THE

SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1991 - 96

SENATE

Wednesday, June 10, 1992.

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, June 10, 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 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. A. F. COLE
Senator T. E. BARKER
Senator Miss M. A. MOTTLEY.

Prayers were led by Fr. 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 documents:

Annual Report on the Immigration and Passport Department for the year ended 31st December, 1990

The Customs Tariff (Amendment) Order, 1992

The Duties, Taxes and Other Payments (Exemption) (No. 4) Order, 1992

Annual Report and Statement of Accounts of the Barbados Community College for the year 1989-1990.

MOTIONS RELATING TO THE BUSINESS OR SITTINGS OF THE SENATE AND MOVED BY A MINISTER

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I beg to move that the Senate agree to the suspension of Standing Order 45(2) to enable this Honourable Chamber to deal with two Bills which were dealt with in the Other Place yesterday. There is the likelihood that we will have enough time to deal with them today. These are the Stamp Duty (Amendment) Bill, 1992 and the Supreme Court of Judicature (Amendment) Bill, 1992.

The question was put to the Senate and agreed to.

APPOINTMENT OF ACTING CHAIRMAN

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I beg to move that the Senate agree to the appointment of Senator the Rev. Canon Jimmy Springer to be Acting Chairman for today's sitting.

The question was put to the Senate and agreed to.

INTRODUCTION OF BILLS

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I beg to move that the following Bills be read a first time:

The Supreme Court of Judicature (Amendment) Bill, 1992; and

The Stamp Duty (Amendment) Bill, 1992.

The question was put to the Senate and agreed to.

PUBLIC BUSINESS

ORDER NO. 1 – THE CRIMINAL LAW (ARRESTABLE OFFENCES) BILL, 1992

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, this Bill entitled an Act to amend the law by abolishing the division of crimes into felonies and misdemeanours, and to amend and simplify the law in respect of matters arising from or related to that division or the abolition of it, and for connected purposes is one of a series of Bills which have been introduced in Parliament as Government's response to certain matters of crime that have shown the country in not the best possible light in more recent times. The two Bills before us and others which are to come are part and parcel of the defence which Government has had to mount to respond to these difficult times.

Historically crimes have been classified into felonies and misdemeanours. The term "felony" was originally used to denote serious offences, whereas the term "misdemeanour" was used to denote less serious offences. With the passage of time the distinction between felonies and misdemeanours became somewhat blurred and many of the more serious offences were classified as misdemeanours; for example, crimes such as battery, conspiracy and perjury. Attached to this distinction were, among other things, the general power of arrest without warrant, which was available only in cases of felonies, and only in felonies was the distinction drawn between principals and accessories. It was an offence to counsel or to agree not to prosecute a person who had committed a felony.

This reform Bill seeks to abolish the traditional distinction and to provide a somewhat simplified procedure for dealing with matters relating to the distinction or arising from its abolition. The Bill introduces the concept of an arrestable offence for capital offences, offences for which a person may under or by virtue of any enactments be sentenced to imprisonment for 5 or more years, including an attempt to commit offences in either of the above categories.

The Bill is set out in 12 sections. The salient features include clause 1, which is the Short Title, clause 2 defining the term "arrestable offence", clause 3 abolishing the distinction between felony and misdemeanour and providing generally that the law and practice in relation to misdemeanours shall apply to all offences. Clause 4 confers the power of arrest without warrant in respect of arrestable offences and the subclauses include the empowerment of any person to arrest anyone who is or who is suspected with reasonable cause to be in the act of committing an arrestable offence.
11.25 a.m.

Subclauses 3 and 4 give power to any person to arrest a person on reasonable suspicion of having committed an arrestable offence. In the case of an arrest by a person other than a police officer, the offence must, in fact, have been committed by someone.

Subclauses 5 and 6 empower police officers to arrest on reasonable suspicion and permit them to enter and search any place in order to arrest a person pursuant to the suspicion of being about to commit an arrestable offence.

Subclause 7 empowers and ensures that the powers of arrest under any other enactment or the operation of any enactment restricting prosecution for an offence should not be affected.

Clause 5 deals with the powers of arrest of a relevant person by a police officer for an offence other than an arrestable offence where the police officer has reasonable grounds to suspect that an offence has been committed or attempted.

Clause 6 repeals the statutory powers of arrest without a warrant found in any enactment in force before the commencement of this Act.

Clause 7 provides for the use of reasonable force in the prevention of crime or in effecting or assisting in the lawful arrest of offenders.

Clause 8 creates an offence of assisting an offender and provides that any person doing an act without lawful authority or reasonable excuse with intent to impede the apprehension or prosecution of a person is guilty of an offence.

Clause 9 creates the offence of accepting or agreeing to accept consideration for refraining from disclosing information concerning the commission of an arrestable offence other than the making good of or reasonable compensation for loss or injury for the offence.

Clause 9(3) requires the consent of the Director of Public Prosecutions for the prosecution of an offence under this clause.

Clause 10 provides for certain consequential amendments as set out in the Second Schedule to the Bill.

Clause 11 provides for savings provisions where exceptions are made in other subclauses and it also deals with punishment and procedures.

Clause 12 is the commencement clause of the Act.

So, Mr. Deputy President, the Bill before us will abolish the traditional distinction between felonies and misdemeanours as set out. It enacts new rules regulating arrest without warrant. These do not differ greatly from those governing existing powers of arrest. The concept extends now to conspiring, attempting, inciting, aiding, abetting, counselling or procuring the commission of certain offences and the Bill preserves the powers of arrest conferred by several enactments as set out in the First Schedule to the Bill.

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

SENATOR Miss M. A. MOTTLEY: Sir, this is the first really substantial criminal act in the form of a number of new Acts that are coming before us to deal with in this Chamber. To avoid duplication I will make most of my policy comments relating to the Criminal Law and the environment under which this is expected to have an effect under this particular Act.

The Act is a Criminal Law (Arrestable Offences) Act and I believe that the Honourable Senator recited quite accurately what it does contain. Once again, I reiterate the concern of mine which I made some time ago in respect of the fact that many Bills, particularly, of a technical, legal nature come before this Chamber and the other place, and I wonder how many of us study to acquaint ourselves with the de facto implications of their passing into law. I say this because I was one of those who felt very strongly that this Bill and, indeed, the others that will follow, were proper for comment and investigation by a Joint Select Committee of both Houses of Parliament. Not only that, but given the fact that a lot of these Bills have been drafted in excess of some 10 years, it was also proper to invite comment from the various sections of those people who would be directly involved, whether the Bar Association, the Police Force, the Bench, the Magistracy or indeed, Sir, the wider community, particularly, given the fact of the increase in figures relating to criminal offences that we have seen in the last 3 years. I want to make my position very clear on that. I am dismayed and disheartened that indeed there was not at this point... I know that when the Bills were originally drafted there was comment and comment was invited from a number of sectors and a number of bodies. I am talking about May 1992. I believe that, if we are to give meaning to the idea and the concept of democracy, and if we, indeed, are not to be rubber stamps in here for anything that is proposed by the Executive and while I may well agree with these particular measures... It is the principle that I am adumbrating towards.

I am certain that very many of us in here are unaware of the technical effect of the passing of a Criminal Law (Arrestable Offences) Act. Indeed, most lawyers would have difficulty in understanding the terms within this legislation far less us who have the power to pass it as an Act. I see another Senator in here laughing who is better placed to make these comments and I sincerely hope that he will back me up on this when he rises.

Having said that, Sir, I wish to make a few comments to deal with the efficacy of the state of the system in dealing with an Act such as this, a Criminal Law (Arrestable Offences) Act, which abolishes the distinction between felony and misdemeanour, an Act which recodifies or codifies in some instances how the arrest of accused people are to take place, how it can be done by anyone who reasonably suspects the commission of a crime or how it can be done by a police officer upon warrant.

When I look at those 2 sections, Sir, it causes me to reflect on the existing position under Cap. 116 of the Magistrates Jurisdiction and Procedure Act, the requirements as they pertain to the application and execution of warrants, search warrants, arrest warrants but particularly search warrants. Very few people in this country seem to realise that there is a statutory requirement for the Police Force to return the warrant after it has been executed to a Magistrate, even if it were obtained from a Justice of Peace – Section 5 gives power to go to a J.P. to get this warrant. There is a statutory requirement that they return the warrant to the magistrate. But, Sir, often in practice, once again, I cannot even think of an occasion when I saw that being done. This is a requirement that is there to protect the citizens of this country from the arbitrary powers being exercised as they relate to search because under our law, the Constitution supposedly protects one from arbitrary search. Having said that, Sir, there is also provision within the law for the application of a search warrant under certain circumstances. Once that search warrant is applied for and executed, yes they do endorse the back of it, but that is not where it should end. There should be a return to the magistrate who can then verify the accuracy and the integrity of the whole course of dealings as it relates to warrants. I raise that, Sir, to make this point. I do not believe that people just do it because they do not want to comply with the law. I believe there is a genuine ignorance of what the law requires in the instance as it relates to search warrants.

11.35 a.m.

That is an Act which has been on the statute book for a long period of time. We had the amendment to the Public Order Act creating the offence of Affray, fine. We have the Criminal Law (Arrestable Offences) Bill before us

which we are dealing with now and you have at least three other pieces of criminal legislation coming before us which will be law in a very short period of time.

One of the advantages of establishing a joint select committee would have been the familiarising, not only of us in this Chamber, but, indeed, of those from the various sectors in the wider community and I am not talking about the executive of the Bar Association, or the Commissioner and the senior gazetted officers. I am talking about the people who have to deal with it on a daily basis. In view of the fact that we have been unable to go down that avenue, I am beseeching that there be a generous period of time before the proclamation of this legislation which would allow the major agencies, whether it is the DPP's office, the Bar Association, the Police Force or even the island constables to go through it.

One of the things I wish to go off on a tangent here slightly on is that in section 5 of this Act it applies to police officers and not island constables. In my view, if you are saying, as the Minister of Justice said some 3 or 4 months ago, that island constables were critical in assisting the police with the question of arresting and detecting crime in this country, that is a serious oversight in this Bill.

To go back Sir, to the original point, there needs to be a generous period of time so that the various agencies may familiarise themselves with the question of the terms of the Bill and how they relate because you cannot look at an Act in isolation. You have to look at an Act as it relates to other pieces of legislation, the Constitution and the laws of evidence. These are things that are critical. If you have the pressure of the number of cases that we have in our Criminal Courts, particularly in the Magistrates Court, indeed, even in the High Courts. The last Assizes we had near 70 cases. The Assizes went on for over 2 months and they still did not get through all. When you have that kind of pressure it is not fair to expect those who are prosecuting in particular to be able to deal with so much new law in a short period of time. I am asking, Sir, that a period of 4 to 6 months be given for the proper training.

I am asking also not only for the Bar Association, but also the office of the Attorney General and the office of the Commissioner of Police to run and ensure strong comprehensive and proper training seminars to familiarise those of us who work in the courts with these measures. There are a lot of precedents there. There are a lot of books there. There is a lot of case law there because a lot of this legislation that we are seeking to bring in has already been passed many years ago. You will find that the Theft Act was passed in England since 1968 and the Criminal Damage Act since 1971 so there is endless material there.

Indeed, Sir, if we look at the Australian jurisdiction which really is becoming more helpful to us, I think, in certain areas of the law than even the British jurisdiction, you will find much material there as well. That is the point in terms of the period of time before the proclamation of these Acts that I wish to make.

Other things must be done for the success of this Act. We need to look at the total revamping of our criminal justice system in this country. One always gets the idea, not only among lawyers, Sir, but among politicians too that criminal law is the dregs, whether it is of the profession, whether it comes to legislative reform, whatever it is, criminal law is at the bottom of the pile. Whether it comes even to the mere fact of understanding that in 1992 we need a criminal assize court running all year in the High Court it suffers from the last consideration. Then in the same breath we hear we have too much crime in Barbados. We are running away the tourists.

The time has come, Sir, for us to be serious about revamping the criminal justice system in this country. Britain is in the middle of another Royal Commission looking at their criminal justice system. I believe Senator Inniss would back me up, I cannot remember the exact year, but they had one in the 1970s and one in the 1980s too. Let us look because there are two totally different aspects of this. There is the Magistrate's Court and the High Court. In terms of the magistracy, we right now practise on the rules that were drafted in the 1950s. I know when I get up in here and talk about times far back I am always told about my youth but I dare anyone to challenge me on this today.

The truth is, Sir, as most of you are better able to say than me, the socio-economic conditions that obtained in this country in the 1950s are so far different from what obtain now that when we think of it, it is ludicrous to expect that the same rules, the same number of Magistrates Courts, can obtain in a society now where you have at least 30 or 40 new offences coming before the court every day and you have a backlog. To give you an idea, even in the Traffic Court alone there is a backlog of over 5 000 cases. I do not want to start with the other two Criminal Courts.

I have said on many occasions, and I am saying this with the greatest of sincerity because I work in these courts every day and I know the frustration not only to accused people, but indeed to the prosecutors, the lawyers and to the parents and family of the accused people, and, indeed, to the Bench that the time has come for us to revamp this system. I do not expect some of the things I say here must be adopted but, for what it is worth, I will offer my opinion in terms of my experience in these courts and how I think things could be improved.

I would hope, however, and I call upon the Government to set up, as a matter of priority, not any long-term commission, but a small group of people who can meet as quickly as possible to report within 3

months on the reform of the criminal justice system in this country. One of the things that needs urgent attention is the number of magistrates presently serving the jurisdiction of Bridgetown, both in the criminal and civil jurisdiction. Senator Inniss is far more equipped to talk about the civil jurisdiction and I will leave that for him in terms of the magistracy. But in terms of the criminal jurisdiction, you have two criminal courts which are operating in Bridgetown.

I have maintained for some time that the time has come for the establishment of two more criminal magistrates in Bridgetown, not one but two. One of those two must be to do nothing else when the morning comes but to deal with new cases in so far as dealing with the question of bail and guilty pleas are concerned so that the other three Criminal Courts sitting in Bridgetown from 9 o'clock you know they are hearing evidence. They are not dealing with the question that they have 30 or 40 people coming up from the cells and they can only accommodate 8 at one time so they have to wait for the prison officers to take back down people in order to bring them back up. By the time you look around and they have finished the new offences it is 11:30 a.m. or 11.45 a.m. and all mankind is looking to go to lunch. It cannot work. At the moment if you get more than one case done in each of those criminal courts a day you get a lot done.
11.45 a.m.

And you are talking about a backlog of over 1 000 or 2 000 cases. The time has come for that investment and it is not an investment that Government can "pooh shark" on or can be hesitant about. It is an investment that must be a priority and in the investment, as I say, Sir, for what it is worth must allow I believe for the efficient working of the courts that one of those magistrates deals with nothing else but those people who were arrested the night before. I am talking about islandwide now. So that you do not have to worry about the manpower of sending the police van down to Speightstown, Boarded Hall and Oistin with new cases. They can just deal with the prison van because there are two separate vans. The prison van would take those on remand. The police van is to take those who get arrested.

All of a sudden we do not have to deal with the police van moving all about Barbados carrying people who were just arrested. We are dealing now just with the prison van taking prisoners from remand and all the new offences come into Bridgetown, the person enters the dock. They either elect to summary trial or they go to the High Court. They either plead guilty of they plead not guilty and if they plead not guilty bail, if it is possible, it is set, if not they are remanded. If they plead guilty they are punished there at the time. I hope, Sir, that serious thought would be given to the suggestion.

There is also another thing that would help with that running and that is the whole question that today if you are charged with an indictable offence – and I know this Act abolishes the distinction between felonies and misdemeanours, but for those of us who are still rooted in that concept an offence that would be more or less on parallel with being a felony – if you are charged with that and you want to plead guilty, we have the ludicrous and time wasting system that the magistrate has to sit down there and write down in longhand whether it is 10 witnesses or 20 witnesses just to be able to commit you to the High Court so that you can plead guilty in the High Court.

Sir, once again, whilst I do not subscribe to following a lot of things that are British, at least they have seen the efficacy of putting an Amendment in their law that allows the magistrates to commit you where you want to plead guilty without the recording of evidence in longhand which will invariably in the shortest of cases still take at least 10 to 12 man hours. When we are looking at a time where we say Government's resources are scarce, I am saying let us reorganize the system to allow for removal of that kind of wastage and put the money that we save in two other criminal magistrates in Bridgetown, Sir. Senator Inniss will hopefully deal with the civil side of it.

In respect of the actual workings in the court now that is the magistracy, that is the question of indictable offences, but in respect of the actual workings in court now, I believe that the time has come... There has been a lot of discussion and a lot of debate. The Commissioner of Police has been incessantly calling for more men. I do not necessarily agree with him. I think it is a question of better deployment of those who are in the Force. One of the suggestions in respect of the better deployment of those who are in the Force is that I think the time has come where we can seriously look at the prosecution of matters in the magistrates' courts being done by members or being assisted – if you do not want to give the whole thing to that and create an independent system, although in my view you have the bureaucracy of the AG's office and the Director of Public Prosecutions' office already there – but being done by members and briefs being given out to members of the private Bar to prosecute.

Are we really satisfied in 1992 – and while there are police officers who indeed, over the years, have become better prosecutors than a lot of lawyers, not having ever been trained in the legal profession – are we really satisfied that with the calls coming from the Commissioner of Police for more manpower, more man hours is what I would like to see. That we can still have those policemen being deployed within the realm of prosecuting criminal offences when indeed there can be assistance brought from the private Bar in the task of prosecution by those who have been specifically trained within the legal profession.

Another point is that I have noticed that the first set of criminal offences to come down have all been

substantive criminal offences, Criminal Damage Bill, Criminal Arrestable Offences Bill, the Theft Bill, things like this. But at the end of the day none of this is going to make any sense and none of this is going to aid in the prosecution of accused people in this country, unless we are prepared to bring, as a matter of priority, and I would venture to say that it was even more important to bring that Bill before these were brought, the new Criminal Evidence Bill, Sir.

We have, once again, the ludicrous position in this country in our judicial system where because of archaic rules of evidence in criminal law the prosecution finds themselves very often with an uphill battle. I am a defence lawyer and I know the difficulties that the prosecution may find themselves with in the proof of their case. Just to give a brief and quick example, one of those is the principle that if this box here had a serial number on it, the police could not bring this in court and prove that it was the same box that I was speaking of, even though they had and knew that the serial number was the same. Because the rule against hearsay does not permit them to lead that in evidence. There is the great case of DPP v Myers where the House of Lords felt that they could not extend the exceptions against the hearsay rule that those extensions were the province of Parliament, not the province of the Judiciary. Mind you, I disagree with them because there is the whole question of judicial activism; but that is another discussion I am not here for now.

But the point I am making is that any time a TV is stolen, a video, any kind of electrical appliance that you would normally look at the serial number and know that it is yours, the prosecution cannot go in to court and prove that it is yours, unless you take a pen or nail polish or a marker and put your own mark on it and you can come and say, I am the one who put this mark on it and because of that I know this to be my piece of equipment. Sir, since 1968 that has been changed in England. The decision of DPP v Myers was 1964 and within 4 to 5 years they changed that. Some 28 years later we are still wallowing under the bounds and the constraints of the decision in DPP v Myers. It becomes all the more critical, Sir, when you think of things like Telephone Company and records. Money is stolen and they want to show how the money was spent by the person but they cannot bring in the records unless they can find the make of the record. You then have situations like computers. There is no consideration at all for computer print-outs within our criminal legislation. And yet almost every business in Barbados now certainly in Bridgetown, I would venture to say and most of the offices are computerized.

When I say that the Criminal Evidence Bill was a matter of priority before these Bills, you will understand that for the Theft Act to work properly, for the Criminal Damage Act to work properly when they are passed, unless you have proper rules of procedure and proper rules of evidence in place, the whole case will fall because a lawyer can get in there and he can deal or she can deal with the technicalities and it does not matter that your offence is far-reaching. Because at the end of the day the only way you can prove the offence is according to the rules of evidence and the rules of procedure.

Once again I make a call on Government to bring down as expeditiously as possible but if possible to circulate as well for wide and far-reaching comment the Criminal Evidence Bill which too has been sitting there for some 10 years or so as well.
11.55 a.m.

That is why I say the criminal laws are the dregs; they believe that at the end of the day it is not a priority. I believe, Sir, we are waking up and we realise, not only is the passing of legislation, like the criminal law, a priority but the spending of money within the criminal justice must be a priority. We must, as a country, determine what we are prepared to accept and what we are prepared to reject. To a large measure we can do that by the kind of criminal laws that we pass. Indeed, Sir, whilst doing so, remembering at all times that in a small society it is critical to protect the interest of accused people because in a small society you are far more vulnerable to abuses of power for all sorts of reasons than you might otherwise be in a larger society.

To that extent, Sir, that leads me to the question of the protection of the fundamental rights under the Constitution, particularly as they relate to accused people. Because while I recognise the panic in the society at the moment in terms of bringing those who are causing the so called crime wave – I say so-called because I am yet to be presented with proper figures showing the difference. I accept there has been an increase in crime but I do not yet accept that it is as extensive as people would have us believe and I believe the media has gone in a very large measure to creating a greater picture of the crime than there is.

Sir, we had 2 to 3 weeks ago, everyday one particular newspaper had a headline relating to a criminal or criminal activity. I could tell you, Sir, that in an area like Bush Hall from Codrington Road to Eagle Hall corner, in that perimeter where Senator Barker-Welch lives, she too can testify that if you find more than 50 people resident, I am not talking about those who pass through the area, I am talking about those resident, 50 people out of the 5 000 or so who live in that small 2 square miles or so, who are involved in serious criminal activities you have found a lot. So I know what I speak when I say I want to see the figures. I believe the press has gone, in a large way, towards contributing towards the greater picture and the greater condemnation of young people in this country as it relates to crime.

Sir, this is not the only Criminal Bill before this Chamber and I will get a chance to deal with the young people and the crime wave as it relates to the Criminal Damage Act. That is what they say the young people like to do nowadays – mash up places. I will deal with that then.

Let me stick with the system in the Criminal Law (Arrestable Offences) Act. Sir, the Police Force: It is interesting to note that at the same time we are agonising over the Royal Barbados Police Force and the problems, both within the force and indeed the Commissioner of Police coming out 2 to 3 weeks ago talking for a cessation of corruption within his Force and at the same time the police themselves, those who have to go out there and defend us, have also come under serious fire and bullets; and at the same time more people have died or been shot at the hands of the police in the last few months than perhaps at any other period that we have known. It calls for a serious investigation into the functioning of the Force and how do we run our police force, Sir, to operate within our society. How can it be more effective? How can we weed out the corruption? How can we make it a more efficient body? I see Senator Alleyne looking at me and I know that he is a hardliner when it comes to these things. I hope, Sir, that he too will back me up on the call, for really a comprehensive investigation into the workings of the Force, because this is a bi-partisan issue, Sir.

I referred earlier, Sir, to the Royal Commission on criminal justice in Britain and it is interesting that the Secretary of State for Home Affairs has also set up a Commission in Britain around the end of May to deal with investigating into how best to revamp and reform the police force in England, particularly after they have come under heavy criticism after a number of miscarriages of justice have been brought to light as a result of new evidence coming forth.

Sir, when we talk about certain issues it is not that we ... And I want to make this clear: I know that the police in Barbados, to a large extent try their best, let there be no doubt about that. Sir, sometimes we, as a country, have to continue to strive for better than best. I think that the time has come for us to look at the Force, how it is structured, how it relates to other things. Because, make no mistake about it, the morale within the Police Force itself is extremely low and anybody who comes into daily contact with members of the police force will know that, for diverse reasons. The time has come, Sir, for... In the same way that the Conservative Government in England, who after the bombing at the Conservative Party Conference in Brighton, the police forces in England could do no wrong for Mrs. Thatcher and the Conservative Party. They who have been the darlings of the Conservative Party have now come under also, the investigating eye of the Conservative Party.

Sir, I think the time has come for us to look at it and see how it relates to the whole question of the Police Services Commission, look at the terms of appointment and the terms of remuneration of the police force, the conditions under which they work. Sir, all of these are matters which are critical and I think of the Holetown Police Station which has been started. I don't know the status of it and I quite seriously would like to find out if the Leader of Government Business is in a position to tell us when it is expected that that will be completed because the pressure on the Court at District "E" Speightstown is extremely heavy. Not only that, the pressure on the people, because somebody from Paynes Bay who would normally have gone short to Holetown would have to go on top of the Hill to District "E" Speightstown. It is an increase in cost also for those people who must interact with the court and not even for a criminal nature alone but also for civil cases. Sir, that is a matter of serious concern, not only to the members of the Police Force, but, Sir, to the wider public, particularly those living within the St. James/St. Peter area.

In respect to the other conditions, the arts: There was a plan some years ago for the new police force headquarters to have been built somewhere up in Wildey. We want to know what is the status of Government's proposal as it relates to the proper provision of equipment and facilities for the police force, given the fact that we are now in a stabilisation programme because we have not started the structural adjustment yet. We want to know where is Government's priority as it pertains to the provision of equipment and facilities in this matter.

The whole question of ballistics: Only in this morning's paper we see photographs of these homemade guns and it is very critical, Sir, that we continue to have a nucleus of people who are trained in the proper forensic methods that are necessary to prove offences while we come out and we condone – and I am one of the strongest and loudest voices that condone the conviction of people in this country on a confession, particularly where that confession is an oral statement and not even a written one. Where that is the sole evidence against a person. While we come out and quarrel about that fact we have to realise that you have to give the police the wherewithal however to be able to use the forensic methods of proof in order to establish their case. It is critical to find out where Government's priorities lie given the stabilisation programme that we have found ourselves in given the cutbacks and indeed, Sir, rumours of even more cutbacks to come.

I mentioned, Sir, the question of confessions and that ties back into the accusations of beatings within the force, because the law is very clear on it that if a person has not delivered a confession voluntarily without fear of prejudice or hope of advantage, that that confession is inadmissable. So where the police case rests purely on that, and

even though it may be rare for a confession to be knocked out and to be held inadmissable it has happened. I saw it happen only three weeks ago in a matter that I was involved in and in another one where another Attorney was involved. The Court of Appeal took a very strong line and clearly showed their uneasiness, and I would even venture to say, unhappiness with the fact, Sir, of cases centering around confessions and indeed, Sir, the dicta from Mr. Justice of Appeal Smith went so far as to say that where a confession is ruled inadmissable, the oral statements that are left behind must of necessity be tainted as well. In other words if you accept that there is doubt as to whether the man was beaten or not you must also accept that there is doubt that he made the oral statements where he is denying them. What is interesting is that in the High Court in Australia, Sir, their highest Court of Appeal, in late 1991, established in the case of the Queen and Mckinley, I believe, that you must require as a matter of practice that the judge warns the jury of the unsafety of convicting a person when there is only a confession statement against him.

Many of you in here may wonder why I am placing so much emphasis on that point. That is, Sir, because the reality is that the majority of accused people who are brought before the courts in this country and indeed who are convicted, many of them are convicted purely on the basis of a confession, a written statement or indeed alleged oral statements. That is why, Sir, when we ask ourselves the question, why is there not that confidence in our justice system and why is there not that confidence, Sir, in our police force, we must remember that that is a natural reaction where a man feels that he has been unfaired. Very often, Sir, accused people understand the process of being convicted, Sir, but they don't understand it when they don't feel that it has been done properly.

If we are going to look at the question of how people relate to the criminal justice system whether they have confidence in it, whether they have confidence in the courts, whether they have confidence in the police force, we must as a matter of necessity look at the question as to how they relate and how they are the process of conviction in this country and where it rests too heavily on conviction.The police need the other avenues to be able to move away from that.

In respect, Sir, of the question of the young offenders. For the last 3 or 4 years we have been hearing about the promise of community service. The Minister of Justice repeated it when he became Minister of Justice. The Attorney General, when he had that portfolio referred to it. Indeed, Sir, there has been a lot of talk about it. It is sad to say, Sir, that so far there is nothing more than talk.

The conditions up at Glendairy, Sir, are under serious pressure. Those of us who may have followed the evidence in the Commission of Inquiry would clearly have heard calls about the conditions. Men were complaining that they had problems with their stomach and not receiving the requisite diet. The general call when you go up there is that they complain that they do not receive proper medical treatment. At the end of the day, Sir, we in this Chamber as well as those in the Other Place have participated in the act of becoming signatory to a number of international conventions and treaties that call for the prevention of certain types of treatment and the provision of other types of treatment.

12.10 p.m.

Sir, in almost every single treaty whether it is the Universal Declaration on Human Rights in 1948, whether it is the American Convention on Human Rights which we signed in 1978 and we ratified it in 1981 or 1982 with only three reservations, they all deal with the question of inhumane and degrading treatment. It is my submission that unless we deal quickly and properly with the conditions at Glendairy Prison, Sir, we are in fact perpetuating a system that allows for the continual, inhumane and degrading treatment purely not because that is what the Prisons want to offer but they are under pressure and they need assistance. How do we deal with it? I am not saying, Sir, and I know that money is tight and the concept of building another prison is not on now. But there are a number of young people who go up there on first offences. Before I came here this morning, Sir, I had somebody who had been before the Court for a criminal offence. The boy had no previous convictions. The boy had a job at Harris Paints for the last 3 years and, despite all of that, he was remanded in custody last week with no good reason. I am saying to you, Sir, that there has been an increase in the number of remands. From my experience in the Courts for the last few years that within the last few months there has been an increase on the face of it in the number of remands particularly out of Bridgetown of people who have no previous acquaintance with the law. Our criminal system is based on the premise of the presumption of innocence. But it is not only the presumption of innocence that I am dealing here with now. It is the question that when you take a young boy and you put him up in Glendairy for a week, what are you exposing him to?

Aside.

SENATOR Miss M. A. MOTTLEY: I hear people say keep out, Sir. But if God forbids a police officer who does not like one of us in here and the person is picked up and remanded when he or she has not done a thing yet...

Aside.

SENATOR Miss M. A. MOTTLEY: Senator Inniss said that we will get bail. But if you go before a certain magistrate there is no guarantee of bail around this place. The point I am making, Sir, is that you are exposing that young boy to further elements of criminality. Senator

Inniss can tell you that you have clients who will come out and tell you that while they were up at Glendairy they learned how it is possible to crack a safe or how it is possible to free-base crack, or how it is possible to do all these other kinds of criminal activities that none of us in here have a clue about. They do not sit down and learn it before they go in prison.

Sir, let us watch ourselves because there is a sense of panic in this country that is not healthy and in 10 or 20 years time I know that I will be around to see us regretting it. I am sure of that.
12.15 p.m.

I am making the point, Sir, in all seriousness that there is a sense of panic. The concept of printing in the newspaper how much the hangman gets is barbaric. What is the difference between an individual killing someone and a whole state killing him? I am making the point that all these calls for the reintroduction of the cat..... Sir, when I grew up the cat was something in the museum, and the fact that people are ignorant about how to deal with conflict and problems is not my problem and should not become the problem of the State or the Government.

In all this talk about violence we have not yet heard about how do you deal with the problems of alleviating the violence from an early stage and at a later stage. Almost invariably there has been universal acclaim for the fact that the lack of ability to communicate propels a person to violence. There are some of us in here who fling our hands all about, but that is only because we cannot communicate properly, Sir.

Mr. DEPUTY PRESIDENT: Is that so?

Aside.

SENATOR Miss M. A. MOTTLEY: I may speak for myself at times, Sir, but I speak also for other people who sit opposite me.

In all seriousness, Sir, a study was done in relation to kindergarten children in Jamaica, I believe, and what was discovered was that children who could not articulate what they were feeling were likely to go and slap a child next to them rather than trying to say: "Don't do that to me", or "You hurt me", or whatever. If you look at the level of domestic violence in this country and at the reasons a lot of the time for the domestic violence, it is because the parties are unable to communicate. Senator Fraser, when she was President of the National Organisation of Women, would know about this and about the complaints of women who have been the subjects of domestic violence. A lot of it goes back to the fact that people who cannot communicate their feelings are quick to use their hands.

Hopefully, Senator Straughn will talk on this too, because she as the Headmistress of a girls' school for many years is in a far better position to speak of the fact of how people, especially children, react when they cannot communicate their feelings. We have not looked at the question of how do we teach people to resolve conflict.

I had discussions in Jamaica with a former Ambassador to the U.N. who sat on the Security Council for Jamaica in the 70's, the Honourable Don Mills, a Privy Councillor there. One of the things he has been advocating very strongly, particularly in Jamaica and indeed from his days sitting on the Security Council at the U.N., has been the whole question of us incorporating the concept of teaching people how to solve conflict.

The majority of murder cases in this country, Sir, are murder cases that result from arguments. They are not murder cases that result from premeditated murder in most instances, they result from the fact that two people are arguing, whether they are two men or a man and a woman and whatever, and death comes. These are the types of things that the discussion as it relates to increased violence in this country must also centre on. Why is it not possible to include in our curriculum in schools how to teach children how to deal with their problems and conflicts with other human beings? Why is it not possible to teach them how to communicate their feelings?

We hear that a lot of the problems relating to the same young people may be as a result of their feelings of exclusion from the society. I have my own feelings on that.

Mr. DEPUTY PRESIDENT: Very interesting, Senator Mottley, but to us it is straying somewhat from the subject. Let us get back to the subject.

SENATOR Miss M. A. MOTTLEY: Yes, Sir. I am dealing with the Criminal Law (Arrestable Offences) Act, which deals with the same young people who may be charged with misdemeanours. I am dealing particularly with misdemeanours and not felonies, Sir, because when you are on the block and you get into a little scrape, the cause of that scrape may have been the inability for you to communicate with the other person. When you get into something that is a bigger scrape, which ends you up in the dock charged with murder, that too also may have been the result of inability to communicate properly or indeed to solve a problem that existed between you and someone else. I am saying that the time has come for us to take a far more broad based attitude towards solving the problems of criminal activity in this country rather than just wanting to bring down the hangman.

Sir, we have prided ourselves for centuries on being a civilised society and perhaps for the first time we as a society and as a state are in jeopardy of losing that claim to fame. Whipping has been abolished in 1861. There

were only four offences in the United Kingdom for which you could have been whipped. In 1863 it was extended.

Mr. DEPUTY PRESIDENT: Did you say whipping has been abolished?

SENATOR Miss M. A. MOTTLEY: Yes, Sir, I am talking about the United Kingdom.

Mr. DEPUTY PRESIDENT: Oh, in the United Kingdom. That is all right. Thank you.

SENATOR Miss M. A. MOTTLEY: I am showing, Sir, that there were four offences for which you could have been whipped in 1861. It was extended by two more, by the Garrotters Act in 1863 for the offence of choke and rob, because a Member of Parliament was choked and robbed when he left the House of Commons. It was extended also to the procuration offences as it related to the procuring of women, et cetera, in 1912. But yet, Sir, we in this region have not found it possible, even after it was abolished totally in England in 1938 or '41 or '42, to abolish it. Do you know what is the interesting thing, Sir? They set up an Advisory Council in 1960 in Britain to advise on the reintroduction of whipping and general corporal punishment, because there was a massive increase in offences between 17 and 21 year olds – like Barbados allegedly, because I have not seen any evidence of it – there was also 74% of the population who supported the reintroduction of whipping in the United Kingdom in 1960, like allegedly the widespread public support for the cat in this country, and yet despite all of that the Advisory Council reported not only were they not prepared to go back to whipping, but all those who sat on the Council – and the Council was very broad based – who wanted to bring down the whip themselves, by the time they heard the information and the evidence, were convinced that never again should the whip be seen within the judicial system in England.

Mr. DEPUTY PRESIDENT: Senator Mottley, you have got three more minutes.

SENATOR Miss M.A. MOTTLEY: I am indeed grateful, Sir. It has been a matter of the default of Parliament that whipping still remains on our Statute Book today. While one may not be able to argue that whipping is unconstitutional, we may well be able to run another argument as to the unconstitutionality of the manner and the method in which a person is whipped, and the implement with which a person is whipped, so that if Parliament in this country does not want to deal with it head on, and does not want to deal with the amendment of the Constitution, the protection of fundamental rights, and the bringing about of the protection of the rights we have signed in convention and treaty after treaty after treaty as a country, then we may have to find other ways of forcing the Judiciary to deal with it.

Thank you, Sir.

SENATOR W. LeR. INNISS: Mr. Deputy President, I agree that there is a lot of food for thought in what Senator Mottley has said. I do not agree with everything she has said, I do not share all of her views, but there are some things she has said with which I go along wholeheartedly.

I do not ever wish to be considered as a bleeding heart liberal, I believe in law and order and I believe that criminals must be treated as criminals and be punished. Having said that, I want to make it abundantly clear that I feel very, very strongly about the protection of the rights of citizens of this country. Too many people in this country who are not criminals are treated like criminals.
12.25 p.m.

Sometimes that kind of treatment comes from places where you would least expect it. I am pleased to see that Government has got around to looking at our criminal justice system. It is clear that different bits of legislation dealing with criminal law are coming forward and it is coming at a time when – I am not saying like Senator Mottley – there is an "apparent" upsurge of crime. I think the evidence is all around us. There is an upsurge of crime. I do not want any figures. I can see it. I can feel it. It is obvious that crime in Barbados is as it never has been before. There is a group, in my view, which might be a small percentage of the society but, nonetheless, it is a percentage that is causing this country untold damage in many respects.

I believe that when people have been brought to justice they must be made to feel the punishment for their unjust acts. We have to be very careful that only those who merit such treatment receive the treatment which I advocate. In other words, punish the unjust, do not be unfair and punish those who have done nothing wrong.

This Bill before us, Mr. Deputy President, deals with the rights and gives certain powers to police officers and even to the ordinary citizen for arrest under certain circumstances. Even those who believe that the police should be kept in straitjackets are becoming a little concerned when they see criminal activity and the police being shot at. We have to be very fair to the police and give them the tools which they must use not only the natural tools of a physical nature. We have to give them our moral support and we have to let the police see that the legislators are behind them, that the Executive is behind them and that the citizenry as a whole are behind them.

When you want support, you must also show that you merit that support and, unfortunately, there are a few misguided persons who wear the uniform of the Royal Barbados Police Force who completely abuse the power and authority which is placed in them. The sad thing

about it is that when you see one silly constable abusing his authority, one does not sit back and say, "Here is Constable Brown or Constable Jones abusing his authority", you speak about the Police Force and the entire Police Force is tainted with the misdeeds of a few of its misguided members. When we put the kind of power that we have put in the hands of the police we must demand that they use that power in accordance with the law.

I don't know if it is picked up at the Training School from a misguided instructor or what, but there are some policemen who believe that anytime you say anything to a policeman you are obstructing him in the execution of his duty. There are cases where the police have come to carry out a search with a valid search warrant and the only thing a frightened sister, brother or mother may do is ask, "Officer, what's he done now?" "Shut up! Before I arrest you for obstructing me in the execution of my duty!"

Some of them believe that when they are carrying out an arrest every citizen must remain at attention and keep his mouth shut or else he too will be arrested for obstruction of the police in the execution of his duty. We have spoken from time to time of the strange bit of legislation where you can tell the Governor General that she is ugly if you feel so and you can tell the Chief Justice that he is ugly if you feel so while he is not sitting on the Bench in open court, but if you call a policeman an ugly policeman you are brought before the Law Courts for using insulting language to a policeman. There is not even a defence to prove that he is an ugly policeman. The police are given this extra protection that even justification is no excuse when you come before the Court charged with using insulting language to a policeman.

We have abolished, Mr. Deputy President, the distinction between felony and misdemeanour. This distinction is not only semantic. It carries with it certain results. For example if you look at Cap. 116, the Magistrates Jurisdiction and Procedure Act you will notice that a Magistrate under section 27(2) of that Act may admit to bail any person who is charged with a felony. Under section 27(3) of the same Act, if it is a misdemeanour, the Magistrate shall admit to bail unless, of course, there is some sworn evidence given by the police officer that there is some good reason why bail should not be granted. If you spend a day in some of our criminal courts, fortunately not in all, you would believe that this section of the Act does not exist. You see bail being refused left, right and centre. I am not speaking about cases where people have been out and committing several offences and, therefore, you must keep them for the good of themselves and perhaps the good of society.

First offenders sometimes come before our courts with something as slight – in criminal law you cannot put using two bad words in the same category as stabbing and raping. It must be a slight offence when compared with other criminal offences – as obstructing a policeman or resisting arrest. Any policeman on the beat knows that resisting arrest does not necessarily mean beating up a policeman. The policeman holds you and gives you a little shake and you hold yourself up to the possibility of being charged with resisting arrest. Some youngster perhaps out of fright more than anything else is brought before the Courts, a person with a steady job, a fixed place of abode, who has never been in any trouble. He may be a student at the Community College and pursuing a course in higher education but he is remanded to Glendairy Prison for 7 days not a first offence. He has not been found guilty of anything yet, he may very well be found not guilty when he comes back. I am saying that is an abuse of power. Any person who sits on a Bench and exercises power in that manner is abusing the power which he has.

Senator Mottley has asked for an increase in magistrates. We do need to look at the increase in terms of quantity but at the same time we must also look at the quality of the persons that we put on a magisterial bench. Having a law degree or having passed a bar examination and practising or being around practice for 5 years should not be the only criteria in appointing a magistrate. A magistrate has too serious a responsibility for any misguided person to be sitting on a bench and taking young citizens and making criminals of them. I repeat that if you are a criminal you must be treated like a criminal, but young people in this country should not be made criminals because of the eccentricity of someone who has the particular power, on a particular day, to send those people to prison. It hurts my heart sometimes because you don't see rich people sent to prison like that. The reason is very simple. If you are rich you can get a lawyer. Bail is not to be used as punishment. Every citizen in this country is entitled to bail. You refuse to give a person bail chiefly if you are satisfied that he will not come to court when he has to come or if he will in some way obstruct the police in carrying out further investigations of the case. But if a man says two bad words, and I am not harping on that because I do not think you should walk about Broad Street and curse all day, there is nothing to remand a person to prison for 7 days to bring you back down afterwards and charge you $10. What you are doing is trying to repeal the statute and impose a new sentence by saying "I as a magistrate send you to prison for 7 days for saying two words when I could have given you $10 when you come back down next week."

12.35 p.m.

A strange thing is that many criminals you have seen do not even hate the presiding officer who sent them to prison. He recognises very often "I have committed a crime, I have been caught, and you have done your work." People resent unfair treatment. We run the serious risk that if a presiding officer over our courts exercises his functions whimsically, or injudiciously, he will bring the system into disrepute. You will find cross-talk in our law courts.

You will find people who are being made criminals showing absolutely no respect for the particular person sitting on the bench. People will not differentiate. If you are disrespectful to Mr. X the magistrate, it carries over and then you become disrespectful to the court in itself. In truth and in fact it is disrespect to the entire concept of law and order. Those of us who find ourselves in positions of authority must be very careful that we should not let our actions bring the institutions of the State into disrepute. I can go on and on on this matter because it really worries me to see the trivial things for which people are robbed of their freedom even before a conviction. That is the thing about it. Very often when the actual case is tried it can be found that there is nothing on which the person may be convicted.

There was a time when it was thought that anybody with a university degree could become a school teacher and that was all it took. I think we have got around to the stage now where we recognise that there is something called "studying education." You can be bright, bright, as bright as anybody else but you cannot teach. You have to go and be given some training in teaching. There are some jurisdictions where you have to study to be a magistrate. You are a lawyer and you are supposed to know the laws but the concept of sentencing, for example, there is nothing out of the law book that you study in the same vein. There are colleges and institutions. I am not saying you have to do a 2 or 10 year course in becoming a magistrate or a judge but you should be exposed to the various disciplines which assist you in bringing to bear your basic knowledge unto the sociology of our society and see when to sentence and how to sentence, when to imprison and when not to imprison, when to be lenient and when not to be lenient.

Any time a magistrate sits on the Bench and says "Today is locking-up day", that magistrate is an idiot. There is nothing called locking-up day. You take every case on its merits. Some days some will be locked up and some days some will not be locked up.

Again, Mr. Deputy President, when we look at our system we must agree that our system can assist in making criminals out of those who may be on the straight and narrow path. In our society and in the system of Government which we follow, we believe that every person is innocent until he is found guilty. If a person is convicted by one court and he appeals, and then that appeal is heard and the Appeal Court finds that he was never guilty in the first place, how must that person feel if he has already spent 4 years in Glendairy Prison? Here an innocent man is walking out of the Court of Appeal with the judges of the Court of Appeal telling him "You are not and were never guilty" but he had 4 years among criminals. God knows what kind of things he was exposed to during those 4 years.

Something must be wrong with our system that an appeal can take 4 years. There have been cases that when a man's appeal had been heard, even if the appeal was dismissed, he still would have gone through the door because he had served the entire sentence before his appeal was heard. That is not right. I am saying that because there is this thing in our mind called a criminal, a criminal has nothing to do with us. It is not our brother or our cousin. It is a criminal, a different kind of creature from Mars or somewhere. When it comes home, it is when we recognise it is my cousin who went to prison wrongfully, my brother or my niece. We have to be very careful about these things. Let justice be done. Let those who deserve it be punished. Let those who do not deserve it have a free and fair trial. Let everything be done to expedite the process. At the end of the day when you have done that, angels cannot do more.

I would like to think, Mr. Deputy President, that when contributions are made to these debates, whether it be from here or the Other Place, there should be enough staff around to take out some of the points and let them go to the powers that be, whoever has the power to look at some of the things that are highlighted. I find that there are so many things we make jokes about. We criticise some people and make jokes about it but we cannot make jokes when it comes to the freedom of anyone. I cannot be party to making jokes about any system where people can go into a court every morning to have some jokes for the day. You do not go into the Olympic now. You do not have to go to the Plaza if it is still open. You go down to some law courts and you get your entertainment for the day. It is okay if it were not so serious to be ludicrous. I am suggesting that something is wrong with our system when that is the state of affairs.

Our courts should be a place of seriousness so that when a presiding officer deals with the people they understand that the heavy hand of the law is coming upon them and not the facetious hand of the law. Let our people who are entrusted with power take heed. If you find the power is too much for you, look for something else to do. All of us are not cut out in life to do the same thing. We must remember, as I said, that when we find ourselves in certain positions we must remember the poor, the helpless ones, those who have no advocate, those who cannot help themselves and have no money, do not have the wherewithal or do not have any forum. If our people think they are being unfaired they will take the law into their own hands and all of us who consider ourselves to be lucky and privileged will end up paying the price for the foolish act from a few in our society. I thank you.

SENATOR Mrs. M. WALCOTT: Mr. Deputy President, I would like to make a few general remarks about crime and violence in Barbados. I am one of those who feel that a wave of crime and violence is spreading over the shores of many countries over the world

and Barbados has not escaped from that. Over the past few years it has been quite evident that the rate of crimes committed here has been on a steady increase. I think now it is a major problem.

The Bills we have before us today are meant to help this situation. It is good to see them coming on the statute book. It will also help the law enforcement bodies to carry out their jobs more effectively, both with arraigning the law breakers and in their punishment. It will be months and months before the effects of this legislation will be seen or felt. Then it may only be a deterrent to some.

I feel that in the meantime we still have this real problem and we have to do something about it. It is affecting our tourist industry as our visitors seem to form a target for these misdemeanours. When a visitor on holiday suffers an attack of any magnitude, be it minimal or serious, for that person it is a major intrusion on their person, or their personal belongings as the case may be. It causes real upset to them regardless of whether they come from a place where much more crime and violence is carried on than here. The point is it was not in their home. It was somewhere else and they expect something different. 12.45 p.m.

I had a couple of friends a few years ago who came here. They were robbed at Gun Hill before the place was beautifully landscaped as it is now, and they vowed they would never come back. Actually they did have to come back because they had to give evidence in the case when it came up. I think the wife wanted to make sure that she could get back her engagement ring. However one might say that that was trivial or routine. She was robbed. She was not hurt. The culprit was caught. He was tried and convicted and she got back her ring. But it does not work that way. That offended person's experience having taken place in a foreign country assumes different proportions and the story is repeated and repeated and each time it is to the detriment of our country and our tourist industry.

There is another aspect which warrants our concern and that is how our young people are growing up in this atmosphere and in this environment. I find that they either become part of the scene and join it and they are a member of a group too or they become inhibited having been living behind decorative wrought iron and being on guard and looking over their shoulders all the time or perhaps they just wait their chance and they leave the island. Neither of these is a positive sign for the future progress of this country.

I am not sure of the real reasons for this proliferation of crime and violence in our society. It could be and it must be to a large extent due to the widespread use of illegal drugs. It could be and it must be due in some way to the general frustration over the economic conditions and the accompanying pressures. Probably these and others. But whatever the cause we need to do something about it because the legislation, whatever we put up and pass is not going to send away the problem altogether.

Here I must recognize and pay tribute to those groups working in the community on anti drugs campaigns and other programmes. One thing that has been mentioned before and which I think can bear repetition is the exposure of our people to films and movies featuring crime and violence on television and in the cinemas. Maybe this is the main line of entertainment available for showing but I do feel that some discrimination should be shown in the choice of the shows which are released for the public's viewing.

Sir, I support the Bill before us.

Mr. DEPUTY PRESIDENT: Senator Fraser.

SENATOR Mrs. V. C. FRASER: Mr. Deputy President, I am indeed happy that we are continuing to examine our legislation and to upgrade it. But legislation passed and upgraded does not solve quite a number of problems that are taking place in our society. I am primarily concerned about this country Barbados. It is the country in which I was born and I intend to live until I die. Therefore my concern has been expressed not only in a Parliament but it has been expressed in other practical ways which we try to do sometimes very quietly. I am one who believe firmly that we should have an institution for young offenders. My reason on that is very clear because I have been talking to a number of young offenders who seem to have no direction at all. They do not know what they want to do. The do not know where they want to go. Some of them, we have found, have very good skills and you try even to put them in touch with institutions that can help them and they do not even go. I know some of them have been sent for jobs. They do not go.

I think that when they go because I have heard some of them express that when they go to prison that they met up with this person and this person told them how to do this and how to do that. There have been other people in the hearing of their voices talking about these things they have learnt from somebody from Trinidad and how to pick this and that. They go on their own little escapade in the wrong direction. When those young offenders come back out, they come back out to go back in. Some of them are telling you, "I do not see anything wrong with up there." You ask, What is the daily routine like? They say, "We get a nice breakfast in the morning, then we go around and we learn something, then we have a rest and then we do this."

When I hear people saying they have the worst type of treatment I wonder if somebody getting three square meals a day, menus well planned could be the worst type of treatment. Because surely there are a lot of people on the outside who are very good citizens who cannot

afford three meals a day. Why I am asking about this type of institution is because I feel that we can have this institution for these young offenders. We let them understand that they are not here to break the law. They are here to uphold the law and the principles of the law. But on the other hand in order to get them back into society and in order that they would not go and do the same thing again and we have a worst society, we need to take some action. It could be at the voluntary level. It does not have to be at a governmental level. People always seem to think that these things must be done by the Government. I have seen many of these institutions that are run by churches, they are run by community groups, all sorts of groups. I think that is one of the institutions that would assist us with some offenders.

On the other hand, I do not think that people should associate us with being uncivilized when we talk about flogging people or the cat o' nine tails. Because you are at your house and somebody comes in and if they do not get what they want, they decide that they are going to get rid of you. Is that not premeditated murder? How are you going to say that that person should not be punished?

I am not saying that people who should have all the breaks and the fair chances of justice being done should not have it done. I know of instances where some people have not been able to get bail. I do not think that is fair. I know of some young people who have been taken up and they were not allowed to make calls. That is what they claim to their parents or so. I feel that that is unfair and we should do everything possible to see that the person gets his or her rights. But I want people to realize that the other person has rights too and their families have rights too. You go and kill off my mother and expect me to feel good. She has no rights. I have none. We cannot live in a society where we are going to be one-sided. If you are talking about criminal justice you are talking about justice for all and not just a part of the society in which we live.
12.55 p.m.

One of the things, Mr. Deputy President, I would like to point to, is all this talk about crime and tourists. But we have got to talk about crime in ourselves first. We have to make the society safe for ourselves and we will be making it safe for tourists because that is automatic. If it is safe for everybody it is safe for the visitors. I would like people to stop referring to tourists and refer to making your society the kind of society that we want it to be.

I think we ought to look at the shoulders on which the responsibility must rest fairly and squarely. First of all it is the home. The home builds the nation and the radius of a man's life depends upon his centre and the centre is the home. This question of talking about communicating with people, it is all right for people to talk that but there are people who communicate very well with their children but then when the children go outside they don't come back and tell their parents anything that the peer group has been telling them. What I am saying is this. It is a part of communication but it is building up a relationship with the child and the parent so that if your child is out you would know if your child is sleeping in a cellar or not.

A lot of children go into cells and their parents do not know. They hear on the following day. I know of several examples. They hear on the following day, 'your son has committed a crime and he has slept in the cell'. Where were these parents? Did they not try to check out whether the police knew anything of a missing boy or girl? I think these are some questions the society has to ask.

When other people try to check on these things, what do we do? I record an incident in Barbados where the police had picked up a number of young children with beer bottles in their hands drinking beer and things like that and when they put them in the van there were a lot of citizens out there crying foul on the police. Now, I don't think we must be that unfair and ignorant. I call that high-class ignorance because the police were trying to protect those youngsters from going in rum shops and places like that. Then you had people writing to the newspapers saying they are picking up people's children and unfairing them and all of that. If I were involved in that activity as a parent, I would first of all want to find out what were these children doing and the onus would be on the parent again. How is your 9 year old child going to escape from you and be out at 12.00 o'clock in the night? Or 10.00 o'clock in the night? Or any time for that matter that is later than school time? These are the questions that we have to ask in our society. How many of us have tried to bring about this justice by speaking to the children? Are we not sitting back and saying it is not my child and I am afraid to talk to the child. Why are we adults afraid to talk to a 10 year old or an 11 year old? Why are we afraid to chasten the children who come to our houses and behave badly? Why are we talking to the parents and if the children can't behave better, asking them not to come back to our houses? Why when we find children doing things that we know will put them in serious trouble and they are being aided and abetted by adults, why do we not report these matters to the police? Why are we hiding up things like these. There will never be justice in a society except everyone plays his or her part in bringing about that justice and freedom that we hold so dear. It has to be done by every single individual playing his or her part. We have to see ourselves as though it was happening to us, don't say this person was right to kill the other person.
1.00 p.m.

We are all human beings and, as Senator Inniss said, some people find themselves at the Court for a circus. He did not say so in so much words. But I had the opportunity of being on the jury at one time and I really thought that I would not like to go back there on the jury. I was serving my country but yet inside my heart was bleeding

when I saw some of the offenders and the people who were the recipients of the offence and how they were reacting. The families were breaking down and crying. These are to my mind things that will affect an entire society. I wonder why some people are just sitting down on information and not passing on the information to the Police. My plea is that we have to pass on that information to the Police and, if we sin, we have to pay for our sin. If I steal and I am caught, I am a thief. I believe that people must not encourage their children or their family in getting things and trying to lift up themselves with the results of them.

Only recently I was talking to a young lady who had come out of prison who had served 3 years. She was telling me that her boyfriend is a sharp-shooter and he is good with a lot of things but the police do not catch him. I said to her that she was so foolish because, "He set up you and the police caught you and did not catch him. You are the person who went to prison for 3 years and you intend to go back again." She said that she did not want to go back but, "He gives me so good." Sir, we have some wrong priorities and I think that the parents really should think of the priorities if you educate and feed the child. My poor mother used to say to us that she did not have any money to die and leave for us, but she would give us education and some food and try her best to give us some clothes. You have got to make the rest with the discipline that I am trying to give you and be a good citizen. When you leave home on mornings, you speak to every single person and say "Good morning". In the evening, you do the same thing. I remember my brother resented saying good morning or good evening to everybody. He thought that was foolishness. I said that I do not think that is foolishness and I am going to do it. But at that time if you did not do it, when you went back home, you know what you got.

I do not think that I am any worse off or those other girls and boys are any worse off today. I think they are much better off for the discipline. I am not saying that discipline is beating a child to death. I am saying that discipline is sitting down and talking with the child on maybe things that the child want to attend. Any child who plans to go to a fair and you wait to the last minute and say to that child that you cannot go to that fair because you did not do what was right, that child takes that very seriously. I know of many incidents of children who were kept back from exhibitions and things like that and that brought home to them forcibly that I must do the best that I can as a citizen. I think that we need to stress discipline in parenting and I cannot help but say this on the media.

I know that PAREDOS is trying to do its best and I congratulate PAREDOS. But we need many more citizens taking it on and not seeing a fight on the street corner that can turn on to be a murder and not trying to stop it. These are things that are happening and I have seen them with my own eyes where big men were standing up laughing when people are pointing knives at each other, where people were breaking up school fairs and big people standing up and letting the little boys go through without manhandling each boy. If 10 men were to manhandle the 10 boys, we would not get those kinds of crimes. But we let them just pass through and nobody says anything to them and then you hear the boys have broken up the fair. The boys did this and the boys did that. How long are we going to go on with that foolishness because eventually they will be throwing stones at people's houses as they are doing in some areas. They are going to be killing people and then you will still be saying they were making fun.

Sir, my appeal today is for a place for young offenders. Try and get them some skills so they can get back into the society and back into the world of work and become good citizens. God is willing to forgive everybody but you have to ask for forgiveness and you have to serve your time and punishment too. Some people seem to forget that. Therefore, it is necessary for us not to try to create confusion in the society by trying to make these people feel that they are right or that they are heroes. That is another thing that I am against. People have committed very serious crimes and we are blowing them up all over the place like they have done the best thing in the society. If you have done wrong, you pay for your wrong and, when you come out, we will try to rehabilitate you.

Mr. Deputy President, I am saying that we must not only pass legislation but we have to make it work. We have many things in the law books, but how often do we implement them? There are several things we can point to that are not fair to other people. People are passing the road with all the bottles packed and they are falling off by the schools and nobody seems to think that is important. It is against the law to have these open trucks with quite a number of things. Nobody worries about the implementation so the implementation is an exercise which helps and assists in stopping a lot of the crimes. We have to be very firm in this society and stop playing around with foolishness. Do not care how much we talk about solving crime and we all do not get involved by feeding the police with the information and trying to make peace, this society will never be able to stand on its two feet again except when we all get involved.

Mr. Deputy President, that is my contribution. I am very happy about the legislation but I also want to see things implemented and I want to see the media heavily involved in the exercise of implementation. Thank you, Sir.

Mr. DEPUTY PRESIDENT: Senator Lewis.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, we have been going beyond the lunch time. I am persuaded to allow one more contribution and then move the suspension for lunch.

Mr. DEPUTY PRESIDENT: Senator Straughn.

SENATOR Mrs. A. STRAUGHN: Thank you, Sir. This law in place I consider a good thing and my comments I would like to make in respect to Page 3, Section IV in particular. As Senator Fraser just voiced and I have been trying to voice for a little time but her arms are longer than mine, effective implementation of these measures is paramount and will require maybe eternal vigilance. It will require a great deal of knowledge and understanding generally. But our Police Force above all is saddled with tremendous responsibility, authority and power. I make a strong appeal for serious intensive and comprehensive training and re-training programmes for the members of the Police Force. They must be armed, Mr. Deputy President, with more than power because we know that power can corrupt. Professionalism, integrity, good mature sense of judgment and initiative – these are all attributes which enhance dignity and correctness with which policing ought to be done especially in the area of criminal offences. It behoves us therefore, Mr. Deputy President, to equip the members of our Police Force above all else with the necessary skills, techniques and, if we can, trained minds so that they do not make mistakes through ignorance or otherwise that can place them in some cases in situations that can set them up to public ridicule and even contempt, situations which may make them lose the support and respect of the society that they are meant to protect which they really need.

Mr. Deputy President, at this point, I should like to throw a bouquet to the Police Juvenile Liaison Scheme. This Scheme puts its energies in the direction of family counselling and by extension in the direction of the alleviation and prevention of crime. Albeit it may be long term, the young developing minds profit tremendously from this service. They learn to appreciate in large measure human values and, to reinforce what Senator Mottley said earlier, I should like to add here that I am a member of a committee which is making a strong drive to revive the education of human values in our schools and I am sure it will pay off. I am emphatic, Mr. Deputy President, on this particular point that in this crime-ridden climate serious consideration must be given to the adequate educating, training and re-training of the members of our Police Force and the delegation of effective use of the human resources within the Police Force. If ever we needed a strong, fair, well trained, properly organised and properly treated character building or character rich Police Force so that they can earn the respect, cooperation and support of the society at large, Mr. Deputy President, it is now.

With these remarks, I support the Bill.

SUSPENSION

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I beg to move that this sitting be now suspended until 2.15 p.m. today.

The question that this sitting be now suspended until 2.15 p.m. today was put to the Senate and agreed to, and Mr. DEPUTY PRESIDENT suspended the sitting accordingly.

1.15 p.m.

RESUMPTION

Mr. DEPUTY PRESIDENT: The sitting is now resumed.

SENATOR THE REV. CANON J. L. SPRINGER: Mr. Deputy President, the advantage of speaking this late in the debate is that most people would have said the things I had in mind to say, but I would simply like to underline one or two things.

From the kind of legislation we have been introduced to here, Sir, and also that we have dealt with over the last year and a half or so, the impression one gets, I think, is that we are moving into an area of greater responsibility in this country. There is a biblical maxim that says that to whom much is given much is expected. It seems to me that the trend in much of this legislation is to give more power to more people. We see in the case of the legislation on rape, for example, and *in camera* hearings the Judges being given the authority to decide whether or not certain cases should be *in camera* or otherwise. We see, as in the case of praedial larceny, the power of arrest being given to constables and so on, the power to search. In the case of the Domestic Violence Bill we see the first occasion, I think, of the ability to enter and search without a warrant and now we see it repeated in this particular bit of proposed legislation here.

I see this as something positive. I am not being critical of it, I see it as a way of saying that we have reached an age of maturity in society and therefore know what to do with and how to use this kind of added power. Therefore, I think we have to look very carefully at the kind of people who will be wielding this power. Senator Straughn was at pains to point out, Sir, that we have to make sure that the police are well trained. Perhaps we will need to go a step further back and look closely at the kind of persons we choose to be policemen in future if they are to demonstrate this kind of maturity in the wielding of this kind of power.

That is my first point, that here where the police and other such personnel of the courts are concerned, we are going to have to not only train but look carefully at the kind of people who are given the power.

Then there is the involvement of the general public. I do not think we can regard ourselves as having achieved anything or being even ready for this kind of legislation except we make the public aware of its responsibility in the whole matter of these new and interesting bits

of legislation. As somebody said earlier, Sir, just to have the legislation itself will not be enough. It does not operate in a vacuum, so the people must know of the power of the authorities and they must know what are their limitations and their rights with regard to legislation of this nature. Therefore I would wish to anticipate that there would be some kind of an educational programme put in place by which people are made more aware today than they have ever been of the implications of legislation of this nature.

I think we have tended to wait for sentences in the courts to provide the kind of deterrents we hope would be there where the law is concerned. When somebody is sentenced you get to know what is the extent of the sentencing, but I think it would help if there is some mechanism, whether it be through the educational system or some new approach, that would cause citizens to know exactly what the implications are, what the sentences are, especially if we hope, as I think we should, that all this modern legislation should help to act as a deterrent to the kind of criminal activity we have been witnessing here in this country over the last several years. That point really is about the law as a deterrent, but people cannot use it in this regard if they are not made aware of the provisions of the law.

I notice that the ordinary citizens are being brought into the process, as in this case where the right to arrest, which is referred to in clause 4, is not restricted to the police but to ordinary citizens. I wonder how many Barbadians are aware that people will now have, coming out of this legislation, the right to arrest somebody in their own right, a citizen's arrest as I think it is sometimes called. So all in all, Sir, my plea, in supporting this kind of legislation, is to make sure that we are ready for it, we are prepared for it, we are either trained or chosen as suitable persons for it and to make sure that people are aware of their participation in this.

Thank you, Sir.

SENATOR T. E. BARKER: Mr. Deputy President, I rise to support this Bill, especially since I note that this was one of the items we had in our Manifesto for immediate implementation, the Criminal Law (Arrestable Offences) Act, so I am very glad that the other side has read our Manifesto and has taken note of some of the things we said we are going to implement. My only wish is that they read it some more, because it is full of revolutionary and far-reaching measures which will obviously be to the benefit of our beloved country. If the Leader of the Senate wishes a copy, I will gladly give him my copy and let him be educated.

Sir, this Bill gives wide necessary powers to the police and, as the last speaker said, to citizens in making arrests. Much has been said about the police. I want to go on record as being a supporter of the police. I have over the years been consistent not in supporting everything they do, but in supporting them as a body, because I recognise not only the importance of their job but the difficult circumstances under which they operate.

I want to make a plea for the police to be given special consideration with regards to equipment, training and manpower, especially in these tight economic circumstances, that they be given the equipment to help them to carry out their job effectively. Sir, I was a bit annoyed some months ago when the police were at my house and I noticed that the aerial on the car was an old clothes hanger. I was taken aback to see that in this day and age the police vehicle had no aerial but an old clothes hanger, which they undid and used.

Mr. DEPUTY PRESIDENT: Are you making the point that they were being quite creative?

SENATOR T. E. BARKER: Sir, I was making the point that they had become impoverished.

Mr. DEPUTY PRESIDENT: Oh, I did not quite get the point. Thank you.

SENATOR T. E. BARKER: Under these circumstances, Sir, it would be difficult to ask men and women to perform. In addition, the officer told me that he dared not chase any criminal in his car because the car was not in a position to engage in that sort of chase. I only say that to highlight that in these trying circumstances the Police Force is operating under a lot of difficulties. Not only equipment, but also the whole morale of the Force, as was mentioned before, is low and they are undergoing tremendous pressure from the population. Not only that, every minute you open the paper you see the policemen are being shot at. It is a thankless job and at times the public does not fully understand the difficult circumstances under which they operate.

Sir, I wish that this Government would make sure that, given all the prevailing circumstances, our Police Force remain in a state of readiness to combat the high level of crime. I was very disappointed when I heard the Minister of Justice say some months ago that he does not want anybody with 'A' and 'O' Levels in the Force. That was very unfortunate, because in this day and age when the criminal minds are getting degrees and they are operating at a different level, the police need the necessary training and skills to operate at a level above the criminals. So if the criminals are getting B.Sc's and B.A's, the police have to combat those by making sure that they remain one step ahead. If anything, we need higher trained people in the Police Force and people who can make full use of the scientific advances, the advances in computer science, because as was said earlier in this Chamber, most of the cases now that go before the High Court are prosecuted on the basis of a confession. The other corroborating

evidence is very often not there because the police in some cases do not have the equipment or the know-how in order to get the necessary evidence. There is a case for the Police Force to be upgraded, not only in terms of numbers but in terms of skill, equipment and such like. Whenever anything happens to any one of us the first people we will call are the police. When they do not have the equipment and they cannot come we will know what the end result is likely to be.
2.30 p.m.

I also want to join in a plea for special treatment to be given to young offenders. It has been said already in this debate but I would like to add my voice to that. The 18 year olds who foolishly commit an offence are put in jail with hardened criminals and the end result is that they go in soft criminals and come out hardened because the training they get up there is not of the desirable kind. There is a case to be made out for a separate institution where young boys who get involved in trouble are given every opportunity to be reformed. I am contending that it is not going to happen if they are mixed on a day to day basis with people who make crime their livelihood and their life's passion.

I know that we are going to talk about the costs. Everything has a cost factor, but there is also what economists call cost/benefit analysis. You not only look at the costs but you also look at the benefits. Sir, we know what crime has done and is continuing to do to our tourist industry which is the industry upon which our survival to a large extent depends. To spend extra money trying to help these young boys pays off. If we can reduce the level of crime in our country, it still has the potential to attract 500 000 a year. If the level of crime is not brought under control, then we will see a continuing deterioration in numbers of people visiting our shores. Although we will spend more money in the correctional institution we will be able to sleep better because there is one less young man or young woman out there on the road who is willing to break into our homes.

This brings me now to the whole idea of penalty. I believe that there are three types of people. There are people who will commit crime regardless of the penalty involved. There are those who will not commit crime regardless of the penalty. They will never commit a crime. They do not care what the penalty for stealing is because they don't want to know because they will not commit crime but there is a third group of people who will not commit crime because they fear the penalty. That group is the one we have to target.

I believe that one of the best means to halt and reduce crime is if we can catch the persons committing the crime and secondly punish them accordingly. Punishment is still one of the best deterrents because all of us know that in growing up our fathers did not have to lash us but the mere fact that the belt or the rod was there served as a deterrent. We would not commit certain offences because we know that our fathers as soon as they found out would punish us severely. The fact that the penalty is there serves as a powerful deterrent against the commission of these offences.

Sir, the death penalty is nothing that we take lightly. The taking of a life is one of the most agonising decisions that a community has to take. Much has been said about the death penalty and much will continue to be said but one thing I do resent is when people say that because there is a death penalty we are not civilised. I read in the newspapers that people say we are out for revenge. That is utter foolishness. When I hear people who are supposed to be intelligent making these comments...

Sir, society must be based on one principle and that is if a person wilfully takes a life then that person should forfeit his life. We are now going to hear about human rights but what about the rights of the individual to live in peace? What about the rights of the individual to enjoy their fathers and their mothers without somebody damaging them. Sir, I have rights and I feel strongly. I don't like jail but I will tell you this, and it can go on record, that if somebody troubles anybody belonging to me I would gladly endure the penalty. I am clear on that because I value my family. Who gives another person the right to end their lives. No one has that right, and if he does that, I feel that he should forfeit his life because he has wilfully taken that which he cannot give back. It is as clear as that. That act deprives fathers of children and children of fathers, husbands of wives and vice versa and the damage is untold. When that is done then we hear groups getting up and talking about human rights and that we are uncivilised because we have the death penalty.

Sir, I believe the death penalty is one issue which divides political parties and divides friends and family because we are all very emotive when it comes to this issue. It should be reserved for the worst kind of murderers and it should be there as a deterrent. The fact is that we have people on death row who have exhausted their appeals and the State will not decide what to do with them. For years, the State will not decide on whether to commute the sentence or carry it out. I feel that is wrong. When a man has exhausted his appeals, as soon as practical the Mercy Committee should advise the Governor General as to the merits of the case and sentence either carried out or commuted there and then. To have people for years on death row cannot be right.
2.40 p.m.

Sir, I feel in this whole thing that the State must take responsibility. They have fallen down on their duty. If this escape did not take place last year we would have heard very little about the whole debate. I think the Government must act on this matter. We either have a death penalty

or we do not have it. We should not allow our personal prejudices and preferences to interfere in this regard. Whether or not a particular Minister likes the death penalty is immaterial. He is there to carry out the law. If there is a feeling that the law is to be changed, there is Parliament. Let the law be changed. But as long as the law is there, I feel it should be carried out.

I have spoken in here on many occasions about the law because I am a strong believer in the law. It is not always perfect but it is all we have. We as lawmakers should be looking at the law, as we are doing now, and seeking to improve on it. The law is dynamic in a sense. It is not something that is put there and never looked at again. It is always looked at. If the Government feels the death penalty ought to be abolished, let them bring the necessary legislation to Parliament and then let Parliament decide on it. As long as it remains on the statute book, as soon as the appeals have been exhausted, then the State must decide whether or not they are going to commute the sentence or have it carried out. I am clear on this that the State fell down in this regard by allowing the matter to just stay there hanging for too long. If anything, Sir, I feel it is a denial of human rights.

One last point, Sir, that is the length of time it takes for cases to be heard. We will probably have a chance to speak on that later but the point is that it takes too long in Barbados between the arrest of the offender and the trial. A fellow could be innocent and he spends a year or more in Glendairy, the jury finds him innocent, but he still would have been deprived of his time, family, money or whatever for a long period of time and he was innocent. Therefore, I feel we will have to find a way, without interfering with his rights or the State's rights, to ensure that these cases are brought to the courts more speedily because justice delayed is justice denied. It is a maxim but we know how true it is when a person spends $1^{1}/_{4}$ or 2 years up there then goes free but he has already spent his 2 years up there. I appeal to Government to find a way of speeding up on these cases so that everybody concerned, both the State as well as the individual, would have justice dispensed in the shortest possible time.

Sir, with those few words I am going to support the Bill. I wish that Government will read again and see that there is need for a new Evidence Act and move speedily to improve our criminal justice system.

Thank you.

SENATOR A. MORRISON: Sir, I rise to just make a few observations on this Bill. I am in support of it. I feel we have reached a time in this country where there are many theories being developed about the situation of crime. This Bill has been very long in coming. Possibly it was formulated during the time of the Barbados Labour Party's Administration but it was never brought to Parliament. It has now reached here. It is true it has given certain extraordinary powers to the police and it deals with certain aspects of crime but I do not think at this time we should be making too much of a row about the powers or the kind of latitude the police has in these matters. To me nobody seems to understand what has happened all of a sudden to this country as far as crime is concerned. I do not know the answer. I do not know the origin. Many people do not know the origin. Even the different organisations do not know the origin of these things. Human society is never static. It is always reorganising itself in an infinite manner. As a result of the turmoil in society we have these situations developing in societies from time to time.

What we need, Sir, in this atmosphere as it is now is more understanding. We should spend a lot of time in understanding what is going on rather than producing verdicts. What we should seek from the historical process is to analyse what has gone before, what we are experiencing now, and try to come to some commonsense solution to all that is happening around us because history is not a hanging judge. It is supposed to be a fountain where we should get some kind of inspiration to deal with this situation.

The law courts, the judges, the magistrates need to be tolerated at this very time. The police need also to be tolerated. I am not a defender of the police but I think that in this case where there is widespread lawlessness in some instances, and where crime seems to be part of the regular pattern of society, this is not the time to find fault with the police or to even question them on certain things concerning their activity. We have to band together. Politicians are even at risk in this day. People are questioning politicians. Their existence as politicians is even more precarious in this day and age than ever before in the history of our Parliament. Not only politicians are at risk but the judges and magistrates are also at risk. The police is under fire in the society. Unless the institutions that have to carry out their duties hold firm and arrest this situation, then we would all be exposed to the most turbulent things that can happen to a society if we show fear, panic or give in.

This is the time all of the different institutions that have to play a part must be bold. We must stand up to what is going on and try to find solutions and understand what is happening to the youth in this country because the greatest investment a country has in order to move on in society is its youth. No amount of money is sufficient if you are going to spend it in order to find solutions for your youth. You have to turn the evil into some kind of good. Evil, to my mind, Sir, is undeveloped good and somebody...

Aside.

SENATOR A. MORRISON: Yes, Sir. There is nobody who is evil in his entirety or nobody who is good in his own entirety. You can regard evil as undeveloped good. I am looking at this thing from a philosophical point of view. I do not want to come down to the point where I want vengeance, I want this or that. I want people to have a philosophical look at what is going on wrong among us. The psychologists cannot give any answers. The psychiatrists seem not to be able to give us the reason for these things. But there is a phenomenon going on which we are forced into. We must try. We must keep probing until we understand what is going wrong with our society.

It is true in this regard the law must be firm because when things attempt to get out of hand you must have firm resolve in order to deal with the situation. I do not even know if the young people know what they are even doing. They have gone so far with this way of life that anything goes now. You do not know how far the drug situation has got into this society that people are more hooked on drugs that they see violence as something like how we create sport otherwise. For them this might be the "in" thing to do. In all of these things we do not know what has happened and we must make meaningful approaches now. 2.50 p.m.

We must get all the disciplines together and sit down and work out something where we can arrive at some kind of framework whereby we can deal with this situation. It involves the police. It involves the public. It involves the courts. It involves the legislators. We must not fail the country at this very vital time when the mob and the rabble would seem to think that they have the country in their hands and that they can prey on an innocent society and produce all kinds of horrors to it, mental horrors, physical horrors. All I am saying, Sir, is that we must be firm, we must ban together and we must try to find out what has gone wrong in the last couple of years in this peaceful and quiet society which we all have been accustomed to in our grandfather's days, in our father's days and in our own generation our children now are subjected to the kind of bombardment from the evil influences which lie in snare which could capture my child or your child; at any time they walk out there in the streets you can hear something happening to them.

I welcome this piece of legislation as a firm start. The Police need to be properly trained. I agree with Senator Straughn, I also agree with Senator Barker that the police should be properly trained. They should be given training courses in forensic work so that you do not have to go out of your way to get a confession out of a prisoner. If you are trained properly in forensic work you would do your work the right way and you would get the same result and also a better means of solving your crime situation. We need to make sure that the courses are available for the Police Force on a continuing basis. It is true that there are many constraints at this time but usually you find the kind of promotion policy which has been exhibited in the Police Force over the years tends to reward the ones who study more and are less active on the beat. If the fellow who goes out there and catches criminals finds himself taking far longer to get to the top than say another fellow who goes home on evenings – an 8.00 until 4.00 job or 9.00 until 5.00 job – but is more scientific more or less by doing work in the office. They become the officers eventually. Then you have the kind of low morale situation which would develop in the police force which tends to make people say "I have caught all the criminals all the time and I do not get any promotion. Let the other fellows go and catch some." This could really destroy the morale of men not only in the Police Force but also at the Prisons, if the wrong people continue to get promotion at the expense of the other workers who are always out there very active in trying to help solve crime. These are human situations.The law courts need to be properly staffed and given the equipment that they need in order to carry out their functions. All of these things are necessary at this time. The Government has to have a consistent policy along with this legislation of trying to give the police the tools that they need as well as the courts the tools that they need in order to bring an abatement to this kind of activity. In the meantime as we go along try to eradicate this kind of lawlessness which has become very prominent now in our society and which would tend to undermine the very structures of a society which has been hitherto very successful, very peaceful and very happy.

Sir, with those remarks I would like to support this Bill.

Mr. DEPUTY PRESIDENT: Senator Alleyne.

SENATOR Dr. F. W. ALLEYNE: Mr. Deputy President, in rising to support this Bill, I must say I am happy that Government has taken quite seriously to the task of reforming the legal framework to deal with crime.

For quite some time in Barbados there has been this growth of criminality in our society. I think it is only in recent times that some of us have become alarmed about it and some people like to talk about crime waves. I do not believe there is any crime wave in Barbados. As I said earlier there has been a steady growth in criminality at different levels. We see the young boys on the streets. But what about the people committing white collar crimes who are never brought to justice? When you go in the courts in Bridgetown, who do you see there? A lot of the elements from the low level of society. That is not to say that those from the upper echelons do not commit crime and more serious crime. That is something which we have to address in this country.

Senator Mottley in her contribution – I agree with many of the things she says, but of course I disagree with some of them – referred to me as a hardliner on matters

of crime. Mr. Deputy President, I do not know what Senator Mottley means by a hardliner. If she means that a hardliner is one who sets out clear rules and is guided by those rules then I am happy to be a hardliner. That is how I operate.

I have always said to my children if it should ever happen that any one of them was dealing in illegal drugs I would not wait for the police to arrest them. I would arrest them myself and take them to the police station and give them my evidence. If the police want to charge them and put them in prison, not a penny of mine would go for their legal defence. I am very, very clear on that. I always tell my wife what the position is. Not a penny of mine. If she wants to defend them, we would have another matter to settle. I am not a hardliner. My rules are clear. I am not bending them to suit anybody.

A lot has been said about youth and crime and I disagree with a lot of it. The vast majority of youth in Barbados particularly the females are industrious and highly motivated people. Nobody can deny this. The problem is we have a couple hoodlums and the press give them too much attention. What is worse you have elements in the public who aid and abet them and try to obstruct the police in the process of doing their work. The society has to frown upon that kind of conduct. Their time is going to come when the very people who are aiding and abetting these criminals will suffer at the hands of these criminals.

I do not believe that our young generation is lost at all. Year after year you see the outstanding performances of our young people. I looked at this morning's NATION newspaper and on the front page you see some what you call homemade shotguns and I stop to think about it. The people who have made these weapons have skills. I said to myself we better start an export industry in weapons. You argue for Skills Training facilities. Mr. Deputy President, I would not put it beyond the realm of possibility that some of these skills provided in these Skills Training centres welding and so on have been used to create these weapons. I think we should put it in a positive direction, if these fellows are going to make weapons, let us start an export industry. That is one of the biggest industries in the world. But do not let us use these skills to destroy this country and terrorize people. I have no difficulty in joining with Senator Barker. I would take off their heads as soon as possible. I have no reservation on that. I am very clear on that. I don't believe in taking away life, but if you do not have regard for life, you don't deserve to live. It is as simple as that.
3.00 p.m.

I know the Government is a signatory to a convention which requires that young people under 18 years of age should not have to face capital punishment. Mr. Acting President, I disagree with that. If you are old enough to plan to kill somebody you should be hanged. I am very clear on that. Don't tell me because you are 16 and 17 years you cannot be sentenced to death. I am not saying that the recent spate of under 18 year olds committing capital offences has anything to do with that convention. It might just be a matter of association. All I am saying is, I am in fundamental disagreement with that position. If you have that capability to plan to commit a murder, pay the final price.

I am not subscribing either to this false psychology about why people commit crime. A lot of that psychology is responsible for the crime we are facing today. I remember a case when I was a young teacher – a lot of years ago – in training college. A very renowned psychologist, had written quite a lot on the subject, went somewhere to a park, took along his little son with him. The son was giving him no end of trouble; he could not get him controlled. He was embarrassing the man's friends. He called his son and he whispered something in his ears. The little fellow went and sat down. His friends asked what it was he had told him and he said: "If you don't keep yourself quiet, I am going to lick your blasted brains out".

Mr. Acting President, the problem we have in Barbados today, as I see it, is one where the pendulum has swung full circle. When I was a boy, there was tight control, very tight control. Notice I did not say self-discipline. There was tight control and it was the mothers who controlled us. You dare not run afoul of your mother. Not your father, your father would talk and threaten you. It was the mother who used to share the lashes. Today that control mechanism has broken down for a vast variety of reasons and irrespective of what laws we put on the statute book, if we do not address the sources of that breakdown of control and try to inculcate some kind of self-discipline in our society we are throwing water in the sea.

Quite recently I heard the wailings of a couple mothers that were going to lose their sons by way of execution. What struck me is that they were praising them and saying what nice boys they were and the bad company they kept and then one fellow got into bad company.

I also remember, Mr. Deputy President, again when I was a teenager, I remember a lady was scolding her son a night and each time she gave him a lash she said "I tell you keep from bad company". I was fairly mischievous at that time and I shouted "Why he is the bad company". I did not realise when the licking stopped and my goodness some boulders came from on high, from the same fellow who was getting the lashes. I say that to say this, very often, and particularly mothers, when they see the children doing wrong things they don't stop them. It is when the police have them that they are going to mortgage something and run to the lawyer and wake him up midnight and bring him out of bed; but they never tried to stop them. Sometimes they send the children out to

steal. Sometimes they say, you must bring more next time. Children come in with all kinds of things and they are not interested in where they get them from. This has been growing in Barbados for a long time.

I fully agree with a remark Justice Belgrave made quite recently that drugs appear to be at the heart of most of the crime in Barbados. I am not averse to dealing with these drug men in the way in which those Islamic countries deal with them. I am not talking about the fellow with the little spliff, who is just plain foolish. I am not talking about that kind of person. The drug man is doing more damage in the society than the fellow who is walking about with a gun shooting at people. The difficulty is holding those fellows. That is the difficulty – bringing them to justice. I have no difficulty in putting those drug men before a firing squad. I would not even hang them. Put them before a firing squad. They destroy our young people. When you destroy the youth of a country, you destroy its future.

In the course of the debate I think Senator Barker made a remark about tourism and crime. I think there is some evidence in Barbados that some of the tourists who come here contribute to the crime. It is not a one way thing. There is evidence that some of the visitors claim that they have been harassed, that they have lost articles and so on when in fact it is not so. There is also evidence that sometimes some of the criminal offences perpetrated against visitors have been done by visitors.

I will go further, Senator Barker spoke about if we could see an abatement in this crime we would get more tourist dollars into the country. I am not so sure about that. It is my belief that quite a couple of the hoteliers do not bring the money into the country and I would like the Government, very soon, to link the tax breaks in the hotel industry to the balance sheet of the hotels. Show me your foreign exchange earnings and what you deposited to the banking system in our country in the last 12 months and you can get tax breaks corresponding to that. I am not going to go down the line with Senator Barker on this business about abatement in crime is going to see an inflow of foreign currency from tourism. Some of these hoteliers are carrying this country for a ride and this business of begging like beggars, I want this, I want that, otherwise I will close down my business. That has to stop. The Government has to hold these people accountable. You can't come every year and get tax breaks and then keep on saying your hotel is not doing any business. That is crime too.

A little fellow breaks into somebody's house or picks somebody's pocket, that is crime. The person who should go to work at 8.00 o'clock and is coming in at half past 9 and leaving at 3.00 o'clock, that is crime too. When you have supplies for an institution and the workers of the institution appropriate them to themselves that is crime too. 3.10 p.m.

Mr. Deputy President, a lot has been said about the police. I have great sympathy for the police. They have a very difficult job to do. I believe it is one of the most difficult jobs that any person can undertake in Barbados at this time. We recruit the police from this society and the same problems the society is experiencing the Force will be experiencing. You will risk to bet that in a population as large as 1200 you will find a couple of people who will run afoul of the rules. I believe that the public image of the police can be helped if an independent tribunal was set up to enquire into cases of misconduct by the police. This is not to say that the present Police Commissioner from all reports has not been very busy dealing with disciplinary matters. But I believe that you should not be judge and jury in your own case. I will argue that in order to restore the public confidence in the police that some independent assistance might be necessary.

Some reference was made to a comment by the Minister of Justice and I believe Senator Barker was well meaning in his attempt to interpret what the Minister of Justice said. My understanding of the Minister's statement was that the Police Force will not see the turn around which is necessary until you find people who view policing as a career rather than as a stepping stone to careers outside of the Police Force. I think it might have been a fortunate thing that he imported this business about "A" Levels and "O" Levels. I believe that I have said before that the critical test for me, as far as I am concerned for a good policeman apart from common sense, is character. It is not your degree or diploma but character. I believe that there is some merit in going back to the old system of recruitment where you sent people into the districts to investigate the track record of the people you were bringing into the Police Training School. A lot of people saw those old policemen and referred to them as "big men" because they were big but also men of character. This emphasis we are putting nowadays on the "A" Levels and "O" Levels and the degrees in the Police Force is a misplaced emphasis.

Mr. Deputy President, I think someone who spoke before me said that, with all this legislation which is being put on the statute books, unless it is enforced and enforced in a fair manner we are going to defeat the purpose which we set out to achieve. But I think that over the longer period I endorse fully the remarks made by Senator Morrison. We have got to try and understand what are the fundamental reasons which account for this very sharp rise in deviant behaviour among our youth. Only by that way we are going to get to the root of this upsurge in criminal conduct.

With those remarks, Mr. Deputy President, I support this Bill.

SENATOR A. J. N. PHILLIPS: Mr. Deputy President, in supporting this Bill like the Senator

before me, I would like to make a few observations on some remarks and comments made by Senators who spoke before me. Before lunch we had two excellent dissertations by two professional persons in law and they were of a philosophical nature and in each case each one was a subject to their own philosophies. I agree, Sir, with the Senator who just spoke that the question of crime has not suddenly just sprung on us. What has happened is that we failed to recognise the growth of crime and to have checked it properly when it was less difficult. One has to look at our society and to make observations as to how people respond to certain areas of crime to note where their sympathies lie and, in all general terms, to observe how they react to things.

Sir, I would like to note the activities in school compared with earlier days when I was at school and to observe that there has been a substantial breakdown at the school level. I am not sure what is the real cause but I believe that the disciplines in the school have been curtailed somewhat, because for one thing even in elementary schools the teachers are not allowed to flog the students. When I was at school and I got a flogging from my teacher, there is no way that I could go home and report to my parents that I had got a flogging because all that would mean is that I would get another flogging. But nowadays, Sir, this whole situation has changed and what a flogging would mean at school now is a confrontation between parent and teacher or parent and principal. This is very unfortunate because this tends, I believe, to make teachers less interested in the discipline of students and this too has contributed to a large extent to some of the breakdown that we have been having in the area of crime in our society.

Sir, one can also note the mode of dress and in Barbados like in other countries that if you do not appear to conform to certain standards, that is deteriorating standards, then you are seen as a person who does not fall into the general trend of things. You are scoffed at because probably you present yourself well as opposed to a person who is carrying oneself in a very shabby way. I have made another observation and again to compare with my school days. Sir, I can agree with Senator Alleyne that there are a number of very disciplined young people in our society, particularly girls as opposed to boys. One must admit that the girls are a lot more disciplined than the boys are. But if one can make an observation that sometimes when you pass on the street you will notice the types of boys that these girls who are dressed in uniforms are socialising with and communicating with, one wonders what is the criteria of attracting a lady's attention. I knew in earlier days that the better you were dressed and groomed that was the sort of thing that attracted attention. But I find now that the rougher you look and the more untidy you look that this seems to impress. I notice, Sir, that you will see a youngster buy a pair of the most expensive shoes from down town and he purposely has them all muddied-up and so on because this is how it has to be. In my day, Sir, you would prefer to get the whitening and make them look nice again. But this whole system is in reverse and that is the point I am trying to make. All of these things, I believe, add up to indiscipline and they all assist in creating what is a new sub-culture in Barbados.

Sir, the other observation is the question of weapons. A youngster now having a knife on him is like one of us having a handkerchief in our pocket. A knife is like part of the wear. In other words, when the shirt is held up at the back, there should be seen one of the longest knives that is possible as part of the dress – a sword, if you want to call it that. Sir, I believe if we had nipped some of these things in the bud... In other words, we could probably have brought legislation earlier to make the carrying of sharp-edged weapons an offence. Maybe if a few people had been punished in earlier times the sharp-edged weapons would not be what they are now.
3.20 p.m.

One has to examine what is happening in the area of criminal activity and be sympathetic with the police because we have been hearing recently of the police being accused of shooting. There was a time when, as in the crime of break and entry, if you had a gun you had an advantage over the burglar, but now if you have a gun, he has two. That is the way things have gone and the system is now more or less at the mercy of the criminal. Yet when it comes to the administration of justice it appears to me that the victims are forgotten very easily and the sympathy of a large number of our citizens, and some of them responsible citizens, seems to be heavily weighted in favour of the criminal as opposed to the victim. These are things that must concern us as legislators.

Earlier today when Senator Mottley spoke, she made reference and, I think it is the second time in this Chamber that she has done so, to a magistrate. The magistrate was not named today but I have an idea that there is some particular magistrate who (I do not know if he is incompetent or irrational) it seems to me is the subject of attacks very regularly. My observation is this. I am not here to defend him because I don't know who he or she is. I find that when it comes to Court (and if I am wrong I believe that the lawyers here present can correct me) a judge or a magistrate sees the Court as his or her Court where they are in full command. I gain the impression that they seem to feel that whatever they say goes because it is their Court. I cannot question our justice system, but my observation of Court gives me this impression.

If I may look at an area of our justice system that probably concerns me as it reflects back to my experience as a juror. I have served on the jury for 4-6 sessions. I remember when I served on the jury for the first time there was a murder case before our jury and there were two youngsters charged for murder where they were

supposed to have taken the life of a young male person. This goes back a long time. There was a very eminent lawyer who is now a QC who was representing the two accused and it appeared to me as a juror that there was a crystal clear case of the accused being guilty of murder.

It was then, too, Sir, that we began to have lady jurors. There were these two young lady jurors, fairly attractive, who when the jury retired, to my consternation and surprise when we began to discuss the case said, "There is no way that we are going to bring this man guilty of murder because the lawyer is too handsome." Nothing at all to do with the case. That was the way these two young ladies saw the application of justice. Here was a handsome lawyer. He did a good job all right but yet at the same time that was their rationale. They were nothing to do with the case presented. I do not know if that would reflect on our jury system or what. I am just bringing this as an example so that when those powers that be begin to look at the legal system in general probably these are matters that may catch their attention.

Sir, if I may reflect once more on the schools. I am the Chairman of a school board and on that board we have a disciplinary committee which deals with a number of matters including difficult students. Invariably, they present a written report to the full Board. Believe me, Sir, I have seen a report on about 6-8 students of that school. When you saw that report you could only come to the conclusion that here are candidates for Station Hill. The Headmaster was without hope for them. In our community how do you handle such a student? Certainly with the regulations from the Ministry of Education we, the Head or the Board, are limited to what we can do by way of discipline. These students are not candidates for us. These are candidates for another institution. When you read the reports they are just terrible. Maybe we might have to find a system whereby we can have people graduated through a system rather more corrective. I am not sure but those people who are connected with law and discipline and community development should be able to come together and bring up a meaningful paper to assist the Government as it develops these areas.

Sir, I think we have had a lengthy wait and as I said earlier I rose to support the Bill and that is my contribution.

SENATOR J. A. F. COLE: Mr. Deputy President, I rise to support this Bill. As Senator Phillips said, we have had a long debate. It would be difficult to cover entirely new ground but there is a point I would like to make. I believe we touched on it and I would just wish to reinforce and make it a little plainer. We talked about the practicality of the legal system especially as it is referred to without infringing on the rights of the accused. I would like us to be a lot more aware of the rights of the victims. At the end you will find that in nearly every case the victims are the ones who are paying for the whole system and making it work.

What I am saying is not conjecture, Sir, because I have had the misfortune to sit on both the murder trials relating to my father and it was astounding to hear about everybody's rights but the old man down at the Westbury Cemetery had no rights at all. Really, anything even alluding to his rights was considered quite out of context and nothing to do with the proceedings.

I want to say that I wish that when we look at these new laws which I think are quite timely and very much in order, we remember the accused may be very nice but that is half the story. Don't let us ever forget the victim's side of it.

The other thing I would like to say is that I agree with much of what Senator Alleyne and a lot of Senators said today. There is one point raised which I am not quite going along with and that is when Senator Alleyne said that he is not too sure that the high rate of criminality is affecting the tourist trade to such an extent and that there are other elements of criminality in the trade. I agree with him on that element section but I do believe that this level of criminality in Barbados is central to the recovery of Barbados as a nation and to the Barbados economy. It is central because it is making Barbadians feel uneasy. As you say, we all feel captive. Before we enjoyed an outdoor life but now we enjoy an indoor life when we would like to be a little more outgoing. Our visitors are simply not coming here. I think we should always remember that when a visitor comes to Barbados while he does pay a certain amount into his hotel he pays a lot of other money in going on cruises, hiring a car and going around the island or paying his taxi fare. He spends his money very widely. That is not going to happen. We have to get on top of this thing and let it be seen that we are doing it and we have results.

3.30 p.m.

I do not think it is just a feeling I have but since we had the threat of the hangings 2 weeks ago, it seems to me as if a dampener has been put on all criminal activities. People who say to me that it is not a deterrent, I think in the last 2 weeks we have seen evidence that it must be a deterrent. It is like if someone has sprayed a freezing solution on the criminals and they have just stayed indoors. Not a bird has been stirring, whatever the little expression is. I do not want it to be said that I am looking for revenge but if revenge is seeing that the law of the land is carried out, then I am looking for revenge.

One other point, Sir. We have touched on the police. The police can only work with the tools they have. I will go along with that. I am not sure we need more policemen but I would like to endorse the fact that we do need a higher calibre of policemen and this calibre is not

coming from his degrees or academic achievements but from his character. If he does not leave home with that foundation of character he is not the man for the future.

Secondly, I think he must be given accommodation where he would see it and say, "I want to work in that place." These water-sodden old rubble stone buildings we have for police stations are not good enough in this day and age. You cannot house modern equipment in those buildings. These people we are looking for now to do the policing of the land have to be computer oriented. The whole picture has to be made more attractive to them. If we go along that line we would be able to achieve something.

One last point, Sir, and it is this. In this day and age when even the most junior executive or even a member of the middle management is thinking in terms of total quality coming from management, we have to be very careful when we say the crime in Barbados is not any worse than New York because that is terribly negative and lacking in all concepts of quality management. We have to get it back to where it was, much lower than the rates that are being experienced or recorded in various metropolises. With that, I have no more to say at this moment. I support this Bill.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, we have had a long and interesting debate, contributions which are very worthy of Honourable Senators on both sides. One comment made which I feel constrained to repeat was there was an observation that there was not even a single person available to make notes of some of the very important matters which were raised, not only by way of question but by observation. I think this is a message which I shall have to communicate to another place because, if as Leader of Business in this Senate questions have arisen on which I am unable to speak, there is not a single public officer whom the bureaucracy deigned to make available to us. Today I notice even the sole officer from Cabinet Office has not been with us.

Aside.

SENATOR THE HON. L. V. H. LEWIS: Well, you are not in the Senate if you are outside. I propose to do something about it because it seems to me to be a shocking state of affairs. I have no carrying bag for any public officer. If the bureaucracy does not behave itself I am, like any citizen, able to speak out about it. I think that with a matter as important as this, the Criminal Law Bill before us, the appropriate Ministry should, at least, have had a single officer here to be able to make notes of the very important points which were made by the way. I am only repeating what was said on the other side, but I support what they said.

The second matter is that this Bill has even further reaching consequences than might have appeared when it was presented in the first instance because in the Schedule to the Bill, certainly in the Second Schedule, there are several enactments being amended which will give further teeth to this Arrestable Offences Act. I draw it to the attention of Honourable Senators on both sides that there are far-reaching consequences and in some instances, substantial amendments, for instance to the Coinage Offences Act and the Criminal Procedure Act, both of which are important.

Also it is important to note in passing, Mr. Deputy President, that arrestable offence includes conspiring to commit an offence, attempting to commit an offence, inciting, aiding, abetting, counselling or procuring the commission of an offence. This would include offences fixed by law, offences for which a person may by virtue of any enactment be sentenced to 5 or more years imprisonment, offences for which a person may be arrested under the Customs Act, and offences under the Official Secrets Act and under the Prevention of Corruption Act.

I mention these because within the last 2 weeks, at least 3 public officers have said to me they felt helpless to do anything about offences which were known to be undertaken under the Customs Act and a customs officer said "I am not touching them until there is some amendment to the Act." I do not know what public officer should be saying this but this was one public officer to another public officer. The law now authorises that other public officer to do something about it because he can carry out a citizen's arrest.

In addition, there seems to be a view that offences under the Official Secrets Act are *passé*. When on another occasion I made comment to what was possibly an offence under the Official Secrets Act the news media had other things to say about my attacking people when, in fact, all I was doing was drawing attention to the fact that the long arm of the law should be available to reach out to some of these persons who commit offences, if not under the Official Secrets Act they border very closely under what the Official Secrets Act is supposed to proscribe.

Mr. Deputy President, with those brief remarks I beg to move that this Bill be read a second time.

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 THE REV. CANON J. L. SPRINGER in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is now in committee.

Clauses 1 – 4 inclusive were called and passed.
3.40 p.m.

Clause 5 was called and passed.

Clauses 6 – 12 inclusive were called and passed.

The First Schedule was called and passed.

The Second Schedule was called and passed.

On the motion of SENATOR THE HON. L. V. H. LEWIS the passing of the Bill in Committee was reported to Mr. DEPUTY PRESIDENT 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.

CRIMINAL DAMAGE BILL, 1992

Order No. 2 was called – To move the Second Reading of the Criminal Damage Bill, 1992.

Mr. DEPUTY PRESIDENT: Senator Lewis.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, this Bill seeks to simplify and to reform the law as it relates to offences of destroying or damaging another's property. The simple offence replaces a multiplicity of offences of damage in the Malicious Injury to Property Act, Cap. 140, the common law offence of arson, offences of damage to property in various enactments mentioned in the Schedule to the Bill.

Mr. Deputy President destroying or damaging of property is made an offence when accompanied by the required mental element. The offence must be done either intending to destroy or damage property belonging to another. The action should be reckless as to whether the property belonging to another is destroyed or damaged. The damage is not to a particular property but of any property belonging to another.

In addition there is provision for the offence of aggravated damage where a person destroys or damages any property intending to endanger the life of another. The aggravated offence attracts a maximum penalty of 20 years imprisonment and it is immaterial whether the property destroyed or damaged was the property of another or the defendant's own property. The Bill seeks to create 2 new offences. It provides that a person commits an offence where that person has anything in his custody or control and intends without lawful excuse to use it or to cause another to use it. To destroy or damage any property belonging to another or to destroy or damage his own property or the user's property, as the case may be.

The Bill preserves all existing offences. In addition certain lawful excuses are provided for. Where there is an honest belief that the owner of the property concerned had consented to its destruction and where there is an honest belief that it was reasonable to destroy or damage property to protect property belonging to another person. There is provision for a maximum penalty for arson under Clause 3. It is 20 years imprisonment. The penalty for conviction for an aggravated offence, under Clause 4, whether or not arson is involved and for any other offence a person is liable on indictment to imprisonment for 10 years or on summary conviction to imprisonment for 2 years or a fine of $2 000. There was an Amendment in the Other Place or to both. That is in accordance with Clause 9.

The Rule of law, Mr. Deputy President, which prevents a magistrate's court from trying offences of this type when a dispute of title to real property arises is abolished by Clause 13 of the Bill and in Clause 17, arson as a common law offence was abolished and is now strictly statutory.

Mr. Deputy President, this Bill is really part of the comprehensive reform of criminal law which is taking place. This Bill proposes to simplify and reform the law as it relates to offences of damage to property.

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

Mr. DEPUTY PRESIDENT: Senator Mottley.

SENATOR Miss M. A. MOTTLEY: Thank you, Sir. Sir, I just wish to make a few comments which relate to the general policy of the system within which this Bill is expected to function. I started earlier but there were one or two things that time prevented me from dealing with.

Once again the Criminal Damage Act, as the Honourable Senator just indicated is only part and parcel of a series of Bills on criminal legislation that are being brought before this Chamber fairly quickly. As I indicated earlier while it is good and proper to update the substantive offences, the law as it pertains to the substantive offences, unless you deal with how the system functions you are going to find that the form of the legislation is not going to be as effective as we might otherwise have hoped for.

One of the things I earlier called on the Government to bring is the Criminal Evidence as a matter of urgency. But there is also the whole question of the need for regulations governing the conduct of the Police Force, regulations which have the force of the law to replace the Judges Rules of 1964 which are still operative in Barbados although they were abolished in England by the codes of practice coming under the Police and Criminal Evidence Act of 1984.
3.50 p.m.

Sir, these Judges Rules are the rules which govern the conduct of police officers as they relate to people who are arrested with these types of offences and one of the things that has been found unsatisfactory... Although there was a Privy Council decision relating to a case, an appeal from Trinidad and Tobago, which held, as recently as last year, that there was a duty on the police to inform people of their rights under the Judges Rules, that in fact, in practice, it was hardly ever done other than even only just preemptory referral to them. But the Privy Council has stated that you need to go even further and that you have to ensure that the accused understands these rules and understands the full import of them as it relates, not only to his not saying anything unless he wants it to be used against him but as it also relates to the right of counsel. So that I am calling on the Government to urgently look at the implementation of codes of practice relating to the identification of accused people, relating to the detention of suspects and prisoners in police custody, relating to the taking of statements and indeed, Sir, all aspects of behaviour from the time an accused person enters into a relationship with the police.

I have heard comments calling for the protection of the victims. Yes the victims must be protected but at the end of the day, Sir, the hallmark of our system of democracy is judged by how we deal with the administration of justice in a country. Indeed not only from the point of view of the independence of the judiciary but indeed, Sir, in terms of the preservation of the rights of people in this country, whether they be accused or victims. Indeed, Sir, a glance at the Constitution would leave us in no doubt as to the emphasis that we have placed on those rights from the time that we have become independent. Indeed, Sir, in terms of when we were a colony the emphasis that was placed on the Bill of Rights in England from 1688 is also a further indication of that.

Sir, in addition to the codes of practice that I have adumbrated just now, I would also like to see other aspects relating to these rights and relating to rights that the Constitution attempts to give us between sections 12 and 23, known as the fundamental rights provisions. I want to see us, in this country, when we look at the reform of the criminal justice system, also look and have serious examination at the whole process of legal aid in this country and the fact that there are people who go before the courts without access to counsel. While we, as a developing country, may not be able to provide unlimited access to legal aid, there is certainly a need to look at the system again and determine where we can improve the system in terms of the provision of counsel for accused people before the courts.

Once again, the legal aid system was introduced at a time when the pressures upon the society and the pressures upon the criminal justice system were much less than they are now.

The question, Sir, must also be asked as to when Government proposes to bring down a Bail Act. Too often, Sir, the question of bail is being determined in an arbitrary manner and indeed there has been an increase in the number of constitutional and administrative actions in our courts as a result of an inappropriate manner of dealing with the question of bail of accused persons. The only way to settle the problem is by bringing legislation that governs specifically, the question of bail as is present in many other jurisdictions across the commonwealth.

In respect, Sir, of the general efficacy of the system, again I referred earlier to the establishment and the need for 2 more magistrates dealing with criminal jurisdiction in Bridgetown. What I forgot to say at that point was that what we also needed in addition to those 2 criminal magistrates was a full time island-wide coroner because too often the time of these magistrates is spent acting. Every month a different magistrate acts as coroner.

Now, not only does it take away from what they have to do in their substantive work as a Magistrate. It also results in the fact that there are thousands of matters that are still to be determined by coroners inquiries which are sitting down there. Indeed, Sir, in cases where insurance moneys are to be paid out *et cetera*, the insurance companies obviously cannot pay out until the coroner has brought back his... These same victims are suffering as a result of the inability to have a mere inquest heard.

We see, Sir, the helicopter inquest that has been the subject of the newspapers within recent times. That has been one of the fortunate ones in so far as the ability to be heard as expeditiously as it has been. There are many, many cases in this country, which still are yet to have a proper investigation at the hands of the coroner, mainly because we do not and we have not placed the manpower effectively within the system to do so.

Sir, I think I earlier ended off by starting to refer to the question of community service orders. What I really wanted to say, Sir, is that you cannot reform the criminal justice system unless you are prepared to reform the penal system and the Barbados Labour Party has been very, very strong on this point. Indeed the shadow spokesman for legal affairs in the other place has spoken *ad nauseam* as to what he feels needs to be done within the penal system. In order to reform we need to look at the question of community Service Orders and not just talk about them, particularly when there is a lot of talk about bringing people back to work in the community. We need to look at how probation works. How effective are our probation services? Have we the trained man force or woman force, or whatever you want to call it, to deal effectively? Are they trained sufficiently in social work, Sir, in sociology, to deal effectively with those young people who are invariably put on probation because it is the first time they have received a conviction or because it is believed

that they are not hardened criminals but indeed they have become lawless, as we would say in Barbados, on one or two occasions.

We need to look at the question of suspended sentences whereby a person who does not qualify for probation or community service orders, whose offence is a little more serious but yet you feel, they really may deserve a bit of the benefit of the doubt, so when you give them a suspended sentence, you suspend the sentence for a year so that at any time that they commit an offence during that period of time they will know where they are going.

Unlike probation it is not a question where you get another chance to beg the magistrate or the judge, well, 'Please, Sir, don't send me up there'. With a suspended sentence it is automatic.

We need, Sir, to look also at the reform of, I spoke about Glendairy earlier, but I need also to refer to Dodds and to Summervale. Sir, these are institutions, which once again, have not received the eye of the state in terms of how can they be brought to properly service and to be efficient and to be part of the system of rehabilitation within our society.

We need, Sir, more importantly for those people who may have gotten in a scrape at some point earlier in their life and who have mended their ways, both as the State allows them to do, Sir, and indeed our religious faith allows us to do, that they be given... I see Senator Lewis looking at me, but I have learnt a lot from him in the last two years. That they be given the chance, Sir, of not having that scar of that conviction go with them for the rest of their lives, Sir, because in physical terms, human beings once physically scarred are able to have plastic surgery nowadays.
4.00 p.m.

But unfortunately a criminal under our system does not have access to that. I should not say a criminal, but a person who has a criminal conviction does not have access to that. Therefore, I am calling for the early introduction which provides for spent convictions. In other words, after you have had a conviction for a certain period of time and you have not gotten into trouble with the law at all, that conviction becomes known as spent and the time-frame varies according to the type of offence. In other words, it cannot be considered when you go for a certificate of character. It cannot be considered even if you have to go back before the Court in 10 years time, because it may be something that is totally not your fault. It may well be that cannot be considered depending on the type of offence. There is an acceptable range in similar legislation available throughout the Commonwealth for us to follow. It is really the hallmark of a society that is prepared to accept that some of its people may get into trouble early in their lives, but it does not mean that they have a criminal mentality or that they are criminals. Therefore, we accept that if they are prepared to amend their ways the state is prepared to assist them in that process.

In respect to the general question of the Criminal Damage Act specifically, we have been told that a lot of the criminal damage, not so much the arson but other types of criminal damages, is committed primarily by young people. In fact, we are told that the majority of the offences are in that age group of 16 to 22 years nowadays. Sir, while it may be well and good for us to call for the strong deterrence, *etcetera* and while I support that, as I said earlier, there are other things which I believe... Senator Straughn spoke quite well on the topic when she talked about trying to encourage the subject of human values into the curriculum within our educational system but also within the programming of the print media and the electronic media or the use of mediums that the same young people can communicate with whether it is the "dub" art form or the "calypso" art form. I notice that the National Advisory Council or Task Force on AIDS has been wise enough to understand that perhaps the quickest way to get their message across to that category of people was to use Peter Ram in doing a dub song for them and it has been very successful in doing so. Sometimes you have to use the vehicles through which those same young people have ready acceptance.

Sir, it is a shame that the training programmes have been cut back substantially over the last 2 years. In fact, the Training Report was handed to us today and that too laments the fact about the stabilisation programme which is caused by the cut back in training programmes, although the Training Levy is collecting the money. That has contributed to the inability to find work for the idle hands of these same young people who for some reason or the other have not been able to feel part of the system and feel as though they have something to lose and that they have something to be ashamed of when they go and commit offences of criminal damage or any other type of criminal offence.

I am saying, Sir, that there needs to be a far more comprehensive approach to the problem and not just the passing of criminal legislation, not just the reform of the criminal justice system and the penal system but indeed looking at our educational system, looking at our electronic and print media, looking at our cultural art forms to see how through the cultural medium we can promote these values that we want to promote, looking at the question of unemployment and training, and providing people with the ability to provide a living for themselves. Because at the end of the day, Sir, a person who has something at stake whether it is a job, family, house or pride and self respect is less likely to commit a criminal offence and bring shame and scandal, as the calypso said on their family by their appearance in Court and, indeed, subject themselves to the types of conditions that are prevalent. If we think that Glendairy is bad, Sir, anybody who has spent any time

in the police cells at Central will know that is far worse. You do not have to get remanded in custody to spend any time in the police cell. You only need to be arrested and there is no magistrate in the Court to carry you to immediately.

Sir, I know that we have a National Task Force on Young People and whatever but that seems to have been lagging somewhat in terms of its reporting and, indeed, with its ability to interact with the public. But I think the time has come for us to incorporate these things that I just adumbrated for a comprehensive approach towards solving the problem of the rising criminality in the system. I wish only to add one more thing to that list and that is this. Rev. Allan Kirton some 2 or 3 weeks ago made a point which struck to the core of me and that is there is a need for increasing spirituality within the region not necessarily through the church. But there is a need for a rebirth of spirituality from the people within the region. I believe, Sir, that is tied in with what I normally refer to as the psychiatric health of the country. The two go hand in hand. If you cannot get that rebirth in spirituality and your psychiatric health back on course, you cannot begin to start dealing with your economic and social problems. I hope that a comprehensive and holistic approach will be brought towards the solving and minimizing criminality in this country.

With those few words, Sir, I will stop here. There will be time enough, I believe, when more criminal legislation comes for me to say anything else that I would wish at a later stage. Thank you.

Mr. DEPUTY PRESIDENT: Senator Barker.

SENATOR T. E. BARKER: Yes, I just want to make one short comment. The Bill is timely and is of importance to me because of the fact that, if a person damages another person's property, it states in Clause 11 that the Court on application or otherwise may order the person to compensate up to $5 000.

Aside.

SENATOR T. E. BARKER: Okay. I am told that is not new. But the point I want to make is that this action needs now to be extended to other areas. For example, Sir, a person may come to my house...

Aside.

SENATOR T. E. BARKER: I am talking about a theft. I am talking about a situation where a person comes into my house and steals my video or whatever. He sells it and he is convicted. Society has got its justice but I want back my video. I believe that in such cases the convict, after he finishes his sentence, should be made to make restitution. It could be money or whatever. I am suffering as a result of his action and I should get some kind of compensation. I would have to apply to the Courts, but as a matter of course...
4.10 p.m.

Asides.

SENATOR T. E. BARKER: Sir, I have no problems with this Bill.

SENATOR THE HON. L. V. H. LEWIS: I have only to thank the Senators on the other side for their contribution and to move that the Bill be read a second time.

The question was put 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 THE REV. CANON J. L. SPRINGER in the Chair.

Clauses 1 to 18 were called and passed.

The Schedule was called.

SENATOR THE HON. L. V. H. LEWIS: I beg to move that the Schedule be the Schedule to the Bill.

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

ORDER NO. 4 – TO MOVE THE SECOND READING OF THE STAMP DUTY (AMENDMENT) BILL, 1992

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, this Bill before us is really a tidying up measure and is a consequence directly of changes in the Customs Tariff Headings, a change from the classification under the Customs Cooperation Council Nomenclature, which was formerly used, to the harmonisation of the commodity description and coding system.

The earlier system was a 2 digit system, that is the CCCN and now the harmonised system is a 4 digit coding. What has happened is that it was necessary to upgrade the Stamp Duty Act under the Customs section to make provisions for this new system of classification.

Over and above this, Mr. Deputy President, in passing I think it would be useful to mention a number

of Government agencies are being upgraded to enable them to function more efficiently for the year 2000. The Customs is one of those agencies whose system of classification had to be brought in line among several other countries with the new international system. That is the reason for this amendment.

I beg to move that this Stamp Duty (Amendment) Bill be read a second time.

SENATOR T. E. BARKER: Mr. Deputy President, a lot has been said by me and others in this Honourable Chamber over the past year and a half concerning duties and taxes and all sorts of measures. I do not intend, Sir, to go over everything that was said previously but within the hour that is available to me, Sir, I will highlight certain things about the stamp duties.

As the Honourable Leader said, it is a tidying up exercise and I have no quarrel with tidying up. I think Government needs a lot of tidying up. I want to start by saying that the introduction of duties on raw materials is one of the most backward steps ever undertaken by any government. I reiterate my call for the removal of these duties on raw materials and packeting materials. The evidence of the past 9 months is that it is killing the manufacturing sector and it is also killing the agricultural sector and my fear is that by the time it is removed when the Government changes that we will have no agriculture or manufacturing left.

Only last week we had the lamb versus chicken controversy where you are importing lamb from Australia or New Zealand and it pays no duty, but the raw materials to make the feed to help our own domestic chicken industry is subject to tax. The result is that our producers are unable to match the prices that you get for imported meat. Sir, it has to be wrong. I am calling on Government not to let the IMF run the show to the extent that we cannot make a simple decision like that.
4.20 p.m.

Sir, I am now in the process of reading, I think it is, the IADB Report. It is clear that the recommendations to the Government would be to the detriment of manufacturing and agriculture. It is clear, reading the Report, that there is a bias against local industry and agriculture in these organisations. It seems as though they forever want us to be importers of agricultural as well as manufacturing products but any attempt we make to encourage our local industry is not going to find favour with these organisations. That is clear to me from reading the IADB Reports. I believe this Government needs to take a stand on this matter.

Sir, it was only yesterday in the Other Place where a former Minister said, without contradiction, that the imposition of these duties was not really done at the behest of the IMF but rather the Minister of Finance was the one who made the suggestion. I have not heard a contradiction from the Minister of Finance, maybe it is because he is out of the country. In the absence of other contradiction, if that is the official policy, if this is what we are telling the IMF we want to do, something has to be fundamentally wrong. In my view, we are killing manufacturing and agriculture all to no avail.

There is the big thing now that the IMF, the IADB and the World Bank are talking about trade liberalisation. They want a freeing up of the trade. I have no problem with that but let the United States free their trade first. Let the Europeans free up their trade first. The evidence is clear that if the United States was not helping in a massive way their sugar farms in the South which would produce sugar at a higher cost than we would without subsidies, we could sell all the sugar we want.

The Americans are subsidising their sugar. The Europeans are subsidising their beet sugar but yet these organisations are not telling the Americans and the Europeans about this trade liberalisation but they want to come and tell us. Struggling to survive they want to come and tell us what we must and must not do and the Government does not have the back bone to stand up to these organisations and say, "We hear you but we are not going to destroy what little agriculture we have and what little industry we have. We are not going to impose duties on fertilisers. We are not going to impose duties on agricultural equipment because we will only do so when the Americans and the others stop subsidising their agriculture." Without subsidies the farmers in the United States would go under.

The United States spends a tremendous amount of money when the year comes propping up their agriculture and the manufacturing sector and they expect us now, struggling in a hostile environment to be forever putting on more and more stamp duties on what little industry we have. The result is that much as our people in Barbados would love to put Barbados first and buy local products, the reality of the situation is that with dwindling incomes, with high rates of direct and indirect taxation, they cannot afford to buy biscuits made by the local factory because the price is almost doubled that of the same biscuits imported from Trinidad or wherever primarily because the Trinidadians would be getting their flour at a much cheaper price than the local biscuit factory here would be getting its flour. Given the fact they have devaluation which would substantially reduce their wages in real terms, they are able to produce at a much cheaper rate than we would. Without the little help that the biscuit factory and others would get by way of the concessions on raw materials, they cannot compete. They were hardly able to in the first place, but the imposition of these duties would erode whatever little bit of competitiveness they had in the first place at a

time when our people, because of limited incomes, have less disposable income to spend.

Government has to look at its indirect tax system once again. This is an imperative. The longer we wait to bring in the necessary changes the less factories and agricultural holdings we will have because agriculture is at best a marginal operation. When you remove what concession you gave them in the first place you will drive a lot of them out of business with the result that we will get more waste tracks of land about the place.

Sir, I remember making the point on many occasions that when you raise tax rates you do not always get more revenue. We have this naive view about public finance that whenever you increase the rate you are going to get more revenue. Evidence is now showing that there is a serious deterioration in Government revenues. It did not take a Solomon to predict that would happen because most of Government revenue comes from taxation and a large portion of it comes from indirect taxation. When incomes are reduced, when the cost of the final product is increased because of increasing taxation, it means that the consumer is unable to purchase the goods. For example, Sir, the consumption taxes and duties on cars went up recently. As a result now garages are barely able to sell 6 cars a month. You increase the duty but nobody is buying the cars so that the revenue take to Government must decline because nobody can afford to buy a new car. This is the evidence by the latest figures that are available to us on Government revenues. There is a serious decline in Government revenues.

Sir, in the past, and we know this, Government has been able to reduce certain rates and get more revenue. If the economy is growing you can afford to do that but with an economy in serious decline for the past 3 years, and our economy has been in decline for the past 3 years, any increase in the tax rate, especially since there are taxes on spending, is going to do exactly what is being done now, a reduction in Government revenue. The solution might very well be to take the courage and especially since, according to Government the foreign exchange position looks a little bit better and reduce some of these tax rates. We may very well have to go that way. In fact I think we should because our economy depends to a large extent on spending, either by locals or by tourists. When you curtail spending in that way you are severely limiting economic growth. Since 1989 when the Government introduced credit controls and they started the process of high interest rates we saw from the middle of 1989 that the economic growth started to decline. Whenever you do that, whenever you introduce these spending controls you will have this decline. The key then – since we are taking Government's word that there is an improvement in the foreign exchange the key might very well be to start reducing some of these high levels of indirect taxation. The key might very well be to start reducing the Stamp Duties not increasing them and let the people start spending money again. It may sound simplistic but it might very well work because at the rate we are going what we are seeing, as I have said before, high levels of taxation and the revenue declining. That has to stop because Government is now embarking on a new round of expenditure cuts. There was a meeting at Dover last week as the Leader of the Senate knows very well. You must know there was a meeting.
4.30 p.m.

Aside.

SENATOR T. E. BARKER: There was a meeting at Dover last week where the Permanent Secretaries and deputies were involved where the need for further expenditure cuts was brought home.

Aside.

SENATOR T. E. BARKER: Cuts. Restraint what? You mean cuts. You cut already. The need for further expenditure cuts was brought up in a forceful way. Again, Sir, we are seeing the catch phrase. I am saying the only way, in my view, that Government can get out of it is to be bold enough to start reducing some of your duties and we if that would encourage people to start spending again. Unless that happens the economy would go further and further and further into decline.

While I appreciate that this is a tidying up process yet Government should use this as an opportunity now to look again at the proposals. Government is relying, as I said before, too much on the overseas experts. They have at their disposal some better economic brains than the IMF fellows. I have been reading the direct tax reform measures that the IMF is putting to Government. I am sure that if Government had asked my good friend, Senator Alleyne and others they would come out with a far better plan than that which the IMF has submitted to Government. But Government would listen to the IADB and the IMF and they have their own people here who they have trained and they would not listen to them. It is something like Saul in the Bible; he had a lot of advice but he went to the Witch of Endor to hear his doom. But he could listen to 1 001 people who were telling him the same very thing to heed his ways but no, he went to witchcraft. The Government is not going to witchcraft but they are going to something maybe potentially worse, the IMF.

The point that must be made is that Government should listen to its people some more especially on these important matters on indirect taxation. We, and I say we deliberately, know more about the economy of Barbados than the IMF would ever know. We live in it, we study it, we know about it. But the Leader of the Senate would not appeal to our Prime Minister to listen to us. Because every day he hears sound economic sense being put forward in here. He hears it every day. It seems as though he is

either unwilling or unable to tell his Leader, "Look, the fellows in here are talking sense; listen to them; give them a try because they know the Barbados economy, they know that the level of indirect taxation is killing us. Do not listen to people who do not have the interest of the country at heart." The IMF does not care about Barbados. But I care about it. I am sure that my good friend Senator Alleyne cares about Barbados. We live here. We would not give the Government any advice which we know to be detrimental to our own well-being and to the well-being of our family and our country.

I am calling upon Government to look again at the level of indirect taxation. Be bold enough to institute reforms, especially as they relate to the manufacturing and the agricultural sector. Because reading the IADB report, all they are concerned with is the tourism sector. I do not want to see Barbados become like other countries, who all they have is sand and beach and all they have is tourist coming in and everybody is a maid or something else at the hotel. We are proud people and I know that when we look at something that says, "Made in Barbados" all of us feel proud. We have got to make sure that our manufacturing sector is given all the necessary equipment, all the necessary help in order to get it back on its feet. It is not going to help if you impose duties on seed, on wood. The joiners are crying out. The price of mahogany has skyrocketed in the past as a result of the high duties.

Mr. DEPUTY PRESIDENT: Senator Lewis.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, I hope the Honourable Senator is not implying that this piece of legislation imposes anything. He knows that this is not imposing any additional taxes on anybody so he should not insinuate it.

SENATOR T. E. BARKER: Sir, this is a tidying up process, as the Honourable Leader said, tidying up something that went on before because we know that the duties were imposed in the last three or four Budgets. It is a tidying up. But I am talking about what he is tidying up now.

Mr. DEPUTY PRESIDENT: I take it this is in retrospect.

SENATOR T. E. BARKER: Precisely.

Mr. DEPUTY PRESIDENT: Oh, I see. Just make that clear, Senator Barker.

SENATOR T. E. BARKER: What I am saying is that he is tidying up a bad law. That is what I am saying because the wood, plywood and the other wood that the joiners here use to make their beautiful furniture... I know, Sir, because I am the son of a joiner and I am proud of it. All of the wood that they are using now, the high level of taxation means that when they produce the cost of their product is almost out of reach.

All I am saying is that because of the items that we are tidying up now the furniture industry in Barbados is virtually dying. The Leader can shake his head but he knows that the furniture people are under tremendous pressure because the stores cannot sell. They are under pressure because of the high price because they are high priced producers. The cost of their basic raw material wood and so on has skyrocketed in the past year or so.

Mr. DEPUTY PRESIDENT: Senator Barker, are you saying that the cost of the mahogany is now more expensive as a result of this Bill?

SENATOR T. E. BARKER: Yes, Sir.

Mr. DEPUTY PRESIDENT: The cost of the mahogany?

SENATOR T. E. BARKER: Yes. As a result, Sir, of the Stamp Duties, Consumption Taxes and other taxes.

Mr. DEPUTY PRESIDENT: Stamp Duties with respect to the mahogany?

SENATOR T. E. BARKER: Yes, Sir. Because the wood has a 10% Stamp Duty on it.

Mr. DEPUTY PRESIDENT: Senator Phillips.
4.40 p.m.

SENATOR A. J. N. PHILLIPS: Mr. Deputy President, I happen to be in that business and I can assure you that for the past two years there has been no increase whatsoever in the cost of mahogany.

Mr. DEPUTY PRESIDENT: Thank you very much for that correction, Senator Phillips. I thought not. That is why I emphasised it like that repeatedly, but Senator Barker would have us believe that there has been. So now I think it has been laid to rest that there has been no increase in the prices and that is from a merchant in the business himself. Thank you.

SENATOR T. E. BARKER: I am not sure, Sir, if they sell mahogany. I know about mahogany and the price of mahogany has increased tremendously in the past years. I know mahogany. The price has increased. I am sure, Sir, that Senator Phillips does not sell mahogany. He sells pine and wallaba. I do not think he sells mahogany.

Mr. DEPUTY PRESIDENT: We are talking about the duty. Has the duty been increased?

SENATOR T. E. BARKER: Yes, Sir, the duty has increased.

SENATOR A. J. N. PHILLIPS: If he was not speaking under privilege, Sir, I guess I could bring a legal case against him. I do sell mahogany.

Mr. DEPUTY PRESIDENT: Thank you.

SENATOR T. E. BARKER: I must tell my concerns that you sell mahogany and I apologise for any... Now, Sir, I know the price went up. It is now over $7.00 per foot now. It really went up. You know it went up too.

Mr. DEPUTY PRESIDENT: You are saying because of the duties?

SENATOR T. E. BARKER: Yes, Sir, because don't forget, in the last 3 or 4 budgets the consumption taxes and the stamp duty have been increased. As a result, especially since raw materials for production by the local market are no longer exempted, it means that there are now subject to taxation where they were not before. That is the point I am making. When you remove the duties for the joiners and cabinet makers, who are producing for the local market, they will now be submitted to taxation.

I am very glad, Sir, that the Honourable Senator did not pass on the duties to the consumer but I am sure that other concerns passed on the duty to the consumers, so I am very glad that the Honourable Senator did not pass on the duty.

I will just end off on this point, Sir. I want to say that Government must be bold and say, look, evidence of the past year has shown that increasing taxes has not helped us. Our revenue is declining, even in the face of increase of both direct and indirect taxation, therefore let us try another approach. See if by reducing the level of taxation, given the fact that according to the report the foreign exchange has stabilised, why not let us then try for a little reduction. Okay we can't get a big reduction because obviously that would not make sense. Let us try a little reduction to see if a little spur cannot be given to the economy as a result of what little increased spending there is. Obviously, Sir, you have to watch the foreign exchange situation because you would not want to have a situation where, in two twos the foreign reserves will go down. But, Government has said that the foreign reserves have stabilised. So based on that, we can afford, at this time, a little freeing up of the situation to try to get the economy out of the recession that it is in. It can only get out of the recession if there is more spending within the economy. All of this about cutting salaries again that we hear rumoured, that would kill us further. So, Sir, I have just made these comments on the tidying up Bill but I am sure, Sir, when the other tax measures come later on this month that I will have a lot more to say on the direct taxation but for now I will close with these comments. Thank you.

Mr. DEPUTY PRESIDENT: Senator Alleyne.

SENATOR Dr. F. W. ALLEYNE: Mr. Deputy President, it is late in the afternoon and I really don't want to detain this Senate but I have to set the record straight on a number of things which have been said in this Chamber, as well as in the other Chamber. I have never ceased to be amazed by my political opponents.

Senator Barker is not really my political opponent. I don't categorise him as a political opponent. It is very strange. It leaves me baffled. He is praising me, inviting the Government to listen to my advice and his colleague in the other House, the Honourable Owen Arthur, is abusing me. He has abused me bitterly just April in the last Budget debate. If you will read Hansard you will see the terms in which he refers to me. I don't know which one I should take seriously. All I say is Lord protect me.

Mr. Deputy President, much has been said in the last year or so about the imposition of duties on the manufacturing sector. As recent as today I saw a report of the Other Place in today's *'Nation'* and I wish to say, on this matter, that Barbadians should stop fooling themselves. The manufacturing strategy, if you want to call it a strategy, which is in existence in Barbados today is obsolete. It is dead as a door nail and can take us nowhere.

The reason why it is dead is that in the 1950s we started an import substitution strategy in Barbados. It accelerated in the 1960s with the setting up of the IDC. Out of the Development Board the IDC and the BDB were set up, and what they have gone after is building a manufacturing sector targeting a market of 250 000 people.

After Caricom was developed in 1973 the market which Barbados went after was Trinidad. When the Trinidadian economy collapsed, to all intents and purposes, the manufacturing sector was at an end. When in the mid-1980s Intel, Corcom and Playtex pulled out, and I could go on reading them off, the enclave manufacturing sector was to all intents and purposes dead. The point which I am making, Mr. Acting President, is that any time you opt for an import substitution strategy, particularly in a market as small as Barbados, it is myopic and it is going to carry you nowhere.

What is worse, Mr. Acting President, the experience of several countries has shown that you can only do it behind the protection of tariff walls. Protection breeds inefficiency and inefficiency thrives on protection. There cannot be a shadow of a doubt that if you subject the so-called manufacturing strategy in Barbados to serious analysis you will find that it is a dead end operation. Which ever party is in Government in Barbados it has got to face this reality.

I am concerned as well that the adjustment has got to be so rapid, but we have waited too long. That is the point which you have to make. I am not going to talk partisan politics on this matter. I deal with this matter strictly on professional lines. We have waited too long to deal with this business of the strategy of manufacturing in Barbados. It is an outdated strategy.

I am appalled when I hear Senator Barker say the duties killed the furniture industry in this country. I am submitting, Mr. Deputy President, that no serious analysis will come to that conclusion. I want to suggest that there are factors other than duties to be considered. I have read a very comprehensive study on the furniture industry in Barbados. What are the critical factors which bedevil this industry: Obsolete equipment, poor design, absence of economies of scale, shoddy workmanship, and low volume. These are some of the points made in that study and the duties which Senator Barker was referring to were not imposed at that time. At the present time, the distributors in Barbados can import comparable furniture from Trinidad, pay freight, insurance, and land it in Barbados. The furniture is better made, and they can sell for 40 per cent of the price of the Barbadian product.
4.50 p.m.

Mr. Deputy President, I have just chaired a committee which is responsible for making decisions on a massive order for furniture. You do not just bring figures and give to me. You have to bring evidence because I am going to ask questions. Do not think that just because you are a consultant somewhere that you are going to bring a report and give to me and say that this is so. I am telling you that what I am saying is correct and it has nothing to do with duties. What is important in the economy is the scale of operation and the type of equipment. You have a lot of run down equipment in Barbados. Some manufacturers in Barbados get orders and then you find that you cannot meet them. The fellows say that they are too small and apparently they do not know how to get together. These problems of under-capitalisation, organisation and technology and the whole issue of strategy have to be faced. I hear a lot of belly-aching in Barbados and nobody is coming up with a strategy.

Mr. Deputy President, no amount of belly-aching is going to solve this problem. We have to get out of it and, to get out of it in Barbados, we have to put our ideas together and come up with a solution to the problem. I said before in this Senate that Japan took on the world and succeeded. South Korea is doing it. All of those R.I.M. countries are doing it. There is no reason why we cannot do it.

I believe, Mr. Deputy President, that if we are going to get this manufacturing sector going again a number of elements are going to be critical. Of course, it is not a matter of Government handing out anything to anybody. Government is important from the point of view of establishing the correct macro-economic framework. But in terms of strategy it is much better for a little country like Barbados to link up with large established producers in other parts of the world and go the joint venture route. Professor Arthur Lewis made this point in the 1950's. It was true then and it is still true today. If you are a small country and you want to get into established markets, it is much better to go the joint venture way. We have to learn something from that. We can immediately start to deal with the problem of design, access to capital, access to markets, modern techniques in the industry and so on. This is true of the furniture industry, garment industry and the entire manufacturing sector.

Sir, I am not going to accept this argument that the duties imposed last year spelled the death knell of the manufacturing sector. I submit, Mr. Deputy President, that the sector was on its way out. You will notice that I am speaking about furniture and garments. Those are the elements that I am concentrating on. What are the facts of the matter, Mr. Deputy President, when you examine the evidence of the last 30 years of manufacturing in Barbados, particularly in the last 20 years. What do you find in Barbados? We find again in furniture and manufacturing that we lost our competitive edge. Notice that in garments we gradually lost our market to Trinidad and the OECS countries. That is a fact. The same thing happened in furniture. Our wage levels were rising more rapidly than our competitors in the rest of the CARICOM. What did you find? You found profitability levels were declining in Barbados and it was more profitable for the investors to relocate and shift their businesses into the OECS countries and so on. Even today this is happening in the manufacturing sector where our manufacturers are relocating to those regions of the CARICOM where they can do better.

This highlights, Mr. Deputy President, what I like to refer to as the static character of the outlook for many of our so called manufacturers. Static in the sense that they start off with a particular technological level of activity and they never developed. There is no notion of a product cycle of development and that is something which should be at the heart of the strategy in manufacturing.

Senator Barker had quite a lot to say about the IMF and World Bank keeping this country as importers. It is true that I disagree with a lot of the IMF and World Bank orthodoxy with respect to trade liberalisation. I disagree with it because again the evidence shows that unplanned and unphased liberalisation tends to destroy embryonic industries in these young developing countries. But because I disagree with the orthodoxy of the IMF and World Bank this does not mean that I support this import substitution thrust which is very evident in Barbados. Again, if you check what has happened again in Barbados within the last 20 years, you will find that an investor in

Barbados is much happier concentrating on the domestic market than bothering with exports. All kinds of fiscal incentives are there to encourage exports and the investors do not bother about them. There has to be good reason for it. The fundamental explanation for it is that the domestic terms of trade have moved against exports. That is the fundamental explanation for it. It does not have anything to do with duties. In short, when you work out both aspects of the equation, it is more profitable to produce for the domestic market than to go after exports. A classic case is Banks Breweries. For years I have been talking about Banks Breweries. They had control of almost 95 per cent of this market and I doubt today they have 60 per cent of it. They allowed Jamaica to come in this year. The OECS people came in and where is Banks exporting? Germany? They are not exporting any Banks Beer to Germany.
5.00 p.m.

They are hiding behind some notion that they have an agreement with Guyana which they cannot breach otherwise it might result in some litigation.

Mr. Deputy President, I have held the view on this matter all along that, if an industry is going to use up our foreign exchange to bring in raw materials to make a product and that industry is not making an effort to earn foreign exchange, you have to do something with the fiscal arrangements to put pressure on it to earn foreign exchange. What many people do not understand is that saving foreign exchange and earning foreign exchange are not the same things. Without trying to go into any technical explanation of it you can find a country can spend $10 to save $1 in foreign exchange. If you are spending $10 to save $1 in foreign exchange it is not worth it.

I do not agree with Senator Barker that the IMF and the World Bank have to take responsibility for the destruction of agriculture and manufacturing in Barbados. Barbadians destroyed their own manufacturing and they destroyed our agriculture. No man came from Mars. Who delayed the sugar crop? Who went on strike? Did the IMF or the World Bank send somebody on strike? Over the years, who ran down agriculture? The IMF or the World Bank? We have to stop this loose talk. Let us take responsibility for our own actions. I am not saying any political party did it. I am saying that the attitudes of Barbadians over the years have made the present system of agriculture obsolete and I do not care how many millions we inject into agriculture. I notice that there is a lot of talk in Government circles about injecting money in agriculture to effect a turn around. Unless there is a fundamental change in the system of agriculture it is doomed to failure.

I would suggest to those who have the responsibility for turning it around that they ask a simple question of the young people whom they want to attract into agriculture. They should try to discover whether these youngsters wish to be farmers or farm labourers in the Barbados of 1992. You ask that question because if you are planning you must know whom you are planning for. In the 1930's that was not a question. You knew people had very few options and therefore you were talking about farm labourers. In 1992, the scenario is changed and you might find yourselves planning for the wrong target group. I would hate to think that in 1992 we could make that mistake.

As I have said before, fundamental change is necessary and the Government for some time has been in the good position to effect that change through the Barbados National Bank which is answerable to the Minister of Finance. Several properties are indebted to the BNB. The owners of several of those properties have been making no attempts to bring those properties under profitable cultivation. I am on record as having said before that there should be a phased foreclosure of those properties and they be put into the hands of people who want to farm. You do not have to bid to buy the land. Land is a resource and all you want to do is to have access to a resource. I said two weeks ago that you don't have to own a cow to get milk. If you can produce crops then you do not have to own land. What you want is an efficient farming community. You can work out a leasehold arrangement where the farmers can have access to the land resource, and you can have a system of training farmers and once they fall below a certain level of efficiency you phase them out, as in all other areas of life. We have to approach this matter in a scientific way. We have to stop looking for excuses in the IMF and the World Bank. They did nothing to destroy agriculture.

Senator Barker made the point about the Europeans and North Americans subsidising agriculture. On a theoretical and philosophical level, I have a difficulty with it. I am now in the process of writing a paper and that is one of the points I make in the paper. When I move away from that level I have to try and understand the issue within the context of a small, resource poor economy. Who are the people making the decisions? They are politicians. We must remember that those economies of Europe, particularly Western Europe, and North America, are strong enough that you can find a dominant sector which can generate the surplus to subsidise the other sector, agriculture. It is happening in Russia. A lot of people talk about beet sugar but they fail to recognise that when you talk about beet sugar Russia is one of the countries with the largest productions of beet sugar and it is subsidised. The point I am making is that in Barbados how can you subsidise sugar? You cannot subsidise anything. You will have to take from Peter to give to Paul. No one sector is strong enough and dominant enough that a Minister of Finance is in a position to say, "Let me give something to agriculture." Where is he going to get it from?

The people in tourism are saying that they want incentives.

SENATOR T. E. BARKER: Mr. Chairman, I do not want to interrupt the speaker but I want to make the point that I never said we should subsidise agriculture. What I was saying is that they are asking us to remove duties and at the same time they are subsidising their agriculture. I do not want the records to show that I was advocating subsidising agriculture.

SENATOR Dr. F. W. ALLEYNE: The point I was leading to, Mr. Deputy President, is that they are in a position to ask us to remove our subsidies because we are asking something of them. They are not asking anything of us. We are not on par.

Senator Barker made the point that higher taxes do not generate higher revenues. The fact of the matter is that the supplementary financial measures of October 1991 were not primarily revenue raising. They were targeted at staunching the foreign exchange hemorrhage, first and foremost. Bearing in mind an economy like Barbados, whenever you go after checking that foreign exchange hemorrhage, it is going to contract the tax base and consequently, the quantum of revenue flow has to be reduced and the obvious logic of that is that government's appetite for resources has to be restrained. I do not think that in making the point that government revenue levels have been declining is to fault the logic of the 1991 supplementary financial measures. It just shows up the inter-connectedness of the economy.

Mr. Deputy President, it is painful to hear and to read what goes for informed comment on the economy of Barbados. It is a very painful experience working in this field and living in Barbados. You have 2 daily newspapers and when it comes to informed comment on the economy they produce nothing but trash. Anything which puts the Government in a bad light they will produce. Even if it comes from Ding-Ding they will put it on the front page. 5.10 p.m.

Dr. DeLisle Worrell, the Deputy Governor of the Central Bank did a study on the structure of the Barbadian economy examining the period 1970-1984 and what did he find? It is a published Paper. He observed that over that time period, 14 years, there was marginal change in the structure of the Barbadian economy. During that period he notes that sugar had gone through a very substantial decline. I think it is around 1967 Barbados was producing 204 000 tonnes of sugar. By 1984 it was marginally less than 100 000. I do not exactly recall the figure. But he notes that during that same period manufacturing had surged from something like either 5% or 6% of GDP to a figure in the region of 13%. This was the point he was noting over that period 1970-1984.

I have completed about 95% of the work which I am doing following up that same study. What is the evidence again? When I take up where he has left off and go down to 1991 what do I find? You find that basically the 3 sectors which Dr. Worrell was examining over that 14-year period, that is, sugar, manufacturing and tourism, in 1984 tourism was accounting for something like 60% of the foreign exchange earned from tradeables. By 1991 it was accounting for some 83.9%. Sugar did not recover. It was an all time low of 65 000 tonnes and manufacturing had contracted very sharply.

The point I am making then, Mr. Deputy President, is that Barbados in 1990/91 and certainly from 1984 was moving into a monoculture in services, particularly tourism, in the same way we had a monoculture in sugar back in the 1930s and 1940s. What are the implications of that for this economy? If you are so dependent on a single activity for foreign exchange earnings, once that activity starts to contract, your external position is threatened. That is precisely what happened in Barbados starting in the last quarter of 1989. At the beginning of the last quarter of 1989 tourism contracted. Once that was happening the entire foreign exchange position became very vulnerable.

You do not see the Press reporting this kind of thing. They look for a lot of little stupidness and go and report as if "Sandi" is the God of this country and all he has to do is to wave a wand to solve something. It is foolishness. The country has to get back to fact and analysis. Put aside the petty party foolishness. The time for elections will come and the people will make up their minds who they want to run the country. But I am saying the country will be better served when people elevate the discussion to serious analysis of the evidence.

Senator Barker made a plea for reducing the stamp duty and getting people to spend again. The worst thing that could happen in Barbados today is that people start to spend and behave as if this economy is not in trouble. This economy is in serious trouble. It did not take Sir Neville Nicholls from the Caribbean Development Bank to say that to bring it to my awareness. Any economist who is worth his salt and who has been following the evidence knows that structurally this economy is in difficulty. No amount of pump priming will help it. Pump priming will destroy it.

Basically, what is happening with the economy? The economy has drifted and drifted into a position where the survival depends on what happens to tourism. The turnaround for this economy cannot come in any 12 months. A fundamental restructuring has to take place in the way in which we do things in tourism, what type of manufacturing are we going to get into and the whole structure of agriculture. We will also have to try and identify new activities so that new sectors will emerge. Those things cannot happen overnight.

Mr. Deputy President, what worries me in the entire scenario is the stand-off between the private sector and the Government. Nowhere in the world has any structural

adjustment programme worked where there has been a stand-off between the private sector and the Government precisely because the venture capital which is going to turn around that economy by developing new activities, retooling existing activities, has to come from the private sector. I think in Barbados the sooner we recognise that an understanding has to be arrived at between the private sector and the Government in the interest of all, the better.

I believe I have to thank Senator Barker for his compliment. He does not often pay me a compliment. Very often he seeks legal advice. But I take it in good spirit when he says the Government should seek my advice. I have to assure him that the worst thing any serious professional can do is to offer unsolicited advice. It is the worst offence you can do to yourself.

Mr. Deputy President, Senator Barker in closing pleaded with the Government that now things are looking up to free up a bit on the foreign exchange. I hope that advice will fall on deaf ears. I reiterate a point which Sir Nicholls was reported as having made in New York quite recently. Barbadians have to face the new reality. The economy of Barbados today is incapable of supporting the consumption patterns of Barbadians in the 1960s and 1970s.

I believe I said in this Chamber before that particularly in the 1970s and 1980s Barbadians lived beyond their means. I know there is a certain talk show host who spent a lot of time trying to contradict me but I do not waste time fighting against a non-point because even when I score a point it is still a non-point. The fact of the matter is Barbadians lived beyond their means and successive Governments encouraged it by borrowing abroad to prop up consumption but the day comes when you have to face reality. We are facing reality now. I believe at this juncture in our life in Barbados if we approach it positively, it can teach us many things and out of it can be born a new Barbados, a more positive Barbados and a Barbados which means more to the broad masses of people than the Barbados we have today.

Mr. Deputy President, I have great pleasure in supporting this Bill.

SENATOR THE HON. L. V. H. LEWIS: I believe all that is left for me to do, Mr. Deputy President, after that response is to move the Second Reading of this Bill.

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

5.20 p.m.

On the motion of SENATOR THE HON. L. V. H. LEWIS the Senate went into Committee on the Bill, SENATOR THE REV. CANON J. L. SPRINGER in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is now in Committee.

Clauses 1 to 2 inclusive were called and passed.

On the motion of SENATOR THE HON. L. V. H. LEWIS, Mr. CHAIRMAN reported to Mr. 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.

SUPREME COURT OF JUDICATURE (AMENDMENT) BILL, 1992

Order No. 5 was called – To move the Second Reading of a Bill to amend the Supreme Court of Judicature Act.

Mr. DEPUTY PRESIDENT: Senator Lewis.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, there is no provision apparently under the Supreme Court of Judicature Act to permit former Puisne Judges or Judges of the High Court who have been appointed Justices of Appeal to sit in the High Court for the purpose of delivering judgement in matters which they have been dealing with before their appointment to the Court of Appeal. This Bill seeks to regularize that. Simple explanation. Matters which were being dealt with by persons recently elevated to the Court of Appeal which they had not completed need to be completed but there was no provision for them in the law to leave the Court of Appeal to go down to the High Court. It is desirable that they complete the action on those matters they were dealing with rather than have them tried all over again. So they need to go back there to be able to deliver judgements. This Bill, simple Amendment seeks to regularize that position.

I beg to move that the Bill be read a second time.

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 THE REV. CANON J. L. SPRINGER in the Chair.

COMMITTEE

MR. CHAIRMAN : The Senate is now in Committee.

Clauses 1 to 3 inclusive were called and passed.

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

RESOLUTION TO APPROVE THE LEASE TO DIVE SHOP LIMITED OF LAND AT AQUATIC GAP, ST. MICHAEL

Order No. 3 was called – To move the passing of a Resolution to approve the lease to Dive Shop Limited of a parcel of land situate at Aquatic Gap in the parish of St. Michael in this Island.

Mr. DEPUTY PRESIDENT: Senator Lewis.

SENATOR THE HON. L. V. H. LEWIS: Mr. Deputy President, the Resolution for leasing of this Government owned land at Graves End in St. Michael follows a previous lease which expired. It is proposed that this lease take effect from April 15, 1990 for a period of 5 years. The previous lease had an option to renew and it is proposed that this lease be for a period of 10 years and an option to renew subject to Parliamentary approval.

This shop known as Dive Shop Limited provides facilities for watersports at the Graves End location. The rental is to be $6 600 per annum and the lessee is to be responsible for the payment of taxes, other out goings and liabilities associated with the use of the premises. The premises are to be used for the provision of watersports facilities, such facilities to exclude the area of speedboat operation.

I beg to move that the Resolution be passed.

The question was put to the Senate and agreed to.
5.30 p.m.

ADJOURNMENT

SENATOR THE HON. L. V. H. LEWIS: Mr. Acting President, I beg to move the adjournment of the Senate *sine die.*

The question was put to the Senate and agreed to and Mr. DEPUTY PRESIDENT adjourned the Senate accordingly.
5.31 p.m.

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