activities in order to satisfy those who are in charge of the maintenance of law and order in this country.

Mr. Speaker, I believe that sometimes our actions can create criminals of those who might not be so minded and if they are under pressure, they might respond and react in ways which we might not consider lawful or legal. Sir, we have to reduce the pressure of the minds of people. I am not speaking about reducing pressure on anyone who has criminal intent or is a criminal because I have the fundamental belief that if an individual is found to be guilty, he must feel the full weight of the law. We must discourage the presence of lawless, deviant, disruptive and criminal elements in our society and I do not speak for them. I speak for persons who simply feel they are targeted because of their situation of poverty and their deprivation. They feel that somehow they have become the source of much harassment by the law enforcement of Barbados. I respect the very hard work of the police in Barbados and I believe that all citizens should respect them.

3.14 p.m.

Sometime ago, a young man was speaking to me. I believe that at that time he was a person who liked to play with small rolled cigarettes. He was concerned that there was an interdiction of cannabis on the eastern side of Barbados. He told me that they have locked away the Christmas stock but do not worry about that, it will be back on the streets within a few weeks. I questioned him because I could not understand what he was telling me. He was saying in his own language that there might be a place where

leakage is taking place relative to such issues and that concerned me.

I know that in every organisation there will be one or two persons who would spoil the good name of that organisation. We must look closely at those who would seek to tarnish the good name, labour, fervour and the investigative ability of these organisations. We have a very good police force. For example, let us look at the excellent rate at which the police bring persons before the court. I applaud that brilliance but the few who can sometimes create problems for an otherwise unblemished record, are those who should seek employment in other areas. I want to speak to that quite forcefully relative to what is being debated in our country.

Mr. Speaker, at the end of the day, all persons who are arrested and charged are human beings and there must be the desire to preserve the humanity and dignity of those persons. The more we dehumanise an individual, the more we make that individual a beast. The creation of a beast creates greater difficulties for us as citizens who want to manage and to design a country that speaks to the rights of individuals and the preservation of those rights of all citizens.

Therefore, sometimes what appears to be the heavy hand of the law sometimes turns into a heavy face of the law and would get a greater level of support and co-operation when the hand seems more inviting and the smiles seem more pleasant. Persons are more willing to co-operation in an atmosphere of that kind of behaviour than in an atmosphere of hostility and in some instances, some people have argued, an atmosphere of brutality.

The Honourable Member for St. Joseph spoke of the call made by the Democratic Labour Party in 1994 regarding crime and violence in Barbados. I am pleased to note that the Honourable Members on the Other Side recognised that it had its genesis in that historical call by the Honourable Member for St. John, who was Leader of the Opposition and President of the Democratic Labour Party at that time. It was a message which resonated in the hearts and bosoms of all of those supporters at the time, that such an important social issue should have been placed on the front burner.

Therefore, I am very pleased to note from the wide and varied speech by the learned Attorney-General at the kind of efforts being applied to the various issues under her portfolio that are placed on her agenda.

Sir, the Honourable Attorney-General has invited Barbadians to work with her to ensure that we have peace, calm, security and decency of our citizens as part of this country. Sir, those of us who sit on this Side cannot fault that particular agenda because it is an agenda of the Democratic

Labour Party and the Honourable Member has my applause and fullest appreciation. It is that kind of debate that can only create enthusiasm in each of us to strive to go forward, to work for the further elevation and development of our people.

Sir, the Honourable Attorney-General spoke to the notion of empowerment of the jury and judges and witnesses. Sir, there are witnesses that do not come forward but run and hide because of the fear that if they come forward, they would be harmed by somebody in society.

Asides.

Mr. R. D. JONES: We also need to empower those potential witnesses who would feel comfortable being shielded from those who might believe that they are more vicious than others in this society. Mr. Speaker, along with the empowerment called for by the Honourable Attorney-General, I would also call for the empowerment of witnesses.

It is a process where we must be involved in the detection of crime. Police are not miracle makers. They rely on information provided by the citizens of this country. They can have the most sophisticated surveillance but unless they can have that human factor impacting on whatever they are doing, their efforts would be impeded. Therefore, I would want to see this country move ahead by offering potential witnesses the kind of protection which is necessary for them to come forward.

We also speak about the reduction of crime. I have not looked at the statistic, therefore, I would have to accept that which has been put forward by all Honourable Members who have spoken. I believe we should not pat ourselves on the backs when we refer these statistics because I believe that if we can achieve a position of zero crime, then the notion of being religious people and people of faith would be fully recognised and applauded.

I believe that even though robberies have been decreased by 33 per cent, it is still troubling.

Hon. Miss M. A. MOTTLEY: On a point of order. If I may assist the Honourable Member, the figure that I was referring to would have been 953 robberies in 1992 as opposed to 311 in 2003.

Mr. R. D. JONES: Thank you, Honourable Member for the clarification. It is 66 per cent.

I believe that citizens of Barbados still have a suspicion of fear. Maybe it is fear that we bring on ourselves because it is suspicion.

Asides.

Mr. R. D. JONES: If we move around our country and recognise the homes that are being constructed, the first person to be hired on the construction site is the person who erects security grills for windows and doors. Sir, the wrought iron business is in heavy demand. They bend and curve steel to place at our windows and doors. This reinforces the point that I am making that our minds are bothered that somehow, we and our families would be harmed. We need to do a series of things. Education must always be at the forefront.

2.10 p.m.

I was proud some years ago to note that the current Attorney-General, when the Democratic Labour Party called a meeting in Heroes Square, she was present. She recognised that it was a non-partisan reality and we had to argue the whole question of crime because it impacts on every one of us.

There are people who no longer go to dances because they are scared that if they step on someone's foot or feet that somehow, they might feel the plunging blade, so they do not go out. They do not even have house parties of their own because they feel that their invited guests, even though they should be their friends, might be so annoyed or grieved that they also might discharge their anger in that kind of manner.

Mr. Speaker, you can see what is happening on the streets in Barbados through the anger and venom of one driver to another, when someone is driving a bit slowly that anger comes out. It might not be a situation where someone murders somebody else or they break into your homes, but there is anger in the society because you are being impeded from going rapidly to your destination. All of these are issues which concern us. All of these are issues to which we must speak. All of these are issues to which we must have great action and clarification, if the country is to go forward.

I know that the Attorney-General spoke about the presence of the close circuit television (CCTV). These are things I am familiar with because in other places I have seen them in operation. I have a fear of crime. I have a fear of losing what I consider to be my personal space and privacy. I have the fear that the eye of the big brother is always on me, in the presence of that and not because any of the Honourable Members are criminals or that I am a criminal. We came along in this country, Mr. Speaker, in a situation where we felt comfortable, walking the length and breadth of Barbados, or riding on the back of a horse and cart or riding a bicycle without the eye. I am not speaking of the eye of our dear Saviour, because that is an all-seeing eye.

Mr. Speaker, I am speaking of some mechanical object or someone either at the end of it or retrieving the data and

checking it over and over. Sir, even though it may be sensible in some areas to deploy surveillance and monitoring mechanisms such as these CCTVs, I believe that they must be done with sense. I believe that they must be done, still looking to protect the innocent, rather than to expose the innocent.

Sir, I believe that we do not need to drive everything underground. When we drive everything underground, including criminal behaviour, because people adjust to the presence of technologies within their relative spaces, we will have to come up with other solutions to deal with those whom we have driven underground. We do not want to cause our people to withdraw from moving across Barbados, from expressing themselves with decorum and dignity. I believe that with the presence of such, you can have this whole thing driving all kinds of behaviour, including behaviour underground.

Mr. Speaker, I would want to repeat, and this is a paraphrase of it, the words of the late Right Excellent Errol Walton Barrow when he said, basically, that poor people, and I believe he meant by extension that all people, should stay away from the courts if they wanted justice.

We are having too many of our people seeking the intervention of the mass amount of lawyers in Barbados, for all kinds of minuscule things. I know that lawyers need work. They are brilliant young people, brilliant middle-aged, and brilliant retiring persons. Sir, sometimes simple resolutions, issues of counselling, issues of just maintaining a dignity, sometimes in the face of other behaviour, can minimise your presence within the court, which can, of course, be quite foreboding. I know that your only knowledge of the courts, Mr. Speaker, would be going there to learn of the processes and the systems, so that you can better inform those that you come in contact with, and to also encourage them to follow the advice that was given by the Right Excellent Errol Walton Barrow.

Mr. Speaker, it is my view that it is even more sensible to stay within the confines and the strictures of the law. Sir, by so doing, there is no reason whatsoever to end up before any law court or be sandwiched in a cell at some police station on a weekend, after being arrested.

I would particularly want to encourage the young people of Barbados to do everything possible to stay away from that life. They should listen to reason and to those who were there and have gained the experience and have said, "not me again." More important, they should listen to their parents, those parents perhaps who had to go to Coleridge Street or the Oistins Magistrate's Court and bare their faces before a media and the newspapers or on television.

Mr. Speaker, this is not good for the efficacy of family and society. Therefore, I would appeal to all to avoid the strictures of the court. There is a view that there is a relationship relative to sociological and economic forces which might cause some people to go down a path of crime. If that is so, the same way the Government applauds itself for the successes in the reduction of crime, and I have applauded the Royal Barbados Police Force for their good work, I would believe at the same time that where there is the presence of crime which devastates the Government, that the Government therefore has to continue to take the blame for, first of all, its presence and secondly, its escalation.

Finally, Mr. Speaker, I want to urge that there will be continued counselling for victims of crime. Persons who go to Glendairy and the Government Industrial Schools have counsellors for their particular acts, but those persons who are the victims of crime, rape and the devastation of their family structures, should also be given counselling at the expense of the State. I know that, within the public service, there is some counselling for those persons who suffer from trauma or whatever, but we need to spread more of this across the society, so that the society is better served.

Mr. Speaker, as stated earlier by the Honourable Member for St. Philip North, this Side will support this Resolution but we thought it necessary to extend the debate, so that the focus can be more on the building of democracy within Barbados of which this amendment to the Juries Act is only one prerequisite.

I thank you, Sir.

Dr. W. F. DUGUID: Mr. Speaker, thank you very much for giving me the opportunity to add to this debate. I categorically support this amendment. I believe that amendments like this give reason to why we are here today as legislators. There are also amendments like this that enable justice to be served in this country. We are here to speak for the people in relation to the laws of this country and to say that justice must be served and justice must be available for all.
2.20 p.m.

Mr. Speaker, these are times when crimes are committed with increased complexity and when people will try to cover up those crimes also with increased complexity. Therefore, if a jury is asked to deliberate on evidence and is only given a short time of two hours to deliberate, clearly that cannot be enough time to get to the proper or truthful result when the crimes committed continue to vary in complexity as well as the accused tending to cover up the crime.

We are dealing with an intelligent society and intelligent criminals who continue to be trained not only by the foreign influences of being exposed to criminals from overseas but also by the television from which they get trained in methods of investigations in ways and means of how to cover up their criminal acts. Therefore, jurors must be given more time to be able to understand the acts, to understand and to deliberate over those actions and to be able to come to a reasonable verdict at the end of the proceedings.

Mr. Speaker, no one would like to see an innocent man or woman go to jail which obviously would be a travesty of justice. Therefore, one would hate to think that someone would be hastened to Her Majesty's Prisons just because the jury had inadequate time to deliberate over the matter. Justice must be blind, swift and decisive.

Sir, I want to make a call for an expansion of the Community Legal Services. As you know, Mr. Speaker, there is a schedule of offences such as capital offences, manslaughter, infanticide, concealment of birth, rape, cases involving minors and indictable offences which are covered under the Legal Aid Act. However, I do not think those are enough, so I would like to see this schedule broaden so that more offences could be covered so that people who may commit offences that are not covered under the Community Legal Aid Act would still get access to legal counsel.

It hurts me, Mr. Speaker, to see that on occasions individuals are forced to defend themselves against a professional prosecutor. One knows that these individuals may not have the means or the ability to adequately defend themselves, but yet they go through the courts and are found guilty. On top of that, you would hear attorneys, some learned defence counsels, say that if they were involved in that case they would have been able to get a lesser sentence for that individual or be able to have given him better representation than he would have given himself. This certainly must be given certain attention.

I want to go further and say that individuals who have to defend themselves also contribute to significant delays in justice. I want to relate to the same National Task Force Crime Prevention study which says at page 35 and I quote that:

"In only the most serious of cases do accused persons currently qualify for legal aid-funded representation in Court. However, a significant number of adjournments in the High Court are due to the Judges granting accused persons who are not represented by counsel additional time to prepare their cases. This should be structured so that the accused persons who cannot afford an attorney and do not qualify for legal aid are required to prepare their cases before the date of

hearing. This can be achieved if a free or low-cost facility is set up for accused persons to be given advice and assistance in preparing their cases, and they are properly informed of their obligation to be ready for the hearing. This recommendation also applies to accused persons who have not retained an attorney, even though they may have briefed him/her, as this also causes delays and requests for adjournments.”

I think this is fundamental. I am not an attorney, neither do I profess to be an attorney. Mr. Speaker, as you know, I was not called to that Bar or otherwise, but I have to speak about the criminal justice system and what I perceive to be injustices that might be in the criminal justice system. I want to go further and say that the cost of litigation can be prohibitive even to some commercial companies. To many people litigation or even obtaining legal services is impossible unless subsidised in some way. There is always the danger that justice may be denied those who fall outside the eligibility of financial means which I think is a travesty of justice.

Mr. Speaker, I also want to speak a little about some things I see as a person looking in from the outside about the justice system in this country. Sometimes I would meet people in the constituency, who may be ‘down on their luck’ who would tell me that they were sent to Glendairy Prison at the age of 14, which I find quite surprising. Mr. Speaker, I would like to put forward that under no circumstance should a person who have not attained the age of maturity be sent to Glendairy Prison. Sir, if an individual has been sent to a penal institution such as Dodds or Summervale and the wards were unable to manage him or her there, then we should improve the situation at those institutions so that the wards can manage and be able to cope with these individuals who they may find to be difficult. To send an individual to the adult penal institution at 14 years old is only a recipe for disaster for that individual because immediately he becomes trained in his criminal ways which can become embedded in him and he would create problems such as criminal behaviour and deviant behaviour for this society. I am therefore saying that under no circumstance should we see in Barbados persons under 16 years of age going to Her Majesty’s Prison. That is something I consider to be hideous and something that we should never see in this society. Young boys should not be forced to go into a penal institution for adults.

I want to go further and speak about cases involving minors. As I understand it, cases involving minors used to be heard at the Probation Department but now they are being heard in the courts like normal cases. It is interesting to note that while we protect the identity of these minors from the Press when their matters are being heard, the cases are still being heard in the law courts like normal cases. Sir, this situation therefore should not be continued.
2.30 p.m.

I would also like to ask that matters involving minors be totally removed from the law courts and be moved to a new location, so that those minors in particular would not be faced with the indignation of going through the law courts as would a normal criminal.

Sir, the reason I speak to these matters is that they have certain social ramifications, which, if we do not stop them now, would continue to eat away at our society, which is something that none of us in this learned House would want.

Sir, another matter that I would like to speak to is the Police Complaints Commission. It is not often that I would agree with the Honourable Member for St. Philip North but on this occasion I have to agree. I too look forward to the day when the Police Complaints Commission could meet.

Sir, I would want to go further and ask that it would be a completely independent commission, independent of the Police Force. Sir, I say that because at the end of the day, we all must be subject to other people assessing what kind of job we have done; they must be able to assess whether or not it was a good or a bad job.

Mr. Speaker, at the end of our five-year term, the people of Barbados would assess whether or not the Barbados Labour Party and the individual members have done a good or a bad job, and they would or would not give us their support, based on what they have assessed. Similarly, when an attorney-at-law or a doctor does an operation, his or her particular patient would assess whether or not he or she has done a good or a bad job. This would be done independently of the particular person.

Mr. Speaker, we must have a system of review from an independent point of view and the Police Complaints Commission must continue in that vein. It must be an independent commission, independent of the police, so that if the Commission has to investigate matters in relation to the police, it would do so in an independent manner.

Mr. Speaker, I agree with, and applaud the Honourable Member for St. Philip North, that they need to get ahead with the business at hand.

Sir, I have another important issue that I would want to raise today, that is the system of child maintenance payments which I believe needs to be overhauled.

Mr. Speaker, I assume that you are aware that when...

Mr. SPEAKER: No imputations, please.

Dr. W. F. DUGUID: No, from young men from your constituency. There are many young ladies especially, who depend on that maintenance for their children.

Mr. Speaker, I have a significant amount of research into this matter because there are many persons who come to my Constituency Office and complain about the child maintenance system and about the way in which payments are done.

Mr. Speaker, at any given time, more than 150 to 200 ladies attend the Magistrate's Court at St. Matthias, in order to receive maintenance for their children, only to be told, time and time again, that no money has been lodged for them. Sir, these might have been ladies who might have perhaps taken two buses in order to have reached the court, two buses to get home, might have taken time off work in order to get there, might have reduced their productivity, *et cetera*...

Sir, if a system was in place, all of that could have been reduced by a simple telephone call to the Magistrate's Court, to find out if there have been any lodgments made on those persons' behalf.

Sir, I understand that there used to be a system where persons could have called, which I think should be reintroduced. Sir, could one imagine the cost of the loss of productivity, the cost of travelling to and from, to wait in one line, *et cetera*, then to hear that no money has been lodged for those persons.

Mr. Speaker, this is a complete waste of people's time and I would want to suggest that there must be improvements to the system. There must be a way where an individual could contact the Magistrates' Court and ask if any maintenance payment has been lodged on their behalf. When there are lodgments, these persons could then use the opportunity to collect these monies.

Mr. Speaker, I want to speak about those individuals who might have been incarcerated due to child maintenance, which does not make sense to me.

Asides.

Dr. W. F. DUGUID: I am being told that they are being incarcerated for contempt of court, and I can understand that but I want to suggest something which, though not new, might be innovative to Barbados. I have

heard of it in other jurisdictions and would like to suggest that we in Barbados look at it, particularly for those persons who owe child support and have not been able to pay for whatever reason.

Sir, in some jurisdictions there is a system called 'Day Release' from the penal institution. Essentially, the person to be incarcerated might be in contempt of court due to child maintenance but continues to work in his job, which means that he could continue to work but at 6.00 p.m., has to report to the penal institution, and would be able to leave that penal institution at 6.00 a.m., to go back to work.

Sir, this enables that individual to continue in his work, to continue to make his payments but still reprimands him for not having made his payments in the past and for being in contempt of court.

Sir, I think this is something that we should look at because to take that person out of his job, to place him into Glendairy Prison, takes him out of being a productive member of society. It also takes him away from making any money to contribute to pay any further payments, and sometimes would take him out of a job, which would mean that he would be unemployed, and the only person who would suffer in the end is the child. Therefore, one would agree that, at the end of the day, the only reason that maintenance system was put in place, was to help the child, and that must be our paramount reason in trying to provide sustenance and support to that child.

Sir, therefore, I would wish to make that suggestion for the 'Day Release' system, and I hope the powers that be would listen and might move forward on it. It is nothing new and could be researched. This system allows persons to continue in their jobs but they would lose their social time.

I do understand there is a school of thought that no one should go to jail for child maintenance payments and to that, I do not subscribe. I think that if the individual thinks that there is no price to pay, then he would not pay child maintenance. I think if one has had 'the sweets', then it is time to pay for it, and that is what the people must be made to understand.

Mr. Speaker, I want to go further and speak about the backlog in the judiciary. Sir, sometimes in the Press we see matters coming before the court for a period of two or three years after being committed, which shows a definite backlog in the system. Sometimes too one would see that an individual has been on remand for two or three years, and then at his/her trial would be found to be innocent, after being on remand for such a period.

Sir, something must be done to reduce this backlog which is seen in the justice system. As I have said, justice must be blind but justice must also be swift. Sir, for an individual to be on remand for periods of two or three years, then at his trial to be found innocent, would mean that individual has lost two or three years of his/her life.

Mr. Speaker, let us face the fact that none of us here would like to think that we have lost two or three years of our lives, while being innocent.
2.40 p.m.

The best way to get rid of this backlog is to look at the possibility of night court. This is something that was mooted before that applies in many jurisdictions and which we must look at in our jurisdiction. I am of the opinion that it is a waste of the court facility to use it only during the day. In the United Kingdom there are JP Courts where Justices of the Peace hear certain matters.

Asides.

Dr. W. F. DUGUID: I am being told that we had a JP court at one time so why not go back to that and use every resource necessary to be able to reduce the backlog of cases to be heard in this country. We must be prepared to make a concerted effort to do that because justice must be swift.

Mr. Speaker, it hurts me to hear someone being called before the court two or three years after the matter had taken place. The person is on remand for three years, is then found innocent and has lost three years of his or her life. Sir, I perceive this to be an injustice within the justice system.

Mr. Speaker, the Honourable Member for St. Philip North raised the issue of victim compensation but he did so from the point of view of the State giving compensation. I agree with victim compensation but I believe that the convicted person should be the one to compensate the victim rather than the State. I also believe that a means test should be taken and if assets have to be seized and converted to cash so that the victim can be compensated, it should be done. I understand that in Cuba there is 100 per cent victim compensation. Sir, after the convict has come out of the penal institution and has paid his debt to society he has another debt to pay to the victim. We need to look at this type of compensation.

I have to congratulate the police for the excellent record of reducing the crime statistics in Barbados. Other Honourable Members mentioned this today but I want to mention it in detail because I think it is absolutely commendable that they have been able to achieve such a drastic reduction in crime of 17.5 per cent.

I will go through them item by item:

	December 2002	December 2003	Reduction
Serious bodily harm	269	220	18.2%
Robberies	363	338	6.9%
Burglary to dwelling houses	2031	1492	25.5%
Crime Against Visitors	321	244	23.8%
Juvenile cases	108	92	
Firearms	217	162	25.3%

Sir, there were 1 275 drug cases in 2002 of which 1 328 persons were charged compared to the year 2003 in which there were 1 224 and 1 268 were charged in 2003.

Mr. Speaker, I want to make the point that I have tried to keep my presentation away from politics today as much as possible. This presentation is not about the politics of the day but about social justice for our people and social justice in our laws. This is why I refrained from bringing any political angle into my presentation today.

Sir, I will speak about one matter which is political which has to do with the reduction in unemployment. I personally believe that if more people were working there would be less crime. We are seeing the effects of a reduction in unemployment in this country and a concomitant reduction in crime.

I applaud the work of the Royal Barbados Police Force and agree that they have done an excellent job and will continue to do so. I must also say that the good policies of the Barbados Labour Party have had some measure towards the reduction of crime in this country.

Mr. Speaker, I want to speak about information technology in the criminal justice system. I believe that this system could benefit significantly from information technology. I have had to give evidence in a civil matter and it struck me that there was no stenographer to take note of what was said, that the judge had the responsibility of taking the notes and I felt like I was giving evidence in slow motion. Mr. Speaker, we should have some means of recording in 2004 so that persons do not have to give evidence in what I call 'slow motion'.

Sir, the criminal justice system could also benefit from having a database of finger prints. This technology is available in the United States of America and Brazil and should be put in place in our criminal justice system. Sir, it is now done manually. I think that if the information technology were put in place, we could then scan

fingerprints into a database rather than doing it manually. Sir, I cannot believe that the police go through thousands of prints to match one print. I believe that a computerised system must be put in place so that we can get better justice for our people.

Sir, we have to embrace information technology because information technology is there to help us and make our jobs easier. It is there to take the mundane task out of it so that we will be able to do a better job.
2.50 p.m.

I also want to applaud the Government for having the foresight to build the Forensic Centre in Barbados. This Centre will assist in providing accurate information for prosecutors and the defence. Sir, we hear from time to time of cases in the United States of America where people, who have been on the death row for many years, have been vindicated because of the DNA technology that is available. I want to suggest that with haste, we should be moving forward to bring DNA testing to Barbados.

Mr. Speaker, with these few words, I thank you.

Mr. SPEAKER left the Chair and Mr. DEPUTY SPEAKER assumed the Chair.

Mr. T. A. PRESCOD: Sir, I want to make a brief intervention in this debate in relation to the time limits of the deliberations of the jury. I want to speak to it as a person emphasising the views of young men on the streets in the community. I know that other persons were very concerned about the structures that are in place and the manner in which the process of justice is carried out.

The reality is, what motivates the adjustments to such an Act would obviously extend its arms to the consideration of the ultimate course of justice. At the end of the day, any adjustments that are made to establish a strong moral code within the society in order that the society can continue to live in harmony and in a very stable manner. This debate is not unique to this Honourable House because in every working class neighbourhood where people socialise with each other, the central debate is about justice in the society, not only in relation to justice in the court. This debate is not only emotional because many of the persons in the working class neighbourhood are victims of the system for whatever reason. It is a profound intellectual debate by young men who are not just members of the semi-literate of the society but young men who went to secondary school and now find themselves stigmatised with a criminal record in the society.

Sir, what makes the debate more interesting, is that they recognise there is an encumbrance placed on their lives and the opportunity for social vertical mobility is obstructed because of the consequence of the stigma which resulted from being incarcerated in Her Majesty's Prison.

I am very concerned about that because we are having a large body of persons who are classified as ex-inmates or ex-cons who are trying to reintegrate themselves into the society. A society that has already given them the stigma of being criminals and there is little flexibility for absorbing these people back into the mainstream of the society and this must also be a concern of all persons who are interested in the development of the country, including the Government and the Opposition.

Sir, this debate focuses on class differentiation in this system. Some of these people are charged with various crimes and some of them are incarcerated for breaching the Child Maintenance Act, which in my view is criminal and it should be repealed. Sir, this system sends young black men to prison for maintenance although the system admits that it cannot provide employment for everyone. In most cases they are unskilled young men, who cannot find work and who have legitimate reasons for not being able to maintain their children. There is a bourgeois' view that is being tossed around inside and outside of this Honourable Chamber, that these men have had sexual intercourse and impregnate young women and that they are indifferent to their responsibilities and do not maintain their children. That is the most foolish false premise that I have ever heard that has been given credence in the Barbados society.

Mr. Deputy Speaker, if we carried out a scientific survey, we would discover that the problem is deeper than that because the same law does not enforce the young lady to give the man access to the child and the court is at the mercy of the response of the mother. In some cases because she manoeuvres all around the directions of the magistrate and refuses in many cases, to give the father access to his child, the man uses a counter attack by refusing to pay maintenance for the child.

Mr. Deputy Speaker, if a survey is carried out we will discover that every fifty young men, against whom the charge of non-payment of child support is levelled, are unemployed because they cannot find work or are not working for enough money to support their children. In many cases some of these men who find themselves in these kind of situations are men who have to roam from place to place in order to survive and sometimes they have children from more than one woman and have difficulty supporting all their children.

Asides.

Mr. T. A. PRESCOD: There are people in this country who are involved in crime, that is why I defined it as class differentiation, that are given a more sophisticated title. There are some people who we would not see in the crime records who are extortionists. They use power to get money out of people's hands in order to survive in this society. There are others who get things because they have

money and use the money to get the goods at a cheap price even if the goods are contraband goods. The statistics and the official records of crime never include those people within the system, because they have relationships. These are realities that must be faced. It is a sociological perspective that has to be faced, if we are to reduce the tensions inside the society and try to develop more harmonious people in Barbados.

3.00 p.m.

I came to this debate because I recognise that the contributions to the debate are within the parameters of legal interest, and not the sociological dynamics that lead to crime and injustice within the system itself.

Sir, we have to look at these encumbrances. We have to put the correct structures in place and begin to speak from our hearts, without disconnecting the brain. There are a number of fears that people have in this country. Although they know the truth on a number of issues, they do not want to speak openly on them. Sir, even this element here of crime, we who are representatives of low income areas which are stigmatised as ghettos, have to take great caution in debates on matters of crime and justice, because we do not want to appear not to understand the plight of the poor in the system. If we go to Glendairy Prison to visit, we would see that the large percentages of those persons who are there for both felonies and misdemeanors, are from low income areas. If you only have conversations with them, you would hear how conscious they are about the inequities in Barbados.

Sir, the lesson of the society is to go to school and if you learn, you would achieve and you would strive in the society. Sir, when men go to school and they cannot get into the labour force, or do not get fair pay within the labour force, with that underpinning consideration that they have honoured all the requirements of the society, and the society would not give them the break to achieve the goals, they find the unconventional approaches and the fast-tracked methods of achieving wealth.

In this society, people flaunt wealth every day, and people are respected, as a consequence of the symbols that are associated with them. If you do not have the symbols in this society and you have the intellect, you are still down the social ladder, in terms of how the society perceives you. Black men who work for small salaries believe that if they have a large car, which is expensive, somebody would think that they are important.

Sir, even ordinary men who experience difficulties believe that the symbols of gold make them look more regal and appealing, even to the opposite sex and to their own persons. They decorate themselves in special regale, in order to look important, even artificial things or the 'mock-mock'

things that look real, simply because they want to be on equal status with other people. There are these kinds of things in the system that every day, make young people do things to try to get brand named things in order to be validated in the society as somebody. It is an identity crisis.

The debate on the extension of the time for the jurors to deliberate, cannot restrict the debate. There are other wide parameters that people who are responsible for administrating the State, must take into consideration. These are only little bits and pieces. Some people describe them as piecemeal forms of adjustment for addressing some of the major problems in the society we call Barbados.

Sir, we need to be more community oriented. Rather than looking at how to solve the problem after the fact, so to speak, we need to have more preventive approaches within the system. This is why I have been constantly talking about new structures and new attitudes. We need personnel within the system who can understand what it is we want to achieve, not hard-headed personnel in the civil service or even in the political parties, but we need persons who understand the culture of the man in the street, some who will speak a language that is foreign to the ears. These things would happen. People would use different forms of language. Sometimes, as a consequence of using the language, they are jettisoned by other persons who believe that certain standards must remain in the society and must obtain, until the end of time.

We refuse to spend a little time talking to our children, because we feel that we cannot communicate with them. They have different values, they have a different way of communication but you have to try to understand them. Those who are responsible for the development of the community like the Department of Youth Affairs, the Community Development Department, the personnel in those departments must have a closer interaction and an interventionist approach to resolving the problems within the society. They must also be given greater flexibility by the lawmen or the law of the land, so that they do not have the fear that when they socialise, they are considered as part and parcel of the focus group with which we are dealing.

The reality is that some officers do not want to socialise with the young men 'on the block', especially after 4.00 p.m. because they are into the legacies of slavery, or the old colonial period where some people feel they work until a certain time. The system says they work to that time, and they do not feel so committed to the cause that they are prepared to work over the hours of 4.00 p.m., 6.00 p.m. and 7.00 p.m. within the communities, among the young men and women, and help to cultivate the kind of character within the communities.

Sir, we should have good community programmes with clear objectives, and ensure that those programmes are so well-structured and administered, that at the end of the day, we can see the benefits of the energy, intellect and money put into the programme.

I am happy that we have actually been working on trying to make adjustments to create a better society. I want to see and hear, even the presentation of these amendments to various Acts in Parliament, a more profound discourse on the other elements of the society that we need to develop simultaneously, or as my brother said, concomitantly with this same amendment to the Juries Act.

I believe, Sir, that the sociological perspective is lacking. I try my best, in some small way, hopefully not too vague, to make some meaningful contribution to debates of this kind. I hope I have set the course where other persons who are even more knowledgeable in these matters, or who are capable of adding some plus to these matters, will help to shape this society in the way it ought to be shaped, and see their responsibilities beyond, just taking into consideration, the amendment to this Act.

I support the Government in the present submission to this House.

I thank you, Sir.

Hon. K. D. SYMMONDS: Mr. Deputy Speaker, I rise in support of the measure before the House. I would want to say at the very outset that I wholeheartedly agree with many of the sentiments expressed by the Honourable Member who just took his seat.
3.10 p.m.

In England, prior to 1972 when the Criminal Justice Act was passed and essentially revised, their jury system, it is said that the jury system, which is the model upon which we based our practice, was predominantly male, predominantly middle-minded, predominantly middle class, predominately middle age and predominately middle income. That was the philosophical and conceptual limitation on the jury system in England. I think that the contribution of the Honourable Member who just took his seat was useful because it broke us of that tendency to only see some of these realities from the perspective of that very middle-minded, middle income, middle class section of the community.

Needless to say in Barbados today we have a far more comprehensive and holistic approach which in effect, as the Honourable Member for St. Philip North would argue, the jury system really works as a form of democracy. It is really the bulwark through which we allow our citizens to

participate effectively and also protect our citizens from excesses and other potential tyrannies that could befall them.

Sir, if we were to continue down the path of the Honourable Member who just took his seat, the reality is that there are grounds, in my view, for some concern about the way in which the practice of criminal justice is conducted in Barbados especially, in my respectful opinion I speak out of an abundance of experience in this matter, in the context of drug related crimes before the court.

I am of the view, Mr. Deputy Speaker, that when one comes to the court, whether one is a litigant in the context of an attorney-at-law or a litigant in the context of a person who is an accused man standing before the court charged with an offence of a drug related nature, which now is triable either way – for the benefit of Honourable Members not trained in the law, that simply means that the case could either be done at the magistrate level or before a judge and jury – the reality is that many people who go before the courts in Barbados today charged with the possession of drugs. Sir, what is more important is that when the amount is a trafficable amount, the assumption is that you are using it for the purpose not only of your own consumption but for the purpose of sale.

Many people who find themselves in that situation are in fact users of the drug, whether it be marijuana or cocaine, and therefore are in a real sense under an addiction. The reality is that a person who is an addict, as the law now stands in this country, is tried by the courts and if he is found guilty he does a period of time at Glendairy Prison. In some instances, he may be asked to pay a fine, in some instances, he may be placed on a period of probation, but the reality is that we are dealing with a situation where the individual who is an addict is being placed back into the society without the addiction of itself being tackled.

One of the profound and most frightening weaknesses for me as a practitioner that I saw before the Bar on a daily basis is that persons who by their demeanour and by their record, because you have in some situations people coming to the court on a drug related offence who have a list of prior convictions as long as your arm, but that person comes before the court and is given a fine and is sent on his way, but the addiction has not been tackled.

There are jurisdictions around the world and in the Caribbean as well, I believe Bermuda is now starting to speak to this, that speaks to the treatment of the rehabilitative treatment of drug offenders. I believe that this is something which we have to begin to seriously give some consideration to in Barbados. It has been the traditional route to go, whereby we say that a person is using drugs and he should not be using drugs and therefore he should face the natural legal consequences of his offence. I am one of those who

believe that the natural legal consequence should in fact be faced. I also go further to say that the natural legal consequence is severely undermined if there is an issue of addiction, which is a medical treatment issue, which must be broken. If that addiction is not spoken to by way of sentence and what has happened in other jurisdictions, then we fail.

In other jurisdictions part of the tribunal is made up of a medically trained person. That medically trained person then not only is party to an ongoing process of examination and re-examination of the offender, if he is allowed to be back out on the street, to ensure that he maintains a long period through which he is kept clean. Even in circumstances where there is incarceration, the offender is still subjected to the kind of medical treatment to break the addiction and further to ensure that a real effort is made at providing him with a life skill so that on his return to the community he is able to be a useful and productive citizen.

Sir, if this is not done, we find ourselves in a vicious circle where the cyclical effect would be, I go in, I come back out, I am on the street, I am in exactly the same situation I was prior to my conviction and I am therefore not contributing usefully to the society, but rather I am drawing from the economic resources of the society to the detriment of all and sundry. I believe that is but one example of how we could constructively seek to review the way in which some of these matters are dealt with.

Some discussion was made on this point earlier and I would as best as possible avoid any repetition, but I want to say as well that to my mind there is some concern or should be some concern about the question of who sits on a jury and what do we know of a jury pool. Again I speak only out of experience in these matters. An Assize starts in October and you go down to the court on the first morning, and after the usual formalities and so on, you are into your period of trial. On day one of the trial you are given a list which comprises the pool of jurors. Nobody knows who the jurors were the day before and no defence counsel had a clue. The first case of the day is heard and every succeeding case for the whole Assizes and it is a matter of the luck of the draw as to who sits on the jury.

Sir, you may do a rape case, you may have as part of the rape case a potential pool of jurors which comprises six or seven strongly confirmed feminists who are of the view that a man who commits such an abominable offence should be castrated.

Asides.

Hon. K. D. SYMMONDS: Sir, I am not going to get in with any asides on the pros and cons of castration, I am

using this only as an example, so we must not be detracted from the point which is that the accused man has a right to know the prejudices and the biases of the persons who will stand in judgement over him whatever the case may be. If, Sir, you are an avowed capitalist with the strongest of convictions about the individual pursuit of pleasure and spending your money howsoever you want, then it is not likely that you will understand the plight of the individual to whom the Honourable Member for St. Michael East just referred to as the man springing from the lumpenproletariat who was born poor, black and barefoot and who has had to struggle in society and as a result of that struggle has found himself running afoul of the law and committing a petty offence. It is not expected that the level of sensitivity and sympathy which you might feel, would be the equivalent of a person who does not have that extreme position.
3.20 p.m.

Mr. Deputy Speaker, it is not simply a question of the semantics of the sociology but rather an example of an understanding of what has been recognised by fellow civilised jurisdictions around the world which practised the same type of commonwealth law that we have practised, which understand the natural justice that we have associated in our Constitution, and which are prepared to ensure that every individual who comes before the court, is given the very best opportunity to have a transparent process of trial.

Sir, I am respectfully submitting that even in the United Kingdom – the great conservative white Anglo-Saxon United Kingdom – as recently as 1980, has accepted the importance of vetting. Yes, in the Attorney-General's guideline in 1980, I believe it is correct to say that they limited the process of vetting, only in circumstances in which there was fear regarding national security, terror-related matters, *et cetera*.

Sir, the point is that even under those circumstances, one recognises that there are situations where it is useful for the litigant to have the opportunity to enquire of the people who ultimately would sit in determination of his/her guilt or innocence. A litigant also has the opportunity to enquire as to his/her inert and inherent prejudices, and that a person should show why it is that a litigant should rest and repose comfort and confidence in the fact that persons stands in judgment over him/her.

Sir, the fact of the matter is that I believe we could feel quite confident that if it has been practised successfully in the United Kingdom, the United States of America, and several similar jurisdictions, then the time has come where we must appreciate that our own Barbadian people could only feel more confident if they know that they are being tried by a jury of their peers, as opposed to a jury that is made up of persons who might have biases and prejudices,

and who would have preferred to see them being exterminated from the face of the earth, rather than being given a fair trial.

Asides.

Hon. K. D. SYMMONDS: Mr. Deputy Speaker, I have said this because I have seen some of the damages that it has done in the reality of the environment of practice.

Sir, the learned Attorney-General has made reference to the question of pretrial disclosure in Barbados and, therefore, I want to congratulate her on raising that issue.

I believe there has been a study done in which the question of pretrial disclosure has been looked at by the National Task Force on Crime Prevention. That study must be commended to all Honourable Members of this Honourable House and to Barbados as a whole.

Sir, the question of pretrial disclosure is an area of great concern for those of us who have to do a jury trial before the criminal bar. There has been a long practice by senior silks in Queen's Council in this country, the likes of the Honourable Member for St. George South, one of the more illustrious sons of the soil at the criminal bar.

Sir, the experience has been that in previous days, they would not have had the benefit of the more recent case laws which provided the precedents for pretrial disclosure.

Sir, pretrial disclosure is simply the mandate given by the court that the complete file which constitutes the police case, is to be made available to the accused and his lawyer, meaning that the accused person would not be tried by ambush. Sir, the police has a collection of evidence against such accused person and should, therefore, let that accused person see the evidence which is purported to be against him because natural justice says that not only does an accused person has a right of response but that he/she must also know of what he/she has to respond.

Sir, illustrious counsel of years gone by might have struggled tooth-and-nail, mightily and successfully in many cases, in order to ensure that justice was done because some of these basic essentials which, in more recent times, courts have grudgingly and reluctantly made available as part of the justice package, were not always the case.

Sir, even today, and that is why the Attorney-General's reference to this point is so important, in the courts of Barbados, though there is precedence for it, the average police prosecutor is going to be heard to say that pretrial disclosure has nothing to do with him, that the accused person should be provided with money to get photocopies of

such information, because the prosecutor himself, has too much to do.

Sir, those are some of the things that have been heard to be said, and that is why the impassioned plea by the Honourable Member for St. Michael East resonates because of the fact that accused persons who stand to suffer are the poor person or the barefoot litigant who come to a court without having counsel by his side, and who might not know of pretrial disclosure and in many cases, unless minded to do so, the magistrate might not tell the accused person about his/her entitlement to have pretrial disclosure.

Sir, I am not going to say much but I have had to appear *amicus curiae* and say on the behalf of an impoverished litigant, that he or she has the right to do certain things. That too might have been the experience of the Honourable Member for St. George South, appearing as *amicus curiae*. and therefore, it makes it all the more important that if pretrial disclosure is being grudgingly and reluctantly handed over, I am honoured that we might have to come to the point where we legislate and make it part of the statute law of Barbados, in an effort to continue to protect the interest of the small man in this country. I feel that very strongly about it.

Mr. Deputy Speaker, I would also want to speak to the question of offences involving drugs and firearms. I believe that in particular those two types of offences have very serious macro implications for the country. It is a key ingredient of the prosecution process that an offence involving drugs or firearms can be brought on the basis of the forensic report.

In many instances, there would be the need for the evidence of the virtual complainant, especially if the firearm case, is one in which an assault has taken place. Sir, that this Honourable Chamber must understand what takes place on a daily basis in Barbados, and I am speaking about the procedure and practice, because the law must come to cure the defects. We must accept our duty as legislators and not to turn a blind eye. Sir, we do not enjoy a system like that of the United States of America, where one could call an investigation of the Senate, bring witnesses from all and sundry, and they say what happens on a daily basis. Sir, we have to make use of every opportunity that we have in order to come to terms with the reality.

Sir, the reality in Barbados that takes place on frightfully frequent occasions, is that a man charged with an assault involving a firearm, who has money in his pocket, is able to finance the virtual complainant for that person not to give evidence against the accused.

Mr. Deputy Speaker, it happens in this country, it is the reality known to persons who practised at the criminal Bar, where persons go to police stations and make complaints, the

police officers spring into action, the resources of the State are deployed to put an end to this reign of terror that is taking place in the country then, within a number of months, the virtual complainant who might be carrying marks of violence about his/her person could be heard to say he/she is no longer interested in prosecuting the case against the accused person.

Mr. Deputy Speaker, we could continue to turn a blind eye, a deaf ear, to pretend it does not happen, to sweep it under the rug, or to get vexed with people who talk about it, but the time will come when this small society would no longer be able to accept it.
3.30 p.m.

When we speak about a jury system and that the law is certain, we have to accept that this has confronted other jurisdictions with similar approaches to the practices we have. In some of those jurisdictions, they have decided by legislation that they will circumvent that type of problem by using the statement of the virtual complainant in evidence, if he decides he does not want to cooperate.

Sir, there may be a debate in this country as to whether we want to take that route and the overall fairness of it. Los Angeles has gone the route of doing a polygraph test to corroborate the statement and give it weight in court. Sir, that is precisely the route that is being taken in the current Michael Jackson's trial so as to protect the young boy, who is the virtual complainant in the event that an effort is made to pay him off.

Sir, I am not on the Floor to make a submission as to a fool-proof solution. I am raising the issue because I have seen in practice that persons seem to bypass or pervert the course of justice before cases get to the court room because they have a heavy pocket and if they get to the virtual complainant they can kill the case before the police have an opportunity to bring it to court.

Mr. Deputy Speaker, the issue that faces Barbados is whether this is an approach we can live with, whether we accept that this type of thing is acceptable or has a long-term implication for the well-being of the society and the State.

Mr. Deputy Speaker, I am of the view that the Honourable Member for St. Michael West was on good grounds when he spoke about legal aid. It must be brought into this record that legal aid in Barbados has a rich quality about it. There are few places in the world where a Queen's Counsel, with the seniority like the Honourable Member St. George South, will work on a case through legal aid without a cent being paid to that individual. In many instances, the range of counsel offered in family and criminal matters is exceptionally impressive. One of the things we have to feel

proud about in this society is that all attorneys at the Bar have taken the step of putting their names on the legal aid record and an impressive amount of attorneys on the Frontbench have done so as well.

Sir, if there is a deficiency, it may well be that the range of criminal offences offered by legal aid is too limited. I believe that if you are entitled to legal aid it should genuinely be a case where the person cannot afford to pay for an attorney and the State then provides counsel.

I am getting the impression from the way in which the list is structured that certain types of offences are omitted because of the nature of the offence. Sir, if I am wrong, I stand subject to correction on that. I believe there should not be an omission from guidance from counsel on the basis of the nature of the offence for which you are charge because, after all, every accused man is presumed innocent until proven guilty so the presumption is that he or she has not committed the offence. He or she should, therefore, be able to secure counsel irrespective of the offence. Sir, if there is a weakness in the legal aid system, I think that would be the weakness. Sir, it is on those grounds that I want to support the observations brought to this House by the Honourable Member for Christ Church West.

Sir, I believe as well that the criminal Bar has very few speciality skills. Again, I reiterate the point that it is a very important and useful thing that Barbados continues to have a legal aid structure which ensures that persons with the kind of experience like that of the Member who I alluded to earlier and others, who have twenty or more years at the criminal Bar are still part and parcel of the package which is being offered to the litigant.

Therefore, if you prefer to try your hand with a fresh new lawyer who is young and dynamic and you prefer that kind of individual, then you have legal aid from someone who is two or three years at the Bar. Equally, if the matter is of sufficient complexity, severity and significance that you wish to have a more senior Attorney, then that exists as well. Sir, when we criticise the legal aid system, we must be mindful of the fact that we are unique because we enjoy this in Barbados today.

Mr. Deputy Speaker, I began on the note of drug rehabilitation and I want to end on that note. I want to say for the purpose of emphasis that I believe that the jurisprudential system must be sensitive to the real problems which we have. I am particularly concerned about drug use in this country. I do not believe the situation can be cured by simply legalising it. I will never, unless persuaded by a heavy preponderance of scientific information accept that could be the situation. I truly believe that we must approach this

matter as holistically as possible and against the understanding that Barbados has one real resource which is our human resource and that we cannot run the risk of creating a nation of zombies. The reality must be if we are talking about drug addiction in the context of jurisprudence, there must be room for that addiction to be broken, treated and cured and I do not see that as part of our criminal justice process at present. Mr. Deputy Speaker, I do not think that sending a man who has half a pound of cocaine to Glendairy for a year is a solution simply because he has a trafficable quantity.

Asides.

Hon. K. D. SYMMONDS: Sir, having a trafficable quantity does not mean he is not using it himself. Therefore, if you are going to incarcerate him, you must also help him to break the addiction because sending a person to Glendairy Prison does not by itself break an addiction.

Sir, there are too many instances of people in Glendairy Prison soliciting drugs even though they are incarcerated for a drug offence. The mere fact that persons are in prison and that they are soliciting drugs mean there is a drug trade in the Prison and rather than breaking the addiction, the prison is facilitating the access to drugs.

Sir, I am concerned that we must change the focus and put it on the breakage of the addiction.

Sir, I truly believe that there must be a medical input into the question of treatment when dealing with a drug offender. The drug offender who is dealt with by way of going to Glendairy Prison is not being adequately dealt with. In that context I am urging this House that there must be a more holistic and broad-based view.

Mr. Deputy Speaker, at no stage do I want it to be interpreted to say that I do not agree to sending the person with half a pound of cocaine to prison. I have no difficulty with the incarceration. Sir, the United Kingdom, New York, Bermuda and other jurisdictions are using the route of incarceration but they marry it with a period of medical treatment aimed at breaking the addiction. Sir, I hope I have made the point abundantly clear.

I thank you, Sir.
3.40 p.m.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, when we look at the statistics for the year 2002, we will notice that the number of drug related cases have reduced by 51 in 2003. Sir, if we live in Barbados we would expect to see an increase in cases but the increase is not shown in these statistics.

We have to protect the police and other law enforcement officers who risk their lives to protect the citizens of this country. The law enforcement agencies are concentrating on aborting the landing of drugs in Barbados and I want to congratulate them for doing a very good job because their job is a difficult one.

Sir, we must make sure that people are not trapped in a society where there are selfish persons who are looking after their personal interest by abusing the masses in Barbados in order to enrich themselves and deprive the country of foreign exchange.

The Honourable Member said that this is a macro issue and I agree with him.

Asides.

Mr. D. St. E. KELLMAN: It is clear that we have a country where people are working hard to increase the GDP of the country and there are people who are idly sitting by corrupting the minds of Barbadians and using the resources of the country to enrich themselves and deprive the country of valuable foreign exchange.

Sir, whenever drugs are landed at Barbados they have to be paid for and most likely paid in foreign exchange. If they are paid for in foreign exchange, it means that we are depleting our foreign resources. We should not only look at the drug trade in Barbados as somebody that smokes or inhales a little drug, we have to look at the long-term damage that it is doing to the economy. We must strengthen the law enforcement agencies so that they can adequately deal with such matters. We also have to understand that we are dealing with high-speed vessels that transport drugs.

Sir, we also have to protect the lives of the jurors because when persons are caught with drugs they would do anything to corrupt the legal system and we have to protect the legal system from such persons. In addition to extending the time for jurors to deliberate, we must put systems in place to make sure that those persons working in the legal system are also protected.

Sir, should we not be finding a way where we reduce the time of deliberation because the longer time that jurors have to deliberate, the more corrupt the system becomes. It is okay to say that we want to extend the time for deliberation but we must understand that there are people who would try to use the additional time in their own interest.

Sir, the amendment to the Juries Act, Cap. 115B states:

“(a) enable the jury in the trial of both criminal and civil cases to apply to the Judge for further time to deliberate its verdict.

(b) to empower the Judge to grant such applications.”

Sir, I have a problem with the wording of this amendment. I believe that the empowering of the Judge needs to be explained because it could be interpreted that somebody can coerce a Judge to do something improper. A simple interpretation would mean that the Judge has more power to do what he likes. We have to be very careful what empowerment is given to Judges.

Sir, a few years ago this Parliament told the Judges...

Asides.

Mr. D. St. E. KELLMAN: I do not like anything that is ambiguous. Legal technicalities are always used to solve cases.

Sir, a few years ago this Parliament tied the hands of Judges as it related to sentencing, they could not use their discretion. I hope that this is not a situation like what happened before. We need to allow Judges to use their discretion.

The Attorney-General gave an explanation this morning why the amendment is necessary. However, the spoken word and the written word are completely different. We have to be careful what power is being transferred from the Judge to the jury, where the members of the jury believe that they can tell the Judge how he should extend the time for deliberation.

Sir, I also have a problem with the Maintenance Act. I want to see the Maintenance Act amended because there are fathers who are supporting their children but are taken before the court by the mothers. However, because of jealousy by the mothers, the Judge reduces the sum of money that was being paid by the fathers for maintenance. I am saying that a man should only be brought before the court in a case where he is not supporting his children or not supporting them properly.

Sir, it should not be a case where, because of some excuse, the father is going to be married to someone else that children are subjected to a situation where they have to be supported through the court system and eventually being laughed at by people.
3.50 p.m.

I am saying that the Child Maintenance Act needs to be amended to make that particular point very clear. Sir, we cannot have people in Barbados subjected to having to go and pay maintenance on a monthly basis to the law courts, when they are quite willing to pay even more than what the courts asked them to pay.

I am saying those things should be corrected. We also have another situation, Mr. Deputy Speaker, that persons all over Barbados have spoken to me about. On a yearly basis, Sir, thousands of Barbadians have to go before the law courts to ask for something called a liquor license. This is a system that was brought to Barbados because they had some people who figured that some people should not be in that type of business because that was the successful business at the time.

Sir, thousands of man hours are lost on a yearly basis for somebody to say, ‘yes Sir, yes, Ma’am’ or some such thing. I am saying that system is outdated and the only reason why people should go before the law courts to answer something like that is when they have a case within the society, where somebody is offending the other person, not thousands of hours being wasted on a yearly basis, sometimes a day per person, in a country like Barbados which is supposed to be competing with the outer world. All we have to do is to multiply the number of persons who have to do it, by eight hours at least and you would understand the hours I am speaking about, Sir.

I am saying also that in our magistrate’s courts once upon a time, it was just a simple situation where minor cases were being tried. Sir, we now have a situation where these magistrates have to do many cases and when you equate their work to work being done within the high courts of Barbados, you would find that some of these magistrates work just as hard or harder, and that the demand on them is much greater than it is in the High Court. When you look at their compensation, you cannot believe that those ladies and gentlemen are being compensated at that particular level.

I am saying that if you want to increase the hours, maybe, the system to use is one based on productivity, because if you ever introduce that, the compensation would be higher for the magistrates. We need to equate them with the judges. When I say, equate I mean we need to have an evaluation of their production. I am not trying to knock the judges. I am saying that if you are in the legal system and you have other people who are doing important work, you also need to compensate those persons for the work they are doing.

We have the police officers who are also doing their best, Sir, and we also need to have them compensated. We are living in a different world and we have to understand that things have changed. Once we can recognise that things have changed, we also have to make changes in our system.

Mr. Deputy Speaker, I am saying that at face value this looks okay. Sir, if by chance what I am seeing is not what I thought I was discussing, I protect myself and that is why I refer to sections A and B, to make sure that I am protected.

Mr. Deputy Speaker, someone made the comment that some employers in Barbados do not like to give leave for Jury Duty. I do not think that is true. One has to understand, Sir, that every employee is important to a business and sometimes we have to look at the time the request is made. It does not mean that because a request is made from a High Court for somebody to serve on the Jury, that an employer can just decide to let that person go. As you would know, Sir, it means that if you allow that you are saying to other people that the particular employee has no value to your business.

If in a short space of time you can allow that employee to leave the business, without replacing that employee by somebody just as competent, it means that particular employee is of no value to your business. This is the angle you have to look at it from, Sir, so it is not that the employer is saying that he does not want to relieve the employee. The employer is saying that his employees are very valuable and that they mean something to the business.

I thank you, Sir.

Hon. Miss C. Y. FORDE: Mr. Deputy Speaker, first of all, I want to clearly express my support for the Juries Amendment Bill today. I have never had the opportunity to go to court in any of those institutions, therefore, I may speak out of ignorance. There were some comments made earlier this afternoon that I would wish to touch on and then go a little deeper into the whole amendment.

I have always heard that ignorance of the law is no excuse. In the same way I heard the Honourable Member for St. Michael East speak of young people and the glamour and glitz that they are looking for, I believe that the real Barbadian whom we have known for many generations would have been seeing many people with the glitz and glamour but have never run afoul of the law to achieve any of those things. They have worked hard day and night to be able to achieve. I feel that is what we should be telling our young people. Yes, there are going to be challenges. Who among us here did not have challenges? I heard many Honourable Members within these Chambers and in the Other Place, and indeed, on the outside talk about their childhood and how challenging it would have been for their parents, guardians and others to help them to develop into good citizens.

The hallmark of whatever was done, Mr. Deputy Speaker, was done with the good moral fabric to help them to climb the social ladder and, indeed, the education was there to help them with the whole issue. Sir, I am not going to tolerate or support anyone who thinks that because somebody is poor, they should breach every rule in this country, or in any other country to be able to achieve brand

name and a flashy motor car and a washing machine or not to pay their bills or whatever.

Mr. Deputy Speaker, anytime I reach that stage I will bow out of this Honourable Chamber and find something to do. I would be failing in my duties as a citizen if I support that kind of logic.

I want to say that a lot of the Honourable Members who talked about child maintenance do not really understand. They would have to be in the social system like the Child Care Board, the Probation Department and the classrooms to see how children suffer, as a result of that maintenance which is lacking in many areas. I suppose that for many generations, we saw it as a cultural practice for many males not to fulfill their roles. I believe that both males and females should be responsible for the upbringing of children, whether they are their own children, children of other relatives or foster children. Therefore, I believe that every child should be maintained.

Sir, some Honourable Members here would have seen that there are children who have been to school for a whole year and never got a single text book, whether they are at primary or secondary, because they have a different father who would not give any maintenance, compared to the other child in the same household who would have given every book, new uniform and everything needed for school. Sir, what would that do the psyche of those children? It would destroy their psyche, because they must feel different from others.

Sir, I agree that we must put systems in place at the various courts across the island, where proper arrangements can be made, so that women would not have to wait an entire day and then be told that there is no money. I feel that men should be more responsible. Do you know what is our biggest challenge?

Sir, a lot of mothers of those males are the ones who tell them not to support the children. I believe in the comments that were made by our foreparents that if you had not gone there, your name would not be called. Sir, as we advance in this society and there is DNA, then those men who feel that they are 'taken advantage of', should go and make sure that their rights are protected.
4.00 p.m.

I do not believe that children should have to go without maintenance sometimes for many years and be brought to their knees in the school system and in the communities where they live and are made to suffer while the men are out there driving the biggest cars, wearing the fanciest clothing and all kinds of foolish things.

Mr. Deputy Speaker, I believe that justice must not only be done but must seem to be done. The Honourable Member for St. Philip North spoke at length to that. The fight against crime and violence in this country or indeed in any other country in the world is not a political thing. I agree that all governments have made efforts in this whole exercise even though this Barbados Labour Party Government has made more efforts than the Democratic Labour Party.

During the 1990s when there was the development of gangs and when disrespect started to develop against police officers and other law enforcement agencies, people supported it. A song came from another Caribbean country about what the hell the police could do. After that, we started to develop a culture of people who had no respect for law and order and young men started to call the policemen Babylon boots and pushed their hands in their faces and do all kinds of strange things and people supported it. At almost every fete you attended, and even on the radio, you could hear that song, "What de hell de police could do". At that time, Mr. Deputy Speaker, the then Justice Minister, I think the title was, in the face of all of the criticisms across the length and breadth of this country, said that there were no gangs in Barbados. Therefore, nothing was done at that time to tackle the problem that has now grown to crisis proportion.

Mr. Deputy Speaker, during the late 1990s leading up to the 1999 Election, a young lady from St. Lucy who was a young democrat said openly on a political platform that guns are tools and that when the police took away the guns from the young people how will they earn money and get employment and no one in the Democratic Labour Party objected to or disassociated themselves with those comments. Where are we going in this country? We are not to see fighting crime and violence as a political issue, it must be through the cohesive effort of every single Barbadian.

Asides.

Hon. Miss C. Y. FORDE: Mr. Deputy Speaker, I have my opportunity to speak. Sir, the Honourable Member who used to be a leader of a union did not carry out his duty successfully either, but I will get an opportunity to speak to him on that.

Mr. Deputy Speaker, I followed the march that the Democratic Labour Party sponsored in their efforts on crime and violence. I did not participate in that march because I wanted to, I did so because I felt that the entire population of Barbados should be out there working against crime and violence, but not in the way it was conceived by Miss Lazlo. I believe that we must work together and uphold the basic tenets that have made this society the society it is, by promoting thrift, honesty, prudence, hard work and

accountability. I can go down the line because I speak from a background of growing up in a large family through poverty, so I understand it as well as other Honourable Members in this Honourable Chamber.

Mr. Deputy Speaker, the collaborative efforts of the law enforcement agencies must be highly commended because we know that they are faced with tremendous challenges such as threats to their lives. Therefore, I want to sympathize with the family of that young police officer in St. John who lost his life in the battle against the drugs that were coming into this country. Every day of our lives we observe and we empathise with members of the Police Force, the Defence Force and the Coast Guard and with the marshals, the security guards and all others who are helping in the fight to stave off crime or to decrease the percentage of crime in this country.

Indeed, the regional and international efforts of the various agencies have helped our achievements to rise. When we compare the level of crime in Barbados with that of other Caribbean countries, we know that money laundering is 'kicking in' but still the percentage as far as I understand it is not as high, the incidences of murder are not as high and 'gun running' is not as high. I am not saying that we should be thumping ourselves on the chest and jumping high, but we are happy that the law enforcement agencies with the collaborative effort of other agencies have helped to decrease the level of crime in this country.

Our police officers have been given more equipment and better vehicles, they have been trained and are being retrained to be able to fight sophisticated crimes. As we speak, Mr. Deputy Speaker, we have approximately 600 deportees who came in from the United States of America and other countries who are very sophisticated in the way they do things. Therefore, our police officers and other law enforcement agencies must be on the cutting edge for us to be able to deal with the issue. This is not a Barbados Labour Party idea now, it is all of us in this big pool together pushing Barbados forward and helping to minimise what I would call a big cancer at this time.

The Commission on Law and Order along with the other stakeholders in their efforts in the year 2003 went into numerous communities soliciting opinions, ideas and solutions from various agencies to be able to help them with their reporting. We have young people who are 'fussy' to walk around with ... The last one who had written on his bosom "Get rich and die trying", really died trying to get rich. This is the kind of philosophy our young people are being taught. To them materialism is most important. They do not worry anymore about good morals and good standards, they have thrown them on the back burner. For

them it is get rich or die trying to get rich. We must dismiss that notion, Mr. Deputy Speaker, as soon as it begins to raise its ugly head.

Mr. Deputy Speaker, I have been privileged to see some statistics that indicated that burglaries and robberies in this country have decreased by approximately 33½ per cent as compared to the 1990s, which I think is a tremendous achievement. Sir, the policies and the programmes of the Barbados Labour Party along with the assistance of the law enforcement agencies and the public of Barbados have us feeling a little safer and developing a trust in the police force by giving them sensitive information on a daily basis to help them to be able to crack some of the crimes that are committed in this country. I want to laud the efforts of the law enforcement agencies again and the public of Barbados who feel that it is their duty to assist, because at the end of the day all of us walk with fear in our hearts because we do not know when next it would come to our neighbourhood. Sir, it is a cohesive effort.

Mr. Deputy Speaker, I want to touch on another aspect of what is helping to wreak havoc on our society with this crime and violence. Approximately two generations ago, we had adults who ran afoul of the law and as a result of the bad relationships they developed with the police officers and the other law enforcement agencies they have inculcated a hate approach in their children who too are showing that they hate the police. Therefore, when police officers have to go into certain communities some of these young people including young women, because our young women are now catching on with the young men and it is really a burning shame to see the way our young people, with so much free education, have turned over the last few years...

We really need within our schools, our churches, the communities and our homes in particular to come together again and make that cohesive group to ensure that we instill in our children discipline and standards that are appropriate for good living and for becoming good citizens. It is not enough for us to tell children to do it and then we ourselves do the contrary. It is no longer now do as I say and not as I do. We have to set the example for young people to follow and we must do it right every time because their minds are impressionable. The cultural penetration, the television and the computer are taking hold of our children, therefore we need to set the right examples in order for them to be able to advance.

4.10 p.m.

Mr. Deputy Speaker, we need parenting education for our adults. When a mother or father could tell a child that the police is looking for that child because he or she might have committed a crime, and that mother/father proceeds to hide that child from the police, it indicates that the parent is

encouraging that child in the commission of the alleged crime.

Mr. Deputy Speaker, I do not know if Barbadians are aware of the story where a man whose mother had misled him, when he went to court he called her. She thought that he was going to whisper something in her ear; instead, he bit it off and told her that if she had taught him to do the right things, then he would not have been in the situation.

I think that story needs to be reinforced into the communities so that mothers, girlfriends, fathers, grandmothers, and others, would help young people to understand that they have a responsibility and are accountable for their actions, and must help play a role in helping to build this society.

Mr. Deputy Speaker, the community policing would help us more in staving off crime. As I said earlier, the element of building trust and faith in the police force has to come into play, and that there should be further training and retraining of our police officers, especially in domestic violence, rape, and human relations. Therefore, the more training police officers get, I am sure they would be able to deal better with situations. Sir, I have a difficulty when police officers could go to a home to resolve a domestic dispute and could be heard to make statements to the female that the man only wants sex to resolve the situation.

Mr. Deputy Speaker, my major concern has to do with sexual abuse of children under 16 years. I had the unfortunate experience in 2001, 2002 and 2003, to speak with approximately 12 year old teenaged mothers. Sir, in 2001, my heart pained me to have seen an 11-year old girl pregnant. On inquiry, I found out that she was not impregnated by a 15-year schoolmate but by a 'hardback' man.

Sir, I have a difficulty with the enforcement of the law because for years, we have known... I had neighbours who had that kind of relationship with young girls, who perhaps did not become pregnant, but those men were incarcerated for sometime. There are also women who are having sexual relationships with minors, and this is something that we should not condone.

Mr. Deputy Speaker, there are also a number of young boys who are into the sexual abuse category and we need to have it stamped out. Therefore, there is need for more parenting skills; parents who would talk to their children and advise them not to allow themselves to be touched by anyone, especially on their private parts. This is something that should be taught in the schools and in the homes. If we could get more care-givers who are into pastoral care, as it is important for the development of human beings, I am sure

that we would be able to cut down on at least 25 per cent of the challenges that we are experiencing today.

We need more people in the communities to tithe their time and skills, that is giving back to the communities. This could be done on Saturday mornings, in training the young people about good lifestyles, etiquette, *et cetera*, in order for us to win this battle.

Sir, the Child Care Board officers must be highly commended for their community outreach. They have set up programmes in schools. They have been having programmes in the communities, in order to prepare parents to know about child abuse situations, how to deal with them when identified and the way to go about having them corrected. Therefore, the sensitisation has worked but we need more of that to happen.

Mr. Deputy Speaker, I am terribly upset when some women in Barbados having learnt that their 12-year daughter is pregnant, would have told that child that she would not be going to court because if the man gets sent to prison, then she would not be able to get money to maintain the baby. In such a situation the child relinquishes. There are some persons who also take money so that the man would not be prosecuted, or some who go to court and say that they are no longer interested in prosecuting the case.

Mr. Deputy Speaker, any Thursday morning at the Juvenile Court, St. Matthias, would give you a better picture of what I am speaking about. I think this is all wrong and that parents have to be better trained how to handle issues of that kind. Indeed, I would like to say that parents, uncles, aunts, *et cetera*, must be properly prepared how to supervise children so that incidences of sexual abuse, rape, *et cetera*, would be minimised throughout the lives of our children.

There are too many of our children who are bruised and they are angry because they have not been allowed to talk about it. They have been threatened with eviction from their homes by their parents. Sir, this leads to deeper psychological problems such as prostitution and further pregnancies.

Mr. Deputy Speaker, I am not saying that having any number of children is wrong because individuals have a right under the Constitution, to have as many children as they so desire but when there are children being born one after the other with no reasonable maintenance, it puts a heavier burden on families and on the social agencies, which, therefore, means that the children are the ones who would suffer terribly at the end of the day.

Mr. Deputy Speaker, I would wish to give you an idea of the number of reported cases of teenage pregnancies.

Year	No. of cases
1995-1996	106
1999-2000	264

Sir, I am speaking of males and females, with an average of 10 males included in each year.

Mr. Deputy Speaker, unofficial referrals from the Queen Elizabeth Hospital for teenage pregnancies were:

Year	No. of cases
1997-1998	20
2001-2002	58

Mr. Deputy Speaker, when one looks at the unofficial report for the year 2002-2003, the pregnancies ranged:

Age range	Number
12 years old	1
13 years old	1
14 years old	16
15 years old	18
16 years old	13

Mr. Deputy Speaker, what is going to happen to these children's education when they lose out, as a result of having babies? What about the parenting skills that they need if they are to be able to assist? What about their own personal health and development? Sir, this indicates that we need to treat to the justice system and to ensure that people pay for the crimes they commit, as a result of destroying the lives of the fabric of our society.

Mr. Deputy Speaker, again I want to say that the Child Care Board workers have been doing an excellent job and must be highly commended for the bold steps they are taking, despite the fact that some of them are being telephoned at their homes and threatened or are having private investigators looking into their private lives because they are pursuing cases in their own professional responsibilities.

Mr. Deputy Speaker, the court process is definitely too slow. If in 1997-1998, we have had 20 referrals for teenage pregnancies under the age of 16, what then happens if a then 13-year old is still waiting for that case to be called? Mr. Deputy Speaker, this would mean that between 1997 and present, that teenager would be almost 20 years old and, therefore, might not be able to remember some of the facts, or she may have now be at the point where she does not want to be put on a witness stand, where she would be 'dragged

along in the gutter over that pregnancy. Therefore, people withdraw because they have their own personal integrity that they want to uphold.

4.20 p.m.

There must be speedier process in the court system where these cases can be heard in camera because it is not something that I expect would be done in the public.

Mr. Deputy Speaker, we need a better facility for the child guidance clinic set up at the Psychiatric Hospital. I know there are systems now being put in place to deal with it but there are thousands of children in schools who are allegedly under the influence of drugs and unless efforts are made in the home to work in close association with schools and social agencies, then it is going to escalate as these young people grow older and move out of the school system. These young people are already into the habit of using drugs and must be given professional help and to take them to the psychiatric hospital makes them feel stigmatised because people see them as being mad.

I want to assist in the call to Government for a better facility where children can be interviewed, tested for the intake of drugs and treated for the challenges they are undergoing.

Mr. Deputy Speaker, before I close, I want to say that education at all levels should help in this respect. We need to come together, give of our resources, skills and time in the community, at home and work. This will add up because we need to get that element of role models in our society again and not the people on Black Entertainment TV, who our children are now emulating by dressing the same way.

Sir, we need role models from the society who have come through our system like William Arthur, former principal at Buxton School, an eminent individual who has impressed on the lives of Barbadians in Green Hill, Jackson and Spooners Hill.

Mrs. Ruth Trotman, former principal of a school in the rural community led an upright life and was able to change the culture of our young people and pointed them to do what is good.

Mr. Deputy Speaker, the Youth Affairs Department is assisting in some of the education as well. They have identified youth who have skills in painting, music, drama and so on and are working with them. This may look like a drop of water in the ocean but the programme has brought excellent results.

Project Oasis formerly called the Block Committee, has potential for our young people to use up their energy in a

meaningful way to be able to make a contribution to the development of our society. Sir, we need to support those efforts.

There is also the Youth Development Programme where youth commissioners across the island work with young people who want to get into sports and culture to develop their skills. There are also programmes with the National Cultural Foundation to assist in this respect.

I think it is important that we put more systems in place as conflict resolution is extremely important. Last week I told a young man that if someone stepped on his toe and he got angry, he should go and cuff a punching bag but make sure he does not cuff anyone because it is not Barbadian culture. We need to nip these things in the bud and teach our children to say that they are sorry if accused of stepping on someone's toe. This helps to eliminate some of the tension which is spiraling in the community.

Mr. Deputy Speaker, I have emphasised sports, community effort where it is the plan of the Youth Affairs Department to generate more involvement from people in communities because this is what is needed there.

Mr. Deputy Speaker, in closing I want to reiterate the need for those three pillars of our society, the home, school and church, to work together in building good communities that in the end will build a good society.

Mr. Deputy Speaker, I thank you and express my support for the Juries Amendment Bill.

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

Hon. N A. LYNCH: Mr. Deputy Speaker, I rise to support this amendment before this Chamber. I want to compliment the Attorney-General and this administration for the enviable record that has been posted as it relates to the management and reduction of crime in our society.

Sir, an amendment of this kind has further and wider implications for our society and does not simply deal with the criminal justice system in Barbados. The legal minds and the sociologists have had their say but this amendment which is seeking to expand the time that the jury is given to deliberate and which also empowers the judiciary by giving them more time, is part and parcel of the commitment that this administration has for continuous reform of the criminal justice system in our country. There is also the broader consideration of giving every Barbadian the right which should be preserved that he or she has enshrined in our Constitution.

Sir, this amendment is important because it also speaks more broadly to the concept of equity and fairness for all Barbadians and, as I said before, it has wider implications because it is not a simple matter of reform and amendment to our system of justice in Barbados.

Sir, the philosophical concepts of justice, how we interpret justice and what it is all about are really at the core of this particular amendment. There are also wider implications for other areas of development of our society. Certainly, there are sociological and economic implications as it relates to building a safe society in Barbados.

Honourable Members have already spoken and, my friend, the Honourable Member from Christ Church East Central continues in a subtle way to deal with the issue of crime and violence in Barbados. On one hand he supports the issues of reduction in crime in Barbados and tries to lend some credence and support for the fact that crime statistically has gone down but is still in a subliminal way trying to present to our society that the country is not safe.
4.30 p.m.

Mr. Deputy Speaker, the recorded statistics in the last decade painted a different picture of what is happening in our society as it relates to building a safe society for our people. Sir, whenever there is a debate in this Honourable Chamber that speaks to statistics, we can always argue over the statistics. I believe that over the last decade a record has been kept on crime in this country. The statistics show that crime rate has been reduced and our society is a safer place today and that should be the core of our debate when we speak on the issue of crime.

There are wider philosophical issues involved when we are debating crime but too far east is west. I am sensitive to many of the sociological issues when we talk about crime in our society and I am aware of many of the implications. I was raised in an urban community and I represent an urban constituency. I am also aware that if people in an urban community are given the opportunity to improve their standard of living, there will come a time when these citizens will have to take responsibility for their actions. I say this unapologetically because there are some elements in our society that have prevented some people from such opportunities. We cannot continue to blame a particular group of people all the time for every aspect of antisocial behaviour in our society. I acknowledge that there are some people who are caught in certain circumstances but there comes a time when those persons, who were given the opportunity to improve themselves, need to take responsibility for their actions.

Sir, I believe that commendation must go to the Royal Barbados Police Force for the prevention of crime, which is at the heart of the statistics before us today. I also believe

that the positive record of crime reduction is attributed to the Royal Barbados Police Force for the way in which it has responded to crime over the past decade. We have a more educated populace and I believe that the Royal Barbados Police Force has played a positive role in that regard, for example, the Resident Beat Officer, and public education. Mr. Speaker, there is a renewed high level of respect for the Royal Barbados Police Force.

Sir, I have a soft spot for the Royal Barbados Police Force because I am the son of a former police officer. In recent times, the respect for police officers have waned. However, I suspect that because of the number of initiatives that have been put in place, there has been the restoration of confidence in the Royal Barbados Police Force and this augurs well for all Barbadians. We believe that this Government has treated the Royal Barbados Police Force fairly and will continue to treat them that way. Our record of upgrading the facilities of the Royal Barbados Police Force is an enviable one. Sir, the police officers are now entitled to flexible allowances and relatives of officers who lost their lives in the line of duty are entitled to compensation. Sir, the citizens of Barbados are aware that positive things are happening as it relates to their safety and I believe that this lends to the confidence and restoration of the Royal Barbados Police Force and this can only augur well for our society.

However, there are some implications for the tourism industry. A good positive record of safety is a shot in the arm and an endorsement for our tourism sector and a basis on which we can continue to market our country. Sir, cleanliness, friendliness, safety and security are considerations when a person is planning a vacation. However, I believe that safety and security are at the top of the list when a potential tourist is making a decision to travel particularly since September 11, 2001. I also believe that safety and security have become the number one factor since September 11, 2001. I believe that the issue of terrorism impacts more, especially with the unilateralism that is emerging north of Barbados, when they are traveling from the United States of America on American aircrafts.

Barbados is being looked at favourably because of our security in our jurisdiction. However, I do not believe that we should go around bragging about our safety record when marketing our country but we can in a very subtle way let people know that our area is safe. It is also potentially dangerous to say that our country is safer than another country because it can have wider implications.

Sir, it is assuring and pleasing to me that we are making positive strides in this regard, that is less crime, and specifically crime against tourists in Barbados. Sir, the record shows that crime against visitors

in Barbados has gone down significantly in the last decade. Sir, the statistical record is most positive. Again, I guess that you can argue about under-reported crime but all those elements existed when the records were kept at another time as well.

4.40 p.m.

Therefore, the tourism principals in both the public and private sectors have already outlined very clearly, how positive they feel about the issues of crime reduction in Barbados, as it relates to tourism and particularly in tourism belts. We are satisfied, Sir, that the issue of crime against tourists is being handled well.

Sir, the statistics show clearly that between 1993 and 2003, reported crime against tourists has declined from 611 in 1993 to 244 in 2003. This is a 60 per cent decline, over the period of time between 1993 and 2003. I believe that it is an enviable record for any jurisdiction whose economy is based upon tourism. I also believe that nowhere else in this region have we seen these types of statistics. The fact is that in 1993, Sir, there were 611 reports of crime against tourists, falling consistently, 564 in 1994, 523 in 1995, 439 in 1996, 415 in 1997, 345 in 1998, 379 in 1999, 323 in 2000, 324 in 2001, 321 in 2002 and 244 in 2003.

Asides.

Hon. N. A. LYNCH: I do not think, Sir, that there is any jurisdiction in this region that can boast the same. As I said before, people will always dispute the statistics and say that crime is being under-reported.

I remember when I worked in the private sector, people were very quick to talk about the ones that they believe were underreported. I believe that the same negatives which pertained then, pertain now. This, Sir, is the record on which this administration stands as it relates to crime.

Sir, I believe that what is even more important is that during the time crime against tourists was falling, more people were coming to Barbados. If we are thinking about the record in itself, nobody is disputing the absolute arrivals.

Asides.

Hon. N. A. LYNCH: We can dispute the jobs and the GDP contributions but the fact is that more people were coming on this island, while the crime against tourists was going down. It meant that we had more people to look after anyway, and we have been able to produce the statistics that points to constant reductions in crime against tourists in the last decade.

Sir, I believe that a lot of this can be attributed to the initiatives which were put in place by the Attorney-General's

office and the Royal Barbados Police Force. The fact is that we have been able to deploy patrols during the high season, between the Royal Barbados Police Force and the Defence Force of Barbados, I believe, have made a difference.

Both agencies did beach patrols but also many other officers were deployed in major tourism belts. The Special Constables and Island Constables were deployed at major tourists attractions and popular beaches. This has also contributed significantly to a presence of disciplinary forces in these areas, which I believe has contributed to the reduction in crime.

Again, Sir, there has been a wider use of interesting initiatives, such as placing the police outpost in St. Lawrence Gap. I believe that mobile outpost made a difference in what happens in and around St. Lawrence Gap.

Sir, in many instances people are still concerned about harassment of visitors. This is a difficult issue to define but that has seen substantial reductions as well. The statistics show that burglaries have gone down, theft has gone down, harassment against visitors has also decreased.

I believe, Sir, that also important is the use of modern technology which came on a stream. The close circuit television cameras (CCTV) which have been installed in St. Lawrence Gap and in Bridgetown add, more significantly, to further reduction in crime against visitors, because one crime against any visitor is really too much.

I also believe, Sir, that we can virtually eliminate crime against tourists in this country, if those who are the owners of property, utilise all of the concessions and benefits that are available to them. They should also monitor their properties a lot better than they do presently.

Sir, burglaries to properties have gone down, not only because of the intervention of the Royal Barbados Police Force but because the property owners have made serious efforts in protecting their properties, whether it is their own security guard, whether they have installed security lights or whether they have installed security cameras. Those are the properties in which you have seen significant reduction in crime.

I think, Sir, that this initiative should be adopted by all other property owners, where they not only depend upon the forces that are deployed by the State to do the policing, but look after their properties themselves as well.

The New Tourism Development Act gives excellent concessions and benefits for the upgrading of security for properties, such as the purchase or acquisition of security cameras, lights, security fences and the like. All of these, Sir,

can be claimed as concessions under that New Tourism Development Act.

As I said, I believe it is important that those involved in the sector, particularly the larger properties, should utilise what is available to them, so that we can get rid of this scourge. Sir, if this is done, I think that we can eliminate crime against tourists in our country.

Sir, there have been calls for a tourism task force, within the wider ambit of the Royal Barbados Police Force that speaks to crime. I know some people who were against it would come up and talk about a separate police force. It is not a separate police force, because whenever people do not want anything passed, they try to couch it in their own terms to create a basis for not supporting it.

The fact of the matter is that there are some elements in the private sector that have called for a tourism task force. This task force will not be disadvantaging Barbadians in anyway, but will be people who are trained, uniformed and equipped to deal with issues in large tourism belts, whether on the beach or elsewhere. It is done in other jurisdictions and I do not understand why some people are so resistant, because it does not take away from the Royal Barbados Police Force looking after the wider society.

I believe this would be a step in the right direction. Again, I say, Sir, language training is necessary and they should be fully equipped. I do not know why people are against a policeman on a mounted bike in short pants. I guess they are purest, as it relates to uniforms and do not believe that people dressed in shorts on a bicycle, look like real policemen. We could put them in the old Harbour Police uniform.

Sir, there are people coming from other jurisdictions who are aware of this practice. They understand what it means to their own particular jurisdictions and would welcome the opportunity. The person would not only be seen as a law enforcer, but as one who is contributing by giving information and being able to liaise even better with people of different cultures and backgrounds because they would be trained. This is what this is all about. Sir, that is not to take away from the record that has been compiled by the Royal Barbados Police Force, the Attorney-General and the other agencies as we seek to eliminate crime against tourists in our country.
4.50 p.m.

It is important for us, because of the short space of time, that as we continue to build this good society that we do not get into the philosophical elements of how we treat to justice and our own philosophical concepts of where justice is and how it should be dealt with in our society. Many

of the Honourable Members who spoke today, legal minds *et cetera*, put their own particular slant on where we need to go. However, I will say that we have a good and a safe society. Our society may not be the safest in the world, but I believe, for a jurisdiction of this size, that we have done a wonderful job in bringing crime down to the level that it is at in Barbados.

Sir, at the core of this debate is that crime has plummeted in this society in the last decade. This administration has compiled an enviable record of being able to deal with crime which is not just about the locking up of people. Every initiative we have implemented has been used to prove that in a society of this size if you work with people and agencies you can bring Barbados to a level where crime is negligible. That is the record that this administration has posted. It has wider implications for other economic and social elements in our society, but the Government stands on a record of good governance as it relates to crime and the elimination of crime in our society and on building that good society.

It is on those words that I give commendation to the Attorney-General, her department and to the Royal Barbados Police Force for a job very well done.

I am obliged to you.

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, I rise to close this debate and to thank all Honourable Members who have spoken. I really do believe that the standard of the debate today has been exceptionally high. Therefore, I want to thank all Honourable Members on Both Sides of the House for allowing a single message to move from the Floor of this Chamber that on matters pertaining to crime, justice, peace and security that the Government and people of Barbados will speak with a single voice in circumstances where this remains a subject that is highly partisan and highly contentious in other jurisdictions even within this region.

At the outset of the debate, I would have thanked the Barbadian public and the law enforcement agencies for the role they have played in ensuring that we have seen in the last decade a 25 per cent reduction in crime if we were to compare the figures from 1992/93 to 2003. Mr. Deputy Speaker, the last Honourable Member who spoke, the Honourable Member for St. Michael South and Honourable Minister of Tourism, would have drawn attention to it in relation to tourism. This jurisdiction which relies almost exclusively on tourism revenue for a living has seen a 60 per cent reduction in crime against visitors. That cannot be the result of any single group or any single person, it is the result of the collective effort and determination of the people of Barbados.

There have been other societies where the trend of excessive crime would have taken place. Those societies would not have done sufficient to signal both to themselves as individuals or as a collective that we were not prepared to countenance it. They therefore have seen themselves slide and slide. This House must be commended for its maturity in recognising that on certain key issues there should be little partisan divide in the message that flows from here and in the commitment to continue to wrestle any crime from our landscape.

The reality, Mr. Deputy Speaker, is that even though there has been a substantial reduction in crime over the decade, it does not mean that there are not people who would still fear crime because it only takes a single bad crime to cause a small society to feel a sense of fear, but we must be careful in how we manage the fear of crime and how we manage crime and its reduction. I look forward to the receipt of the report from the National Commission on Law and Order, as I intimated, because I do believe that there are long-term measures that have to be put in place.

In 1970, there were virtually no drug cases before the law courts of Barbados. In 2003/2004 drug cases constitute probably the single largest category of offences within our jurisdiction. Mr. Deputy Speaker, that is a reflection of a change in values, of an increase in the movement of people, of information and things that we have less control over as an open society. By the same token, as the Right Honourable Prime Minister would have intimated in his speech to the Summit of Americas last week, any society which seeks to close itself down or any economy which seeks to close itself off will simply die. Therefore, we have to be able to manage the consequences of openness with a deliberate intention that we should root our values and those things which we value and determine those things which we are not prepared to tolerate.

Sir, I believe that the action on the part of the society through its commentary; on the part of the communities through their actions; a proliferation of sporting groups, the night football and night cricket; all of the various things that engage people's attention across Barbados; the opportunities for people to be able to earn a living and to get a vested interest in this country and the improvements in the quality of policing and the continued leadership that is being evinced from this present Commissioner of Police coming on the heels of his predecessors, as well as other law enforcement agencies, are all things of which we ought to be proud.

I also believe that the determination for us to have a policy driven approach to the reduction of crime that is based on research and hard data has also inured to the benefit of Barbados as a country. This means that we can be clinical in the measures that we develop to treat to the issue, whether

those measures are legislative or operational in the context of the police force. I refer to Operation Safe Homes and the Anti-Burglary Project in Grazettes, Long Gap and White Hall both of which have seen phenomenal results in the reduction of burglary on residences and dwelling houses in Barbados in the last year. We want to be able to extend that to robbery, as I intimated.

Mr. Deputy Speaker, I want to answer one or two questions that were raised. The Honourable Member for Christ Church West spoke to the need for the expansion of the community legal services. Mr. Deputy Speaker, we are currently executing a justice improvement project with the Inter-American Development Bank, which has as part of its focus a review of the community legal services system as well as a review of probation in Barbados, with us also looking at the introduction of parole as a further option within the penal system.

We therefore anticipate that over the course of the next year there will be a comprehensive study to see how we can expand the system of legal aid. Although in the criminal courts there is a schedule of offences covered in the Community Legal Services Act such as murder, the reality is that the judge is empowered to make available legal aid to any accused person once the complexity of the legal case merit such.

5.00 p.m.

Mr. Deputy Speaker, the last decision of the Judicial Committee of the Privy Council in Barbados' jurisdiction was the case where a constitutional motion was brought, arguing that there was a constitutional right to legal aid, and the court quite clearly indicated that there was no such constitutional right to free legal advice, other than those circumstances provided for by the Community Legal Services Act.

Mr. Deputy Speaker, I want to give you the assurance that the work on that project which would see us implementing a Criminal Justice Information system that would link the Police Force, the Registry, Glendairy Prison, the court, to ensure that a point of arrest to the point of release or probation, that we have a clear stream of information relating to persons. Sir, that process would probably take the better part of this year to complete the compilation of Request For Proposals (RFPs) because one literally has to task every thing that is done from the time a person is being arrested, to the time they leave the justice system. We, therefore, need to ensure that each department does that. Sir, there is a business re-engineering process that is done, and that it would be reduced to a technological process.

Sir, in this project, we would be seeking to work with more community and sporting groups towards the reduction

of crime and to the resolution of disputes and as intimated earlier today, we want to have a national project which deals with the resolution of conflict because that is at the core of being able to reduce further crime in any society.

There would also be a public education, programme for the reduction of crime, which is one of the platforms in the draft plan on Justice, Peace and Security, which addresses what can an individual do beyond the State, to reduce opportunities for crime in terms of a person being harmed or property being taken away. Therefore, there are a number of projects and we would continue with reform, particularly in the criminal justice system.

We are expanding the magistracy and the judiciary and we would also seek to improve and to modernise the Royal Barbados Police Force. There is a major project that will see the upgrade of the telecommunication system of the Police Force, for the first time in decades, where some \$26 million would be spent to upgrade the telecommunication system.

We will also be seeking to work even closer, as has been already started in the National Joint Headquarters in relation to drugs between Customs and Immigration, to ensure that there is a coordinated approach to law enforcement, particularly in these times where border security and freedom of movement are key issues that have to be grappled with by the Government.

Mr. Deputy Speaker, I wish to thank all Honourable Members who have spoken, more for anything else than for the maturity that this Honourable House has shown today by speaking with a single voice on matters of fundamental importance to the people of this country and to the development of this society.

Sir, I trust and hope that these specific amendments would also lead to an improvement in the access of justice by those who find themselves before courts because it is not everyone who goes before a court because of guilt; when that person reaches court, he or she is only there because of an allegation. It is only upon the determination of the jury that a sentence is found to be then proffered upon that individual.

Sir, I hope, therefore, that this would improve the access to justice, particularly where there are multiple accused, which is its intention but that equally, we see this as only but a small cog in the overall wheel where, in the last number of years, we have been systematically working towards the modernisation and the improvement of access to justice in Barbados generally, and by extension the improvement in the quality of life from which all of us would benefit, at a time where in almost every other large country in the region, the opposite is happening.

Mr. Speaker, I am obliged to you and beg to move that this Bill be read a second time.

Hon. R. R. FARLEY: I beg to second that, Sir.

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

COMMITTEE

On the motion of Hon. Miss M. A. MOTTLEY seconded by Hon. Dame Billie MILLER, the House resolved itself into Committee. Mr. R. D. MARSHALL in the Chair.

Hon. Miss M. A. MOTTLEY: Mr. Chairman, there is a slight amendment. This Bill was laid in 2003 and we need now to amend it, to reflect the fact that it is now 2004.

I, therefore, beg to delete the word 2003 and to insert the word 2004 in Clause 1.

In those circumstances, I beg to move that Clause 1 stand part, as amended.

Hon. Dame Billie MILLER: I beg to second that, Sir.

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

Clauses 2 – 4 were called and passed.

On the motion of Hon. Miss M. A. MOTTLEY seconded by Hon. Dame Billie MILLER, Mr. CHAIRMAN reported to His Honour Mr. DEPUTY SPEAKER, the passing of one Bill in Committee with amendment and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. Miss M. A. MOTTLEY seconded by Hon. Dame Billie MILLER, the Bill was read a third time and passed and cited as the Juries (Amendment) Act, 2004.

ADJOURNMENT

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, this brings us to the end of Government Business for today's Sitting. I beg to move that this Honourable Chamber be adjourned until Tuesday, January 27, 2004, at 10.00 a.m.

Hon. Dame Billie MILLER: I beg to second that, Sir.

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

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