
THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1991 - 96

SENATE

Wednesday, January 29, 1992

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, January 29, 1992, at 11.15 a.m.

PRESENT

His Honour Senator M. deL. JORDAN, (Deputy President)

Senator the Honourable L. V. H. LEWIS (Minister of Agriculture, Food and Fisheries) (Leader of the Senate)

Senator A. MORRISON

Senator Mrs. V. C. FRASER, B.S.S., J.P., M.C.F.A.

Senator A. J. N. PHILLIPS

Senator the Honourable Dr. C. D. CLARKE (Minister of Trade, Industry and Commerce)

Senator Dr. Frank W. ALLEYNE

Senator Miss Y. V. WALKES

Senator Mrs. M. BARKER-WELCH

Senator J. J. PAYNE

Senator Mrs. A. STRAUGHN, G.C.M.

Senator Mrs. M. WALCOTT, S.C.M.

Senator W. LeR. INNISS

Senator the Rev. Canon J. L. SPRINGER

Senator J. G. BELLAMY

Senator J. A. F. COLE

Senator T. E. BARKER

Senator Miss M. A. MOTTLEY.

Prayers were led by Rev. Errington Massiah.

Mr. DEPUTY PRESIDENT: The Senate is in session.

PRESENTATION OF PAPERS

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I am commanded to lay the following

instruments adopted by the International Labour Conference at its 78th Session held in Geneva June 1991.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I beg to move that Senator J. J. Payne be appointed to perform the duty of Deputy President for today's sitting.

INTRODUCTION OF BILLS

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I move the First Readings of:

A Bill entitled the Domestic Violence (Protection Orders) Bill.

A Bill entitled the Sexual Offences Bill.

A Bill to make better provision for the prevention of praedial larceny.

Notice of the Bills was given on January 28, 1992 and they were published in the Official Gazette in February 1991.

On the motion of SENATOR THE HON. L. V. H. LEWIS, the Bills were read a first time.

REPORTS FROM SELECT COMMITTEES

ORDER NO. 1 - TO MOVE THE ADOPTION OF THE REPORT OF THE JOINT COMMITTEE ON THE DOMESTIC VIOLENCE (PROTECTION ORDERS) BILL, THE SEXUAL OFFENCES BILL AND THE PRAEDIAL LARCENY BILL

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I should like to take the opportunity to alert Members of the approach which I propose to take

to this matter of the Report of the Select Committee. You will recognise that the Report of which notice was given and was laid at the last sitting covered all three Bills which were sent to Select Committee.

I propose to deal with the aspects of the Report which relate to domestic violence and to encourage debate on the Report so that when we turn our attention to the Bill, we would have already debated matters coming out of the Select Committee. For all three Bills we will follow that procedure and then go to second reading and proceed with the matter in Committee without delay and to the third reading in due course.

I trust this approach is acceptable to all Members of the Senate and, unless there is objection, I shall proceed accordingly.

The question was put to the Senate and agreed to.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, the Report of the Joint Committee which is before us indicates that there were some 7 meetings of the Joint Select Committee to deal with these Bills and arising out of those meetings 3 consequential amendments to the 3 Bills were found to be necessary during the sittings of the Committee. It is fair to say also that the Committee, through its Chairman, invited members of the public to attend hearings having made representations.
11.30 a.m.

There was not a great deal of public response by way of appearances before the Committee but representations were made by the Bar Association and by interested bodies in respect of all 3 pieces of legislation. Various persons attended hearings of the Committee on December 13, 1991. One or 2 of these persons had also attended on previous occasions.

This Domestic Violence (Protection Orders) Bill, Mr. Deputy President, seeks to grant protection in circumstances in which there is domestic violence. The Bill comes in response to various complaints, petitions and other indications concerning our society to tighten up areas in which it seems that persons could commit offences and not find themselves facing the courts or open to sanctions in the law and to ensure that persons who commit criminal acts are brought before the Courts of law.

The Bill in its definition defines child, complainant, protection order, harassment and spouse. Another section of the Bill provides for protection orders in cases where the Court is satisfied on the balance of probabilities that a person is engaged or threatening to engage in conduct which would constitute a criminal offence. Section 4 of the Bill provides the basis for applications for protection orders. The Schedule provides for a form which indicates the way in which applications for protection orders should

be made. This form was one of those which was commended from its terms within the original Bill while the matter was being considered by the Joint Select Committee. The Bill provides for evidence to be given by way of an affidavit. The forms of the various orders are provided for. There is provision when a protection order is made for the Family Service Division of the Welfare Department to play an appropriate role or such other agency as may be specified by the Court. The Bill proceeds to explain the basis on which the respondent may reply to the orders. It makes provision for breaches of protection orders or ouster orders.

There is also provision for prosecutions to be instituted by summons. It gives power to the police to enter premises when there has been a complaint and to the court the power to make protection orders or interim protection orders. It also specifies the duration of any orders made by the Court and for variation and relocation orders. The Bill seeks, therefore, to make global provision for the protection of persons who are affected in anyway through domestic violence.

Mr. Deputy President, I wish to assure the Honourable Senate that the Bill was given thorough and detailed scrutiny when it was examined by the Joint Select Committee. It is believed that this legislation will in some measure respond to some of the problems which presently exist in relation to domestic violence.

I beg to move that this Report relating to Domestic Violence (Protection Orders) Bill be adopted.

SENATOR Mrs. M. BARKER-WELCH: Mr. Deputy President, I rise in support of the Report of the Joint Select Committee of the Senate and the House of Assembly on the Domestic Violence (Protection Orders) Bill. A great amount of work has gone into the formulation of this Bill. I wish to congratulate the Government on spearheading this Bill which is really in time since the incidence of domestic violence has been aired throughout the international scene. There has been a great deal of concern about domestic violence.

Now, domestic violence, as we know it, refers to anyone who has been attacked or abused in the home. We know and the whole world knows that domestic violence is really 90% dealing with women. The women of Barbados must be very happy that in this Domestic Violence Bill are provisions made for their concerns to be aired and heard. It is a matter of tradition that the matter of domestic violence was put under the carpet or dealt with very superficially because people did not want to come in between families.

I refer especially to police when called in on scenes of domestic violence. They figured that because it was

a family matter they did not want to get in and break up families and so on which meant that a lot of domestic violence went unheard or was not dealt with. Even before the Select Committee began their work, and I am told they did a sterling job on this Bill, the draft Bill was seen by women's organisations.

This Bill has had the greatest exposure, a very good thing. We know that the consensus of opinion in the Select Committee, the women's groups and other groups concerned means that all of the areas that should have been looked into were looked into. This Bill is extremely important, not only because of women's concerns, but also because of the effects on our society as a whole. Children who watch their parents go through this domestic violence scene are affected by it and not only children but even the work force is affected by the incidence of domestic violence.

11.40 a.m.

There is a need for education in this country and in all the other places where domestic violence seems to have been on the increase. What we need to do is to educate the victim as well as the perpetrator of the crime because we know that violence is a thing learned. We women especially need also to be educating our young men, our young women and our children, but most especially our young men as to their responsibility to get this violence out of the system. Violence comes, in many instances, from frustration and when people are not able to articulate what they feel and so on, they take refuge in violence.

This question of violence and domestic violence particularly has been engaging the attention of international bodies like the United Nations and the body which I represent as President, the Inter-American Commission on Women. So great has been the impact of all the countries reports on this matter that the Inter-American Commission on Women got a group of experts together and drafted a Convention which we hope will be sent to all member territories of the Organization of American States because of the concern for this matter of violence. I am very happy to report that in that expert group for the Inter-American Commission on Women was our own Magistrate Shirley Belle who helped with the drafting of this Convention. She did such a fantastic job at the experts meeting held in Caracas that the United Nations invited her specially to sit on their panel of experts. I was very proud to be there to see the respect and confidence that the whole meeting had in our Magistrate Shirley Belle. By the way she was the only Caribbean person there dealing with domestic violence.

The United Nations have come up with various declarations. I was invited as President of the organization that had worked on this violence project and was able to

talk and liaise with all of the other women who were there and who realized that the incidence of domestic violence really was a cause for concern.

The United Nations was trying to come up with ideas that were to be sent to their member countries. It was thought that it was not yet time for a Convention. What they are trying to do is to see how the other organs, human rights organs can help in this matter without having another international Convention.

Another thing that struck me about the reports of the women from all of these countries of the Caribbean and others was that in each of the reports at the ECLA Conference, the Economic Commission of Latin America and the Caribbean, at our meeting in September each country made a report and in each report, it is remarkable, something about domestic violence surfaced. They were saying that it upset the work force and, while we are struggling with structural adjustment and so on, to have the work force disrupted is a very serious thing. Each territory – I was listening very carefully to the reports – each one had domestic violence as something they were very concerned about.

So, Mr. Deputy President, I say again how happy I am that we are bringing this up and also I am very happy about the exposure it got and the work that has gone into it. I am hoping this is the first step. We cannot look at laws. Laws do not change people. We have now to look at educating people, educating men, women and children to get some respite from the violence that seems to have erupted over the whole of this island. Society is going to be the better for this Bill if we just do not sit on it and expect that it alone will change things. We have to get down to the nitty gritty of it, in some instances, counselling. I am sure that members of the Select Committee must have discussed this aspect of the domestic violence scene, the counselling that is necessary and the education of our young people that violence is not the answer.

I am very happy also to see that there was a Minority Report. I am not sure if that was mentioned. But there was a Minority Report.

Aside.

SENATOR Mrs. M. BARKER-WELCH: That was on the Sexual Offences Bill. Anyway when we come to that, I will have something to say on that matter.

Once again I am very happy this has reached us and that at the end of the day this will be a Bill of which the whole island of Barbados can be proud.

Mr. DEPUTY PRESIDENT: Senator Walcott.

SENATOR Mrs. M. WALCOTT: Mr. Deputy President, it is most gratifying to see legislation of this type making its way on to the statute book of Barbados. For far too long there has been an absence of effective legislation that dealt with persons who suffer from domestic violence. The incidence of domestic violence has been far too high and it is women especially who suffer from this. The law has not always been on their side. On the contrary, it tended to protect the male as the head of the household.

I understand, too, that physical violence has even been regarded as a minor crime by the police unless there is some visible or serious injury. At the same time, physical violence is considered by researchers as one of the major social problems. Admittedly, for social and economic reasons, as well as for embarrassment at the failure of a marriage or a common law relationship, the women have been reluctant to make any report about violence. In most cases they have refrained from making a report at all. But times have changed and so have attitudes and this proposed legislation will help the situation for women and provide some liberation. Whereas, previously on the breakdown of a marriage a woman on being put out of her home she might have been in trouble finding somewhere to stay but now it works both ways and it maybe that the man is the one who is put out of the household. Furthermore a woman can bring the complaint to the court on her own. I think a lot of progress will be made when this legislation is fully passed.

11.50 a.m.

Another point to take into consideration in sentencing, as Senator Barker-Welch mentioned it and I support what she said. It is recognised that the inner child of the past not only survives in our maturity but it thrives so that in the case of children being abused and witnessing violence in the home there is every chance that those children on achieving adulthood could become perpetrators of violence. The children's minds could be warped through exposure to unwarranted violence and this reaction in later life need not be re-enacted in the domestic scene but could be very well extended to the wider community. Whatever measure that could be put in place to reduce violence in Barbados, domestic or otherwise it would be most worthwhile.

I also would like to say what a good job the Select Committee has done and I hope that all of these will go through without any further comment. I support the Bill.

SENATOR THE REV. CANON J. L. SPRINGER: Mr. Deputy President, I don't think there is a lot to say on the actual report itself or the Bill in its amended form because I think that bearing in mind the persons who served on the Joint Committee and the time to reflect on the proposed changes and so on, I think that what we have before us is something that we can readily accept.

As a sequel to what Senator Walcott just said about it now being possible for men to be put outside, I would like to re-assure the men and to suggest, Sir, and I think I am right in this that the law is going to work to the benefit of men as well.

In the Barbados I grew up in, I don't know what happened over the years, but the Barbados I grew up in had a lot of matriarchal type families and if any man moved into those families and misbehaved he got bare lashes. That seems to have changed. Men can rest assured that there is no discrimination in legislation of this nature.

I would like to comment on clause 14 which deals with the right of entry of the police into the home. That is something that was sadly lacking for years in this society. Virtually every social worker, every clergyman working in a particular district and many neighbours knew of the difficulty of getting help to women who were in these situations. We know that recourse to the police was almost useless. They recognised their limitations and did nothing, which was all they could do at the time. What you virtually heard with that former legislation was that you can come back to the police station when something has happened, which usually would mean when somebody is almost dead. This is going to, I hope, put an end to that and give the right of entry to the police where they can even on a suspicion move in without a warrant and take what action is necessary.

My other comment, Sir, has to do with the definition of harassment. In clause 2, paragraph 8(4) there are definitions or meanings of the word harassment and one of them says any other matters or words to that effect in that particular one. I wonder and perhaps someone can enlighten me as to what these other areas of violence might be. It is a pity that it was not spelt out to include some other aspects of violence not mentioned in the Bill or in the Report and I refer to harassment of, for example a type of loud music next door. I do not know, and my research did not reveal any other legislation that provides entirely, or absolutely so for the discontinuance of loud noise next door. I know that in certain neighbourhoods there are covenants, but in many neighbourhoods there are no such covenants and some people, sometimes sick people have to sit all night, unable to sleep or rest because of some inconsiderate neighbour and sometimes it is deliberate.

I know of stories of speakers being put in windows facing other people's houses and turned up. Now I wonder if it was asking too much to have this kind of violence – it is violence – harassment – included specifically in the legislation being planned. Then you have other related noise at the place of domicile which is domestic violence in my opinion where, boys play games in the street and their ball keeps going on to somebody's house and

sometimes there is a hypertensive person there. I have got many calls from people who suffered this and the call to the police was useless and I think in this legislation there is no provision for this particular thing. Then there is the barking dog which goes on all night and there are stories I am aware of, of dogs being tied just outside somebody's bedroom window and somehow the owners managing to get them to bark for the entire night to annoy the neighbours and they themselves do not seem to mind the barking. Fights next door, the fight that we are trying to deal with here, constantly, weekly can annoy the other people.

Perhaps, Sir, there is some other legislation planned that will take this into account but this is so close it is a pity that we did not include this kind of harassment – I call it harassment – in the legislation. Nonetheless, I am happy that we have made a move forward and I will, when the motion is put support the legislation. Thank you.

SENATOR T. E. BARKER: Sir, I rise to support the Report of the Select Committee. I have a basic problem and that problem is that domestic violence cannot be solved by legal means. We have to look in our society at the root cause of this violence and implement measures including counselling and psychiatric or other help for the perpetrators of this act rather than mainly a legal recourse. Because at the back of it, Sir, we have to be very careful about the preservation of the family unit and this is something that we have to take into consideration. In my view it would be better if the perpetrator of such violence, if possible, be given adequate counsel by competent persons with a view that somewhere down the line his action can be remedied.

Sir, I believe that domestic violence speaks to a deep seated problem that the perpetrator has and while all of us in here support the report we would want some action in this regard, especially when we are now in the midst of an economic crisis which is having a serious effect especially on the bread winner in the family and his ability ... I use the word "his" because it was taken before that women are the main victims of domestic violence and if they are the main victims then it is reasonable to assume that the man is the one who is the aggressor. I am talking about his ability to service the material needs of his family. I wonder, Sir, if that is not going to lead to a rise in domestic violence. It can very well lead to a rise in domestic violence and I want our agencies, the Child Care Board and other agencies to be given the necessary manpower. I do not believe that it is a police function, I believe it is the responsibility of agencies in our society to be given the necessary manpower and the tools in order to stem what is evidently a rising tide of domestic violence.

Sir, I am particularly concerned about the police getting additional powers to enter into premises. I

understand the reason for it but I also believe it is fraught with danger. It also relates to a man and his children or step-children. There is a thin line between correction and violence. We must appreciate that because what we may term to be violence the father may genuinely believe to be correction. Now you, Sir, are asking the police, without the necessary training, to be able to sum up a situation within a short period of time. He is moving in without a warrant. I wonder if that is not a little bit dangerous in that he may very well be going into a situation which is borderline. In my view, he has no right in it anyway and can cause more harm than good to the family unit.

12.00 noon.

Sir, even if the police are given these extra powers, I would urge caution. You have to be careful how you are going into a family unit since you may cause irreparable harm to a family unit already under stress. Sir, what may happen is that he may have an in-law or somebody whose interest it would be to divide the family. They may call the police and say that Mr. "X" is beating his child or step-child. The police move in on the basis of that telephone call, which may be a malicious call, and the scandal and shame that could result may destroy that family when all that was probably needed was somebody like a priest to caution the father that such is not the way he should operate. I am sure that in a lot of cases the father might take heed. I am very worried about police getting too involved in domestic disputes. I understand the need but it is full of danger.

Mr. Deputy President, other than that, I have no great problem with the Bill but I would caution the perpetrators of domestic violence to seek help and find other ways of resolving disputes than violence or harassment. Sir, if we read the reports in the Magistrate's Courts and Supreme Courts, we see the effects of domestic violence. There are a lot of acts committed as a result of domestic violence which could have been prevented if steps had been taken early enough to stop it. I am glad, Sir, that steps have now been taken. I hope, Sir, that the Senate appreciates my concerns and reservations about one or two aspects of the Bill.

SENATOR Y. V. WALKES: Mr. Deputy President, in giving my approval to the Report, I want to make a few comments on some of the areas in the Bill itself, at least what was mentioned under domestic violence. I shall try to stick more to the female aspect of it. I am very concerned that we should not get too far away from the whole question of violence done to females and veer off onto the area of men. When you consider a number of areas that have been looked at in this type of violence or anything pertaining to sexual violence, only one per cent of men are really touched in this nature. Therefore, I am really concerned about that.

Everybody talks about getting to the root of the problem. We tend to skirt around the root of problems. I am just going to mention very quickly two areas that come to my mind. When we deal with selling and taking illegal drugs, we try to look at the abuse of alcohol and cigarettes in this community when we know the history of it. We, therefore, stray from the whole impact of selling and taking of illegal drugs and never deal with the root of the problem cut out some, if not all, of that kind of behaviour in our society. Again, when we look at the whole question of AIDS, we tend to look at the use of condoms and we never deal with the problem of stamping out infidelity or promiscuity in the society.

If we go down the line of dealing too much with how men suffer we might tend to skirt around the whole question of domestic violence done to women. Let us not avoid the issue. When we are talking about getting to the root of the problem – about two Senators who have spoken this morning talked about the root problems – I see the root problems in this regard as gender related and related to the whole socialization of our people. I say this because, even when we tend not to get down to the question of gender relations and women who are even in positions who can deal with this whole question tend to be very much afraid of losing their creditability with the men we love dearly. Therefore, we find that it is never dealt with. Everybody thinks that this will prevent men from loving us if we do not deal with the root of the problem and really get down to it. I am very sorry if they do not love us. Too bad, because it must be dealt with and we will have to bear that short-coming.

My contention is that in most areas women are the ones that suffer to a large extent. Therefore, if we look at the whole question of gender in a culture and society like Barbados, although we know that gender is determined by biology and your sex is fixed, gender is both historically and socially constituted to define the notions of masculinity and femininity and the appropriate sex role behaviour accepted in a given culture. Therefore, we have to look at what that is saying for us in Barbados, where we know that great authority is given to men. I heard Senator Barker speak about this corrective measure given to the children, maybe by their father, which might be taken in the wrong way. When, therefore, he looked at Clause 14 he was concerned about police interference to any large extent in the home. I am saying that brings to mind part of the problem I am talking about, the whole authority of correction being pushed to the extreme in a wrong way. We are saying that it should not be regarded that the authority of someone should be misunderstood and used so that it becomes violent.

12.10 p.m.

Furthermore, I am sure that, if someone should call the police because there is violence in a home, it would be

at the level of the child or the mother or the family unit behaving that strangely that it will be recognised that it is not the usual spanking given to a child.

I find that women in Barbados, because of how we look at the gender issue, have this domination and subjugation and the whole question of plain cruelty coming across in society and our homes. It tends even to transmit itself into work places. We never think there is something wrong with that, because it has become okay to do it. This is a norm and it is accepted that women should take their places, that authority is there to keep them in a correct path and they should not even object too strongly about what is done to them in a real way.

I am wondering if we as women do not have to be blamed to a large extent for that. We are talking about the matriarchal society where women have been in control of the children. I am saying that in terms of socialisation we as women must take a large degree of blame. From the time a child is born and it is a boy it is tapped around very roughly. You might pull the ears of the boy, whereas you cuddle the girl and talk to her in whispers and all about being a sweet little baby. But the boy is roughed up and told about authority and which is not the treatment given to the girls. We have to face these things and when we are talking about looking at the legislation to correct what we have done before, we as women must look at what we are doing correctly from the cradle.

I am saying that, as slight as that might seem, it is a very important thing in terms of how we bring up our children. Even making children very soft, quiet, gentle and weak and not giving them the confidence given to the boy right away, to my mind instills very early in that child either the whole line of authority or that one of subjugation and lack of confidence. I am saying that, as we go through the stage of the very young, before we become seven, there is this whole question in the home – and again women are a lot to blame – of how a child is allowed to play, how it is allowed to perform roles in the house and around the house itself, who is supposed to go outside and who is supposed to be inside, to climb trees, to be down on the ground putting their skirts between their legs and ensuring that they are very well kept, their plaits are in place, while the boys run around and get into the rough and tumble and order the girls to do their little chores inside the house. This goes on, and I am saying that, even at that level, we have to understand what we are doing to our children.

We take them to school and continue the whole thing. Even though you are going to have women teachers there, there is that whole question of what should be done in school, how it should be done by girls and how it should be done by boys. We are mixing some of the curricula to ensure that boys and girls are in both sets, but in a

lot of cases it is done so that the girls take on domestic roles and the boys are more in the technical areas. Even if girls are allowed to be in some of the more skilled and technical areas, it is still the pattern with the kind of training that you are a girl and you have to be pretty cautious about how you go about it and which areas you really pursue. Only if you seem to be a tomboy are you supposed to go into these areas very strongly, and that interferes with work when we go into the world of work. I am saying that our socialisation is very important and we have the responsibility to look at it.

There is strong feeling among women that they are not supposed to include the men to a large extent – and maybe this came from us – in the same nurturing roles. We are not including men enough to take on the responsibility of their children when they grow up.

A guy has a child and does not care about it, to a large extent, to make sure that it is well kept, not even necessarily given monetary support – I am talking about the support that is necessary – and it is still all right. So you are not even instilling the kinds of strength that would come from both parts of the family – the woman and the man – in the whole family unit.

We are talking about how children become involved in violence and then about how to find the corrective measures after they have become violent. I am saying that, way up front, we have that responsibility to look at those two specific areas I have mentioned and explore them to the point. Of course, the education of our people must come into it. I am saying we can educate our people also, not necessarily by informal means, like how we behave to adults now. We do it at the Union in terms of training our workers to understand how to react one to one. I am saying one to one contact, family unit contact, even if you say you are extending it to your village, or if you live in the Heights, the Terraces and the Parks, if you are talking about extending it to that, I am saying that in itself is the kind of education we need in terms of understanding how to deal with the whole socialisation of our children and how to get them to be more equal in terms of their performance.

A lot of this violence, and even when you find sexual harassment and things like that in the work place, it is not among equals. It comes from one set who feel they are in authority and the other one is to be dominated. It goes to that extent.

When we look at the whole question of harassment in clause 2, I see that we have left out gestures. I would have loved to see that we not only had verbal and physical advances but that we included gestures. In Barbados men are very good at gestures which have sexual connotations.

You know the gestures. If my brothers do not know the gestures, then something is wrong with where they have been. My brother here is saying that women also gesture, but since you are saying you are doing it all across the board, then you can charge the women also. Gestures are very important in our society. We have to understand our culture and what means something in our culture. Women feel obstructed or interfered with when they are gestured at, not only by verbal or physical abuse. Clause 2, to my mind, could have included harassment in that area of abuse. 12.20 p.m.

Mr. Deputy President, at this point I will give my support to the Report. Thank you.

SENATOR W. LeR. INNIS: Mr. Deputy President, I rise to give my support to this Report. This particular Bill before us comes to grips with a practical problem. We can go into all the theories and all the sociology we like, but at the end of the day, in Barbados, there are many people who cannot sleep in the houses they are supposed to sleep in. There are many children who cannot get up to go to school in the homes they are supposed to be in because one nuisance in that house is giving trouble.

One of the speakers before me spoke of education and socialisation. These things are very true but take a long time. Even when they are working they still do not solve the problem in every household. Some people among us understand only force and nothing but force. It is not something peculiar to Barbados. It happens in every part of the world. That is why there is no society which does not have a prison because, no matter how rich you may be, no matter how educated, there are some people who must have force in order to step in line.

Again, we heard about calling in social workers and priests. Anyone associated with criminal courts will tell you that sometimes the situation is such that if the priest goes close he is likely to have his hand cut off with the same cutlass as a person in the house is fleeing from. We accept that there are some policemen who will overstep their bounds in this particular regard as they will overstep their bounds in any regard. There are some policemen who are so foolish they may stop you for a simple traffic offence and overstep their bounds. We cannot say because you find a policeman who may do something foolish you will abolish the law relating to various offences.

It is sad to see people who give you a tragic story: "I was run out of my house last night. I went to the police station and the police said I can't help you. Go and see a lawyer or come back if something happens." In other words: "Look for money and pay a lawyer", even though two days from now or before you see the lawyer, you

don't know where you will be; or "Go back into the house, and when your hand is chopped off come back to us and we will arrest the person who chopped off your hand". That basically is the scenario. I am saying that this Bill has come to grips with a serious, practical problem in Barbadian society and, contrary to what some may think, it affects men as well.

Sometimes some men, when their children become big, receive some good lashes at the hand of their wives and others or their children. These things happen time and time again. What happens very often is that too many men are ashamed to come forward and claim they were beaten. I am saying that I would like to go along with the advice of Oliver Cromwell, a religious man, some centuries ago, who reminded us that while you are praying to God, you keep your powder dry.

While we are socialising persons, while we are calling the priests, while we are calling the social workers, we still must have in place our coercive measures to deal with people who make themselves nuisances to those who are unfortunate enough to have to live among them.

Senator Springer made mention of other problems in society, but they are to be dealt with through other aspects of the Law, things like loud music and dogs barking. Our common law provides for that. You can bring an action for nuisance in those matters. As disturbing as it is to have a dog barking all night, I don't think it has any kind of comparison with a cutlass-wielding man or cutlass-wielding woman within the household itself. Basically, this law has been designed to bring peace and harmony, as far as law can do that, within the household.

I have great pleasure in supporting the Report.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, having heard all those comments in support of the Bill, I believe that we can now move to the second reading of the Bill. I beg to move in the first instance that the Report be adopted.

The question that the Report be adopted was put to the Senate and agreed to.

On the motion of SENATOR THE HON. L. V. H. LEWIS the Domestic Violence (Protection Orders) Bill 1992 was read a second time.

On the motion of SENATOR THE HON. L. V. H. LEWIS, Mr. DEPUTY PRESIDENT left the Chair and the Senate went into Committee on the Bill.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I would crave the indulgence of this Honourable

Senate to go back to the second reading and continue the second reading on the Bill to enable one Honourable Senator to make certain comments which he wishes to make but did not make on the Report. I have no objection to following that course of action and I so move that, instead of moving into Committee we recommit the matter and resume the Second Reading of the Bill.
12.30 p.m.

Mr. DEPUTY PRESIDENT: If that be the will of the Senate then Senator Morrison will speak on the Bill.

SENATOR A. MORRISON: Sir, I am very grateful to the Senate to be able to make a few remarks on the Report which has been adopted by this Chamber. I am in full support of the Report. I should like to highlight the effects of certain behavioural tendencies which obtain in the households of Barbadian families with respect to domestic violence which is the subject of the Report which has entered its Second Reading.

I think we must be very serious. Our womenfolk are supposed to be the mothers of our children and, indeed, the fountain head of all that is good and bad in the society. I heard Senator Inniss talking about women and Senator Walkes from St. Peter talking about how boys are raised in contra-distinction to how girls are raised. I should still like to err on the side of old times and the conventional way of raising our girl children. I think that way was the best way.

Girls, as I have been told when I was going to school, are made of sugar and spice and all that is nice. The boys were made of puppy dog tails and things like that. I am very old-timish. I believe that our girls should be treated very kindly and nicely because they have to be the mothers of our children. If they are going to exhibit that kind of love and care for our children when they have to raise and foster them then they need to be raised in the kind of atmosphere to be good mothers to our offspring.

We have to examine at what point in our society things went wrong because we have had in this country the kind of violence which is unprecedented in the history of Barbados. Youngsters under 21 are very tough and violent. Some adults are very violent too. When we add it up it is because of the love that has been engendered by our foreparents into our girl children that women are able to endure a lot in a house before they complain.

Sir, we know that we have bad men and we also have bad women too. Some women can drive a man to a point where a man could react and be very violent. We have had experience, and this is very practical, of women who have been treated very well by a particular gentleman and who think that he is so nice because he gives her things

that she could almost do anything. Then she goes the extra mile. The fellow reacts violently and you have to call the Police.

It is a very complex situation, Sir. We have been victims in this society of what we call hensure men and cocksure men. If you were to read *Animal Farm* you would see that you have hensure men and cocksure women. These are real things. I am not gesticulating. When you come across that kind of situation you can find women dominating men and men too afraid to talk about what they have to undergo. As well you find men who become so emasculated that they cannot stay up and tell their women where to get off at. The society has gone far away from what we were when we were growing up with our parents. That is what I want to pick out.

I have heard in the Law Courts just last week where the accused was saying that he and his girlfriend enjoyed violent sex. He said so from the dock that he did not know that when he held her so tightly she would have died. That is the whole story. It is very revealing because out there in society people are talking about hard sex and violent sex. These are the new terms. We have to be equipped in our punishment when things come to the attention of the Courts. We, as legislators, must be aware of what is happening in the society, where people are talking about hard sex and violent sex and things they expect from the man. Men are being driven to such a point that in order to remain as men they must indulge in these kinds of activities in order to justify themselves to their womenfolk. Both sexes are more or less in default at this time.

I still would err on behalf of the women because they endure a lot. They bear hardships while they are raising their children and where the men become very violent. In some cases they try to dominate their womenfolk. We, as Senators, have to take in all of these new trends in the society. All of us are vulnerable in this respect. We are all people who have some kind of love for our family. We believe in marriage. We all believe in justice. You cannot kill with words but you can damage people with blows. I am against any kind of physical abuse to our womenfolk. I have raised 4 children and I have never hit them once in my whole life. You do not have to hit people to make them understand. Any kind of physical violence in respect of people is the worst kind of violence you can ever come across. When it comes to the point where men would like to pounce on our womenfolk and beat and abuse them, I think we should send a clear message to the society that we do not tolerate violence on our womenfolk.

12.40 p.m.

Some women feel that unless they attack their men folk in a kind of violent way to get beaten eventually, the man does not love them. It is a psychological thing which

goes on in society daily. Those who endure the most beatings keep on with the particular man despite the beatings. This is a thing we have to live with. I think that we have got to be very careful because we have seen in Barbados in the last 10 years that offences against young people have grown a hundred fold. People, and not only outsiders, have been abusing young children. Even their own fathers and step fathers have been abusing them.

I believe we should send a clear message to people out there that woman is the fountain head of all of our aspirations and mother of everything. We call her mother earth as well. She should be given respect because she has raised our children, taken care of the father and very co-operative in whatever she does and says, tries to put her husband in front. In the good old days, when the mother was there, and even when there was not much financial benefit to be derived from being a wife and a mother, the woman would go out there and work for long hours and buy an old apron or dress and when somebody asked her where she got it from, she would say: "My husband gave it to me", even though he did not buy it. That was the old time way, Sir. Women were very proud of their husbands. They worked hard and for long hours and were able to afford certain things. They always gave the benefit to their husbands. They would say: "This is my husband's frock".

The only thing that can save Barbados is that we have got to get back to old time values. We have got to inculcate in our children the love for their parents, regardless of whoever they are, because education does not remove that kind of thing. We educate people but they do not know the basics of what it is all about. The whole thing starts from the point that you should: "Honour thy father and thy mother: that thy days may be long in the land which the Lord thy God giveth thee." If you do not get back to basics, Sir, all of this material wealth, two cars at the door and big bungalows is not going to do it. They would get more and more wicked and the more wicked they get, the more vicious they become. You are not going to be safe where you are. I am not going to be safe in my own little thing there. We have got to inculcate in our children love for parents because parents are the ones who produce the kind of environment whereby children can grow up and have an existence and have respect for older folk in society. We can have all the material wealth... In the last 10 years we have been spending money and the ability to spend money and to get things has been an onus on everybody. They want more and more. We have got to be able to halt it. With structural adjustment now we are going to come back and look at the really basic things that you really need in order to get this society going again. There is no more spending money. This is saving money. If we continue to save what little we have we will be able to generate investment. We can only do it by saving. The distributive trades have been reaping big profits. I

am saying that a spin off like that will prove the conservative aspect of our poor people in the country who are the bed-rock on which Barbados has been able to move. They have to inculcate in their children respect for other people. This has got to be the new order for Barbados when we come again and when we get the economy going in a way to help people and stop them being unfair to their wives and children, help them produce citizens we can be proud of and to reduce the violence in our society, Sir.

Mr. DEPUTY PRESIDENT: Senator Alleyne.

SENATOR Dr. F. W. ALLEYNE: Mr. Deputy President, it is not much that I can say by way of comment on this Report so I will be very brief.

I must say I got a lot of satisfaction listening to Senator Morrison, but I must admit that I am not going to long for the return of those old days because I know they will never come back.

First, I want to compliment the members who sat on this Select Committee on the job they have done. Mr. Deputy President, I totally agree with Senator Inniss that you can bring laws but those laws are not going to guarantee that violence will disappear. They will provide the legislative framework for dealing with it. I do not claim any particular training in this area but there is a view which I wish to share with members. I am convinced, Mr. Deputy President, that the upsurge – and I use the term advisedly because I do not believe that in Barbados the rise in violence within the last 10 to 15 years can in any way be likened to a wave – the upsurge is a permanent wave in my view and is likely to increase. The reason I think it is likely to increase is because of what I heard just a couple days ago. I heard a young lady speaking on the issue of violence in Barbados and making a distinction between control and self discipline. I think it is important to understand the point she was making. In essence, she was saying that Barbados as a society, over the years, has been subjected to control. That has been the order of a plantation society. You took your orders from above. You took your orders from your boss, when you got home you were head of the house and you gave orders to that household and that household was supposed to fall in line too. If they did not fall in line they were beaten into line. I am not saying I agree with that but I think there is a lot of merit in what was said. We tend to lose control. People become less fearful of mechanisms of control, for want of a better term, to free themselves of and that is where violence takes over.

On the other hand where there is self discipline, that self-discipline is positive. It is internal. There is nothing that is externally imposed. Where there is a high degree of self-discipline, the incidence of violence is likely to be

much lower in society. I am attracted to that explanation. I believe that, in Barbados over the years, there has been that relaxation. When I was a little boy I was not afraid of the police because my father was a policeman. But when I was a little boy and you were in the district and you were pushing a roller or pushing a scooter and you heard the police coming, you would look for somewhere to hide. When I was a boy, if men were gaming with dice and they heard the police, those men took off. They did not go for collins or swords. That is why I suggested to Senator Morrison that wishing for those days they will not come again. I remember around 1978 the experience of a 12 year old boy, a Sunday morning, pointing a gun at me and I thought it was a mock sport gun and I said to him, "What foolishness you are talking about, a gun what". He opened the magazine and showed me it was a real gun so I am not going to fool myself, we are not going to get back to those days when there was tight control in this society.
12.50 p.m.

The fact of the matter is this, I believe why there is so much thoughtless and senseless violence in Barbados today is that it shows a lack of self-discipline. Not only amongst the lesser educated, it happens at the upper level of the society but at the upper levels people are less likely to expose themselves to social criticism. At the upper levels of the society there is a lot of violence too. I believe that the best means of dealing with this violence – I would very much support the findings of this Report – is that we need to encourage the young children to develop better self-discipline.

The young people did not learn these things from Mars, they learned it from their elders. So when the older generation says that young people are no good, I do not subscribe to that. The younger generation today might not be any good because the preceding generation was not any good either. The young people learn their bad habits, bad traits and lack of discipline from the older people. This is why I wish to suggest, Mr. Deputy President, that in the final analysis the fight against violence is going to be won or lost in the homes of Barbados. If in the homes, I am not talking about a husband and wife situation because I do not believe that is the norm in Barbados. I think my information tells me a man/woman common law relationship is the norm.

If children see that in the home the heads, I do not speak of a head, because a man is no longer the head of a household. It is folly on the part of men to believe that they are still head of the household. It is a joint responsibility and that is why I always say to my lawyer "If my wife wishes to put me out I might sue my wife for support". It is a joint responsibility. Not that I contemplate my wife putting me out.

The point I am making is this. If children are part of the environment in which differences are discussed and adults learn to agree to disagree, without animosity, this is passed on to the young people in the home. When you decide that force is the way to solve an argument that is when you plant the seeds of violence in young people. I have to admit, Mr. Acting President, that in this respect men have failed Barbados and the Barbadian society because in a vast majority of cases where there is domestic violence it has been initiated by men. Notice, I say the vast majority of cases because I know of cases where men have been brutalised by women but they are few and far between. What that suggests to me as well, is that the resort to violence by men is indicative of the weaker capacity to persuade because if you can reason well enough, and assuming you have a case, you should be able to persuade the other party about the correctness of your position.

I very much support this Report but I wish to reiterate that in the final analysis a change in the attitude of adults is the key to the violence problem which we have been having in Barbados.

It is repulsive, Mr. Acting President, to see the way in which many of our youth are wasting their lives through senseless violence. When I looked at the Papers this morning two young men, their lives are wasted. They are being committed at the Queen's pleasure. A young life wasted, and I cannot help feeling that unless we come to grips with this problem of violence in the society – there is a saying which the President of the Senate would repeat very often, that is, 'that youth is wasted on young people' and it is the job of us adults to set a proper example to the young. Thank you, Mr. President.

COMMITTEE

On the motion of SENATOR THE HON. L. V. H. LEWIS, Mr. DEPUTY PRESIDENT left the Chair and the Senate went into Committee on the Bill, SENATOR J. J. PAYNE in the Chair.

Mr. CHAIRMAN: The Senate is in Committee.

On the motion of SENATOR THE HON. L. V. H. LEWIS, Clauses 1 to 23 were called and passed.

The Schedule was called.

SENATOR THE HON. L. V. H. LEWIS: I beg to move that the Schedule of this Bill stand part.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. L. V. H. LEWIS, Mr. CHAIRMAN reported the passing of one Bill in Committee and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.

On the motion of SENATOR THE HON. L. V. H. LEWIS, the Bill was read a third time and passed and cited as the Domestic Violence (Protection Orders) Act, 1992.

SENATOR THE HON. L. V. H. LEWIS: I beg to move that this sitting be now suspended until 2.00 p.m.

The question was put to the Senate and agreed to and Mr. DEPUTY PRESIDENT suspended the sitting accordingly.
1.00 p.m.

RESUMPTION

Mr. DEPUTY PRESIDENT: This sitting is resumed.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, the second matter which we are dealing with that was part of the report of the Joint Select Committee is the Sexual Offences Bill. This Bill was prepared in response to the concerns of several women about the apparent increase of violence against women in the society, because of the present state of the law in this area, especially as it relates to evidence required to be given by victims, and also in response to concerns about the need to encourage victims to report an offence. Clause 3 of the Bill, when considered in Committee which recommended that there be an amendment, however, was not approved in the Other Place. The Bill that comes before us deletes a Clause 3 (4)(e) which was not originally in the Bill but was inserted when the Bill was in Committee. In addition, Clause 30 has been deleted and a new Clause 30 is substituted therefor. That amendment to Clause 30 has been circulated.

In the Bill, consideration was given as to whether the term "rape" should continue to be used because it was felt that the term attached a moral stigma to the victim and, therefore, tended to deter victims from reporting the crime of rape. Another argument used was that in cases where there may have been a relationship between the victim and the accused in the past, the jury were often influenced into thinking that there must have been some sort of consent although the accused, in fact, might not have had such consent and ought to be convicted for a serious crime which may have been committed. There were other views as to whether certain types of activity should be considered to be rape or whether it should only be sexual conduct or criminal sexual conduct, both terms which tended to play down the seriousness of a crime.

Now Clause 3(1) of the Bill makes the offence of rape a statutory offence, one of mutual gender, making it

possible for a member of either sex to perform or to be charged with the act of rape. The same Clause 3 introduces a new statutory provision particularly to cover intimidation in the job setting and this is similar to provisions found in the Trinidadian and Canadian legislation. Clause 3(4) of the Bill strengthens the common law and it is noted that in some countries the provision for a husband to rape his wife or visa-versa has been exempted; so that a charge of rape can only be brought against husbands who are cohabiting with their wives.

Clause 4 of the Bill gives protection to some young persons who have not yet reached their fourteenth birthday and in Clause 5 the penalty for an offence of sexual intercourse of persons between the ages of 14 and 16 has been increased to 10 years to more accurately reflect the seriousness of such a crime.

Clause 6 of the Bill relates to incest and blood relations and has been extended beyond parent and child to include, apart from brother, sister and grandparent, uncle, aunt, niece, or nephew. The penalty has been increased from 7 years to 10 years except in the case where both the accused and victim are minors. In the case of incest if committed with an adult person under the age of 14 years, the punishment is life imprisonment. If committed with a person 14 years or more, the penalty is 10 years. If committed between minors who are 14 years of age or more, it is 2 years. There is also provision in that same clause for an offence under the section to be committed if there is duress, fear, or intimidation of any kind.

Clause 7 deals with sexual intercourse with step-children and Clause 8 with mentally sub-normal persons. In essence, the existing law deals with the question of buggery. Clause 10 deals with bestiality and, in fact, re-enacts existing laws. Clause 11 increases the penalty for indecent assault which presently is 2 years to 5 years and Clause 12 deals with serious indecency and makes the offence a mutual gender offence. It increases the penalty and makes inciting a person to commit an offence an offence in itself.

Clause 14 is, in effect, similar to the existing law as well as Clause 15 which is essentially the same as existing offences under the Offences Against the Person Act. Clause 16 deals with abduction and makes the abduction of any female against her will an offence and removes the restriction of that female having to be a person owning or having interest in real or personal property in respect of which the abductor wishes to benefit.

Those of us who may have been seeing certain news reports on CNN wonder whether abduction against a male may not cause a similar penalty and I believe this section takes this into account. So that it does not only deal with

the abduction of a female but also relates to the abduction of a male.

Clause 17 again deals with a householder permitting defilement of a minor under the age of sixteen years. Clause 18 deals with suppression of brothels and it incorporates the existing Section 2 of the Suppression of Brothels Act which is being repealed by this Bill. Clause 19 is similar to Section 51 of the Offences Against the Person Act but provides a defence where the householder did not know or had no reason to believe or suspect that a minor was under the age of sixteen years.

Clause 20 represents a new provision for a person aiding or abetting prostitution. A person who for purposes of gain, exercises control, direction or influence over the movements of a prostitute in a way which shows that the person is aiding, abetting or compelling the prostitution is guilty of an offence and is liable on conviction to imprisonment for 5 years.

Clause 21 provides that a person under the age of 12 years is deemed incapable of committing an offence under this Act.

Clause 22 involves rape and re-enacts existing law, Section 57 of the Offences Against the Person Act relating to divestment of authority.

Then Part II from Clause 23 on deals with evidence and continues to Clause 30 which has to do with hearing *in camera*. This question of hearing *in camera* caused the Minority Report to be produced. The conclusion to that report was, and I quote:

"We cannot but stress that the need to encourage victims to come forward and the deterrent effect of an open trial, together with the type of cross-examination to which complainants are subjected, combine to justify such a position by the minority."

2.15 p.m.

As a consequence of that minority report an amendment has been agreed which provides, Mr. Deputy President, in place of the existing clause 30, and clause 30 with four subclauses relating to hearing *in camera* now provides that —

- "(1) Where on a trial on indictment of an accused for an offence under this Act the complainant is a minor, the court shall hear the evidence of the minor *in camera*.
- (2) Where on a trial on indictment of an accused for an offence under this Act the complainant is of full age the court may, subject to this sec-

tion give leave for the evidence of the complainant to be heard *in camera*."

There are two other subclauses, Sir.

En passant, my attention was drawn to the Constitution of Barbados which provides, section 18 subsection (10),

"Nothing in subsection (9) shall prevent the court of other tribunal from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other tribunal –

- (a) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of decency, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings;" et cetera.

The amendment, therefore, which was passed in the Other House to clause 30 takes the provisions of the Constitution into account and certainly safeguards the position of minors as well as other persons if the court so decides.

There was much discussion on clause 28, dealing with corroboration. It is a short clause, but the point is that in Committee the attorneys-at-law who were there had differing views and there was criticism of the existing law on corroboration, before it was determined that the existing provision would be used which was substantially shortened from what was originally intended.

"Subject to section 31, where an accused is charged with an offence under this Act, no corroboration is required for a conviction but the Judge shall warn the jury that it may be unsafe to find the accused guilty in the absence of corroboration."

It was felt that that was sufficient guidance to allow the Judges some sort of authority to establish that they had in fact given the appropriate warning, but that thereafter the jury would have a fairly free hand in determining the matter.

Clause 31 deals with oaths by minors and from clause 32 on deals with the procedures to be followed in relation to the admission of clause 26 which has to do with sexual experience, and then the whole question of the hearing and the anonymity of complainants, along with matters which are properly for the jury to determine.

Clause 37 deals with the question of whipping, and in the Joint Select Committee there were only passing comments about this matter, although I notice that in the Other Place there are persons who took specific positions as to whether they would identify with whipping with a cat or with a tamarind rod. I am satisfied, Mr. Deputy President, that if an offence is committed there should be firm and adequate punishment. I am not going to say whether I am for whipping with the cat or whipping with a tamarind rod. If it were my sister, obviously I would go down the road of the cat. If it was somebody who I did not know, I would likely take a position which is less firm and be lenient, but I believe that punishment should be adequate for the crime and if it is determined that it is the cat, and persons who understand the law know they are going to get the cat and they want it and they commit the crime, they should get the cat.

I believe that the response to the cat, although I do not know what a cat is like, for some people may be no different from others if whipped with a tamarind rod, because it is not the severity of the punishment that affects some people, it is the punishment itself.

I am persuaded, Mr. Deputy President, that I have probably said enough about the report from the Select Committee and I will not allow myself to be led astray to make other comments which have no bearing whatsoever on the report. I am faithfully to present the report of the Joint Select Committee which did not consider in any detail whether the cat should be or should not be.

With those general remarks, Sir, I would only like to say that this legislation which is before us today represents an advance in terms of the Government's commitment to try to stem the several instances of crime which have surfaced in this country, and in the case of sexual offences there is absolute need for some deterrent if this country is not to sink further into morass and decay. I believe that the legislation is timely and I certainly commend it for the consideration of my colleagues.

I beg to move that the report be adopted.
2.25 p.m.

SENATOR Mrs. A. STRAUGHN: Mr. Deputy President, as a member of the Select Committee dealing with these bills and being involved, I did not think I would want to speak, or at least, my act of speaking is analogous to that of a person having taught the alphabet a long time during the day and then going home to find ABC soup for dinner.

I should like to make comments on two areas of the Sexual Offences Bill which was discussed on the Report – clauses 29 and 34. Clause 29 which deals with guidelines

for complaints. Four points come to mind in support. First, that complaining about such sensitive matters requires moral courage and emotional strength. Secondly, putting time limits would require victims to report incidents before they are psychologically prepared for the consequence of that report. Thirdly, sexual abusers would be able to take advantage of the failure to report. Fourthly, literature and research findings are replete with instances where the times at which sexual abuse was committed and charges may have been made are sometimes years separate. I don't think that the passage of time should invalidate the charge or justice.

I turn to clause 34. This clause puts control on publication and I would hope that a sense of discipline, a sense of responsibility and a strong sense of professionalism will replace the sensationalism in public reports. This type of sensationalism tends to cheapen proper journalism. This bill alongside the other two which are under consideration are attempts at justice in very sensitive areas.

I would hope that humane endeavour, humane attitudes and humane behaviour – these things over which no law has any real control – that those alongside the expertise of all reputable and reliable counselling services would be supportive in implementing true justice in our country.

SENATOR Dr. F. W. ALLEYNE: Mr. Deputy President, subject to correction, I am in receipt of the Majority Report and would wish guidance whether to refer to it. It might sound unnecessary, but I need to say that to my knowledge they have done a good job and I wish to express appreciation to members of the Committee who worked to tighten up the original bill. I am in support of most of the sentiments set out by resolution and I wish to comment on two aspects.

The first has to do with the provision for *in camera* hearings. I notice this morning section 31 was circulated. I am totally in agreement for all the reasons advanced which are not here. I believe that the legislators sat down to deliberate on this matter and took seriously the maxim that justice must not only be done but must be seen to be done. Therefore, in my view, to read the Report, every effort has been made to ensure a fair hearing for all parties, not only the complainant but the defendant as well.

I believe that in Barbados there are several instances of sexual abuse which never reach the courts. I believe there is a lot of ignorance surrounding sexual relations which give rise to sexual offences. Many years ago in Jamaica, I heard what we call one of the "he-men" extolling his virtues. He said sometimes it takes a lot of persuasion and at other times it takes a lot of force. It is

the force that interests the law courts because the belief you can use force to substitute persuasion is one that is founded on ignorance.

I recognise that as the drug culture takes over society, it tends to feed a certain reckless attitude to people's rights, particularly sexual offences. People will commit outrageous acts and then have the gall to go into court and say they did not know.

The second point. I am not a violent man. I don't believe flogging will change anybody's mind. I don't believe whipping is a deterrent, but I believe that when you violate people and commit rape against a man or a woman, it is a gross violation of human rights. Killing is not as bad because the person doesn't have to live with the consequences. Violation of that kind is the worse kind of affront, and I believe the sentence of whipping with the cat is a statement of society that it abhors that kind of crime.

I generally don't believe in whipping because I don't believe that it will change a person's mind but it is a statement about the feeling of the society. If you know you are playing with fire and you want to know if it will burn, you must be assured that once you push your hand in the fire, it will be burnt. What I am worried about is that violence breeds violence.

2.35 p.m.

I am concerned with the length of time it has taken to use the cat-o'-nine tails on the people who have been sentenced for lashes with the cat-o'-nine tails. I think this very long time lag reduces the effectiveness of the sanction. I am not a lawyer but I am aware that some of these rape cases can be very difficult cases. There are cases where the other party can cry rape when, in fact, it is not rape. They are looking for money. I am under no illusions about that.

I have heard about a case already where a young lady got in front of a fellow's car and asked him for \$20. He told her he did not have \$20. She told him that she would scratch up her skin and tear up her clothes and cry rape. I am not saying there are very many cases like that but these cases do exist. I am not going to fool myself about this. Never mind I am supportive of *in camera* hearings.

I believe that our judicial system, is good enough on both sides. But when you look at the other side of the fence when cases can be subjected to rigorous scrutiny on the truth, I believe that these provisions which we will deal with later in the Bill, but which are alluded to in the Report, will substantially improve the legislative framework for dealing with these matters. It is left now to the public to make sure that this legislation has its desired effect.

Thank you, Mr. Deputy President.

SENATOR THE Rev. CANON J. L. SPRINGER: Mr. Deputy President, I too am happy that we have made such progress. I hope that this legislation will have the effect of helping those people who have been in this kind of trouble and also acting as a deterrent to those who had in mind to get involved.

I would just like to comment on a couple of things. The first one relates to clauses 29 and 30 which deal with *in camera* hearings. I am very sorry that although I support the Report and the ultimate Minority Report which, in this regard – *in camera* hearings, I find to be closer to my own view than general view – that the Committee did not seem fit to go the full way and recommend *in camera* hearings for all such cases. That is a view I have. I do not think I need to say much about reasons. Some of them have been mentioned but I would simply mention the trauma associated with any case of rape.

Then, added to the trauma because of the experience, there is the added drama which is the court. To put any person, particularly any of our women and any of our girl children, through this for several days of what comes close to – for want of a better term – harassment by a defence lawyer, this kind of exposure I think is vicious. Anything that can be done to avoid this in public ought to be done. I would not recommend delaying legislation until this takes place because I believe that it is better to have deficient or inadequate legislation at any one time than not to have any at all. I hope the time would come when we would see fit to move on to the full and total *in camera* hearings of these cases.

Added to the trauma there is also the fact, and this was alluded to by Senator Dr. Alleyne, that many cases are never ever reported because people fear that experience there in the court. I think if we had gone the full way to assure the general public that all cases of rape would be heard in camera, you would be amazed at how many persons would come forward to claim their rights. I therefore hope the time would come when we make this adjustment in the legislation.

I know that it would be said that the judges are given the authority to make a decision on application as to whether or not a case should be heard *in camera* or otherwise. This only adds to the length of time that people have to wait in uncertainty and many moments of anxiety while they wait to see whether their applications would be heard. I think it would be better if this had not been part of the process.

My next point has to do with the fact that more and more today a lot of teenagers, and several of them in school, boys and girls, are getting involved in sexual activity and often illicit sexual activity. Many of them from

time to time have been assaulted and hurt. I think that going hand in hand with this kind of legislation there must be provision made for not just the counselling but for the rehabilitation, if I may use that word, of those who have been damaged psychologically as well as physically by this terrible thing.

It means we have to be looking for a new kind of institution, because I know that the history of our country and, perhaps, the world has been that to put someone in an institution tends to create a label that they cannot shake off very easily. I do not favour the type of institutions that we have been used to, reform schools and places of that nature but rather a kind of what we call nowadays half-way house where these persons can be attached, not on a permanent basis, but they can attend and perhaps spend nights, or days, or even hours where counselling would be available.

It is not enough to rescue our young people or our older women from this terrible thing, the effects of rape, and then leave them there and put them on their own. That is not enough. We must have a process by which they can be, indeed, healed. I suggest that we look with alacrity at trying to get in place – perhaps, these times are not the right times economically, or financially but as soon as it is possible – the kind of facilities where that healing process can take place.

My last point has to do with the law as a deterrent. Now in the old days I believe people were punished, in public, even hanged and whipped in public. The average onlooker saw what was the outcome of the crime, what the penalty was and probably trembled in his boots not wanting to go that route. We have not done this. We rely on the newspapers to publish reports. Sometimes they do, sometimes they do not. We rely on people to go into the Court to see for themselves. Very often those who read the papers and those who go into the Courts to witness some of these terrible trials are not persons who are likely to be guilty of the offences themselves. They have gone there with curiosity and often out of support for their relatives.

I think the time has come for us to expose the law and its penalties to people who are not going to go into the courts and who have to go to school. I am suggesting, and this may be an appeal to the writers, perhaps, the scholars, social workers, clergymen, and all those in business to provide documents with snippets about items in law and what penalties go with the particular offences and have them available for groups and schools.

2.45 p.m.

And not only those people who are going into the law need to know about these things but to make some provision for the exposure of people to what the law is and what, moreso, the penalties are so that they become a

deterrent. Because very often a man who commits rape might well be a fellow who had never read the newspaper or any law book or had gone into the court, and is hearing for the first time what his penalty is going to be when he is the guilty person. Had he known about it he might have, just might have thought twice. I rejoice that the penalties have been increased generally speaking, in this new legislation. I am happy for that because I note that in some cases someone gets as much as 10 to 15 years and even life imprisonment for certain offences. This is a far cry from the kind of legislation which only a short while ago saw somebody getting just about a couple of years for a terrible crime with a youngster. I will be supporting the legislation, Sir, but my point really is that I think work has to go on to provide the kind of supporting areas for this kind of legislation.

Thank you.

Mr. PRESIDENT: Senator Barker.

SENATOR T. E. BARKER: Mr. Deputy President, I support in very large measure this Bill. I see it as an attempt to let the society know that we legislators view sexual crimes as extremely damaging to the victim and that we intend to use the power that we have to make sure that persons who commit such crimes receive the full weight of the law. I have no difficulty in supporting this Bill. I believe it is one of the worst crimes that can be committed against a person, that is, to make them indulge in activities of this kind without their consent. However, Sir, there are a few aspects of the law that, in my view, we need to look at.

Under the law, even the existing law, newspapers cannot publish the name of the complainant. I wonder if this should not be extended to the defendant until he is found guilty of the crime. Because the crime of rape is one of the worst crimes that one can commit. To be accused of rape and have your name all over the paper damages the person even if the person was proved in a court of law, without a shadow of a doubt, innocent of the crime that he is said to have committed. I wonder if somewhere along the line we can have an amendment to protect the right of the defendant because do not forget, the defendant has rights also. Do not let us forget that. The defendant has rights and he or she is innocent until proven guilty in a court of law. I agree that that is something that we should seriously look at.

Another thing too when a child is involved – I am talking about the case where either the father or the stepfather is involved – even if the person is found guilty I believe that name should be withheld because when you put the person's name and he has been found guilty of troubling his daughter or stepdaughter, you are

automatically putting the girl's name in the newspaper. He is serving his punishment for the crime. Why must she have everybody all over the place know that she has been troubled by her stepfather or whatever. I think it is a good case where in these sensitive cases that even although the person has been found guilty that their name should be withheld from publication. I hope there is something that the relevant authorities look into in order to protect the victim. I am talking especially of crimes where 3, 4 and 6 year olds are involved.

When I read the reports of what goes on in court, especially in relation to crimes of a sexual nature, I wonder if the Press can be a little more sensitive in their reporting of these crimes.

Aside.

SENATOR T. E. BARKER: Sensitive and sensible because sometimes they get into certain details that leave a bad taste in the mouth of the readers themselves. Sometimes they go overboard in their reporting of crimes of a sexual nature.

Sir, the law is hard against sex with minors. But I see something that I do not like at all. I refer to section 5 subsection 2 in relation to having sexual intercourse with persons who are between the age of fourteen and sixteen. It says, if I am reading it correctly, I hope I am not reading it wrong:

"A person is not guilty of an offence under subsection (1)" which deals with sexual intercourse with a person between fourteen and sixteen. And (b) says:

"If that person is not more than twenty-four years of age". I just saw it and I wonder what it means. It means that a twenty-three year old man is not guilty under this subsection if he goes and have sexual intercourse with a fourteen year old girl. But a twenty-four year old man who goes with the fourteen year old girl is guilty of a crime. I do not know what is so magical about twenty-four years old. I believe that if you are twenty-three years old and you know that a girl is fourteen years old and you go and trouble that fourteen year old girl that you should not get off scot-free. It says that he is not guilty under subsection (1) if he is twenty-three years old.

Mr. DEPUTY PRESIDENT: It is the perpetrator.

SENATOR T. E. BARKER: Sir, am I to believe that sections (a) and (b) go together?

Mr. DEPUTY PRESIDENT: It is the perpetrator. Read it again, Senator Barker.

SENATOR T. E. BARKER: I am glad for that explanation. Sir, my last point deals with the punishment for rape. I agree wholeheartedly that life imprisonment should be the maximum punishment. We are not hanging people in Barbados any more. So do you mean then that the same penalty for rape is applied to a murderer? What is to prevent the man after he rapes the woman to say, look you can identify me in a court of law and it is better if you do not live. It is the same punishment. My view is if you are going to have life imprisonment for rape – and I support that wholeheartedly – then you must hang the murderers. I am very clear on that. If you are going to have life imprisonment for rape then hang the murderers. I am sure that everybody in here would agree on this point.

Aside.

SENATOR T. E. BARKER: Sir, my good friend says that there is still capital punishment but I am not aware that there is still capital punishment because there is at least a dozen people up in Glendairy, a lot of them have gone through all of the....

Mr. DEPUTY PRESIDENT: Senator Clarke.

SENATOR THE HON. Dr. C. D. CLARKE: Mr. Deputy President I did not want to get into this debate. But on a point of order I think hanging is still on the books as the penalty for murder. I do not think we can treat the matter lightly. To equate the two things, is a dangerous thing to do.
2.55 p.m.

SENATOR T. E. BARKER: I am glad for the assurance that hanging is on the books but I want it taken off the books and put on the gallows.

With these comments I want to thank the Joint Select Committee for the work which has been done and apart from the few reservations which I mentioned I would go along with the Report.

SENATOR Mrs. V. C. FRASER: Thank you very much, Mr. Deputy President. I am very happy to see what I am seeing in front of me. We have been in this one for a long time. What I mean, Mr. Deputy President is the fact that we in the Women's Organisations have been out there fighting for victims of rape. One recalls the march we had and a series of talks, film shows, and counselling and all of those things. One remembers the fact that many women who were raped did not come forward because they were afraid.

Many women who were raped have called me but they did not want me to tell anybody else. They did not

want to tell the police. This is something that hurts. They felt that if the matter was reported they would be disgraced and people would be pointing fingers in their faces and saying she is the woman who was raped.

On one occasion I was in a store where somebody called about three more women to point out to them a victim who had been raped, the particular place and who had raped her. It was very hurtful.

I was happy also to be part of the Select Committee because of course, I will not be part of any Committee except I put forward some arguments. Some very fierce arguments were put forward, Mr. Deputy President, because I have always believed that women are a very precious commodity. Every man in this world was born from a woman and if he wants to say different that is up to him. I know that men in Barbados care about their girl children, their mothers and their sisters and women family. Generally some of them do not care until it comes home to them and it happens to their daughters and their sisters and then they feel it. If somebody raped their wives in front of them then they would begin to understand what is happening and they want to go crazy.

I know of situations where women who have been raped no longer want to have sexual intercourse with their husbands because of psychological factors which take place when people fall victim to rape. I feel worse when I come to the courts and see a number of people assembled to see the person who got raped. I hear a lot of people talking about seeing the man who raped them, but really they come to see the woman who got raped. Actually the victim becomes the villain because the victim has to listen to all sorts of things and be cross-questioned by lawyers who are going to ask them, for example, about feeling young at 45 years old.

I have gone there and I remember a particular case where a man had put a knife to the throat of a woman and raped her. This was a woman whom he had known for many years like a mother and then the lawyer had asked her if she felt young and sexy. I feel it is time people have more respect. They feel when this is done they disrespect the women but they are disrespecting themselves.

There are back-up services with respect to rape. The back-up services I know have been tried and there are some people who work out there *in camera*, quietly, and are trying to help people in the society – trying to get them lawyers. I know there are people doing this but the call goes out for more people to actually counsel and try to help that victim, because it is a traumatic experience. Some people do not want to go back to work, they don't want to face the public, they don't even want to go to the

hospital and so on, so we need a number of people who can do that counselling - someone who will sit down and talk to that person.

If you went down the road and somebody struck you or cut you up with a knife, this is a crime and therefore you need all the assistance possible. I know of cases where many of the women feel intimidated for life once they go into open court and this happens with many people. Even when they are told to contact lawyers the lawyers may never receive that phone call because that person is afraid that it will go into open court and if the lawyer is making proceedings many people will say drop it, I am alright again. We cannot allow that to go on in the society.

I want to say that on the Committee I continued to agree that rape cases and cases of that nature should be tried *in camera*. I think we all must realise that the time has come when we have to deal with these matters by setting up a centre like one I know of - My Sister's Place. I had some interesting talks with the Minister, at the time, and he wanted to move forward on it. We looked at a few houses in some very remote areas but yet areas that would not be secluded. This institution which is called "My Sister's Place" is not known to the police. It has no phone number and a group of voluntary people work together by recruiting a particular number from one of their recruiting persons, almost like a recruiting disciple, to help these people. Then they meet them some place. They do not tell anybody where they are going. They get in the transportation and they go on to the place and they are assisted there. They even assist with jobs. In Trinidad, we have a good example too of a Crisis Centre where similar things are done for women and they are very actively working while they are seeing the psychiatrists and the various people whom they have to see. It is really good. It is not a centre where anybody can point a finger at you. It is a centre of love and friendship. You have nuns and all these other various people such as church leaders and young people, groups and guides, and scouts go to that Centre to help those people. It is a fresh kind of atmosphere for these people who have been feeling that they have nobody to talk to and that this is the end of the world.

3.05 p.m.

Now we are looking at something that is bedeviling the world - the question of AIDS and rape. How do we feel when we hear that somebody was a virgin and then was raped at 25 years old and has AIDS because of a rape situation which a couple of months or years after they know that it came as a result of the rape?

Now all of these things we have to look at very seriously. I would like to say that society always think that

the Government must do these things and in many of the places in the world these things are done by voluntary people. They do not want the Government to do anything. They get together and they feel that this is my society, this is my country, these are my people, and we are going to do it. They approach various fund-raising organisations and they get assistance and it works. But you know sometimes in Barbados I have to laugh because everything here we want done by the Government. There are many things I know that I have been involved in that have not been done by the Government and they have worked and they continue to work. If we think of all the things people used to do before with all the day-care centres and soup kitchens, they were not done by the Government. They were done by one or two individuals in this country.

I would like to see the one or two individuals in this country who would begin to spearhead these things and we will get a lot of back-up. Do not fool yourselves. There are lots of people out there in the background who will assist financially, morally, and otherwise. They do not want their picture in the newspaper. They do not want their picture on television but they want to help. I can tell you from my own experience that there were many people who helped me to do things for other people. We do not have to go on television and I know it can be done because it has been done in this country.

Mr. Deputy President, it gives me a certain degree of happiness to feel that we are reaching this stage with this legislation. Things sometimes are long in coming but, nevertheless, when they come we thank God for them. Perhaps we had to have some patience and suffering but now we are beginning to see some light in the tunnel. There is no longer that darkness. We are trying our best as legislators to try to let people understand that we care and that they must also care about themselves and their friends and family. We want people to understand that when you do these acts that they are acts of pride. They are not acts of goodwill.

Mr. Deputy President, I support this now and, as a person, I will continue to pass the word around about assistance and where it can be had quietly. I want to ask my fellow Senators here to do likewise very quietly. You do not have to let anybody know. But this is something that we must attend to so as to bring some more peace in the society. Thank you, Mr. Deputy President.

SENATOR W. LeR. INNISS: Mr. Deputy President, I rise to support this Bill. Really, what is happening is that we are coming to grips with certain facts of our society and we are passing legislation to reflect our thinking on these matters. One of the features that commends itself to me is this question of step-parents molesting their step-

children. Very often in the home women because of economic or other reasons have had to bring men who are not the fathers of their children into their home or they have had to go into the homes of men. Some men seem to have the idea that this child is not my child so I have licence and liberty.

This Bill has come to grips with what is now a very serious problem in Barbados of step-fathers molesting their step-children. Just as you have penalties for incest relationships which involve blood relatives, this legislation has now equipped it a step farther by putting the step-father in the position of a father for this particular purpose. I think this is very important because, to my mind, there is even a greater danger with a step-father since he does not even have that blood relationship to deter him from his activities against our young people.

Any Bill like this must be controversial because different people will continue to hold different views. I know there are some persons who are completely against whipping. They say that it is unconstitutional, they say it is cruel, and they say it is degrading. I have absolutely no apology when I state that I believe rapists should be whipped. I cannot find anything that can be more degrading or more cruel than taking a woman against her will. In the legislation, whipping is not mandatory and we have experiences in our Courts where Courts take everything into consideration. Anytime that a woman is forced into a sexual intercourse against her will it is rape. But there are different circumstances and, as you may say, there may be rapes and rapes. None is right but some are more traumatic than others. Some are more dastardly and I am saying that rapists should be whipped.

Another question that will cause controversy always is the question of *in camera* hearings. There is much to be said about publicity, et cetera. But in truth and in fact if we look at the real facts of our Courts, many women who would be afraid to come forward today would still be afraid to come forward if they are *in camera* trials. Because no matter what trial you have, you always have a number of persons in our Courts. In the Law Courts if you have an *in camera* trial, you have obviously the jury, court officials, any lawyer who cares to walk in, police officials, probation officials, and the jurors who are not sitting in this particular case but are waiting. I am suggesting that you can find two dozen persons at anytime in any Court even if you have an *in camera* hearing. For example, the preliminary enquiry into rape or any other case is *in camera*. But for those who are associated with the Court you will still find people in there. I do not think that a poor victim is going to talk out if a policeman or a warder is there. The embarrassment is there no matter who the person is and we have to weigh that problem against the other problem of secret trials.

It is well known that our Constitution provides generally for open trials. It does not mean that there are not circumstances in which a trial may not open. But before I go any further, it is surprising that very often many people who speak about the *in camera* trials do not really realise that you do not have the time to listen to any case quite frankly. Sometimes you would be surprised the few persons who are in Court listening to even a rape case and it is just as surprising to some people to speak about *in camera* trials about the numbers who will be there, as I said, anyhow on official business. But on the other side of the coin about the secret and private Courts, we have to be very careful about our democracy. Remember that some woman's daughter is being exposed to answering questions in a rape trial which is unfortunate and traumatic. On the other hand, we must also remember that some woman's son is there on trial and that woman's son who is on trial wants to feel that all that ought to have been done has been done and what ought not to have been done has not been done.

3.15 p.m.

It is not only in Barbados that this problem of *in camera* trials has come up. If we go back to our English courts there is a case where a Judge said: "Publicity is the very source of justice". It does not mean cheap publicity of turning a law court into a circus, what it means is that the public must know that they have a right to understand how their courts work. As the English Judge, Lord Scarman, said in another case: "Publicity keeps the Judge himself under trial". Because some Judges can have their own biases, their own idiosyncracies, but when those courts are open to the public they never know who is Mr. John Public that will be following to see what is in our courts.

As I said, it is a delicate question, but when we look at one side we must also look at the other side. There are some judicial officers who may act in an arbitrary manner, who may be carried away by their own idiosyncracies. Therefore, it is only that public scrutiny that will serve to keep some people in check. Indeed, even the advocates of *in camera* trials know what is going on and what is not going on because of publicity. If there was not some degree of publicity, even the persons who are coming out to speak about *in camera* trials would not know the abuses to which the system can be exposed, would not know the rights and the wrongs.

I believe, Mr. Deputy President, that more important than a few people coming to the court is the irresponsible Press on many occasions. I believe there is a campaign among our Press now to see who can be more sensational. A few years ago we had a serious section of the Press and a sensational section of the Press. I can only say that

the laziness of some Editors or Managers or whoever it is believe that it was sensationalism that gave their rivals the upper hand upon them and they decided to fight fire with fire. What then should be responsible Press is trying to be the over-sensational Press, and that does more danger to our society than 20 or 30 people in any court. Because it is obvious that some Editor is saying: "If I don't put it on my front page, the competitor will have it on his and then all the Audit Bureau reports will show that we are down and they are up." We have to come to grips that the Press has to become serious. This is only one aspect of it, they must be serious about what it is all about, because at the end of the day a healthy balance sheet, as important as it is, is not worth the price of killing our society.

Mr. Deputy President, if we want to see some irresponsible behaviour, even in our present legislation one is not supposed to publish the name and identity of a minor, but what do you read? "Joan Brathwaite, the sister of the complainant, who lives in Eagle Hall, St. Michael, et cetera..." Everybody knows who is Joan Brathwaite of Eagle Hall, therefore they know the 12 year old sister that she has, so are they so ignorant that they do not know that they are publishing the identity of the child? Or is it that they are not ignorant, but insensitive? In other words, let us pretend to be ignorant and let our insensitivity get the better of us. We are asking that when people find themselves exposed to something like this, what must be a harrowing and traumatic experience, all of us in whatever sphere we find ourselves must do our bit to bring the culprit to justice and make it easier for that particular individual who finds herself in that unfortunate position, and we must also make it easier for those out there who may some day find themselves in a similar position not to be deterred because of the front page story, because of the lurid details. Let us face it, there must be some lurid details in a lurid matter. Clearly you cannot have a sex case without sexual behaviour and certain details. Indeed, some members of the profession may try to go overboard in asking unnecessary and degrading questions, but the courts have some control over that and Judges can keep them somewhat in check, but if a lawyer has his instructions that a person is innocent, he must put the case to the person, whether it be one of consent or one of anything of the sort, but these things can still be done with as much decorum and decency under the circumstances. I am saying that instead of us trying to score points in cases like these, we have to remember this is a society in which we all live and we all have to preserve our society.

Thank you, Mr. Deputy President.

SENATOR Miss Y. V. WALKES: Mr. Deputy President, I am very glad today to see that the whole question of rape has now become a statutory offence and is no longer just in the Offences Against the Person Act as

a common law offence. When I look at the entire Bill it comes to mind that persons in Barbados will have a clear indication of areas that they can have redress for in the law courts. Not only in the courts, however, because the whole question again will be controversial and we will say that some people will not go to court, but the point is that women will be able to talk about this matter to other women and concerned people and to people who can address this whole topic and help them through this very traumatic experience.

This morning I talked about gender when we talked about the Domestic Violence Bill and when we talk about sexual offences this brings me back to the whole question of gender again. But looking at it differently, to see how gender is treated in our societies. I do not want to talk about Barbados alone, because in stratified societies – and Barbados is one of these – one will find that gender is treated in this like manner. Whenever you talk about sex – and this is why it is having such a bad effect on offences against women – it involves both people, a man and a woman, or if you want to say a boy and a girl, because I have to question another section here, and yet the only person who has this cruel and lurid impact of this sexual act is the woman, even though sometimes it is an agreeable act. I am not even going into the question of rape. We have to be very careful in our society what we are feeding. It is always something to laugh at among the boys and among the men, and it is about the woman. How does she react to this sexual act?

3.25 p.m.

What are we doing? We have to clear up our act in terms of the kind of respect we have for women and the law. That is why there is this common thing that men tend to look for beauty and youth in this other partner. Women are looking for character of persons and whenever you find that you cannot find that character displayed the whole question of what is happening with the whole relationship must come into a sad area. We have to look very seriously at what we are feeding in our society to our young boys and girls. It is important that we see what is happening with us and do not just avoid the whole question of this sexual thing and just get it cornered into legislation.

The whole question about *in camera* hearings will cause a lot of controversy. Of course, the lawyers will all go against it because they will not have the kind of publicity they require to make sure that they get the best cases. That is not pointing a finger at my brother Senator on the other side. One understands that this is also a highlight for the public to understand what goes on in the society and to understand in some cases that they can come forward and have redress for their problems. Let's say for argument's sake that we were not having this type of case for a very long time *in camera* and let's try something

else but let's police it and make sure. I am sure there are people out there when they hear people like my fellow Senator Inniss speak about the kind of people that are always there in the court – the police and various lawyers, I am sure the ordinary woman in Barbados would not necessarily mind those people because she would feel that they belong to the court. What they are questioning – and I would expect those people would know how to behave in a court of law and that they would have respect for that kind of case and court session. It is more the John Public who does not understand what is going on that the women are more concerned about and also their enemies and so-called acquaintances who do not understand what is happening. The judicial system is male dominated and does not have the same impact, the same respect, the same concern and the same regard that it should have. In some instances, there are women lawyers who want to perform in that same male dominated session and behave as males in this regard. They treat the victims worse than the men.

We have to be serious about what we are doing in this country. If the very people we would want to call upon would be against us, then we cannot blame the men and don't look towards the women who would have some understanding of what is going on. Men scorn and the women ridicule and react as badly. A lot of men scorn the concept of rape. The question you hear is, can a woman be really raped? Most of the time men seem not to understand what this means to a woman, the whole psychological impact of it for those who have gone through it and care to talk about it. It is something so traumatic that sometimes you wonder how they can manage to live through the next few years or the rest of their lives. Furthermore, there are only two people involved, the victim and the defendant. Therefore women are afraid to come forward in that wide setting of the court because they are afraid that if they lose they will be labelled liars. In any other case even if it is proven that the person is not guilty then it is not necessarily that you are considered a liar, but in this regard they say "how dare you do this to that man and give a bad label to his name?" Not a bad label to the woman's name but to this "innocent" man's name. Again, it deals with gender in terms of how we look at men and the kind of authority and respect given to them and not given to the women.

Constantly, we have to talk about that. Really and truly, half of the time men let it go through one ear and pass through the other, and they don't listen to what women are saying. They are humouring them. It is a question of: "Should I walk out now or should I sit down here and continue to listen to her talking, or should I go on my way and do my business, look through my paper, or consider whatever else I should do" – rather than getting involved in a serious discussion of what is going on. We find jeering and sneering which goes into the question of

if the woman is indecently dressed, if her clothing was appropriate or she was revealing something to be noticed and the kind of behaviour that she gets on with and the kind of stories from even among the same women who come into the Court. They wonder if she has blamed this man to get attention and to behave as though she is more attractive than other women and why should she be chosen to be raped or be allowed to be raped.

My concern in this bill, furthermore, is about Part 1 section 3(3):

"Notwithstanding section 21, a person under the age of fourteen is deemed incapable of committing the offence of rape."

I hope I am interpreting it correctly but I am concerned because I think if you can rape and have available erection to rape anybody and be in that kind of mental setting to want to force anyone to have any kind of sexual intercourse, then, to my mind, you should be under the scrutiny of the law like anyone else. Furthermore, you could be raping a twelve year old girl or a seven-year old or six-year old and you could be thirteen or close to fourteen. I have a problem with that section. I cannot go with that.

Our children are maturing early and you have to be careful because the information age is upon us and they are exposed to much more. We cannot afford to let things pass with the kind of mature and outward looking young adults – at that stage they don't even want to be called children. We have to be careful that we are not guiding ourselves into a bit of a problem.

If we look at section 5(2)(a):

A person is not guilty of an offence under subsection (1)

(a) if that person honestly believed that the other person was sixteen years of age or more and has reasonable cause for that belief;...

or at section 5 itself. I am having a problem with that because that would have to be policed very well because often a lot of men claim that these young adult girls behave so maturely that they look as though they are ready for sex and therefore, they are going to go down the route. I am questioning the policing of that particular section 5 because it might be skirted around by saying that they thought they were older and they looked ripe and ready and mature enough for that act. I am not too sure how I can deal with that one. When a man becomes a certain age to my mind he should start seriously looking at his life and not

running around at who looks ripe enough, whether they are 16, 17 or 18. He should be developing a more experienced outlook to life than that kind of flippant attitude to family life. I want us to be seriously looking at what is happening to us because our men, a lot of them, if not all of them are fathers or parents. Therefore some of them are looking at the same age that their children are at. If somebody looks at their own child they are upset and they do not see it when they look outside, according to them. Some of them do not even seem to understand when they are looking at their step-child that that child has reached an age of maturity where she understands that she should not get involved in this kind of thing and that it is not necessarily love at all but violence. It is not looking at a child that is sexually ready. It is a violent act. That is my concern. Do not let us for any reason mix it up with loving or that kind of thing because it is really violence. Section 5 give me a lot of problems in terms of how we look at that 14 year old versus the 16 year old person.

3.35 p.m.

Those are some highlights, Mr. Deputy President, that come very much to mind. I am asking for the policing of this Bill. I am also asking for us as persons to look at what happens in our society in terms of people who do not come to court or do not want to come to court how they can actually be educated to understand that there is redress for them in the Courts if they want to and if they cannot, to direct them to a place. Lawyers have lots of chances in doing this. I find that lawyers, priests and sometimes organisations in the society, people who deal with crises might be people to look seriously at if persons do not want to go to court to forward them to another area where they can really have counsel and understanding.

Another thing that was brought to my mind in a woman's forum was the whole question of lawyers charging so expensively that sometimes the women cannot even afford to let themselves be represented by them. I am asking them that in cases like these they must be lenient with them and understand what is happening in this situation and bring justice in the country. Sometimes there is a lot in giving, not always in the taking.

Thank you very much, Mr. Deputy President. I very much support the Bill.

SENATOR THE HON. L. V. H. LEWIS: I presume, Mr. Deputy President, that all Honourable Members who wanted to speak on the Report have so done since there shall be no speaking on the second reading.

The passage of this Bill sees the culmination of a long and thorough process in an effort to try to ensure that the rights of citizens were not going to be adversely

affected in any way and that the law, when put in place, would have the sort of impact that was intended in its efforts to curb things. Obviously, as has been said by Honourable Senators, some persons regardless of what law there is would find their own reasons why they would wish to break the law. One can only hope that the number of persons who so attempt would be substantially few.

The Minority Report, Mr. Deputy President, needs to be taken in conjunction with this Report.

I beg to move that the section of the Report along with the Minority Report be now adopted.

The question was put to the Senate and agreed to.

ORDER NO. 2: SEXUAL OFFENCES BILL, 1992

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I beg to move that the Sexual Offences Bill, 1992, be read a second time.

The question that the Bill be read a second time was put to the Senate and agreed to.

On motion of SENATOR THE HON. L. V. H. LEWIS, Mr. DEPUTY PRESIDENT left the Chair and the Senate went into Committee on the Bill, SENATOR J. J. PAYNE in the Chair.

Clauses 1 – 38 inclusive were called and passed.

The Schedule was called and passed.

On motion of SENATOR THE HON. L. V. H. LEWIS, Mr. CHAIRMAN reported to His Honour the DEPUTY PRESIDENT the passing of one Bill in Committee and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. L. V. H. LEWIS, the Bill was read a third time and passed.

ORDER NO. 3: PRAEDIAL LARCENY PREVENTION BILL, 1992

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, before I proceed with the second reading, it is necessary for me to introduce that portion of the Report of the Joint Select Committee which relates to the Praedial Larceny Bill.

3.45 p.m.

This short Bill of 12 clauses seeks to make better provision for the prevention of praedial larceny. During the deliberations of the Bill in Select Committee it was

considered that a clause should be inserted providing for regulations to be made by the appropriate Minister. Clause 12 is a new clause. Clause 12 was introduced so that there are now 13 clauses in the Bill. The provisions of the Act ensure that there is a fairly clear interpretation, fairly clear definition of agricultural produce and livestock because the Bill seeks to make larceny of agricultural produce as well as livestock an offence. Livestock includes not only animals but the milk obtained from such an animal, the poultry or the carcass, the skin, the head or the feathers or any part thereof. Poultry includes duck, fowl, turkey, chicken, goose or other bird commonly reared for the purpose of human consumption. The definition also includes eggs obtained from any such bird.

There is provision in the Bill for a certificate of purchase or delivery in respect of the purchase or in respect of the custody, if there is a gift of any produce or livestock to be issued by the person from whom the items are obtained, and it makes provision for failure to comply with this issuance of a certificate of purchase or transfer.

Another section makes provision for the conveying of produce and it has been so arranged that property which is transferred from one person to another that there must be some means of identifying who is the owner of this produce. One of the provisions enables a person to be stopped and for vehicles to be examined, if there are reasonable grounds to suspect that the agricultural produce or the livestock is being conveyed on a vehicle or other means of conveyance. But it is only a police officer in uniform who has the authority to stop the vehicle. If a police officer in uniform stops the vehicle he may invite another person to assist. A constable can be invited to assist but a constable by himself has no lawful authority to stop and demand an inspection of the vehicle or other means of conveyance, the boxcart or whatever else it is conveyed by, or bicycle.

Provision is also made for a constable without a warrant in clause 6 to arrest and charge for an offence under the Act. Clause 7 provides that "Where a constable makes an arrest...the officer or constable may seize" the produce and in addition may also seize the vehicle in which the produce is being conveyed.

Clause 8 refers to a person who, if being under arrest, escapes, ...the consequences which apply if there is refusal to stop the vehicle or if the person throws away the agricultural produce or seeks to escape. Clause 9 provides for fairly speedy trials soon after the arrest of a person. It provides that the constable:

"shall bring the person before the magistrate in whose jurisdiction the offence was committed together with

the agricultural produce, livestock, vehicle, parcel, package or any other item seized."

Clause 10 gives the magistrate power to order that produce or livestock may be delivered to a person to whom it appears is entitled to receive it. Clause 11 provides for persons who contravene sections of the Act to be liable to an offence and provides for the penalties. Clause 12 is the new clause which I referred to. It makes provision for certain regulations which the Minister may make for generally giving effect to the provisions of the Act and providing anything that is authorized or required to be prescribed under the Act.

Mr. Deputy President, the Report of the Committee is now before us. I believe I have covered all of the salient points in this Bill, except I need to say that on the invitation of the Chairman of the Committee persons representing the Barbados Agricultural Society, a private farmer and another representing the Agriculture Venture Trust, among others, along with two other persons attended and made submissions to the Committee and took part in the discussions relating to this piece of legislation.

I beg to move that the Report thereon be now adopted.

Mr. DEPUTY PRESIDENT: Senator Barker-Welch.

SENATOR Mrs. M. BARKER-WELCH: Thank you, Mr. Deputy President. I am also very happy with the Report on this Bill and also for the fact that finally we have got it here before us. This is a very serious and important Bill. At a time when we in Barbados are trying to get ourselves out of some difficulties by feeding ourselves and by encouraging our citizens to do some gardening, we are sometimes discouraged by the way in which other people can come and steal, take up what they have been growing. This has been happening far too often in Barbados. I am convinced that if we in Barbados can feed ourselves, if we can encourage the younger generation now to go into gardening, be it backyard gardening or gardening of an acre or two, if this can be helped by the absence of stealing, praedial larceny then we will be well on the way to recovery.

Mr. Deputy President, there is also another harm that comes from praedial larceny. A lot of the stuff that people steal can be sprayed with insecticides and these are extremely dangerous. I am a backyard gardener and if I spray my cabbages or whatever I know that I cannot reap them under so many weeks, days or whatever. But when people steal they do not know about that and we can have an epidemic on our hands if this is not stopped.

Again I would say that I am very happy. I am also glad that so many persons were involved in the

working out of this Bill. That is always a good sign where, when before a Bill comes to the House on any matter the people directly concerned are asked for their opinion and have an input in it. So, I will support this Report and when the Bill comes to be read I will support that as well.
3.55 p.m.

SENATOR Miss M. A. MOTTLEY: Sir, I wish to make a few comments on this Report. I had the privilege of sitting on the Committee while the Report was being prepared and also of being there when those who were concerned came and gave evidence before the Committee. There are a few things that concern me, Sir, as to the Bill and the public reception and indeed therefore as to its effectiveness.

This is a Bill which seeks to prevent praedial larceny as the title would indicate, not one that solves the problem of prosecuting people for praedial larceny. One of the major complaints of the farming community and those generally related to agriculture has been the inability to deal effectively with prosecution of those persons who perpetrated offences such as these.

This Bill does not solve that problem that has been encountered by those people in dealing with actual offenders of praedial larceny. That is because the major problem encountered in that prosecution relates to one of identification of the stolen items. Vegetables, Sir, for example which are usually the subject of the charge of larceny are easily perishable and given the fact that for a matter to be heard in our system of justice it usually takes a considerable period of time for the matter to come on. Invariably the goods which have been stolen have usually perished by the time the case comes on to be heard and they are in great difficulties therefore then with the prosecution and indeed any proper determination as to guilt or innocence. That is because our law has developed and we have rules which bind us and one of the rules is the rule which says there must always be positive identification of exhibits in a trial. Unfortunately there is yet to be brought before this Chamber and indeed the other place a new Evidence Act which, in my view, should deal effectively with the question of identification of items that are perishable, whether it relates to agriculture or whether it relates to some other form of perishable item, Sir.

One really needs, Sir, for some form of legislation which allows for photographs to be taken of the stolen items at the time that they are retrieved by the police and then in addition to that photograph some form of mechanism which allows for a certificate to be issued in the same way that certificates are issued in relation to drugs which are confiscated by the police in drug trials and that that certificate from the Government Analyst be admissible, provided there are one or two procedures that

are complied with, as proof of the fact that what was confiscated was indeed a drug which is illegal under our laws.

What I am saying in essence, Sir, is that there really needs to be further legislation to deal effectively, not with the prevention of praedial larceny, but with those who commit praedial larceny. If I am on that topic of praedial larceny I cannot help but to issue my consternation at the fact that we in Barbados still operate under a Larceny Act that was passed in 1816 and that a new Theft Bill has been sitting down for years. I believe the first Bill was prepared by the present Leader of the Opposition, then it was redrafted, then there was another Bill and there has been no effort to seriously systematically bring that before any of the two Chambers so that it can become legislation.

Sir, there seems, in this country, not to be a priority when it comes to the passing and updating of our criminal justice system and the passing of criminal legislation. This is a criminal offence with which we are dealing and it has serious social effect, Sir, but nevertheless when somebody steals you charge them presently under the Larceny Act. We need, Sir, to ensure that a Theft Act is passed in this country, and urgently to ensure the due and proper prosecution of those persons and that a new Evidence Act does not then allow the accused to get off on technicalities but indeed to face the charge properly in the courts of law.

There are a number of things, Sir, that disturb me. There is a section in this Act which deals with stop and search. Prior to 1984 in the United Kingdom there was much debate and much concern about a piece of legislation that was introduced called the Police and Criminal Act which dealt with the question of giving the police the powers to stop and search people. There was a great hue and cry from all the civil rights organisations because of the fact that this is a power that can sometimes be easily abused.

Sir, it would be remiss of me if I did not issue the caution and the caveat that this is a power that can be easily abused and can breach fundamental rights of the people in this country. It is for that reason, Sir, if one looks at the Report one would see that I abstained on the vote as to clause 5 of this legislation because I am not prepared to condone the general granting of rights to stop and search even where there is the provision that reasonable suspicion must be had by the police before they can stop and search. I work within the criminal justice system and know only too well the ease with which the system can be abused and I am very worried that this provision in this legislation only goes to give credence to an element of that abuse.

Sir, those of us who know anything about the criminal justice system and how a Bill like this would operate

and the whole question of the other provision which this Bill provides for, which is that if one has vegetables in your possession you must show the receipt. The burden shifts upon you, normally in the criminal justice system the onus is on the Prosecution to prove guilt. In this piece of legislation this provides for the shifting of the onus of proof to you who is in possession of the goods to show by way of receipt that you have a valid right to them. If not, Sir, an offence is created akin to that of unlawful possession.

Now unlawful possession, many of us know, at least *en passant*, is an offence if somebody comes and finds me with his glasses case, and they feel, 'well I don't know how she got that' and want to put me before the court, I have then to go in front of the criminal court and justify to the Magistrate's satisfaction how it is this came into my possession.

Now there has been extensive writing on the question of unlawful possession by Mr. Justice Crane from Guyana and that has really been the main authoritative document in this region on that offence. It is interesting to note that the offence of unlawful possession was not an offence known to the jurisdiction of the United Kingdom. It was an offence known to the jurisdiction of the colonies and that, Sir, arose from the fact that it was a way, after slavery was abolished, to control the movement and opposition of those ex slaves.

4.05 p.m.

As we all know, Sir, people give us things all of the time. You do not necessarily put aside a receipt for it or know how you get it or whatever. But this was the manner in which the white establishment and the colonial establishment at the time, Sir, used to control the acquisition of property on the part of slaves. I consider it, Sir, perhaps one of the most heinous offences known to the criminal law system. It is that difficulty that I have, Sir, with the creation of an offence akin to unlawful possession in this piece of legislation, Sir.

Sir, it is a dangerous thing because, as I said, many of us acquire things without necessarily logging in our memories exactly the whereabouts it came from. Senator Morrison, Sir, loves to talk to me about giving me fish. Now if I go and get some fish from Senator Morrison then I am in trouble. Unless I get Senator Morrison to write me a receipt and say that this is from me to you, I still may be in trouble if he writes me the receipt, Sir, for other reasons. Nevertheless, Sir, the point is this. It really was an offence that grew out of the desire of the colonial authorities to limit the acquisition of property on the part of those who had now been given their freedom.

Now Sir, I issue these cautions but I am still prepared to support the Bill's purpose, because I believe that

praedial larceny is a serious problem in this country. I believe that something needs to be done to deal with it. It is not fair or right that a man or woman should spend their time taking care of the land or animals or whatever, Sir, and then after a period of time that they should be deprived of the benefits accruing overnight, Sir. However, having accepted its seriousness and having accepted that it is something that needs solving, I am worried that the extent to which we are prepared to go and solve it is going to require serious monitoring and serious policing to ensure that by the same token there is no abrogation of people's fundamental rights in this country.

Therefore, Sir, while being prepared to offer limited support to its purpose, I find myself in the invidious position of issuing a strong and urgent appeal that it must be monitored very closely. It must be reviewed at periodical intervals to ensure that we are not once again assuming the role that our former colonial masters did in trying to limit the acquisition of property by ensuring that this offence of unlawful possession was known to the law. So that between the offence of an unlawful possession and stop and search provision, there is serious danger for breaching of fundamental rights.

Having said that, Sir, I recognise the importance for us to deal with the problem of praedial larceny. But I want now to issue this other caution to the farming community and agricultural community in general out there, Sir. That is that this Bill is not going to do any magic overnight. The Report speaks of the Bill but unless there are concomitant measures, particularly a public education programme informing the public of the real intent of this piece of legislation which is to ensure proper prosecution of those having committed the offence but to ensure that there is a general deterrent to the commission of the offence, a lot of people are going to making a lot of noise in a very short period of time because they are going to find that the problem has remained unabated, Sir.

I am issuing a call to the farming community and agricultural community not to expect miracles overnight and that they, too, must play their role along with Government and the Ministry of Agriculture in ensuring that the general public education programme is done to back up the effectiveness of the legislation. Unless that is done, Sir, they are going to run into a lot of problems.

I am not too particularly happy, Sir, about the fact that Island Constables have the right to stop and search in this matter, Sir. I am sorry, Sir. In the original Bill it was the Island Constables. There was talk of changing but I did not realise that we had eventually adopted the change. I apologise to the Chair for that.

Sir, with those few words and with the caveat in relation to the breach of one's fundamental rights, and

with the appeal to both the Government and farming community to ensure that the public education programme is done – the farmers themselves know not to expect miracles overnight and not to expect undue prosecution of people just because this Bill has been passed – I wish to offer limited support to the intention of the Bill. Because of my inability, Sir, to support Section 5 relating to the stop and search power, I will be abstaining on the passage of this Bill when it arises, Sir.

SENATOR Dr. F. W. ALLEYNE: Mr. Deputy President, I am going to support this Bill without reservation. Perhaps I can do that because I am not a lawyer. All the farmers are crying out for is protection of what is theirs. I am what you would call an amateur part-time farmer but I extend from a long line of illustrious farmers, the Yardes – the best farmers Christ Church or Barbados might have ever known. All the farming community is asking for is protection of what is rightfully theirs and I compliment the Committee on the work which they have done.

A number of surveys have been done in Barbados going back to the 1960's by the Ministry of Agriculture and by FAO. I am sure that the former Minister Morrison and the present Minister and Ministers in the Labour Party Government in the Ministry of Agriculture are fully aware that it was the perception of the farming community that their number one problem in terms of deterrence to agriculture in Barbados was praedial larceny. Prior to that it was marketing. But if you went out there today and I am certain for the last 20 years and conducted a survey in the entire farming community, they will identify praedial larceny as their number one problem.

Praedial larceny today, Mr. Deputy President, as I understand it, is totally different from praedial larceny 30 or 40 years ago. It is commercialized, large-scale thieving and not stealing. I am not going to use any pretty language to describe it. It is down-right crookedness. Years ago people would steal a cane, corn, or break a cane. Now fellows are coming to your cane farm with a knife or gun and, if you are so crazy as to go and protect your property, they will slash you or shoot you or will burn your canes in November. That is a fact. I live in the countryside. I have to live with these things. I remember my father-in-law asked me to supervise some canes he had because he could not go, because if he went the boys would burn his canes three months before the crop started. How can people function when they are terrorized? We have to take the fight to the terrorists and I am not going to apologise one moment for anything that is in this Bill. It is too late in coming. We have to hold these criminals and deal with them. They are criminals. That is what they are. I go and plant and take all the risk. There are a lot of risks. The risks are not only in fishing and well digging. You take the

risks and these bare-faced vagabonds that you have nowadays drive around in the daytime and survey your plot and come back at night with a van and a couple of reapers. They have some people on the look-out and they don't leave a single ear for you. They take everything. I remember the case of a fellow in the countryside – I don't remember which parish – who was shot in the night when he went on to his farm. These things have to be stopped. I am not going to be party to any excuses for wrongdoing. 4.15 p.m.

At one time it was a deterrent to non-sugar agriculture, but over the last several years it has become a serious deterrent to people in cane farming. Fellows are going with a truck or van reaping your canes and going – I heard it on the call-in programme, not that I believe what they say on it – and selling a piece of cane for a dollar. Some people have commercial outlets for producing juice. They are not growing sugar cane and they are not purchasing cane yet they have a juice outlet. These things are downright criminal and we have to let the people doing this understand that they are criminals and they must be treated as criminals.

Let's not fool ourselves. It is true agriculture today is not a profitable activity. One of the major reasons why it is unprofitable, apart from high labour costs and the inability to procure labour when you want it, is the fact that you cannot guarantee that when you plant a crop you will harvest it. Some time ago, I remember the Minister introduced the Bill to deal with stray animals. That was the first step to start to deal with the problem. There are some reckless people that will loose their animals on your place after you have invested all your money and taken the risks. However, this afternoon, I want to deal with the stray animals on two feet. I feel this probably because I have had to live with it. It is not right that you plant your lands and somebody else comes and reaps.

I have to tell you, Mr. Deputy President, that I sympathise with the views expressed by one person who appeared before the Committee, Mr. Coleridge Pilgrim, when he said if it is your land then you should have the right to boobytrap.

Asides.

SENATOR Dr. F. W. ALLEYNE: I am a law-abiding citizen but I feel strongly on this matter because I live among farmers and I know the grief they feel. It isn't easy when you have your half an acre of cabbages, and you know the risk you have to take to bring those cabbages to maturity. It is not easy to raise cabbages in Christ Church: not with the kind of fungi which attacks cabbages in Christ Church. You know what I am talking about, the white fly. I have had cabbages which were very lovely and overnight they were like sieves, all the leaves were destroyed.

You manage with that care to bring your plants to maturity and you go and engage them and you have a contract to sell them. What hurts the heart is that the morning you come out to reap them, you find that only the stumps are left in the ground. This breaks the hearts of farmers. With the best of will in the world and that happens to you on a number of occasions, you will give it up.

I have had the actual experience of having to supervise some cane plots. Believe me, Mr. Deputy President, when I went through the outside looked good but when I went after the first couple of cane holes you could take three trucks and drive them one behind the other through the cane field and not touch a cane. They systematically cut out the cane. They are worse than the rats.

Mr. Deputy President, I want the police and the island constables to do their duty and I also want to appeal to the police and the island constables to make sure that none of their members run afoul of this law because if ever anyone runs afoul of this law, I feel justice should be brought more severely to bear on them than on those who have not sworn to uphold the law.

Look at the case of corn. You dare not plant a field of corn today. When I was growing up the dogs used to steal the corn. I know that farmers in Christ Church responded. One of them was very adept at poisoning off the dogs. Nowadays it is not dogs we are dealing with. As my predecessor says, it is the two-footed dogs. They don't take one ear of corn. They take a couple of bags, and what is disturbing about it is that they will come today and they have no reservations about returning to take the rest of it.

In Barbados there is what I call a fundamental disrespect for people's rights. People are using all kinds of disorganised, what I call, junk philosophies to support it. You challenge some of them: they say: "the earth is the Lord's and the fullness thereof" or "these things belong to Jah". But, the same Jah says that by the sweat of your brow you must eat bread. I am not prepared to support any position in society which says that you must not work if you want to eat. I have told my children that when they reach a certain age, the age of maturity, if they are living at me, they have to pay for their keep. If I say that to my children, I will say it to those who are not my children. I say without any apology at all, if you feel you must eat bread without the sweat of your brow, be careful. You might eat something other than bread. The last word might end -e-a-d, but it isn't going to be bread.

Mr. Deputy President, I would wish that every effort be made to make this Bill operational. There is no point passing it into law unless you make sure resources are provided to target and track down the main people who are

trafficking in agricultural produce in Barbados. The best plans brought out by the Ministry of Agriculture in collaboration with the farming community will come to nought as long as we fail to arrest this problem of praedial larceny. That is just one of the problems we are grappling with. There are several other serious problems we are grappling with but praedial larceny is one that we shouldn't have. The farming community is burdened with debt. You can't be burdened with debt and burdened by dishonest people too. This would destroy anybody and this is one of the reasons why driving across Barbados you see so much arable land under bush. It does not pay to cultivate it. That's the harsh reality. I hear people coming with all kinds of excuses about what should be done with people who don't cultivate their land, but does it make sense to grow a crop, undertake all the expenditure and then at the end of the day you cannot realise the income through no fault of your own?

4.25 p.m.

I repeat. I hope the resources would be made available to target the trafficking in commercial produce in a systematic way. Do not think that every Tom, Dick and Harry is a target. Target the people who traffick in produce. When they cannot give account for their produce, have no hesitation in dealing with them. I know those who are trained in law tend to be lenient. I am lenient on the farmers because you cannot have agriculture without farmers. Do not let us fool ourselves on that. If you discourage the farmers you are killing agriculture.

In Barbados today, all the talk is about structural adjustment. One of the major things we need to do is to get our crops in agriculture going again. I say crops in agriculture because our livestock agriculture has been doing well. But we cannot get crops in agriculture going again unless we address the critical problems. One of the most critical problems is this business of praedial larceny. I would not like to see us go back to the barbaric society like some of those Middle Eastern countries where they make it impossible for a man to use his hands for stealing by amputation. I do not want us to go back to that. But I know that our effort at structural adjustment in the economy will be severely hindered if the agricultural sector continues on its downward trend. We need to do something to reverse that downward trend in cropping and start to get it moving again.

I believe that a very good move that the Government has made recently is this decision to start to provide lots to small would-be farmers via leaseholds. If you want agricultural produce so badly and you wish to trade in it, go and farm. Come and get a lease. I think I looked in yesterday's paper and saw the Minister of Agriculture at River Plantation. He was there with some officials of his Ministry looking over the project. All I am saying is, if

the fellows are so keen on selling, let them produce. If they do not want to produce, let them purchase so that they cannot be above the law. But if you do not want to produce but you want to sell, go and get a leasehold and produce. I reject all the arguments about religion as a basis for stealing. I reject that totally.

Mr. Deputy President, I repeat. I support the comprehensive Report and the accompanying Bill without reservations. Thank you.

SENATOR Miss Y. V. WALKES: Mr. Deputy President, in rising to talk about this Bill to make better provision for the prevention of praedial larceny, I am glad today to see that we have come to that stage where we are finally at the point where we are going to have a bill of this nature passed, because it has been an agonising factor in this country in relation to the theft of produce and livestock for a long time. I think it is climaxing now.

I hope that this will not be the excuse anymore that people will use, not to cultivate. Now that the Bill will be passed, we will see much more use of the waste land that we have been talking about and people will feel much more confident in terms of the growth of their produce.

I am, however, a bit sad because when I still think of a bill on praedial larceny, and I would say I have a pretty good background on history, I still think of the ex-slaves and the trauma that was caused. I am not sure that we have reached the stage of being self-reliant to understand what it means that we are not into a system of the plantocracy and that we have passed that. One can understand at the time if we look at it from the planters' perspective that they might have wanted to prevent the theft of their produce but if we look at the ex-slaves you would see that they thought that they were getting back some of what was due to them since most of the time they had to be paid in kind and not with money. Therefore, there was this whole concept of stealing something. What is happening is that we are continuing now to steal from our own.

I would hate to think that anyone on the opposite side would have been getting the impression that this Government is still into that stage where it would want to have our people under a piece of legislation that would have them in that same capacity as they were in the early 19th Century situation. We still have to look at how our people view the whole concept of self-reliance, how they see independence and their exposure to a system as free as the one that we have, where they can produce for themselves and use the capacity that they have to produce to the stage that they themselves do not have to take from others in the way that they are doing in the terms of stealing, and that they have the ability to also produce and make sure that they do it in their own way until they can reach a greater level than the others.

I have a concern when I look at section 3 of the Bill in terms of the whole concept of the certificate. We have to be prompt in looking at the education of our vendors and ensuring that they understand the need to have a receipt book or something like that, the necessity of writing receipts, and the way that receipts should be written even if they do not have an official receipt book. In a society that you live in where people are not accustomed to going through that at the smallest level, you would realise that this is going to pose a lot of problems. There must be some public awareness of this. This is one of the areas that the media can look at very positively and try to educate people how to keep records or books and to write receipts.

I am having a problem also with people who are maybe older than we are, or who have not had the privilege of being educated. What is going to happen in that situation? That one crossed my mind in terms of people who cannot really write and are into this, and what will happen to them? Will they have someone there to write these receipts? I am wondering if we are looking at areas like these, and also, when the purchaser has bought produce, that the purchaser is aware of obtaining and keeping a receipt. There again publicity must be made at the highest level and regularly in terms of the keeping of the receipts and the carrying of the receipt with them at the particular time. At times we use the Government Information Service and the like to publicise these matters. At another stage we forget to do it. It becomes something that we do occasionally and is forgotten and then you expect the people out there to know what is going on and some of them are not really aware.

4.35 p.m.

Again the press may highlight some of the areas that they think are very important and might have been raised by people of the highest level or whatever who they feel are important enough but they might not raise something as simple, as they might think, as a receipt, or the writing of a receipt, or the carrying of a receipt, or understanding a receipt. That might be too trivial to sensationalize. And I am saying therefore that the Government and the powers that be, must pay attention to ensuring that those I call the regular or the ordinary people are very much aware of these little things. I live in a country district and I know what I am talking about. It is real. For those of you who do not think that it is real, it is real. Therefore it agonizes me to an extent in terms of those whom I would call simply educated therefore it is absolutely necessary.

Section 7 looks at the question of:

"Where a constable makes an arrest under section 6, the officer or constable may seize

(a) the agricultural produce or livestock that is in the possession of the person who is arrested;"

I do not see – forgive me if I have missed it – anything that allows for the case where the person can produce the receipt as quickly as possible, maybe in the next hour or two – because I know sometimes that is possible – and for the return of that produce on the same day or around the same time so that you can save having what I would term as a false arrest. If it is here, you can draw my attention to it, but I do not see any provision for that and I thought that we could have looked at that in this legislation, because there is nothing to my mind that is so major that allowances cannot be made for the return of the produce on that very day in such circumstances. The Honourable Senator on the other side talked about possession and having to keep the produce until the time of the case. It is going to mean that a lot of people will have produce hanging around that will spoil and the livestock will die also, if this is not taken care of and policed properly.

My other concern is with the upgrading of training and education for the police. I have noticed that in recent months there is a lot of legislation being introduced and amendments to Acts. It concerns the police directly, either that they can give a ticket or they can arrest people promptly. I am very concerned about the police being made very aware of what their role is and how they are to carry out that role and the attitude that they are to display in carrying out their role, especially when you find someone who is innocent.

I am wondering if there are any areas or avenues opened at the moment for the police to be properly trained or for the training to be upgraded in this area of policing. I am calling on the administration to ensure that that kind of training is done, especially with constables who are always on the beat. They must understand the trauma to persons, especially the innocent because of this direct control they have over what happens to your life and you are carried through this without good cause especially when they themselves are not sure. I am saying that we have to look at that.

I am concerned that we could very well be spreading cancer in this country when cabbages and things like that are sprayed and people are not aware and they steal the cabbages. We could be dying slowly and not realize that we are dying slowly and feel very proud that we are buying these lovely cabbages or that we are selling these produce and having a lot of money, and not knowing that we are killing our whole society. It is very necessary that we look very carefully into these areas.

My overall happiness is that the Bill has come at this point. I look forward to the policing of the Act to ensure that it is properly carried out and also if there are any amendments to be made in a hurry for the better progress of the country, I look forward to that.

Thank you, Sir.

Mr. DEPUTY PRESIDENT: Senator Straughn.

SENATOR Mrs. A. STRAUGHN: Mr. Deputy President, just a short point on the Bill. First of all I would like to say it is extremely timely and with the present economic situation I fear that this operation might escalate in big proportions. Senators especially Senator Alleyne mentioned three main points in the operation of praedial larceny:

1. It is a large scale operation.

We know it.

2. It is usually carried on by highly organized groups, sometimes well armed.
3. They usually use high capacity transport so catching or detecting is not too easy because you would put least suspicion on some of the transport that is used.

One of the areas that concerns me a lot and which has not been highlighted is that so many of the markets seem to be pre-arranged because when praedial larceny goes on in such proportions there must be a market out there. That is a point Mr. Deputy President that I think that we have to be concerned about.

We talked about the method of detecting when these goods have been stolen. We talked about all the various methods we would use about bringing the culprits to the courts. I think that we have got to take our method of detecting right down into the marketing outlets. We have got to try our best. Mr. Deputy President, if we do not detect them at source our policing has got to be so carefully constructed and so well carried out that we will try to be able to detect them in the marketing outlets. If not at the beginning then let us try to follow it through until we get to the end.

Mr. Deputy President, I have no hesitation in supporting this Bill but I just wanted to bring up that vital point. The detection has got to be monitored, it has got to be policed so that if we miss it at source we would get it in the marketing outlets.

Thank you, Mr. Deputy President.

Mr. DEPUTY PRESIDENT: Senator Barker.

SENATOR T. E. BARKER: Mr. Deputy President, this Bill is long overdue. One Senator said it is timely. It is not timely, it is long overdue. It should be on the book 10, 15 years ago. Mr. Deputy President, I have a prob-

lem with the name. I am serious. We do not call a spade a spade. We look for a big shot name to give to ordinary "thieving". Praedial larceny sounds good, does it not? It gives a bit of glamour to what we know as ordinary stealing, ordinary "thieving" as the Barbadians would say. The very name alone takes away a bit of the criminality from what is essentially a very, very serious matter. I am told that the word praedial comes from the Greek *praedium* which means a small farm. I am not a scholar of Greek. That is only a comment by the way but it just shows that we in our society do not like to call a spade a spade and we look for all sorts of names.

Sir, there is one thing that maybe I find strange, that is, that under this Bill that the penalty is only two years. Under this Bill a person who contravenes the section of the Act "is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of two years". Sir, I want to suggest that that term of imprisonment is too slight. I believe that if a man comes and steals my watch he could get more than two years, but if a man steals two thousand dollars in produce, under this Act, he could only get a maximum of two years. I have a bit of a problem with the penalty. I feel, Sir, it should be a lot more. We have to demonstrate to the community that we are serious about the prevention of crop stealing and a fine like this, I don't know if it is enough deterrent.

4.45 p.m.

This brings me to another point that our country side has been neglected and as a result there is not enough security in the countryside. Some people in the country don't see a police car for a long time. Sir, I am just repeating what people tell me. I am glad to hear there is a lot of police presence in the country but in spite of all the police presence you are still getting large scale crime, I wonder what is wrong. The point I am making is that this Act with all of its provisions would be meaningless if we fail to patrol the countryside as we should, especially, Sir, in sensitive areas and areas where crops are coming to maturity.

I feel, Sir, that especially on nights, especially moonlight nights that the police should have a higher visibility in these areas especially as you are now giving them certain powers under this Act to stop and search.

Mr. DEPUTY PRESIDENT: Did you say especially on moonlight nights?

SENATOR T. E. BARKER: Yes, Sir. On moonlight nights the thieves might be more adventurous because then they can see better.

Mr. DEPUTY PRESIDENT: I should have thought that they would be more adventurous when it was dark and they could not be seen.

SENATOR T. E. BARKER: I think it works both ways, Sir. The point I want to make is that when crops are coming to maturity, the farmers must be more involved here. They must notify the police that they have a field of corn which is ripe and seek the necessary patrol of the area, or presence in the area in order to deter.

I was on the point of stop and search. We know that all of us have a little bit of an ambivalent feeling when it comes to stop and search. Sir, I would not like to be stopped and searched. None of us feel extremely comfortable, but at the same time we have to recognise the seriousness of the crime and the urgency of the situation. I, Sir, have no great problem in this regard, but, Sir, the police force – and every thing boils down to the police – they must make sure that they do everything above board, because none of us in here wants a police state. So, Sir, I am issuing this word of caution that the police must act circumspectly and in all cases above board.

What I mean is this, if you see me in my small car or if you see a van at 12 o'clock midnight that sort of common sense must be present. I would not like to see ordinary citizens being harassed in any way. They must use their intelligence and common sense in deciding who to stop and who not to stop. That, Sir, is important. Yes they can stop anybody. Sir, I have just issued that word of warning, that the police, whenever we give them more powers, the more powers they have the more careful they should be about using the powers that they do have.

Sir, a point was raised by my colleague. That is about the whole question of if the police catches a person a Friday night with produce, the Magistrates' Court may not open until the Monday or the Tuesday if the Monday is a bank holiday. Certain crops, Sir, cannot last those four or five days. The owner is faced with a problem, I have four or five hundred dollars in produce that might spoil on me, what do I do. I am losing on one hand four or five hundred dollars. I am glad that the criminal is being apprehended but at the same time I am losing some money that I cannot afford to lose since as Senator Alleyne said, farming is a marginal operation and there is no great amount of profit, so a loss of that magnitude can mean a difference between ruin and progress. I believe that we have to come up with a situation where, so long as the police are satisfied, they can take a photograph or whatever, so that the owner can get back his produce so he can dispose of it and at the same time the court would recognise the possession of the produce by the criminal. Sir, I hope the Government would find a way of ensuring that the fellow does not lose in such circumstances.

Sir, I just want to raise one small point, that is about the stealing of canes. Sir, I know, where I was living before I left home, I knew what effect it had on a

plantation when every evening I would see the fellows with bundles of canes on their heads. They would pass in front of our door and when the owner checked he could drive a truck through the ground. I love cane, there is no doubt about it. I wonder if the sugar producers could not have an outlet where I could legitimately go and purchase a piece of cane. That is just a thought, Sir.

Sir, with these few comments I want to support the Committee's recommendation and their report and so I would urge Government now that they have the power to put all of the machinery in place. It is no use having a Bill and not having enough police to drive around and make sure that the provisions of the Bill are adhered to. Sir, in spite of all the cut backs and so on, this is important enough for the police to have the necessary resources in order to properly police this Bill.

SENATOR Mrs. V. C. FRASER: Mr. Deputy President, again I am saying how happy I am that we have reached this stage with praedial larceny. This has been a great concern to many people. What is Government doing, why are we allowing this to happen? But I think that bringing this Bill at this time, as Senator Straughan has said, is very timely. It is at a time when many people are so concerned about the whole question of praedial larceny which is a real and serious problem. I live in an area where there have been traditional farmers and that is in Goodland. I know of several people there who have been victims of serious praedial larceny. I know one family who is paying for their house out of their agricultural produce. They do farming as a very serious business and the whole family is involved. This is a family of about six or seven persons. They came out one morning when they were ready to sell their beets to the supermarket and after they had watched all night until half past three. They took turns – this is the amazing thing that these thieves are so well organised – they watched and watched and between 4 o'clock and 6 o'clock every single beet had left the place. They had no money then to pay their mortgage because they were getting some good money for that. If you have two acres of one crop and you know that you have the market there to sell and you will get the money straight in your hands, you know that you can go and pay your bills.

4.55 p.m.

The real concern that I have that hurts me is the small people who depend on farming for a living. That is the thing that hurts. These people are not part-time farmers. They are real, real farmers. They are in the ground morning, noon, and night and whenever they wake up or they watch, the thief is better than they are. This is always happening.

I think that one of the systems that Government has provided is working well for a number of these people, especially the ones with the tree crops like breadfruit and

so on where the BMC has an outlet where they go and pick the produce for the people and they take it back to the Unit. They are paid right away. I think that this is encouraging a lot of people who used to plant vegetables who are now planting tree crops. They find that it is much easier that when crops are coming to maturity that right away they can call the BMC who send their people to pick the crops and they know that they will get their money.

I think that we will have to do a lot more of these exercises and not only with tree crops but with other root crops and so on. It is done with root crops because we export root crops, okras, and things like that. There are certain crops that these thieves are out for. Certain crops they do not interfere with. If you look at things like tomatoes, cabbages, and cauliflower, those really bring a lot of money, these are the crops that they are out for. It is amazing if you go down by the market to get fish, you can see fellows that you know who have never planted a seed in their life selling cabbage, seasoning, lettuce, tomatoes, and all sorts of things. I remember one evening I went to one of the fellows and I asked, "Tell me something. Where did you get this ground meal?" He said, "Man, I walk about and get these things cheap." I asked, "What do you mean that you walk about and get these things? Do you have a car?" He said, "Some fellows and I hire some transportation and go around and get these things." I then said, "Do you know that this is a serious thing? Do you really have any proof that you really get these things or you steal these things? Tell me the truth." He said, "A man has got to live." That was all. He cleared the case for me that he has got to live, so he does not care how he lives as long as he is having something to sell.

I think also that we have to look seriously at some of the attitudes of people to this whole question of praedial larceny. I think that it is good to see that we as a Parliament have seen it fit to do something about it and to hear from the persons who are involved by bringing them to the Committee to share their experiences and to make their suggestions, so that the public out there will realize that it was not done just by the politicians but by several persons with the experience and ability in agriculture who had serious input into the whole making of the legislation.

I would like to say that the public now has to realize its responsibility which is very serious. We are either going to be our brother's keeper or we are going to let things run foul and let everybody steal and nobody is going to report. I think that the onus is also on us and some of the farmers who are very reluctant to report on the matter and this concerns me. Sometimes some people will say I lost something but so what? Do not worry about it. You have to have people reporting backward and forward and letting people know what is going on, otherwise the public will not know that they are really losing as much as they really are losing.

I think that this is where the media must come in and educate people about what is praedial larceny and how people are operating. We should look at surveys of various quantities of produce. We should also look at how praedial larceny affects our income and economy because we have created the demand for a number of our vegetables and produce overseas. We are at the stage where we need foreign exchange. If praedial larceny continues to this extent, it would mean that persons – I am not talking about persons who are just growing enough to get a meal – who have invested considerable amounts of money and who are gearing themselves for the export trade would have to bring foreign currency into this country.

Now we do not want to do anything in Barbados to dampen the spirits of such persons. Some of these are people who are in not only from the far out districts but they are people who have initiative. They have decided to get a two acre lot of land and have considered the things that are for export that will not only help them but will help Barbados. We should give every encouragement. We should also be telling people how happy we are about this Bill because for a long time I have gone to meetings and conferences on all sorts of things concerning agriculture and, if there was one thing that was the concern of every farmer, it was praedial larceny.

I remember well while at a conference a lady got up and said to the Minister that she did not care what we were concerned about but that she was concerned about the people stealing all of her melons and running through her ground. She said that when she does not have any money to pay her bills her water will be turned off. She was concerned about that. She was not concerned about anything else because that is her bread and butter. We have got to join them in their concerns. We have got not only to empathize and sympathize but we have got to show them that we care. I think this legislation is showing them that some people in Barbados care about those people who have to feed us.

I have just been looking only a few days ago at Germany and how the European people take seriously the question of Agriculture. Anything that happens to agriculture, they take it that it happens to them. I would hope Barbadians will begin to take this seriously, from the top to the bottom, and buy from the farmers. This is another area that needs encouragement. You go to a particular booth at International Green Week and they don't have any thing belonging to another person. They have what they produce. But we in Barbados we want to import all the vegetables and all kinds of nonsense. You get there the mushrooms they produce and if they don't produce mushrooms you have to eat all the other vegetables they produce.
5.05 p.m.

I sincerely hope that people stop laughing and thinking that people are stupid when they tell them to eat what they grow, because that is what the world is about. If you see sixty or more countries looking at agriculture for forty-five years, and then the EEC, and now with reunification, those people will care more about themselves. We here have to care more about ourselves and our people. I want to say that praedial larceny is something that will affect the balance of payments situation in Barbados, and we must try to do something. I was very happy on Sunday night to see our Prime Minister in his garden. I saw it in Germany on CNN and I was extremely happy to see him with his cherry tomatoes. I felt really proud and all the people who were there who are my friends from Poland and Germany and elsewhere were saying: "I can't believe it. Your Prime Minister is an agriculturalist". They are happy about that. That is something that gives them a deep sense of feeling and I wish that the people in Barbados felt that agriculture was something serious. I would go back to the slogan that I keep making – Produce or Perish. If you don't have any food you cannot feed yourself or anybody. If other people don't sell you because you cannot pay them, then you have no food. It is time that we continue to admonish the business community to assist us in promotion and include praedial larceny and the effect it can have on the balance of payments situation and the economy in Barbados. There are people out there who are happy to produce – some are making a lot of money out of it regardless of praedial larceny – because they are full time farmers and they stick to the place and nobody can get in to steal their produce. We are trying now because this was something of great concern to Barbados and there was a big hue and cry as to what the Government is doing about praedial larceny at every meeting and every conference. We are doing something but everybody in a society has to play a part. When you go to other societies you see everybody out there in the field assisting. Here in Barbados it seems to be something wrong to go into your own garden and produce for yourself and your family or even to sell for export to earn foreign exchange for this country.

Mr. Deputy President, I believe that with proper promotion, coordination and also proper policing that this piece of legislation is going to become a masterpiece. We are the people who have to make it a masterpiece. I don't mind anybody searching me because up to yesterday morning in the wee hours when it was night here I was being searched. The women have to go in one section and are searched all over. I don't mind it because I knew I had nothing with which to be disgraced. I don't see why anybody should object as long as they have legitimate means of carrying their produce and the produce is legitimate.

One of the things we are going to come across is the attitude of the hawker. I have oftentimes come across

that in buying things for my job. If you go to the market and you ask the hawker to give you a little receipt to carry back to the Corporation, they will say they don't give it. I always have to fight with them and say, "you have to give me something, so here is my invoice book you write here. If you can't write, I will write it down and you sign here". These are things which we as citizens have to do to encourage people to do certain things. I feel that if the community begins to talk to each other, the Press goes out to talk to the hawkers and ask them if they have anything against giving a receipt, this thing will go very far. We cannot do it without getting out there and doing a proper public relations job.

Mr. Deputy President, I thank you very much.

SENATOR J. A. F. COLE: Mr. Deputy President, I rise to support this Report and the Bill which is attached. I would like to say a few things. First of all much has been said here today and I don't think that we can find much fault with 95% of it. We have had a very pertinent presentation by Senator Alleyne. Senator Fraser has just comprehensively covered the issue. We have had some useful points from Senator Barker and I think that we cannot look at this matter without looking at the whole approach to lawlessness in Barbados. This is one little section apart from the reflection on foreign exchange and apart from the fact that without agriculture we are not going to get out of what we are now in. This is just a part of our criminal activities that run parallel to our drug culture. Senator Fraser referred earlier to the train of thought about stealing vegetables but we have long gone past those days. These people who are stealing do not know about those days. These are people who are totally work shy and will watch you carefully while you do the work for them and they bring their trucks in the night. I think we have to address the criminal aspect here in Barbados today.

I like particularly listening to Senator Erskine Simmons who is not here today when he talks about developing the countryside. A little while ago when we were talking about St. Andrew, he said, "We got to do it to suit ourselves. This is we country and if we do it right for ourselves it will be right for the tourists." I think this term "we country" and "we this" is being used in the wrong context – this is "we country" and we can do as we like because nothing is going to happen to us. We see it in our families, up and down the road, at various levels, and when you look at the reports from the courts nothing happens to a large percentage of them. These are simply work-shy people. What I am really saying here now is this Bill, as I see it, will not by itself, apart from sending a message, achieve very much. It has to be used in conjunction with the policing as Senator Barker talked about where we are talking about the farmers themselves getting together and

doing something about it. I have a business. I have it locked up at night. I have electronic surveillance. I have to do something about it. I know electronic surveillance will not stop people from stealing your things, but I believe farmers have to get together. They have to have a central place just like cane farmers have look-out towers for the season. When you have two acres of high quality, expensive produce – tomatoes, cauliflower, cabbages – you phone into this central place or the police. In tourism, there is a rapid response unit. You could have a rapid response unit. There are various stations all over the Island, and they can be there in fifteen minutes. In any case, when you plant a field of mallows they don't ripen for three months. They ripen over a one-week period, and at that time there could be heightened patrols in that area.
5.15 p.m.

I think of this Bill as trying to contain the horse after he has left the farm. You are going to have all the troubles that Senator Mottley has been talking about. I would hate to have to look into a van on a darkened night or early dawn. I think that is a very dangerous thing to do. I think you have to stop it from happening so that you do not bring yourself to that awkward situation further down the road. This Bill was meant to be a net to scoop up some of those who got through the prevention part of it. This is phase 2.

As I say, I cannot imagine a small farmer or a hawker getting involved in receipts. That is too far out for me. I see people running business and they cannot do it. All they have is a desk and a big car outside. They cannot even handle the paper work and you are talking about a little farmer just farming for himself and someone comes to buy something and he is going to have to write up a receipt? No. I find that hard to go along with.

Look at the things we dealt with today, the Sexual Offences Bill, the Domestic Violence Bill and the Praedial Larceny Bill. This is a reflection of our attitude towards lawlessness in Barbados. That is the reason why all of these have come to us today. I think we have to send out very strong messages in all areas that if you break the law you will be dealt with.

I come down the ABC Highway every morning at the Kingsland crossing there. People look at you if you are doing 40 miles an hour sometimes, perhaps, a little more, with the eye 40 yards away and swing out in front of you in the middle of the road, not even to the left. They do not even stop. They have seen you from half a mile up the road but they are determined to ignore the stop sign. I do not know how you can deal with it. I do not think the newspaper article can make it right. As Senator Inniss said, you have to use force on some people because that is the language they understand. As I said, I just see that

we have to get this whole package together. All these things need to be dealt with together. I am glad to see them all together because I believe they are related in a very intimate way.

Lastly, Sir, but, perhaps, this would only be psychological. From biblical times there was a feeling that punishment should fit the crime. I believe that if these people who are caught stealing things are made to go up to Glendairy, farm the land and produce these things that they would have a little experience to learn how to do it and when they go home they would go and rent a plot and do their own farming next time around. I think this can be done. But to put people up at Glendairy for them to become lawyers when they come out I do not know what to say.

I am not going so far as to suggest like a certain feature writer wrote in "The Advocate" or "The Nation" that he knew a fellow who had been rehabilitated with a piece of flat iron. I do not know if we have to go that far but, certainly, I think praedial larceny is a big euphemism. It is a big joke. That does not mean anything to a fellow who just goes and steals a few vegetables. That does not concern him. I think we have to look at this whole thing in a broad view and back up this Bill with some up front patrolling and a system started and run by farmers to protect their properties. I support the Bill.

SENATOR THE HON L. V. H. LEWIS: Mr. Deputy President, the debate has been interesting and expansive. This Bill is only one step. The Bill in itself will achieve just a little in the same way as the Stray Animals Bill which is on the books and the regulations are still in the making. The impact of this Bill is going to depend on the regulations which are going to be made. It will depend on the participation of the farming community to help to establish the checks and balances in the system if this is to impact.

Only this morning I was confronted with a situation where a group that had just gone into farming had found that one of the great drawbacks to their really getting the wheels moving properly was the fact that they are confronted with those persons who would take a vehicle and go up to their lot and reap a crop that they did not plant.

It is abundantly clear to me that the farming community will have to get into the act themselves. Now that we have the law, some of the other checks and balances will have to go into place. The Ministry will certainly be establishing interaction between itself, the BAS and other farming groups to try and ensure that whatever measures are put in place would be effective.

The Ministry and the Attorney General's Chambers will have as an act of speedy activity to try and ensure that

in the shortest possible time we have the appropriate regulations in place. We will have to identify the persons who will be used, either the existing island constables or additional persons who would have to be authorised to try to police this piece of legislation. The legislation by itself, I am certain, will achieve little more than put fear in the hearts of only a few people.

It certainly will not put fear in the hearts of the three chaps whom I saw coming out of the fields at Graeme Hall the other evening casually strolling the Highway with a load of canes on their shoulders as if they had come from reaping their own land. Unfortunately, that is an attitude in Barbados that is going to take us some time before we curb it. Arresting them and putting them in prison because they just have six canes on their shoulders that alone would be salutary for them. But it would not be salutary for the persons who load up their vehicles at night with other people's produce.

It is the farming community, like some farmers presently do and others who will have to get into the act. They are going to have to get involved in a fairly sizeable public relations exercise to try to make sure that the teeth in this Bill, the teeth which Senator Mottley is apprehensive about, because there are provisions in this Bill which go contrary to our own principles in relation to common law and the rights of the individuals, but without the teeth that have been provided in this Bill we would be wasting time. Our only hope is that we can get all of the active participants together to make sure that the teeth bite.

With those remarks I beg to move that the Report on this Praedial Larceny Bill be adopted.

The question was put to the Senate and agreed to.

The question that the Bill be read a second time was put to the Senate and agreed to.

On the motion of SENATOR THE HON. L. V. H. LEWIS, Mr. DEPUTY PRESIDENT left the Chair and the Senate went into Committee on the Bill, SENATOR J. J. PAYNE in the Chair.

COMMITTEE

Clauses 1 – 13 inclusive were called and passed.

The Schedule was called and passed.

On motion of SENATOR THE HON. L. V. H. LEWIS, Mr. CHAIRMAN reported to His Honour the DEPUTY PRESIDENT the passing of one Bill in Committee and Mr. DEPUTY PRESIDENT resumed the Chair and reported accordingly.
5.25 p.m.

Mr. DEPUTY PRESIDENT: The passing of this Bill together with the Schedule in Committee has been reported.

On the separate motions of SENATOR THE HON. L. V. H. LEWIS the Bill was read a third time and passed.

**RESOLUTION TO APPROVE THE SALE OF
LAND AT PRESCOD BOULEVARD TO
CHEFFETTE RESTAURANTS LTD.**

Order No. 4 was called – To move the passing of a Resolution to approve the sale of land at Prescod Boulevard to Cheffette Restaurants Ltd.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, this resolution concerns the sale of 458.6 square metres of land at Prescod Boulevard adjoining the property of Cheffette Restaurants Ltd and that firm has expressed an interest in purchasing the land upon which it hopes to construct a two storeyed building to house its main storeroom and a bond. The purchase price advised by the appropriate authorities is \$83 800 and whereas a decision was made some time ago that the lands on Prescod Boulevard would be sold to those owners east of the Boulevard whose lands ended and were adjoining the lands between their property and the Prescod Boulevard, in this instance the land is adjoining that of the late N. E. Wilson and both Wilson and his estate have declined to take advantage of the Government's offer to sell them the land. At another stage because it is across the road from the Industrial Development Corporation the Government invited the IDC to indicate whether it was interested in the land and although they had no use for the land, they were not too partial to the idea of selling it for the purposes for

which Cheffette Restaurants would wish to make use of the land. But that is a position which Government does not subscribe to because there is no point holding on to the land just for the sake of holding land, when the IDC has no use for it in that area. Hence negotiations continued and an agreement has been reached in principle for the sale of the land.

The Town Planner has indicated that he has no objection to the principle of using the land for the purpose that Cheffette Restaurants Ltd. would like to use it and although no formal application has been made to the Town Planner, Government proposes to continue action and to dispose of the land, as proposed in this Resolution. The provisions of Section 5 (1) of the Crown Lands (Vesting and Disposal) Act, Cap. 225 provide that no Government lands may be sold, leased or disposed of without the approval of Parliament.

I now move, Mr. Deputy President, that the Senate agrees to the passing of this Resolution.

The question that the Resolution do now pass was put to the Senate and agreed to.

ADJOURNMENT

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I now move that this Senate be adjourned *sine die*.

*The question was put to the Senate and agreed to and MR. DEPUTY PRESIDENT adjourned the sitting accordingly.
5.33 p.m.*

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