
THE

House of Assembly Debates

(UNOFFICIAL REPORT)

FIRST SESSION 2013 – 2018

HOUSE OF ASSEMBLY

Tuesday, January 27, 2015

Pursuant to the adjournment, the House of Assembly met at 10.00 a.m. on Tuesday, January 27, 2015.

PRESENT

The full list of Members present is to be inserted from the Votes and Proceedings. Members identified from the record of this Sitting:

His Honour M. A. CARRINGTON, Q.C. (Speaker)

Hon. S. A. LASHLEY (Minister of Culture, Sports and Youth)

Hon. J. D. E. BOYCE (Minister of Health) (Leader of the House)

Hon. M. A. LASHLEY (Minister of Transport and Works)

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

Hon. D. O'N. INNISS (Minister of Industry, International Business, Commerce and Small Business Development)

Rt. Hon. O. S. ARTHUR

Prayers were read.

MINUTES

Mr. SPEAKER: Good morning, Honourable Members. This House is now in session. I am not in receipt of any minutes and therefore ask for the usual order that they be deferred.

Hon. J. D. E. BOYCE: Mr. Speaker, I beg to move that those minutes be deferred.

AN HON. MEMBER: I beg to second that, Sir.

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

Mr. SPEAKER: Honourable Members, I wish to draw your attention to the fact that a former cabinet member and member of the upper house, the late [Inaudible.], has deceased. We have opened a condolence book in the foyer. I am drawing that to your attention because I am sure you would want to pass on your condolences in that way.

PAPERS

Mr. SPEAKER: Honourable Member for Christ Church South.

Hon. J. D. E. BOYCE: Mr. Speaker, I am commanded to lay the Duties, Taxes and Other Payments Exemption (Barbados Tourism Investment Inc.) Order 2014. And I am also commanded to lay the Duties, Taxes and Other Payments Exemption (Ammon Resorts Incorporated) Order 2014, on behalf of the Honourable Minister of Finance.

ORDERS OF THE DAY

SUSPENSION OF STANDING ORDERS

Mr. SPEAKER: Honourable Member for Christ Church South.

Hon. J. D. E. BOYCE: Mr. Speaker, I beg to move the suspension of Standing Orders 6, 16, 18, 24, 25, 43 and 44 for the remainder of today's sitting.

AN HON. MEMBER: I beg to second that, Sir.

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

GOVERNMENT BUSINESS

Mr. CLERK: Order No. 13, Sir. In the name of the Honourable Attorney General and Minister of Home Affairs, to move the second reading of the Offences Against the Person Amendment Bill, 2015.

ORDER NO. 13 – OFFENCES AGAINST THE PERSON
AMENDMENT BILL, 2015

Mr. SPEAKER: Yes, Honourable Attorney General.

Hon. A. D. BRATHWAITE: Thank you, Mr. Speaker. I rise to initiate the second reading of the Offences against the Persons Act, Cap. 141, in particular to abolish the mandatory imposition of the death penalty for the offence of murder. I would like, in so doing, Mr. Speaker, to have first a discussion on homicides in Barbados generally for the last 30-odd years, a bit of a discussion on the purpose of criminal punishment, and then I purport to have a discussion on the Offences against the Persons Act itself and two or three decisions that have led us to this point in time of our history where we have been mandated by a court - in particular by the Inter-American Court of Human Rights, of which Barbados is a member - to amend section 2 in particular of the Offences against the Persons Act and certain other consequential actions that court have asked us to do.

First, sir, I like to signal that I am not in the best of voice, so if from time to time I do break to take a bit of water, you bear with me because I have a bit of a troubling cold.

Barbados has one of the lowest homicide rates in the region. I am happy to report that we still average below 10 murders per hundred thousand, which is favourable when we look to see what is happening with other parts of the region. Just by way of an example, using some of our neighbours, Barbados has a lower homicide rate per 100 000 than St. Vincent and the Grenadines, which is a smaller territory, Grenada, St. Lucia, Belize, the Bahamas, Guyana, Trinidad and Tobago, and Jamaica. So notwithstanding that we do have a challenge in terms of the number of murders - within the last couple of years we have been averaging 28 murders - we have seen a gradual increase in the number of homicides over the years, and in particular from the period 1980 that I have started doing some research.

What we have also noticed over that period is that the nature of the murders has changed. In particular, as we all know and are seeing, the use of guns has taken prevalence. In the old days blunt objects were used, sometimes a knife. But now what we are seeing is that a significant number of homicides in the last couple of years involve the use of guns, and that concerns us tremendously.

A bit of obvious things that I am sure we all know: the perpetrators and victims of homicide are more than likely to be male. Indeed, males account for 70-odd percent of the homicides both in terms of being victims and perpetrators. One troubling thing that we have noted is the age - a significant number of perpetrators and victims are relatively young people between the ages of 20 and 39. And certainly if I took that up to 40 then it becomes even more troubling, because what the statistics are showing is that we are losing a lot of young people to homicides. And we know that these are crimes that could be avoided. It is our responsibility to take whatever action is required to reduce the number of homicides yearly.

Even though I began by saying that our rates per 100 000 are favourable in terms of when we look at certain parts of the region, as I say consistently when discussing crime issues like this, it is not enough for us to say that we are better than X. What we need to do is to see how we can continue to work to improve our circumstances. Certainly on the issue of homicides we need to look to see how we can reduce the number of homicides in Barbados.

The clear-up rate of homicides over the period has been quite good in terms of the actions of the Royal Barbados Police Force. In fact we have an average clear-up rate of about 90 per cent, which by all accounts reflects quite favourably on the work of the Royal Barbados Police Force. What we are seeing, based on our review of the statistics, is that most victims and perpetrators know each other. We are not seeing the kind of crimes that one witnesses on criminal-investigation programmes where we have a society of strangers committing offences against strangers. What we are seeing is that the majority of perpetrators and victims do know each other. And indeed about 25 per cent of all homicides are as a result of one-off disputes. We all know and would have read of disputes involving individuals in rum shops by way of a good example, or persons on the block who begin arguing about some minor matter.

So I began by painting that background in terms of the homicides in Barbados. There was a time - I remember as a youngster in the early 80s - when you heard of homicides, there was a time when people were being found in cane grounds in particular parts of Barbados. That seems to be mostly a thing of the past. However, one thing that does concern me is the influence of the street culture and the illegal drug trade. There was a time when we were taught and when we learned to walk away. Now if you are out and you hear a youngster accuse another one of disrespecting him and of dissing him, the next thing you know is that there is some resort to violence. And of course the issue of the illegal drug trade is something that troubles us. We know, based on what is not only happening in Barbados but based on experiences in other parts of the world, that the drug trade has brought an increase in

firearms, an increase in violence, and an increase in corruption. And what I am saying is that, based on the research that we have seen, we have seen some link between the illegal drug trade and also one or two homicides that we are experiencing over the last couple of years.

So therefore, as Minister responsible for Home Affairs and Attorney General, one of the things that I have been doing over the last couple of years is not only, as we have done, commission a homicide study, but look to see what actions, what interventions we can take to reduce the number of homicides. And one thing that jumps out at me immediately is the whole issue of conflict resolution - mediation. How do we get into our societies? How do we get into our schools from early and teach our young people that the correct response to an aggressive act is not for you to be even more aggressive? How do we teach our young people that the correct response, if you disagree with someone, is not to resort to violence? We have started, and there are various programmes - I am sure that my colleagues across the various ministries, the Ministry of Family and Youth, the Ministry of Education, the Ministry of Social Security - there are various programmes across different ministries that are looking at, intervening in, and bringing the whole issue of conflict resolution more to the forefront for our young people.

We know that from time to time the whole issue of domestic violence has raised its ugly head in this society. We have had over the last couple of years one or two quite wicked acts of violence perpetrated on females in particular by their partners. We are not seeing, however, a large percentage of homicides that one can say have arisen out of domestic dispute situations. But I flag it because it is another issue that we need to address, because certainly if there are conflicts within a household, we need to intervene early as opposed to waiting for that conflict to result in the loss of life by one partner or the other.

In addition to which, we have identified and are doing some additional training of police officers in conflict resolution so that when they go into situations, whether domestic or otherwise, they are better able to separate parties, to intervene in a meaningful way, to defuse what could potentially be a violent situation. So we are spending a bit more time, effort, and money training police officers so that they are able to bring more resolution when they go into situations of conflict.

So I say that the whole issue of homicides in Barbados, notwithstanding the fact that the numbers that we are seeing are not runaway numbers - I will signal to the country that we are cognisant of the fact that any life saved is a plus to us as a country. I am not for once saying, and I will never say, that because we average less than other parts of the region we do not have anything to worry about.

We are concerned about it and we are working to see how we can reduce the number of homicides in this country.

The issue of the purpose of criminal punishment - I did say that I will dwell on that a little bit. There are so many schools of thought in terms of the purpose of criminal punishment. I look forward to the contribution of my colleague from Christ Church East, who brings a social scientist and sociological perspective to the whole issue of crime and punishment. There are different theories. I know that within a Barbados context the average person still believes in the old saying, an eye for an eye, a tooth for a tooth. There are arguments that suggest that you do need to have a severe reprimand approach, because one school of thought holds that if someone perpetrates a crime then the punishment must be on par with the crime, so that the next time he thinks of perpetrating the crime he will also think in terms of the punishment - that punishment should be a deterrence.

There is also the retribution argument - that society demands, and victims demand, that if you perpetrate a crime there should be retribution, and retribution has to be in a form that signals abhorrence to your particular action.

Over the years we have focused more on rehabilitation. There is a school of thought that argues that it is not enough for you to punish an offender, that you need to do whatever is required to ensure that after he has been punished, or as part of his punishment, he is brought back into society and is able to function as a normal individual in terms of accepting our social norms. That is the rehabilitation argument.

Of course there is also the argument of incapacitation - that if you commit the crime you should spend the time. My response to that has been for quite some time, and I use the United States continuously, that the US has in fact made an industry of prisons. You just need to look at CNN and other broadcasts and you see that they have made an industry of prisons in several states - they have actually privatised prisons so that prisons have become a business. But they are not seeing, or I have not been able to discover, any reduction in crime in spite of the fact that more individuals are being incarcerated. So one then has to examine whether or not imprisoning offenders for criminal and other acts itself works.

And of course, in recent times there has been the issue of restorative justice. What restorative justice argues is that the perpetrator should make right whatever damage has been done - first he or she needs to acknowledge that they have done wrong, acknowledge the harm that they have done to the victim, and the victim may also include the community, and try to make right that harm. That is restorative justice. Put simply, I have to say that I am a proponent of restorative justice. I believe that punishment

alone is not enough because the individuals quite often still have to come back into the society. Most victims tell you that quite often they feel even worse when they see that the focus seems to be on the perpetrator - the perpetrator receives legal aid and you hear about all the lawyers who are trying to do right by them. You do not hear enough or see enough from the victim's perspective in terms of how the state looks to compensate the victim, how the state looks to help the victim through what more often than not is a very damaging psychological event. And what restorative justice does is try to address that link.

And of course I can say to you that within the Royal Barbados Police Force they have been spending as much time addressing victim-related issues - in other words, trying to keep victims involved in the whole process, recognising the trauma, recognising that quite often they need counselling, and ensuring that professional counselling in particular is made available to them.

So the thing, Mr. Speaker, about the purpose of criminal punishment is that we have moved - it is almost cyclical - we have moved from a stage where in the old days it was believed that the only way to respond to the commission of a crime is that you had to be hard, you had to ensure that the punishment met the crime. Then we moved towards the idea of rehabilitation and restorative justice. And it is almost like what society demands from time to time. And of course, as you know, there is also that political component - in many parts of the world, including Barbados, what society demands sometimes guides us in terms of our policy. And certainly one of the things that we would never want to do is to send the signal, or even the mis-signal, that we are being soft on crime.

And in many ways that is why I began my presentation this morning by sending the message that what we are here doing today is responding to a direction of a court to which Barbados is a signatory - meaning that the Government did not two weeks ago or three weeks ago decide that this is an action that we wanted to take.

Indeed, in 1978 Barbados became a signatory to the Inter-American Convention on Human Rights. It ratified the Convention in 1981. And even though Barbados did make certain reservations with respect to legal aid and capital punishment, I will discuss later the response of the Inter-American Court of Human Rights with respect to those reservations.

Just for information purposes - and I am cognisant that when we have these presentations I am not only speaking to the members here but also to my mother at home and others who listen to our broadcast - just a bit about what the Inter-American Commission on Human Rights is about. The Inter-American Commission on Human Rights is a principal and autonomous organ of the

Organisation of American States whose mission is to promote and protect human rights in the American hemisphere. It is composed of seven independent members who serve in a personal capacity. Created by the OAS in 1959, the Commission has its headquarters in Washington together with the Inter-American Court of Human Rights, which was installed in 1979. The Commission basically manages -

human rights issues across the hemisphere. That is not only look to the state responsibility in terms of how the State addresses human rights issues of its people but individual human rights. So in fact as an individual you can also petition the Commission if you believe that in fact that your human rights are being violated. And as I said in 1979 they felt that in fact that they also need to have a juridical arm. And that's how the Inter American Court was formed. And just to reiterate that in fact that we, meaning Barbados became a signatory to the convention in 1978. And thus the court remains available to Barbadians, to citizens and others in Barbados. And as I will demonstrate that in fact that in two decisions that are significant where individuals who were on charges of murder and convicted for murder did approach the Inter American Court, what the court had to say about certain sections of our Constitution and what the court had to say about the Offences Against the Person's Act in a particular section two which we are here amending this morning.

I believe that at least one Barbadian became a judge of the Inter American Court which was the late Oliver Jackman. I think Oliver was a judge of the Inter American Court and if memory serves me correctly, I'm not of the vintage of some of my colleagues. He was one of the individuals who wrote a lot about human rights issues in our local newspapers, et cetera. And so that's why - well, I almost said that's why we joined the court, but that would not be correct - that in fact there was a link between our advocacy, our human rights advocacy at the time and our interest in the court.

And so in 1966, as you know, Mr. Speaker, Barbados became independent. And we became independent at the time, ironically, when the whole issue of human rights and the mandatory nature of the death penalty was being discussed. And indeed the United Kingdom, from whom we gained our independence in 1966, had abolished the mandatory death penalty in 1965. We in our Constitution have what we call the first fundamental rights and freedoms component, which begins, I believe, at section 13 of our Constitution. And these fundamental human rights are included or includes the right to liberty and the right to life. And there's a school of thought that suggests that it seems passing strange that in fact that a country in 1966 that could enshrine in its law boldly these fundamental rights, including right to life, could in its own constitution save laws that may have infringed on those

fundamental human rights. In other words, we have in our Constitution Section 26, which basically said in simple terms that notwithstanding any other law, that in fact that laws passed before 1966 have been saved by this particular section. One of the laws saved before 1966 is in fact the Offences Against the Person's Act, which I think was enacted, if memory serves me correctly, in the late 18th century. It's a very old piece of legislation and in fact section two of which basically says that if you're found guilty of murder that you should be hanged. And that over the years has been a source of contention locally, regionally and internationally.

And without doubt, sir, I think that the tide against the mandatory nature of the death penalty has been swinging against countries that have maintained the mandatory nature of the death penalty for more than 50 years, because I remember when I went into Coleridge Hill in 1982, there was lots of discussion even then, although that's not 50 years ago, but a lot of discussion even then about the mandatory nature of the death penalty and whether or not it was in a society that was talking about being first world, whether or not we are not being barbaric, if in fact we still have in our laws something that says that if you take a life that you used to automatically lose a life. And commentators argue and have been arguing, and they still argue, that the right to life is the most sacred of human rights and taking someone's life should be used very sparingly and in particular taking someone's life by the state. Obviously we can't control - we wish we could control - the perpetrators of homicides, but the state itself, the state action that takes a life. The commentators have been arguing that in fact that given the fact that you as a state, you as a country have signalled that the right to life is the most sacred of human rights, how do you then on the other hand have in your law something that says that if you commit the crime of murder that you should automatically forfeit your life?

Even before I read it in one of the cases recently, I remember that another argument was that in fact Section 2 of the Offences Against the Person's Act is probably the only act of a serious nature where in fact a judge does not have a discretion. Judges have had discretion in many other serious crimes, but not that one. Sentencing discretion. That one section basically said that there was no sentencing discretion. The only sentence is one of death. It also led, I am told, over the years to juries not being comfortable in murder cases because they felt the nexus between the verdict and the fact that the defendant - usually a male defendant, but I use that term to mean male and female - that in fact that is basically a sentence of death.

Based on our research, between 1924 and today, 60 individuals have been hanged in Barbados. One female was included, and that's 60. And in fact the last hangings in Barbados were in 1984 when three individuals lost their

lives at one go. And of course across Barbados over time you've heard various reasons as to why these three individuals were hanged that particular morning, et cetera. But I raised that in terms of the number of hangings to move on to another point, which is this. We have been arguing - when I say we, the average individual has been arguing - that in fact, that if you hang people that automatically there's going to be a reduction in murders and such. I have not seen any evidence to suggest that is accurate. And you know, sir, we just only need to look at our neighbour Trinidad as a good example. A couple of years ago, Trinidad - I think about half a dozen individuals were hanged one morning and the Governor at the time sent the signal that we're serious about crime, that anyone who commits murder we're going to hang them, et cetera, et cetera. And in fact, I have not seen any reduction in crime in Trinidad; on the contrary, we have not seen any reduction in murders in Trinidad; on the contrary, we have seen an increase.

So I raise that because I know people meet you on the street - I'm sure the Member for Christ Church South and many of us - just recently, I was in Carter's, and this gentleman tapped me on the shoulder: "Mr. Brathwaite, how are you doing?" et cetera, "when are you going to hang somebody?" You know, because there's this feeling that, in fact, that's the answer to the reduction of crime and certainly that's the answer to the reduction of murders. But I am saying that notwithstanding how emotional some of us might feel about the issue of the death penalty, that in fact my reading has not brought up any evidence to suggest that in countries or states that have the death penalty, that in fact there's been a reduction in the number of murders.

I am signalling, and I want to make this point because our legislation, once accepted, is simply addressing the mandatory nature of the death penalty. I am not signalling to the country. And I'm not saying to you, Mr. Speaker, that at this point in time of our history or at this point in time of my own evolution, that I am comfortable that in fact there are no circumstances on which the death penalty is merited. And indeed, there are some cases, when you look at the nature of the murder, that you do feel that in fact that is the only appropriate sentence. But as we mature as a jurisdiction and as a people, and I'm sure as further arguments are brought, that even those circumstances, that in fact you may find a softening of our position. But there are just some matters that when you look at them, you cannot help but feel that in fact there is no other punishment worthy here because of the gruesome nature of the crime. And I cannot stand here, for example, before you this morning, sir, and say that if you go on national television or call CNN with a long knife and decapitate someone, that I should find somewhere in my heart to forgive you and say that in fact it was the nature of your upbringing, et cetera. The nature of some crimes just

seems to demand that a more aggressive punishment is worthy. But that's not why we're here.

Why we're here, as I said, is because of certain historical reasons. In particular, a couple of cases that came to the attention of the courts in Barbados. But I do reiterate and make the point again, though, that in fact internationally there was a very serious movement against the mandatory nature of the death penalty and a very serious movement against the death penalty itself, to the extent where, as I speak to you, there are only two countries in the English-speaking Caribbean that still maintain the mandatory death penalty, which would be Trinidad and Barbados. Such has been the movement to the extent where the whole human rights issue took on legs of its own. And some international agencies began linking your human rights performance - including the issue of the death penalty or whether or not you still maintain the death penalty, which they thought was an infringement of persons' basic human rights - to whether or not they will do business with you, whether or not you can have access to loans, et cetera. Since I've been Attorney General, I've had several meetings with our international partners from the British government who are very passionate about the abolition of the death penalty. The European Union - again, very, very passionate about human rights issues and very passionate about the removal of the death penalty. And I dare say that even within our own Caribbean corps over the last couple of years we have seen a move towards addressing the issue of the mandatory nature of the death penalty and in fact addressing the issue of the death penalty itself.

So what you basically had was a situation, a bit of a paradox in the Caribbean context, that in jurisdictions like Barbados you maintain the mandatory nature of the death penalty, but yet you had a provision that enables the state, via the Governor General, in particular via the Privy Council, to exercise the prerogative of mercy. And what the commentators have said is: but if you yourself recognise that there are some cases where someone has committed a murder and that his or her death may not be merited, then why don't you do it up front? Why is it that you're making a provision for it, but you go through the motions of having the mandatory death penalty? So the individual is sentenced to death and then he appeals to you and you look at it and you make a determination. Sometimes you say, well in fact this is a case where the death penalty should not be imposed. And so we seem to have had over the years almost a paradoxical approach to the issue of the death penalty by allowing the exercise of the prerogative of mercy in some cases.

I did say to you that I wanted to share with you how we arrived here at this point in time of our history. And there are two cases. I'll begin with the earlier one, which is the case of Boyce and Joseph. And before the Member for

St. Philip North says anything, Mr. Speaker, let the records reflect yet again that the Member for St. Philip North in another capacity was involved in this landmark case. It does not stop him from speaking later, but noted. So this case, sir, went through the appellate process in Barbados twice. It went before the Judicial Committee of the Privy Council in 2004, went before the Caribbean Court of Justice in 2006, and it goes back to a murder committed in 1999 where four individuals were charged with murder. Two accepted a plea of manslaughter. But Boyce and Joseph went to trial for murder. In 2001 they were found guilty of murder and the mandatory sentence of death by hanging was imposed, as I said, because that was the only sentence that could be imposed under the Offences Against the Person's Act. They appealed to the Court of Appeal in Barbados in 2002. In March 2002 this was dismissed. They appealed to the Barbados Privy Council in June 2002 to have the sentence of death commuted to life. Again this was dismissed and indeed death warrants were read to them both in June 2002. They then approached the High Court of Barbados who stayed the execution whilst they then appealed to the Judicial Committee of the Privy Council which in 2004 actually upheld the mandatory nature of the death penalty. I do believe though that even in upholding the death penalty, what the Privy Council said was that in fact they felt that the mandatory nature of the death penalty was in fact an infringement of the human rights of the individuals. But because of Section 26 of the Constitution I alluded to earlier, in fact they could not strike down the imposition of the death penalty because Section 26 had saved section 2 of the Offences Against the Person's Act and therefore they upheld the death penalty in 2004.

In 2004, Boyce and Joseph took their matter to the Inter American Court, and they more or less took simultaneous action. They had a matter before the Court of Appeal here in Barbados and also went to the Inter American Court. The Inter American Court at the time looked at the matter and said that in fact it mandated Barbados take action to preserve the lives of these two individuals whilst their matter was being determined. Notwithstanding that, the Court of Appeal actually dismissed the appeals of Boyce and Joseph, who then also went to the Caribbean Court of Justice. I say all of that for this very reason: that here's a murder that was committed in 1999, and in fact in 2006 the matter was still going through the court system, to the extent where even when it reached the Caribbean Court of Justice, the justices in looking at the case said, in simple terms, but we're not sure what you're here discussing - the mandatory death penalty - when in fact there's a case called Pratt and Morgan that basically says that if the sentence of death is not carried out within five years of the imposition of the sentence, that in fact that's an infringement of the fundamental human rights of the individual and it's therefore unconstitutional. And in fact they upheld the decision on the grounds of cruel and unusual punishment and basically said, well, you come to

us in 2006, therefore following Pratt and Morgan, these gentlemen still cannot be hanged.

So we also had that challenge in terms of how do you ensure that all of your processes are functioning as efficiently as possible so that within five years of the imposition of a sentence of hanging, if you are going to carry out the sentence, it is in fact carried out within five years? And when you have a system that allows an individual to appeal to the High Court, he then goes to the Court of Appeal, he then goes to the Caribbean Court of Justice, and of course finally, as you've heard in some cases, he goes to the Inter American Court of Human Rights - those processes quite often take more than five years. And I dare say that some bright lawyers are in no hurry to have these matters determined quickly, particularly when it's in their interest not to have the matter determined.

So we arrive at the Inter American Court of Human Rights. This court basically said to the Government of Barbados that in fact the mandatory nature of the death penalty was an infringement of the fundamental human rights of Boyce and Joseph. The court opined that the death penalty should be used very sparingly and only in exceptional circumstances. The court further said that in fact the mandatory nature of the death penalty was an affront to the human rights system because what it does not do is treat each individual as an individual and look to the protection of his fundamental right to life. In other words, the mandatory nature of the death penalty does not allow for any kind of inquiry. The court is saying that in fact before a person is sentenced to be hanged, he should have a right to make representation as to why he should not forfeit his life. That the state should look to see what circumstances, if any, might have brought him to that particular action at that particular point in time of his life that might influence the state in accepting that this may not be a case where that individual should forfeit his life. And as such the court then went on to hold that Section 26 of our Constitution should therefore be abolished, because that preserved laws such as the one that we're discussing, and because it preserved a law that they found was an affront to individual human rights. That in fact Barbados was mandated to address the issue of the removal of what is commonly called our savings law provision.

So the court, as I said, mandated that we take these actions pursuant to this Boyce and Joseph case. Even while we were looking at the ramifications of the court's decision, we then had another matter involving a chap called Tyrone de Costa Cadogan. I hear again my colleague from St. Philip North - I'm not sure if he's going to whisper again that he was involved in this matter. And Cadogan was sentenced to death by hanging in 2005. And this is the one where the fellows argue about incompetence of counsel. But we will not address that. A bit like Boyce

and Joseph, this matter then went through the appeals processes and ended up before the Inter American Court of Human Rights. The court more or less upheld its previous decision in the Boyce case that I spoke to you about a bit earlier. They issued a report in 2008. And what that report said is that Barbados should grant Mr. Cadogan commutation of his death sentence. That Barbados should adopt such legislative or other measures as may be necessary to safeguard against any imposition of the death penalty not in conformity with the terms of Articles 4, 5 and 8 of the Human Rights Convention that I spoke to a bit earlier. And that Barbados should adopt within a reasonable time such actions, legislative and other measures as are necessary to address what they called the immunising effect of Section 26 of the Constitution of Barbados with respect to existing laws.

We as a country looked at the decision of the Inter American courts. In fact, the Honourable Attorney General at the time formed an advisory committee which was made up of several senior officers within the Government of Barbados and other legal luminaries to advise the government as to what action, if any, should be taken with respect to these two cases. I'll just share a few of the terms of reference of this committee. The terms of reference of the committee included an examination of the implications of Barbados' acceptance of the jurisdiction of the Inter American Convention on Human Rights. In particular the legal, political, social, foreign policy and economic implications of being a state party to the Convention and the contentious jurisdiction of the court. The death penalty as a mandatory sanction for the crime of murder in Barbados. The Inter American Commission of Human Rights' position that the administration and carrying out of the death penalty is deemed to diminish Barbados' ability to uphold the Convention. The fundamental role of the Savings Clause, Section 26 of the Constitution, and the implications for its removal. And to make such recommendations as to the actions to be taken by the State regarding the judgments of the Inter American Court. Simply put, that committee in simple language was mandated to advise the government as to what actions, if any, it should take with respect to these two judgments.

And of course we could have said that we would not honour the obligations of the court. We would disregard the judgment. But I am sure that there's no Barbadian

out there who will support a government who will support the type of government that we have had over the last 375 years who will not follow the judgment of a court to which we are a state party. Because we did not believe that either A, because we did not believe that the judgment was right, or B, because we felt that you might have a bit of political pressure if in fact that you follow the judgment of the court. And basically the advice that we received as a government was that which we knew, was that in fact that

we needed to move with haste to implement the recommendations of those two judgments. And it was then a question of how, what mechanisms do we need to put in place legislatively and otherwise to ensure that we fulfil our obligations. But pursuant to those two judgments there were many legislative changes that had to be made, including the one that we are discussing now. And of course, sir, you are very well aware that there are several other pieces of legislation presently on the order paper that have arisen as a result of these two judgments.

I should also say that in fact that as part of our obligations to the court, we were required from time to time to report progress of us as a country in terms of our compliance with these judgments. So I want to share with you and with my colleagues comments made by one member of the committee which I think that you will find very, very instructive. In fact, more or less what was being said is that the nature of these cases exacerbates cost. In other words, we were spending a considerable amount of money going through the court system trying to uphold it, because Barbados was appealed in the Boyce case. And in fact they then ventured into the American court and of course we accepted the jurisdiction of that court and therefore had to defend the matter. At one point in time I actually had done a cost analysis of it and I do not remember the figure now, but I am sure that the average Barbadian will be astounded, and I will try to have it before we finish the debate on this particular piece of legislation. They will be astonished to hear the amount of moneys that was spent over a six to seven year period trying to uphold the death penalty, even though it is something that we feel, or may have felt, very strongly about.

As I said earlier, there was also an argument that in fact that the mandatory nature of the death penalty prevented some jurors, when they were sitting examining the facts, from in fact agreeing that this is a case of murder. So you then end up with many cases - I am persuaded that in fact a murder verdict should have been brought back - but verdicts of manslaughter were brought back because the jurors were able to go home and sleep better at night because they did not feel that they were the cause, or potential cause, of the death of this individual who they sat in judgment before. And indeed it was also felt that these cases ended up having prolonged periods of detention because of the length of time between when the matter was initiated and when the matter was determined. So I am saying that even among our local practitioners, and I want to include practitioners within government, that we saw a softening of the approach to the mandatory nature of the death penalty. I think the jurisprudence, as I said, the jurisprudence and our international partners - but moreover, if I look at the construction of the Caribbean Court of Justice, I have said without any real evidence that I do not imagine a Caribbean Court of Justice which is headed by Sir Denis Byron upholding the mandatory nature of the

death penalty. By the way, in fact, the OECS, when Sir Denys was Chief Justice, was one of the first territories that raised the whole issue of the mandatory nature of the death penalty. And in fact they were one of the leaders in terms of raising the issue of the inhumaneness of the mandatory death penalty. And I do not imagine that the Caribbean Court of Justice headed by Sir Denis would in 2015 be upholding the mandatory nature of the death penalty.

So I am saying to you, sir, and I am saying to all Barbadians, that in fact jurisprudentially we are on the wrong side of the law. It is as simple as that - the law has overtaken where we are presently, and that is why we are here. Emotionally, we would have had our attachments. I used an illustration this morning to one of my colleagues in terms of whether or not I would find it easy to forgive someone who went into my home and killed my blessed mother at 87 - if my heart would allow me to forgive him and say, do not hang him, he was a troubled youth, et cetera. Hopefully I will never have to walk that path. But my point though is that it is not an easy matter. It is not an easy matter, but there are some circumstances, and I will end by using an illustration that one of my colleagues, no other than the Right Honourable Prime Minister and Member for St. Michael South, uses. He says that if what you are addressing is the loss of life, so that if someone murders and you believe that he should forfeit his life because he has taken someone else's life, then by extension - what about vehicular homicide? By extension, if a man is going home at 2 o'clock in the morning and runs off the road and kills someone who is merely standing at the bus stop waiting to go to work or go to the hospital to visit a sick relative - do you take it to that level? And I am sure the average Barbadian will say, well no, he was driving a car, that is different. But if the mischief is that he is being penalised for taking a life, the life is still taken. So how do you reconcile those two?

And indeed we all know that in fact more lives are lost on our roads every year than are lost through homicides. That is not to say - because I know that in Barbados we are very quick to misquote individuals - so let me say this categorically. I believe that the issue of lives being lost in this country through vehicular accidents is one that we need to work harder on, that we need to ensure that the whole issue of road safety is addressed, because in particular if someone is out exercising in the morning, or riding their bicycle, going about their legitimate business trying to get some exercise, we do have too many unfortunate cases and we really, really need as a country to address this.

So sir, I am happy to be able to bring this amendment to Parliament this morning. I am happy in particular because we have been at this for the last four years, where we have been mandated to take these legislative measures to address the issue of the court's

decision. And notwithstanding the fact that we had sent signals to the court, we are now better positioned - once this amendment is adopted by this House - to say to the court that in fact we do intend to comply with its judgment. When we get into committee we can spend a bit of time on the particular amendments; they are not earth-shattering and in fact merely confirm what I said earlier, which is that we are not moving away from the imposition of the death penalty. What we are addressing is the mandatory nature of the death penalty, and there are certain circumstances when in fact a court will look to see whether the sentence of death is still merited.

Before I sit though, sir, I make bold to make this prediction - that again, at some point in time, history will catch up with us as a country. So notwithstanding what actions we are taking today, given the tide of the international community et cetera, and notwithstanding that we will be complimented - assuming that we pass this Bill this morning - for taking the bold step of removing the mandatory nature of the death penalty, next week we are going to hear: well, having gone this far, that in fact you are going to have to go the other length and remove the death penalty altogether. So with those words, sir, I beg to move that this Bill be read a second time.

Mr. SPEAKER: Yes, Honourable Member. Just a minute please. There is a Member - the Member for Christ Church West Central.

Hon. S. A. LASHLEY: Thank you very much, Mr. Speaker. I rise in this debate, Mr. Speaker, in relation to the amendment of sections 39 and 41 of the Penal System Reform Act. And of course this debate by its very nature is indeed very historic because of what it purports to do in relation to the criminal justice system in Barbados. For the first time, Mr. Speaker, in relation to the administration of the criminal law, Barbados is taking the legislative step of abolishing the mandatory death penalty. And of course, Mr. Speaker, the pathway to this development ought to be very well known because it resides within a whole continuum within the context of the impact of international law on the judicial system of Barbados, where it is patently clear that under the former administration a step was made to acquiesce to the jurisdiction of the international human rights court system, which of course would have required Barbados to agree to a number of requirements in relation to how the mandatory death penalty should be applied.

The Inter-American Court of Human Rights is the body to which I refer, Mr. Speaker. And of course, in that very famous case of Tyrone de Costa Cadogan against Barbados, the court would have emphasised the fact that a sentence that is applicable to the offence of murder must indeed be individualised to address the particular circumstances of the offence and of course, to also address the particular circumstances of the offender. And of course,

sections 39 and 41 of the Penal System Reform Act were amended to reflect the decision of the Inter-American Court. Of course, in summary, the Penal System Reform Amendment Act would amend the Penal System Reform Act, Cap. 139, to improve the guidelines applicable to the mitigation of an offender's sentence and the judicial sentencing guideline in general under normal circumstances.

Mr. Speaker, I know that within the context of Barbados, many Barbadians are in favour of the death penalty. Indeed, I must admit that I hold the view that there is a role for the death penalty in Barbados, particularly in my view, as a fitting deterrent, and I still believe it is a fitting deterrent to the commission of serious crime. What we are doing here, Mr. Speaker, in relation to this particular matter though, is not to remove from the laws of Barbados the death penalty. What this is seeking to do is to remove the mandatory death penalty on the basis that a judge, and certainly informed by within our system of a jury system, that a judge ought to have before him or her, as part of the options available, the ability to make inquiry before a mandatory sentence of death is pronounced. So within that context, Mr. Speaker, that we are basically here to debate this particular matter before the House.

The finding to date, Mr. Speaker, is that it is really the responsibility of the trial judge in making an assessment in relation to all of the various defences available to an accused person, particularly in relation to a murder trial, that the particular trial judge ought to be able to make certain assessments on the basis of which a particular sentence is then provided. Under the current system, of course, there is no such option for the trial judge. The system essentially requires that once there is a verdict of guilty in relation to the capital offence of murder, then without more and without any further inquiry, there is a sentence, a mandatory sentence to death.

I believe, Mr. Speaker, that this particular matter will, for a long time, engage the commentators and certainly persons in Barbados who feel very strongly about the matter. And one, of course, would need to then go further in relation to why this particular step has got to be taken. And I think, Mr. Speaker, it would not be remiss of me not to say that this issue is a typical example of the realities of international jurisprudence and the reality of international law combined with the realities inherent of a world system in which we have to operate, where decisions of international tribunals and of course, the impact of international treaties that we sign bind us to conform with certain international practices and procedures. And I think that this particular matter ought to be placed in that context because of the fact that Barbados, as a very vulnerable and small open economy, must also pay deference to what is happening within the developments of international law.

And sometimes, I dare say, Mr. Speaker, oftentimes, you don't have the luxury of sitting on the fence on these matters because if you do nothing, you are likely to be still sidelined internationally. And if you do something, of course, there's always the issue of your nationals who may have a particular view on this, taking a particular stance. The sum total of this, Mr. Speaker, is that we are making a decision based on the requirements and based on the steps that were taken when we signed on to that international treaty in relation to the Inter-American Court of Justice. The issue of human rights, Mr. Speaker, within the larger international context must loom very large in relation to this particular debate and the decision which we are having to take.

Oftentimes, Mr. Speaker, in reflection, one may say, well, perhaps the last government ought not to have been so quick to sign on to that particular treaty, but this is an issue of particular opinion that may be either to the right or to the left of the fence. What it does say and what it does turn up, Mr. Speaker, is the reality of governance and government in that it is not advisable, particularly in these particular circumstances, where a government, properly and duly elected, makes a decision to sign on to a particular treaty which creates certain human rights obligations and by necessary implication offers the proverbial line towards an immediate amendment or a necessary amendment to domestic law. A new government, also duly elected, ought to be very careful in making the decision not to respect that prior decision. And therefore, I think this is to my mind a victory for how the system of Westminster government works and the obligation inherent in forming a government, particularly when we are dealing with international treaties.

I think it has to be said, and certainly in my view, the whole question of how a government engages with the international legal system ought not to be tribalised and that once we engage in that, we have to be very careful that we are sufficiently apprised and privy to the full implications of what we are signing. I believe - I'm not certain, Mr. Speaker - whether in fact, when this matter was agreed to, in terms of Barbados signing on to the treaty governing the Inter-American Court of Justice, whether there was wide-scale debate. I don't recall that in Barbados there was a national discourse on this matter. And if there was no national discourse, Mr. Speaker, I believe that these matters ought to trigger national dialogue and discourse before a government feels sufficiently confident to sign on the dotted line and to bind a country to decisions of this nature. That, to my mind, Mr. Speaker, is my perhaps sole concern and regret in this matter. Because I believe that once that discourse is had, then a government can feel a bit more comfortable in relation to the step that is being made. I do not recall that discourse occurred. But we are at this point and therefore we have to be able to move forward on this particular matter where a decision, a prior decision was made.

But if you look, Mr. Speaker, on the basis of what we are doing and how it will impact and affect our criminal justice system in Barbados, what it does do, Mr. Speaker, is to place in the hands of our jurists, our judges within the criminal courts of Barbados, a tremendous responsibility and in fact add to their obligations and duties within the court system new requirements that they would not have had before. Because whereas before, as I said, once there is a finding by a jury that an accused man or woman is guilty of the capital offence of murder, the only thing for the judge to do in those circumstances is to pronounce the death penalty. The law did not give the judge any manoeuvrability or indeed any discretion to do otherwise. And therefore, this particular shift in the law, which has been necessitated by the circumstances of the impact of an international treaty, does create a completely new regime and a completely new focus upon which the judges within our criminal justice system would have to operate.

So, Mr. Speaker, the issue then before us is the need to amend the law to satisfy the requirements of the Inter-American Court. And that is essentially, basically what it is. We are amending the law in Barbados to satisfy the concerns which have been eloquently enunciated by the Attorney General which were put to Barbados in the cases cited by him by the Inter-American Court. So that, for example, Mr. Speaker, the impact would be that the relevant law is to be changed on the death penalty. There will no longer be an automatic imposition of the death penalty. But a number of steps would have to be taken before the penalty of death may be pronounced.

And I want to say that even although we are amending the mandatory death penalty, it does not mean that in Barbados, given the circumstances which meet the requirements of the system of criminal justice, that individuals will be scot free and that there would not be a pronouncement of death. What it does mean though, is that our system of criminal law, justice and practice would have to be significantly overhauled and that we are now into a new era of ensuring that the system of criminal jurisprudence and the manner in which, of course, criminal cases are prosecuted before the courts would have to be significantly changed to adhere to new standards which not only these amendments will require, but standards, Mr. Speaker, that have been discussed for many, many years. And these human rights standards, many of them relate to the whole question of the length of time that an accused person or that a condemned

person remains on death row without the necessary requirements being made to ensure that there is no infringement of that person's human rights which are now going to be enshrined in law. Of course, the reason why the existing law was challenging Barbados was because of a whole slew of persons who were made to remain on death row and in many cases, in an excess of five, sometimes

seven, eight years remaining without the necessary penalty being applied.

I believe, Mr. Speaker, that our approach to criminals in Barbados, our approach to those persons who would blatantly take matters into their own hands and commit crime inclusive of murder, must be toughened. And I do not believe that this amendment ought to interfere with that stance. There must be a tough approach underpinned by relevant law and if it needs to, Mr. Speaker, tidying up the system, the criminal justice system in Barbados, where once offences are committed, then we know that justice will swiftly be activated. That can only happen, Mr. Speaker, if we pay keen attention to the system that we currently have.

We still have, Mr. Speaker, complaints of undue delay in the prosecution of criminal matters before the court. And that, Mr. Speaker, we need to address. We need to have a new process, a new procedure which informs how these matters are taken through the law courts. And I believe, Mr. Speaker, that already we have had observations made by the Caribbean Court of Justice in relation to how the system of prosecution, the length of time taken in taking matters through the High Court and where it has to go to the Court of Appeal - the length of time that takes in Barbados. And I dare say, Mr. Speaker, that to my mind that is perhaps the biggest or the bigger issue. The bigger issue in this debate has got to be that there is a need to focus our attention on the reform of the criminal justice system and the procedures currently being used in the prosecution of criminal offences in Barbados.

That is my view, Mr. Speaker, and I think it is a view that is backed up and supported by empirical evidence. And I think the people of Barbados, the citizens of Barbados, would want to know that there is almost an immediate relook and a review of the system of criminal prosecutions in Barbados. I understand that one of the things that we would have to address is the whole question of the assizes that has traditionally been one of the procedures utilised in Barbados. I know that in at least one Caribbean jurisdiction, steps have been taken to abolish the assizes with a view to accelerating the pace of criminal prosecution. And I believe, in addition to preliminary inquiries - the preliminary inquiry stage - Mr. Speaker, I believe that is a matter that we will also have to look at and address to determine whether it really has not served its useful purpose in Barbados within the context of criminal matters which are being prosecuted in the court. I believe that other countries, other jurisdictions, Mr. Speaker, have taken this step - that there is no need for a preliminary inquiry and that there are other mechanisms within the arsenal of the criminal justice system that can be activated in a manner that does not prejudice the rights of an accused person before the law courts.

So, Mr. Speaker, all of these matters - and I believe the public ought to know that while we are here at this time ensuring that Barbados can be seen as complying not only by words, but by action, complying with its international obligations, because that is essentially what we are doing, Mr. Speaker. We are in fact ensuring that Barbados, having taken a decision to bring its criminal justice system within the ambit of international law, the Inter-American Court on Human Rights, that having done that, we believe there is an obligation to ensure that we are not acting in a manner that flies in the face of our international commitments.

Indeed, I must say, Mr. Speaker, that historically, Barbados has always been known as a country within the United Nations system that always adheres to its international obligations and takes its international responsibilities extremely seriously. And therefore, Mr. Speaker, this particular development, while it relates to the whole question of the mandatory death penalty, the context in which this has to be placed really has to be rooted within the context of Barbados. Barbados has been very resolute in being consistent as it relates to its international obligations. Having said that, Mr. Speaker, and having gone to the stage of ensuring that we can amend relevant law to obtain that necessary compliance, I believe we have to be able to go to the next stage. Because having done that, there is going to be a need to ensure that we can assure Barbadians that this does not mean that there will be a free for all in Barbados as related to crime.

In fact, I did recall that the Attorney General and I believe the Commissioner of Police recently were on record as saying that there has been some fall-off in the incidents of crime in Barbados. But I believe, Mr. Speaker, that we have to do more in that regard. And the time has come now for us to move very, very swiftly to ensuring that there is not even an iota of doubt or concern from the public as it relates to how our criminal justice system operates. And I think that one of the things that we have to do - and I believe the time is right to do that - is that in these matters, Mr. Speaker, while we are debating this as lawmakers, we have a responsibility to explain to the public of Barbados why we got here and why we have to make this change.

I believe, Mr. Speaker, that we have to also ensure that this triggers in Barbados a national debate as well, and that it triggers a national debate on the whole question of the mandatory death penalty. And by extension, the criminal justice system in Barbados - is it that we have come to a place where, not only because of international developments, Mr. Speaker, not only because of developments within the criminal justice system in the Caribbean, but I believe that having taken a very important decision of being at the forefront in establishing the Caribbean Court of Justice, Barbados has an obligation to lead as well in relation to how the jurisprudence that

governs the criminal justice system in the Caribbean is developed and unfolds in a manner that protects the integrity of our respective constitutions and safeguards the rights of citizens in relation to the incidence of crime.

I believe, Mr. Speaker, that it cannot be that we have established a Caribbean Court of Justice in a twin jurisprudence manner, because the Caribbean Court of Justice, as you know, would have replaced the Judicial Committee of the Privy Council in Barbados in relation to both civil and criminal matters. It is indeed the final court of appeal for Barbados. There are some Caribbean countries, some members of CARICOM, that have not taken the step to recognise by their domestic law the full jurisdiction of the Caribbean Court of Justice. And I believe that caught up in the whole issue of prosecuting crime - because I dare say, Mr. Speaker, one of the concerns that I do have, and I believe that this is perhaps one of the areas that the public will certainly be forming their own opinions on - is a very worrying trend of criminal activity where persons are hopping from one jurisdiction to another and committing serious crime within the context of an integrated Caribbean. And that, Mr. Speaker, is perhaps one of the biggest challenges that we are going to face. How do we address in a proactive manner the commission of serious crime which is cross-border and which has the potential of derailing economic and social gains that have been fought for within respective jurisdictions?

I believe, Mr. Speaker, that you cannot really talk about how you are going to deal with that - even although we have the regional security mechanism - without addressing that matter in a very robust and comprehensive manner. And if you are talking about that approach, my submission to you, Mr. Speaker, is that you cannot address it within a Caribbean context without a discussion and a discourse on the need for Caribbean States, those that have not yet done so, to embrace the jurisdiction of the Caribbean Court of Justice in all of its jurisdictions. In my mind, Mr. Speaker, this matter is beyond the whole question of individualism at the level of CARICOM. It is an issue of paramount regional security that we have got to have that regional debate.

I believe, Mr. Speaker, that when we speak or when we would have articulated the vision of one Caribbean within a true regionalised system, we would have had to address the whole question of how we integrate our societies, how we integrate our economies in a manner that speaks to the dream of people like the Right Excellent Errol Walton Barrow and others who would have contemplated a truly integrated Caribbean. I believe that when we look at the commission of crime and trans-border crime, Mr. Speaker, within CARICOM, we cannot escape the need to face frontally the dream of true Caribbean integration that to date has eluded, in my view, our Caribbean region.

I, Mr. Speaker, am a regionalist. And I make no apologies in saying that I have always, certainly as a student of history, always regretted the failure of the Caribbean Federation because of what it would have done within the context of the Caribbean countries dealing with the whole challenges of globalisation and that our economies would have been much stronger for it.

Mr. SPEAKER: Just a minute. I remember your time has expired, but since I did not warn you before, I will give you two minutes to wind up.

Hon. S. A. LASHLEY: Thank you very much, Mr. Speaker. But that is a relic of the past, the failure of the Federation. But we have an opportunity, Mr. Speaker, within the context of the Caribbean Single Market and Economy, to reignite a new dispensation of regionalisation. And I believe that why I brought that into this debate, Mr. Speaker, is that we cannot have a debate on how we are going to address the issue of crime within the Caribbean without understanding that it has to be founded within a discussion on reigniting Caribbean integration. And of course, the instruments upon which Caribbean integration were founded, meaning the Treaty of Chaguaramas and of course, the treaty that would have established the Caribbean Court of Justice.

So, Mr. Speaker, in winding up my contribution in this debate, I would place it within the context, as I said, of Barbados being respectful of international law, being respectful of a decision taken by a previous government in relation to signing on to the Inter-American Court of Human Rights and also ensuring that its citizens can feel safe within the context of a government moving to respect international law and human rights, but at the same time reminding Barbadians that this action is not designed to remove the death penalty. What it does is to remove the mandatory death penalty and to place before the judges in the criminal justice system certain responsibilities and steps to be taken before the ultimate penalty of death is pronounced upon an accused person. So, Mr. Speaker, with those remarks, I pledge my support to this matter, these amendments before the House. And I certainly believe that we are acting in a manner that brings to the fore the important role that the Government sees that it has to play in respecting international human rights and, of course, international law. I am obliged.

Mr. SPEAKER: Yes. The Honourable Member for St. James South.

Hon. D. O'N. INNISS: Mr. Speaker, I, of course, rise to give support to these proposed amendments before the House today. And to say that this is an issue - or the issues we are dealing with before the House today - to my mind, is of utmost national importance. It is not to say that other matters do not hold similar weight in the House. But

this, to my mind, speaks to matters that lie in the Constitution of Barbados. It also speaks, of course, to the offences against the person laws that exist now, and touches heavily on matters that go deep into the socioeconomic circumstances of people in society, the criminal justice system, the penal reform system, and a whole range of issues that really and truly cuts across much of what is transpiring in this society today. And it also has a historical perspective to it as well. And also as a government, as a parliament, it helps us to weigh in, in many respects, in terms of the direction we are going to take this society and how we address some of the issues that fall before us.

It is regrettable that the other side ought not to participate in this debate. And I believe that one must recognise that this is where important business of the land must be addressed and not out there in the leading opposition offices.

Mr. Speaker, I am not going to reflect or repeat a lot of what the learned Attorney General has said or what the Honourable Member for Christ Church West Central has reflected on. They are both attorneys by profession and therefore they have brought that perspective to bear. I have not one in that profession, or I might want to comment much about it. But the matter before us - that is once in 365 days. You stay tuned though. You hold on.

The matter before us, Mr. Speaker, of course reflects heavily on the fact that Barbados would have had to sign on or have been a member of the Human Rights Commission of the American Court of Human Rights, I believe it is called. We would have, by way of a matter that had been lodged in court and found its way all the way up to the Caribbean Court of Justice, certainly would have had to make this change. Let me say this ought not to be a partisan matter in the fact that the origin of this really lies within the bosom of the Barbados Labour Party back in the late 1990s into the 2000 era, when we certainly would have had, having been a member of that Inter-American Court and then having removed the Privy Council as the highest court and signing on to the Caribbean Court of Justice, obviously had to follow through.

So I think the message must go clear to the public out there that this is not a case of the Democratic Labour Party government coming now and being easy on murders in this society. In saying that we are now giving judges the option of a death sentence or imprisonment as an option. What existed before was from time immemorial that the judge had no choice in circumstances of murder where the accused had been found guilty, to impose the death penalty. And let me repeat again, it is not a decision of a political party today that is wrong. It is because Barbados as a sovereign state has sought to fulfil its obligation and its membership in the Inter-American Human Rights Court

and therefore we have no choice as a country but to go forward. And this is a matter I believe that both sides of the political fence can really and truly give full support to. And giving the excuse that you may not have been in Parliament when that matter was first debated in the late 1990s or 2000s is irrelevant. Government is in many respects a continuum and we are talking here about the actions of the state that goes way beyond partisan politics.

However, Mr. Speaker, we cannot escape the fact that this matter will always enter into a debate about the death penalty - whether it is the right thing to do or the wrong thing to do. We cannot escape the fact that we do not see any debate about human rights and the violation of human rights. This matter - I believe it is the Tyrone Cadogan et al. case - spoke heavily to the human rights issue. Whether having an individual incarcerated for an extended period of time was not cruel and inhumane, whether the processes and appeals were fair and reasonable, whether the quality of legal representation was at the level that he thought it should be at, whether the psychiatric condition - or the mental health, sorry - of the individual was taken into consideration. And certainly in analysing the matter based on what I read about it, the court with a certain rating concluded that there may have been, or there was indeed, some violation of the human rights or the rights of the human being.

I want to start on that premise by saying that in as much as yes, criminals have their rights and this matter has a genesis in the rights of a convicted murderer, we must always remember that the victim and their relatives also have rights, including the right to ensure that penalty is adequately meted out to those who committed a crime. And I think, Mr. Speaker, without seeming to come down on one side or the other, any discussion about death penalty versus imprisonment or the treatment for crime is one that must be soberly reflected upon and one must look at the pros and cons of every action that we take as a state. And certainly I commend the Attorney General's office and his team for clearly stipulating in the proposed legislation the circumstances under which the death penalty can be imposed versus that where imprisonment can be imposed.

There is still the wider issue of societal value systems and the views of society on these matters. And as one reflects upon issues around the death penalty, there are a couple of points to my mind, Mr. Speaker, that certainly weigh in heavily on this matter. I am very mindful that this is a discussion that will not end in Parliament today, but is one that certainly permeates the entire society of Barbados - perhaps over the next couple of days or weeks.

A couple of the issues that always come to light in terms of discussions about the death penalty relates to morality - the morality of it. Is government morally bound, or is government acting in a moral manner, when you

decide to execute persons? That is always an issue. The truth of the matter, Mr. Speaker, is - I guess to some extent perhaps some Barbadians, I do not know, I have not been around the court system at all - but certainly reflecting on following this issue in the United States of America, the morality issue always came up too, because apart from the role of government in executing persons, it also spoke to the justice system and one that we always argue tends to treat persons differently if you are rich and guilty as opposed to if you are poor and innocent. And that is one of the arguments they have always laid at the basis of any discussion about the death penalty in any modern society. It may sound a little confusing - if you are rich and guilty, if you are poor and innocent. The reality is that it typifies the fact that socioeconomic circumstances sometimes do weigh in on these matters.

Of course, there is also the issue of constitutionality. Is execution cruel and inhumane? And those who would have certainly followed these arguments in the United States of America ought to reflect on the opinion of - I believe - Chief Justice John Roberts in April, on April 16th, 2008, where in his capacity as Chief Justice and giving a summation of the matter, he would have concluded that execution is indeed - is not necessarily - a cruel and inhumane form of punishment.

There is, of course, the reality that we have to face in discussing these matters of constitutionality and the death penalty, where one argues sometimes there is unusually severe punishment and it is unusual in its pain, its finality and its enormity. And to quote from William J. Brennan, who was a Justice in the Supreme Court in 1976 in the United States of America, where he said: even the vilest criminal remains a human being possessed of common human dignity. And of course, that was the dissenting opinion that he would have offered in that particular case. I believe it was Gregg versus the State of Georgia in July of 1976.

And Mr. Speaker, I am bringing these points to highlight the fact that there will always be the pros and cons in any discussion about the death penalty. There are those who come down on the side that it is a cruel and inhumane form of punishment, that the state is operating in a very immoral manner by executing individuals. And then there are those who hold the view that it is the right thing to do.

Mr. Speaker, there is also the perspective on this issue that speaks to the fact about irrevocable mistakes. The fact that once you have made that decision that a person must be sentenced to death, or once the execution has actually taken place, you cannot reverse it. And we are free, I believe, in Parliament today to raise these issues because, as I said at the very beginning, the issue of the death penalty versus imprisonment for an extended period

of time for various crimes is one that will always engulf the society. Like I say, we are not here today to talk about whether it is death penalty or imprisonment, but the fact is that we are saying that the judges will now have an option as to whether they impose the death penalty or give imprisonment. Hitherto, only the death penalty could be imposed.

But in reflecting upon the broader issue of the death penalty and its usefulness or its relevance, the reality about it is that in any circumstance or any situation where one has to rely on the burden of proof, there is a likelihood of some mistakes being made. And one of the reasons why I personally have always been very cautious about jumping on any bandwagon that supports the death penalty is because the evidence is there - certainly for the United States of America again - that several innocent persons may have been executed. And there is also the evidence that several individuals have been released from prison after extended periods of incarceration as a result of evidence that has come to

light. Hitherto after these, the judge and jury have pronounced their issues relating to the DNA, for example, which hitherto wasn't available. And that certainly has resulted in individuals who otherwise perhaps would have been executed being released from prison as the evidence showed that they were innocent of the crimes committed. There was also the issue that relates to this in terms of the quality of legal representation. And in certain - I'll stick to my issues. The United States of America as an example, lest any of my colleagues think I'm talking about any particular individual instance in Barbados. But if you have poor quality legal representation, you're most likely to be beheaded or executed, right, rather than if you have high quality representation. And of course it also falls the other end too. If you have a poor prosecutor, you may end up in one way as opposed to if you have one of the highest quality. So the issue of the performance of legal minds in these matters also comes into being.

There is of course the issue of cost which we cannot escape as well. I believe some of this certainty would have been weighed in heavily upon the Tyrone Cadogan versus the State of Barbados in these particular issues as well, which has now landed us where we are today in discussing this particular amendment - in fact, that it is costly, it is costly to go through the legal process in terms of first trial, appeals and all the way up to address these matters. And if you don't have the financial wherewithal to do it, or if the state does not coffer up the monies to pay for high quality representation, then an accused person may obviously be found guilty and suffer the consequences of the death penalty. There are those of course who crunch the numbers and look at the cost of imprisonment versus the cost of the death penalty. And of course some come down on the side that it is a lot cheaper to just execute a person than to keep

them in jail and give them three square meals per day, regular doctor visits, exercise and all the things that those outside of jail sometimes don't get.

Mr. Speaker, of course in any discussion about the death penalty, as I mentioned earlier, there's always the case of race that comes into being. Why that may not be an issue here in Barbados, certainly in the United States of America it is. When you reflect on the fact that 13 per cent of Americans are of the Afro-American race, but 50 per cent of those on death row are of the Afro-American race as well. And that disparity is certainly there. And the sociologists who analyse these matters of course drill right down and look at the socio-economic circumstances, the linkage between poverty and crime, the linkage between certain neighbourhoods and certain types of crime, the linkage between the drug trade and certain kinds of crime. But fundamentally the issue here relates, certainly in the case of the United States, to race and crime as well.

So Mr. Speaker, there are many issues that we can look at as we debate the issue of the death penalty versus life imprisonment. There is also, Mr. Speaker, a matter which certainly to my mind is at the crux of any discussion on these issues in Barbados, which is the issue of deterrence. Does enforcing the death penalty result in or serve as a deterrent for criminal activities in any society? Simply put, if you execute an individual who has committed murder, will that deter other individuals from committing murder? And the jury is still out on that. My own opinion is no, it does not. Quite frankly. If you reflect on the cases, I think in Trinidad, where there were a few years ago executions at dawn of several individuals who were considered some of the worst people around there, the crime rate in Trinidad has gone up through the roof since then. I don't know that the execution of an individual has served as a deterrent for criminal activities. I believe the same is so in Barbados, but I leave it to those who have evidence otherwise to present it. I'm not saying that you should not execute, but I'm saying let us not fool ourselves into believing that it is a deterrent for crime in this society.

And the other point, Mr. Speaker, that of course comes into these kinds of discussions relates to the matter of retribution. Injury for injury for the public good is what is normally considered in matters of this nature. And the role of course in meting out punishment is that you look at rehabilitation, protection, and deterrence. But they all obviously do not have the same status or the same impact as retribution does. And I raise the stress here - we're talking about retribution as opposed to revenge, because people always think, sometimes when you talk about the imposition of the death penalty, that you're talking about the state taking revenge on someone as opposed to what is properly referred to as retribution.

Mr. Speaker, I believe that this matter before us is one that is of great significance at this juncture in our development. As I said earlier, yes, it is based on a position that we have had to commit to under the Inter-American Human Rights rules or the laws. We've had a case that has gone through the entire process through the court system in Barbados where since then noted attorneys have taken up the matter. They've taken it as far as the Caribbean Court of Justice, which is our ultimate court, having removed ourselves from the Privy Council. And let me say, Mr. Speaker, on that point, just as a sideline, I hope quickly that the other members of CARICOM quickly sign on to the Caribbean Court of Justice. Let me make my position abundantly clear. Barbados continues to pull its weight in supporting some of these institutions. And I believe that there are many others in the region who really need to step up to the plate, stop the pettiness and try and sign on to the Caribbean Court of Justice and let it be the final court in the region. To my mind it has worked well and I have faith in it. I have faith in our own people in this region.

I hope that the Right Honourable Prime Minister, when he meets his colleagues - if he is so minded, I'll have to say a view, I haven't discussed it with him, but I'm going to assume that he holds the same view - that he will impress upon them that they need to stop this pettiness and try and get on board the Caribbean Court of Justice. And not in another place, I'm going to come out and say that we need some Barbadian judges on that CCJ, because there are people on the CCJ whose countries have not signed on to it but who are calling all the shots. And let me not get distracted from the fundamental issue of the offences against the person. So Mr. Speaker, let me just reiterate the point that what is before us today is not the Government saying that we are going soft on criminals by giving the judges the option of imprisonment versus the death penalty as opposed to the death penalty which is mandatory hitherto. I think that needs to be made abundantly clear because there are some people in these quarters that no matter what they say, what you say, what I say, they will always say, crisp and contorted, that the state is now going soft on criminals.

The Attorney General and Minister of Home Affairs and his team in the Royal Barbados Police Force must be commended for the work they are doing in keeping crime in Barbados under control, but I have always contended that they can't do it alone. Each one of us as responsible citizens in this country has a duty to play our part in the reduction of crime or the avoidance of criminal activities wherever possible. I have lost in recent times constituents to guns in this country. Only a few days ago a young man from my constituency lost his life as a result of being shot in the city area. And you know, it is all right for people to talk otherwise, but nobody can feel the pain of a lost child like a mother can - somebody who has raised that child. You know, some people say, well, he was always

troublesome, he was always wicked, et cetera. But that is a human life that has been taken. And I therefore empathise and publicly express my sympathies to the family and all those families who have lost loved ones along the way.

On the other hand, I must continue to express dismay and disappointment and anger at those in this society who can do a little bit more to avoid criminal activities and don't do it because they hold the view that as long as it's not on my front lawn, on my backyard, it is none of my business. They hold the view that it's all right to see the guys selling marijuana and smoking marijuana or walking about the street with guns, and as long as it's not my child, it is not my business. We need an awakening in this society where individuals are going to have to start making some things their business, where we really need to be each other's keeper. I have children. And if I took the view that my children's friends are going down a certain path of negativity that may lead to criminal activity and it's none of my business because that is not my child, I have acted in a very irresponsible manner. As a father, it is my duty if I see a child behave in a certain way to have a word with that child and their parents. And sometimes, Mr. Speaker, when you do these things, you realise that there is a deep underlying problem in this society or in that family. Sometimes people only need a listening ear. Sometimes there's an issue related to poverty. Sometimes there are matters that have caused the family to be rather dysfunctional. But what is happening, or has been happening in Barbados for too long, is that too many individuals have been turning a blind eye and only getting involved when their houses are broken into or when somebody's family member has been shot or stabbed.

And I say it is not entirely the joint duty of us as politicians, the 30 of us who sit in here - it is the entire duty of this society. You know, it's not the duty of the church alone to come in and speak about morality and send your kids to church, et cetera. It's also the duty of those who operate the bars and the rum shops around the island that when they see certain deviant behaviour they are to intervene or get the authorities involved early. You know. So there are many facets to this matter, Mr. Speaker, that we have to address. And that is to my mind where the broader discussion has to go. You know, if we spend our time talking exclusively about death penalty and imprisonment, then that confines it to a small group in this society. The prison can only hold so many. The onus on us now is to have a conversation about how we can avoid people getting involved in criminal activities, ending up going before the law courts and forcing a judge to decide whether you should be imprisoned for life without chance of parole or if you should face the gallows. And I really hope, Mr. Speaker, that not just in this chamber but in the entire Barbadian society we are able to put our partisan differences aside and start looking at what is best for this society. Because criminals don't ask you when they come

to your house to break it in if you vote for the DLP or if you vote for the BLP - they want to know where you keep the valuables. And I've never seen a bullet - and I shoot occasionally, legally, that is, let me say, at the range - and I've never seen one of those hollow points with anybody's political initials on it.

The reality about it, Mr. Speaker, is that these are deep-rooted societal issues that we have to address. I've seen recent comments in the public domain about the conduct of children in our school system. It is not up to the Minister of Education alone to resolve that. If we cannot deal with a seven or eight year old child who is exhibiting some serious deviant behaviour, something is wrong in this society. What is wrong with their teachers? It can't be just a case of standing up with a blackboard and chalk and writing and saying, well, you follow me in terms of the ABCs. You know, there's a time when teachers really took such interest in the well-being of the child that nobody had to wait for a PTA meeting to hear that your child is behaving a certain way at school. I think sometimes we start to distance ourselves and become so insular that, you know, my job is now defined as XYZ and therefore I'm not doing A, B and C. To some extent these things have to change. We have to have a frank conversation about this. You know, you see children at the bus stand behaving a certain way and there are adults around them. I know adults are there with them. Of course there are those adults who tell you that they are fine with the child having a knife or gun or whatever. You know, I certainly cannot go anywhere and see young children behave in a certain way and not feel it's my duty to intervene.

So I hope, Mr. Speaker, that we really start to have a conversation about these matters and stop reducing these issues to the confines of an office somewhere and closed-door, academic and sterile discussion. Barbados has been built upon strong family structures - not defined strictly in terms of husband and wife, et cetera, but family structures where extended families, where everybody in the community looked out for everybody. We need to get back to the stage where we recognise it takes a village to raise a child. Sometimes I hold the view - and I'm going to wrap up, Mr. Speaker - but the reality about it, Mr. Speaker, is that I'm afraid that as we have built out larger and larger wall houses and more guard walls and as we have become able now to afford more and more luxury vehicles in this society, that we've forgotten what it's like to take a stroll through a village or a street and have a conversation with people. We've forgotten what it's like to speak to a child that is not yours, you know. And more pressure of course is being applied to us as parliamentarians to do everything for everybody. And the reality about it is that these are societal issues.

So, Mr. Speaker, let me reiterate my point that the discussion cannot just end here in Parliament. This, to my

mind, provides a wonderful opportunity for the Parliament and for this society on the whole to wrap its mind around some of the fundamental changes that have taken place, ask ourselves if we are going in the right direction on some of these social issues and start to find the practical solutions. This is not a duty for the state alone. It is not a duty for the Royal Barbados Police Force - and once again I commend them for the valiant effort that they make every day in fighting crime. It's not the duty of the church alone. It is not the duty of the teachers and the school system alone. It is for all of us as patriotic Barbadians to realise we have to grab hold of these problems, avoid more criminals being created in this society, and not focus on the punishment alone. With those few words, Mr. Speaker, I stand fully in support of the amendments before us. And I am obliged to you. Thank you.

SUSPENSION

Mr. SPEAKER: I am obliged. Yes. Our member for Christ Church.

Hon. J. D. E. BOYCE: So, Mr. Speaker, sir, I beg to move that the sitting be suspended for lunch until 2.00 p.m. this afternoon. I beg to move.

The question that the House be suspended until 2.00 p.m. was put and resolved in the affirmative without division and Mr. SPEAKER suspended the House accordingly.

RESUMPTION

Mr. SPEAKER: Honourable Members, this sitting is resumed. When the suspension was taken, we were on Order Number 13. And with that we shall continue.

AN HON. MEMBER: Mr. Speaker, I rise to participate in the debate. And I want to say that I participate with a bit of mixed emotion, because in every respect, I think that while we understand the reason for the changes that have been proposed, I think too that being very acutely aware of our society and the changes that are coming about - and the fact that what we are discussing is actually human behaviour and the fact that in a world which is changing constantly, we have to adapt and try to do new things in order to ensure that we create the best possible society that we can - at the same time, and again, we recognise the responsibilities that Barbados has in terms of its international obligations when it joins its institutions. But one of the things I am also very acutely aware of is that in terms of the relationship between people and between countries, invariably we tend to be subject to very powerful forces. And sometimes we have to be very careful that in terms of trying to implement change in our society, we also take the time to understand, one, what are the social problems that are causing a lot of the negative behaviours

that we see in our society? And really, we also need to pay very careful attention to the homegrown solutions that we must actually develop in order to address these situations.

So when I listened to the debate this morning, I listened to the various speakers who spoke on it, I think that it sort of made me call to mind the fact that we are looking really at the question of the death penalty and changing the conditions under which it can be imposed as a punishment in a society in which we all know that we hold very strong positions on certain things and very strong values. And what sometimes we don't understand is that the reason why we make rules and laws is really to at least help to protect people - and very often not only from others, but sometimes even from themselves. Because sometimes, if people are not aware that there are consequences from their actions, they will not only sometimes do damage to others, but also do damage to themselves. And that is something that we have to be very mindful of.

The thing is, though, in that respect, I want to say that we have a society in which things are changing rapidly, as I said, and you find that the level of responsibility that is sometimes displayed by individuals is not what it should be. As a matter of fact, when we see the behaviours of individuals in society, sometimes you tend to feel that there is an element of recklessness that is coming in. And sometimes the only thing that really checks that recklessness is the fact that there are penalties, or people sometimes know how far they should go. Because very often in many disputes that you see arise between people, there are some people who recognise how far they should go, and some people sometimes who do not recognise how far they should go. And in the discussion that we have in terms of changing the legislation in conformance with the recommendation by the Inter-American Commission for Human Rights, we have to look at the fact that we have in some cases responsible members of our society who would actually recognise what the responsibilities are, and some who do not. And it is temporal because the fact that in some cases, some situations at least cause the individuals to behave in a particular way.

But very often we need to remind people that while there are rights, at the same time there are responsibilities. And today we speak so much about the rights without at least trying to say to individuals that in as much as you have rights, also you have certain responsibilities to the collective in order to make sure that we have a society in which people themselves can feel comfortable. And sometimes when I hear - and this is not being heard on the judiciary - but sometimes when you hear a lot of the rulings coming down from these international agencies in which you have people such as judges and these persons who sometimes make these pronouncements about punishment and what they think it should be, very often many of the

day-to-day victims of crime are ordinary people. And sometimes the only thing that stops people from doing things is to recognise that there is a penalty or there is a punishment, that if they do something, this is what it is. And that is why sometimes you have to empathise with those victims of crime who sometimes are not afforded the protections that other people have.

These are very simple people. I want to think, for instance, about the person who has to get up at 5 o'clock in the morning to go to work. And we live in a society like that. And even today we live in a society like that - and they get up feeling that they should be able to walk down the street, to go to catch a bus in the dark of night or morning as the case may be, and feel that they should not come to any harm. And in truth and in fact, you have some people out there who, because of the fact that they have ill will and they are just bent in that particular way, seek to do those people harm. In a sense we still want to have a society in which people feel that they could go about their business on a day-to-day basis without at the same time feeling that somehow something happened to me as a result of the acts of another individual. And that is something that came home to me - that when you look at it, the ordinary man or woman is not protected against that, because in many cases he might not have a car, you have to walk, you might have to depend on transportation.

And these kinds of instances - you have to think sometimes when we have people that are proposing some of the changes that we see - some of these people are removed from the very social realities or the day-to-day occurrences that ordinary human beings living in society have to deal with. And in many cases they are protected because, and I guess maybe it is necessary that they are protected. But the point is really what it does - it makes them therefore, I would use the word immune or numb to some of the things that we see. Because one of the things I find that is happening in our society today is that the level of violence that we see sometimes - and especially when we look at other societies - I think that in this regard we think Barbados is still a society which is at least different from others that we see around us. That a society as a result could become numb to violence. Because I heard about the numbers when it came to murders in countries such as even Jamaica or Trinidad, as the case may be, or whatever - we don't have those high numbers. But the thing is really, what it makes me recognise is that a society could become numb and immune to the statistics that come out. But what sometimes we don't recognise is that in many cases the statistics that we deal with are human beings. That each of them had their story and each of them, through no fault of their own in some cases, have met that particular fate.

And that is why sometimes when we hear about cases in the court, sir, where we talk about the rights of the defendant and things such as these, we sometimes forget

the human tragedies and the trail of tragedy that crime and the persons who are the consequences of that crime leave behind. It is really what we call a trail of destruction that is there. And I really, really want, in discussing this particular change that we are doing, for us as a society to recognise that the change in itself, I think, is consequential. It really represents a change in thinking, or trying to represent a change in thinking. But let us also recognise that, in a sense, our society has to work harder at trying to encourage a more responsible individual, a more responsible citizen that is completely aware of the fact that we have responsibilities to each other. And we can no longer live in a society in which we seem to think that what I want is important, and even if I get it at the expense of another person, it does not matter - because many of these things occur in very small ways in our society.

And I think that the whole point - I think that the Member for St. James South referred to the fact of the family and the role the family has to play in terms of shaping the minds of individuals. Because I really believe that every person who comes up in society - families have a responsibility and a special responsibility in terms of raising that particular individual. And to the extent where we can make our families stronger, that we can at least ensure that young people coming up are raised in an environment which is constructive and keeps them away from crime - incidents such as crime - I think that we have to spend a lot of our energies doing it. Because away from just changing the legislation in terms of not making capital punishment compulsory in all cases, I think that what we more need to emphasise, as far as that is concerned, is the necessary changes that must exist in our society to ensure that the type of thinking that we are going to hear will be meaningful and maybe relevant. And not only that, make a difference to those persons who sometimes are not able to afford the things that help to protect them from crime. And that is one of the things that we need, sir, to take into consideration, because I make the point - the persons who are pushing us, or I would say pushing us in this direction, they don't live in the same circumstances as a person who is on the street every day. They don't have to walk down the streets. And in some cases, because of the position they hold, they are held in high esteem. And I think that is why we have to be mindful of the fact that we now have to make a special effort to see how we can change the social dynamics in our society that would at least reduce - even further reduce than what we have now - the incidence of crime.

Because I think that, in as much as I hear people talk about Barbados today, we still live in a relatively, I would say, well-managed society and a society in which people can feel comfortable. Because I was recently speaking to some people who come from some of the neighbouring islands - I won't say which one - and they were saying, you know, you still live in a relatively good society. And they

said why? Because you won't be able to leave the buildings and doors open like that so late in the night. And some of the things that we do, we actually take for granted. But the point is really that a lot of that can be undone if, in terms of the changes that we are making, we give the wrong messages to the people out there, at the same time as what we are requiring is a higher level of individual responsibility. And not only that, an awareness at the same time of those responsibilities. And what do we have to do as a society together to actually change attitudes.

I also want to say this. Very often in this country, anytime you hear anything happen, the first thing that people talk about - they run to the parliamentary representative and say, what can you do about this and what can you do about that? By the time they do that, the problem has already occurred. I mean, you have situations where unfortunately you have a murder or something like that, and sometimes the parents of that child who might have committed it run to you and say, how can you help? The point is really, at that point in time, that child's character is already formed. And what we have in our society is a situation where people do not accept the responsibility at the stage where they should. By the time they recognise what is happening, it is too late. The horse has already bolted. And I think really, the challenge to us is: how do we develop mechanisms in our society to deal with that? How do we help to shape the attitudes that we see coming about in our society to reduce the incidence of the type of crime that we see here, so that we will not have a situation where any court should have to decide or should have to say that a person is guilty of murder? And that, I think, is the objective that we should have in this particular situation.

And I want to say that in a sense, many of us sometimes - it does not come home to us because of the fact that, unless something reaches on your doorstep right in front of you, you think that it is not happening to you. Because I think the Member for St. James himself made the point - very often when we talk about drugs and the use of illicit drugs like marijuana, when we talk about people engaging in crime, very often we don't look and see. Sometimes we never think it is somebody related to us. We always think it is someone down the road. And the point that was being made is that we find now that there is what they call a lack of awareness or an insensitivity to the fact that people in this country have a responsibility to at least ensure that when they see things happening, if they can play a part, it helps to solve it. It will help. But the attitude today is that, as long as it doesn't come home to me, I will not be involved. It is not my problem.

As a matter of fact, that is why sometimes when I look around and see the growth in certain areas in Barbados in terms of housing, and the fact that people are moving away from areas in which they were born and raised - they

will come back there and say, well, you know, I come from here, I come from this place or that place, whether it be New Orleans, whether it be Westbury Road or whatever. But they have no hesitation on the first opportunity at all to get to the heights. And they only come back if they manage to remember to visit. But they don't seek to come down and help, to look at the community in which they live, to see how they can maybe impart values which they themselves have benefited from. I always say that in many cases, a lot of us - if it was not for the fact that there were people who spent time with us, because we were raised poor, we didn't have the advantage of other people in many cases, but people took time out for us - and if we had more people in this country who have all of a sudden gotten up and become better off, who will take the time to come and work in those areas of Barbados which you might call socially challenged and try to work with these young people, maybe the type of negative behaviours that we see today would not be happening. But what do we do instead? We scoff our faces and turn our noses up when we see it, and run up to our homes and think it is not going to reach us. But the point is, really, at the end of the day, we cannot stop our children from interacting in the wider society. And while we may not go, it might come straight home to us. And if we don't have a strong value system in our society, we will still - no matter what laws we introduce, no matter what we do here - at the end of the day, we will have a worsening problem. And I think that is the essential issue that we need to address as far as this is concerned.

Rt. Hon. O. S. ARTHUR: And promote the legacy of that cabinet, especially on matters of great significance. I regard it as one of the important legacies of the party that I had the honour to lead in government. One of the important legacies is that we asked this country to adopt a Caribbean Court of Justice in all of its jurisdictions as the court for Barbados. And it was inspired by the same level of enlightenment that caused us to be today discussing this matter, namely, that I do not know of any society, no matter how primitive, that has been unable to provide justice for its own. What manner of people are we in the Caribbean when we cannot do that which even the most primitive societies have always done - provide justice for their own? So it was never an issue in my government. The government that I led was constituted as to whether we should accept justice dispensed on us by the people of the Caribbean.

Mr. Speaker, we sought to modernise the administration of justice in this country. And there was a specific project for which we borrowed in the belief that justice delayed is justice denied. We sought to modernise the justice system of Barbados. And we felt that the building of the new Supreme Court building was not just a physical structure. It reflected the determination of a serious government to bring modern practices within a modern structure to the administration of justice in this

land. And these constitute significant developments presided over by the cabinet that I had the honour to lead that I feel are part of the glorious legacy of that administration. It was not only in respect of the economy, but we understood our duty to the society in respect to justice and the rule of law.

Now, in this matter, Mr. Speaker, I must tell you that I am a very strong supporter of the application of the death penalty. I believe that every society has a duty to defend itself. And the nature of some of the crimes that are being committed in modern society are of a nature - I do not feel that our country should just rob itself of the right to defend itself against the bloodthirsty and those who believe that they can just pillage societies. I feel so strongly. I believe that a society has a right to defend itself against those who terrorise. And terrorism, for me, has a very broad definition. There are things that are terrorism that people live in fear of. For example, children sometimes live in fear of fathers wanting to kill their mothers. And we keep it here. That form of terrorism is real.

I don't believe that the death penalty, though, should be applied for light nor wanton reasons. In the same way that I don't believe that life should be taken for light nor wanton reasons, and therefore, despite my own strong views, when the matter arose that the administration that I led joined and subscribed to the Inter-American Court, then we had to balance pragmatism with enlightenment. And I believe that this matter is before this Parliament, and properly so. Because this Parliament has to be at its best in presiding over things that manage and marry enlightenment with pragmatism. And this is what this amendment is about - pragmatism. Because we cannot rid ourselves of the responsibility of the guardians of society from doing that which may be necessary to protect the society. But enlightenment at the taking of life, for whatever reason, is not something that the state itself should be proud of promulgating, that it feels that it has to do. And therefore, when the matter arose in my cabinet, I felt very strongly that no matter how I felt myself personally, that we had to go the way of enlightened pragmatism.

And if ever there was a piece of legislation before this Parliament, Mr. Speaker, that embraced the principles of enlightened pragmatism, it is this. Barbados preserves to itself, if necessary, to have its judges apply the death penalty as a penalty, but wants to do that in a humanitarian and an enlightened way. And it is on those important grounds, Mr. Speaker, that I am here. It is on those important grounds that I want to support this measure that started under the government that I have the honour to lead.

And I just want, as a close, to say that this country has progressed on the strength of its human resources and capital. And Barbados has also progressed on the strength of its good name, its stability. And the message must go

forward from all of us in this Parliament that this is a society that has given, I feel, a true meaning to the concept of civilised development. That there are many of us who are here, if only because we live in a country that has given opportunity to even the poorest of the poor and have felt that the children of poor people can rise to the highest offices in the land. Barbados has not, despite its difficulties, ceased to be a country of opportunity. And our people must understand, therefore, that the stability on which those opportunities have been rested are important. And that those who feel that they should pillage Barbados or in other ways disrupt the stability on which our society has been rested, they should feel that they can enjoy no comfort from any right-thinking Barbadian in respect of anything that has to be done by the government and the law makers and the protectors of this country to maintain the stability of this land.

And those who feel that they can use economic difficulties to become involved in miscreant behaviour should feel that they can enjoy no comfort from any of us who feel that poverty is an excuse for misbehaviour. And that word needs to come more from those of us who have been given the opportunity to serve - that yes, we will seek to continue to do as much as we can to make this country a land of opportunity. But we want Barbados to continue to enjoy the reputation of its good name and that we will exercise zero tolerance. And I think the world - and I feel I can speak for everybody who has served in this House before and even now - that there must be zero tolerance for those who feel that recidivist behaviour can be justified on any grounds in this country, and that Barbadians must lay claim to being in a good society because we will not accept indifference and criminal behaviour from those who see merit in that course of action.

So, Mr. Speaker, I have come here because this was something that I, as a Prime Minister of this country, sought to make happen. It is something that I sought to make happen precisely because I felt that it was the enlightened thing to do. I am here because I still feel that it is the enlightened thing to do. And you must allow me, therefore, to close this little brief remark in the words of John Bunyan: that though with much difficulty I might have come hither, yet do I not repent me of the trouble it has taken me. I am obliged to you, sir. I am obliged.

Mr. SPEAKER: The honourable Member for St. Philip North.

Hon. M. A. LASHLEY: I rise to support this amendment to the Offences Against the Person Act. Mr. Speaker, sir, first let me thank the learned Attorney General for outlining the background to this amendment this morning and also outlining the case for the Government in relation to this amendment.

Mr. Speaker, sir, this amendment not only eliminates the mandatory nature of the death penalty, but it gives the judge, of course, the jurisdiction - or in fact the power - to impose other sentences, or in fact to conditionalise the commission in relation to sentencing of murder in the courts of Barbados.

Mr. Speaker, the state of our criminal justice system at this stage - to give a background - is that a person, as the law stands, once convicted of murder, the punishment is sentenced by hanging. Of course, Mr. Speaker, there is no opportunity for his counsel to present to the trial judge any background information, or in fact to do a mitigation in court at this stage. Mr. Speaker, of course, he has to accept the sentence as outlined by the learned trial judge, as opposed, Mr. Speaker, sir, to other matters before the High Court.

If someone is convicted of manslaughter - a lesser offence than murder - then of course the Penal Reform Act kicks in, because I believe that sets out a new regime for guidelines of sentencing. In fact I believe section 41 speaks to the general judicial guidelines in relation to sentencing, and also sections 33 through to 41 speak to the principles of sentencing and what is involved.

I say that, Mr. Speaker, because of course, as you know, when one is convicted of manslaughter it is then the judge's and also defence counsel's duty to produce to the court background information in mitigation - that involves, Mr. Speaker, sir, probation reports, character witnesses in terms of the particular background and character of the convicted person. So we have a regime existing where, in fact, for any other offence in the High Court, once that person is convicted, a mitigation ensues and you have to put that background of your client to seek some sort of leniency from the court in relation to any custodial or non-custodial sentence that the court is imposing.

Mr. Speaker, sir, this debate touches on and concerns the fundamental rights, particularly of an accused person. And what led to this debate? Two matters that went before the court - that is the Cadogan case, Tyrone DaCosta Cadogan, and the case of Boyce and Joseph. Let me say, Mr. Speaker, sir, up front that I had an interest in the matter. I had an interest in Boyce and Joseph. So let me declare that up front.

But let me say, Mr. Speaker, sir, that the State is the custodian and guardian of fundamental rights - in fact the protector of the fundamental rights of any accused persons charged before the courts of this land. Mr. Speaker, sir, and that person's right is the right not to be subjected to cruel and degrading treatment.

Further, Mr. Speaker, sir, I tend to side with a statement that was outlined by one of the judges in the

matter of Boyce and Joseph. And if you are indulgent, Mr. Speaker, this is what was said. It said: we recognise that the death penalty is a constitutionally sanctioned punishment for murder and falls within internationally accepted conduct on the part of civilised societies. The death penalty, however, should not be carried out without scrupulous care being taken to ensure that there is procedural propriety and that in the process fundamental human rights are not violated.

Death is a punishment which is irrevocable, and from that aspect, Mr. Speaker, I had a particular problem that came out in the matter of Boyce and Joseph. I can speak on it, Mr. Speaker, sir, because I know the facts surrounding it. And as I said, I had an interest in it. The fact is, Mr. Speaker, sir, that the warrants were read to the convicted persons before they had the opportunity to go to another tribunal to put their case, sir, against the order by the High Court judge, sir - that is, the death penalty. And I am saying respectfully, Mr. Speaker, that if the State is the protector of human rights and the custodian of the rights outlined under the Constitution, Mr. Speaker, sir, that we ought to be very careful, sir, when we are speaking or when we are looking at matters touching and concerning the criminal justice system.

I say it, Mr. Speaker, because I have said it before too. Because there is some imbalance - from the point of view that the State has access to resources, but a poor man who is unrepresented or represented has little resources to counter the evidence that the State will bring before the court, sir. And that is why, sir, the Inter-American Court, sir, suggested, sir, in the Cadogan case, that the fact that a defence of diminished responsibility, sir, could have been raised and ought to have been raised - and having not been able to raise that defence here - that it touched and concerned, in fact, breaches of his fundamental right to a fair trial, sir.

And so, Mr. Speaker, sir, given the fact that we are now amending the Offences Against the Person Act, it now would give someone in the same position as a Cadogan the opportunity to bring to the court, sir, expert evidence, and also the fact, sir, that the court can take into account, sir, the background of the individual, sir.

Mr. Speaker, sir, we are not of course being soft on criminals, sir. It is not that, sir. The judge still has the power to sentence someone to death. That is the law. We have not changed it. And the fact is, sir, Mr. Speaker, that even before we reached this stage - in sentencing for manslaughter, sir - the Court of Appeal, sir, in a matter called Peer Lord, and again, sir, I must indicate that I had an interest in that too - but the court in Peer Lord, in a case where a life was taken, sir, and it was a brutal matter - the court set down guidelines in terms of how a trial judge should approach sentencing cases, sir. Things like the

weapon that was used, things like the accused's reaction to the offence when he was being interviewed by a probation officer. Those matters, sir, will be taken into account, sir. I believe, sir, that the court also took notice of the fact that where a firearm is used in the commission of an offence, particularly manslaughter, the sentence is likely to be greater than where any other weapon was used, sir.

I respectfully submit, sir, that we have travelled thus far, sir. We have recognised - and the learned Attorney General has said it, sir - that this matter should be looked at in terms of improvements to our criminal justice system, sir, and the fact, sir, that many persons charged with murder, and in fact particularly in the Boyce and Joseph case, convicted of murder, sir, it took some time of course for the matter to really be heard by a court. I say that, Mr. Speaker, sir, because time and time again we have in fact seen newspaper reports published that someone was murdered in 2003 and the murder trial starts in 2006, 2008, 2009 - it is a fact - and they remain on remand for a number of years.

In fact, Mr. Speaker, sir, again, the judgment, sir, in the Caribbean Court of Justice case of Frank Gibson and the Attorney General - in that judgment, sir, there was a scathing attack on the court system in Barbados. With your permission, sir, I just wanted to read paragraph 48 of the Caribbean Court of Justice matter. The reference, sir, for the record, sir - yes, sir - Caribbean Court of Justice, CCJ Appeal No. CV1 of 2010, sir, in the Caribbean Court of Justice, Appellate Jurisdiction, on appeal from the Court of Appeal of Barbados, between Frank Gibson and the Attorney General, sir. Paragraph 48 states this:

"The public have a profound interest in criminal matters being heard within a reasonable time. Delays create and increase the backlog of cases, clogging and tarnishing the image of the criminal justice system. Defendants released on bail for lengthy periods have an opportunity to commit other crimes if they are so disposed. The longer an accused is free awaiting trial, the more tempting becomes the opportunity to skip bail and avoid being tried."

This is the Caribbean Court of Justice, Mr. Speaker. On the other hand, keeping remanded persons in custody for excessive periods increases prison populations, aggravates the evil associated with overcrowded jails. Moreover, there is a financial cost to the public in maintaining a person on remand.

Mr. Speaker, sir, it goes on to say this - in fact at paragraph 50 - Justice Blackman, sir, was involved in this matter. Counsel, in a prayer on behalf of the Attorney General, submitted to the judge that delays were typical in Barbados and consequently ought to be tolerated. The judge also records that, with the notable exception of the court presided over by Madam Justice Pamela Beckles, a

preliminary inquiry into a charge of murder generally takes between one to four years to commence, and that the Crown takes a very long time to respond to requests for disclosure of statements of witnesses. If these statements are accurate - and there is nothing to suggest that they are not - members of the Barbadian public have every right to be concerned about what may be considered as blockages of the criminal justice system.

This is the Caribbean Court of Justice, sir, speaking, sir, in relation, sir, to the delay, sir, and the consequences as a result of those delays - particularly, sir, in relation to murder trials or indictable trials, sir, where a preliminary inquiry is to be started or should be started, sir. So that, sir, really sets the background, sir, of the state, sir, of the system in Barbados. I have been in the system for a while, sir. I know, sir, that it is a judgment, sir, of the court that states, sir, that there have been excessive delays in Barbados, sir, that of course has infringed the rights of persons in Barbados, sir, and a person's right to a fair trial within a reasonable time.

Mr. Speaker, sir, I will respectfully submit, sir, that there are persons of course who will want to put a spin on this to state that the Government of Barbados is going soft on criminals. But Mr. Speaker, sir, the amendment to the Act lays down the circumstances in which the court may sentence a person convicted of murder to death.

You know, Mr. Speaker, sir, I have practised in the criminal court, sir, for a number of years, sir, and I have noticed, sir, that in some particular circumstances - particularly in cases of murder and in cases of manslaughter - a life, of course, particularly in manslaughter, results from the same resulting actions. Let me say that manslaughter is an unintentional or reckless act in relation to the death of a person, but the consequences, sir - the point I am making, Mr. Speaker - is that in some cases of manslaughter, I know by fact that there were cases of manslaughter where, when you look at the facts of the case, the actions of the accused were so brutal and devastating, sir, particularly to the family, and that in some instances the court has granted probation, and in some instances, sir, the State through the DPP has even come to the High Court and even dropped the charge to a lesser charge - although a life has been taken. It is a fact. There were cases, sir, where a person was charged for murder and as a result, sir, ended up before the court charged for a lesser offence - in fact it even went to grievous bodily harm, sir. Yes, I can count about seven or ten instances where it went to that lesser offence of grievous bodily harm, sir.

Notwithstanding the fact, sir, that under the laws of Barbados, sir, one can get bail for murder in Barbados. Under the Bail Act - under the Bail Act in Barbados - there is a right to bail and you can apply for bail under the Bail

Act. It is a fact. And so, Mr. Speaker, sir, these circumstances have been outlined by the amendment, sir.

the trial judge have a number of matters to be taken into account in relation to sentencing, sir. One, sir, if the murder was committed with a high level of brutality, cruelty, the property of Carlos Nestor or if it was calculated or planned. And of course the one which I believe would create some debate, sir, is if that person - if the deceased was a judge, magistrate, Director of Public Prosecutions, legal officer in the Department of Public Prosecutions involved in the administration of justice - or, as I am reading, the deceased was a member of the Royal Barbados Police Force, a member of the Barbados Defence Force, a member of the Special Constabulary or a prison officer, and the office of the deceased was a factor in the commission of the offence.

So, Mr. Speaker, sir, of course there are other factors - the deceased was a witness or juror in a pending or concluded trial - and all these factors over time have influenced, sir, a judge in sentencing an individual, sir, be it whatever crime that was committed, sir.

So, Mr. Speaker, sir, I really want to support this amendment, sir. I must say, sir, that from time and time again I have supported, of course, the Government's approach to the improvements in the criminal justice system, sir. And certainly, Mr. Speaker, sir, the fairness to the accused is of paramount importance, sir, and I certainly believe, sir, that given the fact that the CCJ has outlined the state of affairs within our criminal justice system, sir, that I know full well, sir, that the learned Attorney General is making efforts to improve the criminal justice system.

And indeed, Mr. Speaker, the fact that the Caribbean Court of Justice had made the point that preliminary inquiries sometimes take two to three or four years to start, sir, I believe that in the future, sir, the removal of that tier - that is the process - or some might argue, sir, that to remove a PI, sir, is a breach of fair trial provisions. But of course the argument is, sir, that a PI is not a trial.

So, Mr. Speaker, sir, I side with that view, Mr. Speaker, sir, because I had numerous arguments, sir, with the learned Attorney General, sir, and a Queen's Counsel and also the Honourable Prime Minister who is also a Queen's Counsel, sir, that I was going down the line, sir, that the abolition of a preliminary inquiry is an infringement of a fair trial provision, sir. But of course the basic principle is that a preliminary inquiry is not a trial - it is just an inquiry.

So, Mr. Speaker, sir, I would believe, sir, that reforming the criminal justice system, this is the first step, given the fact that the Caribbean Court of Justice has essentially identified the backlog in the court system and,

basically, the fact that PIs take too long to start. That if we remove this, all the issues, sir, of applications for disclosure at the Master's Court, all the applications there for adjournments at the Master's Court, the cost factor, sir, the fact that Masters will be freed up to do other matters, sir - that we will get rid, sir, of these backlogs of cases. And that, sir, is my respectful submission, sir, to the fact that improvements to this system, improvements to the criminal justice system, are necessary.

Mr. Speaker, sir, I just want to also state, Mr. Speaker, that in relation to the fact, sir, that we have now adopted and followed the principle that accused persons will have the opportunity to gather or to get expert evidence in relation to their defence. The problem with that, Mr. Speaker, sir, will be the cost - who will fit the cost for expert evidence against the State, sir? Who will fit the cost if I want an expert to challenge the State's evidence, sir? And that was the principle, sir, that came out in the Gibson case, sir, where the State projected a person as an expert and the only evidence that they had against that accused person, sir, was scientific evidence. And the question is whether a person who is represented by the Community Legal Services Act - whether Community Legal Services should really cover the expenses of an expert - so that we can have no doubt at all that the [Inaudible.] provisions were kept or that they were compromised. That is my fundamental point on this matter.

So, Mr. Speaker, sir, I support this amendment. The fact, sir, that I of course speak from a position of having a long interest in matters of this nature that came before me as a defence lawyer. Of course I want it to be repeated, sir, because there are spin doctors out there that I know will go to the press tomorrow, go to call-in programmes and try to suggest that this Government is abolishing the death penalty. I want to repeat again, sir, it is not so. It still is on the books, sir. The fact is that we have given a learned trial judge sitting in the court jurisdiction and power to grant other sentences - to grant other sentences based on the facts or based on evidence produced by his counsel or even produced by himself, sir, in the court of law, sir.

So, Mr. Speaker, sir, I want to support this amendment. And again, sir, I stand by what I said in relation to improvements to the criminal justice system, sir. I stand, Mr. Speaker, sir, saved by the learned Attorney General, sir - bless his heart, sir. I have never opposed him, sir. I always supported, sir, measures that he brings. Because of course we have to protect not only the accused - we also have to protect the State too. The State has rights and accused persons have rights too.

So, Mr. Speaker, sir, I believe that there will be other amendments, sir, because of course it cannot be a matter in isolation. So I will get an opportunity, sir, to go into other matters in relation to the criminal justice system in

Barbados. And so, Mr. Speaker, sir, I want to cohortly support this amendment. And sir, I am obliged.

Mr. SPEAKER: Honourable Member for Christ Church South.

Hon. J. D. E. BOYCE: Mr. Speaker, sir, I want to move that we postpone further consideration of this Bill at this time.

AN HON. MEMBER: I beg to second that, Sir.

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

ADJOURNMENT

Hon. J. D. E. BOYCE: Mr. Speaker, I beg to move that the sitting be adjourned. When is that? Just let me confirm that date, sir. Apologies - not Tuesday - until Tuesday, 10th February, at 10.00 in the morning. So I beg to move, sir, that the House be now adjourned until Tuesday, February 10, 2015, at 10.00 a.m.

The question that the House be adjourned until Tuesday, February 10, 2015 at 10.00 a.m. was put and resolved in the affirmative without division and Mr. SPEAKER adjourned the House accordingly.

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INNISS, Hon. D. O’N. (St. James South)

LASHLEY, Hon. M. A. (St. Philip North)

LASHLEY, Hon. S. A. (Christ Church West Central)

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EDITORIAL NOTES — NOT PART OF THE REPORT

Prepared with the transcript; for checking against the recording and the Minutes.

EDITORIAL QUERIES

Points noted while correcting and preparing this report. Members are named as in the 2013–2018 Parliament.

Q1. Front matter. The source does not record the PRESENT list or the name of the officiant at Prayers. The Members listed are those identified from the record; the time of meeting, 10.00 a.m., is as stated in the source. Please supply from the Votes and Proceedings.

Q2. Throughout. The bracketed time-checks in the source are out of sequence (for example ‘[01.00 a.m.]’ and ‘[2.00 a.m.]’ during the morning, and ‘[12.30 p.m.]’ after the luncheon suspension) and have been omitted.

Q3. Throughout. The source places the words ‘I beg to second that’ at the start of Mr. SPEAKER’s putting of the question. They are printed here as a separate seconding under AN HON. MEMBER; the seconders are not identified. Please confirm.

Q4. Announcement by Mr. SPEAKER. The name of the late former Cabinet member and member of the upper house is recorded in the source only as ‘[Inaudible.]’. Please supply the name.

Q5. Order No. 13, Hon. S. A. Lashley. Headed ‘HON. MICHAEL A. LASHLEY, S.C., M.P.’ in the source. Mr. SPEAKER called ‘the Member for Christ Church West Central’, and Hon. D. O’N. Inniss later refers to what ‘the Honourable Member for Christ Church West Central has reflected on’, so the speech is printed under Hon. S. A. LASHLEY. Hon. M. A. Lashley, Member for St. Philip North, speaks later in the debate. Please confirm.

Q6. Order No. 13, after the resumption. The first speech after the luncheon suspension is headed ‘HON. G. P. IAN GOODING-EDGHILL, J.P., M.P.’ in the source; he was not a Member of the 2013–2018 House. There is no call from the Chair, and the source’s own note gives the seat as St. Michael West Central, whose Member in 2015 was Mr. J. D. Paul, but nothing in the speech confirms this. Printed under AN HON. MEMBER. Please identify the Member.

Q7. Order No. 13, between Parts 2 and 3. Part 2 of the source ends during the speech that followed the resumption, and Part 3 begins during the speech of Rt. Hon. O. S. Arthur (‘And promote the legacy of that cabinet...’), with no call from the Chair. Part of the debate, including the call of Rt. Hon. O. S. Arthur and the opening

of his speech, may be missing at this point. Please check against the recording.

Q8. Order No. 13, postponement. The motion to postpone further consideration of the Bill is headed ‘SPEAKER UNCERTAIN – REVIEW’ in the source. Mr. SPEAKER had called the Member for Christ Church South, the Leader of the House, so it is printed under Hon. J. D. E. BOYCE. Please confirm.

Q9. Adjournment. The motion for the adjournment is headed ‘SPEAKER UNCERTAIN – REVIEW’ in the source and there is no call from the Chair. It follows directly on the Leader of the House’s motion to postpone and is printed under Hon. J. D. E. BOYCE. Please confirm.

Q10. Order No. 13. The second reading of the Offences Against the Person Amendment Bill, 2015 was not concluded at this sitting; further consideration was postponed.

DEBATE SUMMARY

(Editorial summary — not part of the record.)

The House of Assembly met at 10.00 a.m. on Tuesday, January 27, 2015, with Mr. SPEAKER presiding. No Minutes were available and, on the motion of the Leader of the House, Hon. J. D. E. Boyce, they were deferred. Mr. SPEAKER informed Members of the death of a former Cabinet member and member of the upper house and said that a condolence book had been opened in the foyer. Hon. J. D. E. Boyce laid, on behalf of the Minister of Finance, the Duties, Taxes and Other Payments Exemption (Barbados Tourism Investment Inc.) Order 2014 and the Duties, Taxes and Other Payments Exemption (Ammon Resorts Incorporated) Order 2014. Standing Orders Nos. 6, 16, 18, 24, 25, 43 and 44 were suspended for the remainder of the sitting.

Under Order No. 13 the Attorney General and Minister of Home Affairs, Hon. A. D. Brathwaite, moved the second reading of the Offences Against the Person Amendment Bill, 2015, which removes the mandatory sentence of death for murder. He said that Barbados averaged below 10 murders per 100 000, with about 28 murders a year in recent years, an increasing share involving guns, a clear-up rate of about 90 per cent, and about 25 per cent of homicides arising from one-off disputes. He reviewed the purposes of criminal punishment, Barbados’s signature of the Inter-American Convention on Human Rights in 1978 and ratification in 1981, and the hanging of 60 persons between 1924 and 1984, and said he had seen no evidence that hangings

reduced murders. He traced the Boyce and Joseph case through the Privy Council, the Caribbean Court of Justice and the Inter-American Court of Human Rights, and the Cadogan case, in which the Inter-American Court's 2008 report required Barbados to adopt legislative measures, and stressed that the Bill did not abolish the death penalty but gave the courts a discretion.

Hon. S. A. Lashley placed the amendment within Barbados's acceptance of the jurisdiction of the Inter-American human rights system under the former administration, spoke of delays in the prosecution of criminal matters, and called for a national debate and for renewed Caribbean integration through the Caribbean Single Market and Economy and the Caribbean Court of Justice. Hon. D. O'N. Inniss regretted that the Opposition did not take part, said the Bill was not a sign of the Government going soft on criminals, set out the arguments for and against capital punishment, including deterrence, constitutionality, irrevocable mistakes and cost, urged that Barbados accept the Caribbean Court of Justice and called on the whole society to address the causes of crime.

After the luncheon suspension a Member, whose name is not recorded with certainty, spoke of the balance between rights and responsibilities, the effect of crime on ordinary people and victims, and the role of families and communities in shaping values. Rt. Hon. O. S. Arthur said that his Government had sought to make the Caribbean Court of Justice the court for Barbados and to modernise the administration of justice, declared himself a strong supporter of the death penalty, and supported the Bill as a measure of 'enlightened pragmatism' begun under the Government he had led.

Hon. M. A. Lashley explained that the amendment allowed the trial judge a discretion in sentencing for murder, cited paragraphs of the Caribbean Court of Justice judgment in Frank Gibson and the Attorney General on delays in the courts, and outlined the factors to be taken into account in sentencing, including murders of judges, police officers and other officers in the administration of justice. On the motion of Hon. J. D. E. Boyce further consideration of the Bill was postponed, and the House adjourned until Tuesday, February 10, 2015 at 10.00 a.m.