
THE SENATE DEBATES

(UNOFFICIAL REPORT)

PARLIAMENT 2008 – 2013

THE SENATE

Wednesday, May 27, 2009

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, May 27, 2009, at 11.10 a.m.

PRESENT

His Honour SENATOR Dr. B. M. Taitt, B.A., M.P.O. LL.B(Hons.)D.H.L.(Hons.)(President)

Her Honour SENATOR K. F. Ifill, M.B.A., B.Sc. (Hons.), (Deputy President)

SENATOR the Hon. H. LaV. BENN, E.M.B.A (Marketing)

Minister of Agriculture and Rural Development)

SENATOR the Hon. A. B. WALTERS, DPSA (Oxford), M.A. (Minister of State, Prime Minister's Office)

SENATOR Mrs. V.I. SANDIFORD-GARNER, CIM,Dip.Mng., M.B.A.,(Parliamentary Secretary, Ministry of Community Development and Culture)

SENATOR Rev. P. A. V. MILLINGTON, M. (Theol.)

SENATOR P. W. B. GILKES

SENATOR Miss P.I. INNISS, B.Sc.(Hons.)

SENATOR D. K. A. GRIFFITH

SENATOR H. E. THOMPSON, LL.B.

SENATOR Sir Roy TROTMAN, K.A., M.A

SENATOR Sir John Stanley GODDARD, K.A., B.Com., F.C.A., LL.D,(Hon.)(U.W.I)

SENATOR the Hon. Mrs. V. E. NEWTON, S.C.M., M.A., B.A.(Spec.Hons.), LL.M.(Hons.)(U.W.I), F.L.A. (Gt.Brit.), L.E.C.

SENATOR the Very Reverend H.E. CRICHLow, G.C.M., B.A. (Hons.) Duenelm

SENATOR Dr. F. L. CHANDLER, Ph.D, B.Sc. (Hons.)

SENATOR R. O. MARVILLE,, M.A. African Studies, M.B.A., B.A.(Hons.)

SENATOR J. A. C. HUTSON, B.C.H., MRAC.

Prayers were led by Rev. Father Errington Massiah.

Mr. PRESIDENT: This Senate is in session.

Mr. PRESIDENT: I am in receipt of a letter from Senator Maxine McClean indicating that she will be travelling on Government usiness from May 24 to June 4, 2009, to attend, among other things, the 89th Session of the ACP Council of Ministers and the 34th Session of the Joint ACP Eastern Caribbean Ministers in Brussel, and also the 39th Regular Session of the OAS General Assembly in San Pedro, Sula, Honduras. She, therefore, wishes to be excused from attending the Senate during the period mentioned.

PAPERS

Hon. H. LaV. BENN: Mr. President, I am commanded to lay the following document:

The Barbados Economic and Social Report, 2008.

11.20 a.m.

Sequence 2

Wednesday, May 27, 2009

SUSPENSION OF STANDING ORDERS

SENATOR the Hon. H. LaV. BENN: Mr. President, I beg to move that Standing Order No. 45(2) be suspended for the remainder of today's Sitting.

The question was put to the Senate and agreed to.

INTRODUCTION OF BILLS

SENATOR the Hon. H. LaV. BENN: Mr. President, I beg to give notice of the following:

Liquor Licences (Amendment) Bill, 2009.

Mr. President, I beg to move that the Bill be read a first time.

The question was put to the Senate and agreed to.

PUBLIC BUSINESS

ORDER NO. 1 – MONEY LAUNDERING AND FINANCING OF TERRORISM (PREVENTION AND CONTROL)(VALIDATION OF FUNCTIONS) BILL, 2009

Mr. PRESIDENT: Senator Benn.

SENATOR the Hon. H. LaV. BENN: Sir, the Bill before this Honourable Senate is seeking to validate any decision made, or function done by the Anti-Money Laundering Authority, between August 1, 2006 and September, 2008. I want to give you a little background to better understand what we are doing here.

Sir, the Money Laundering and Financing of Terrorism (Prevention and Control) (Validation of Functions) Bill has become necessary, because the members of the Authority, who were put in place in 2003, continue to work in that capacity although their term expired in 2006.

In 2003, the then Government appointed an Anti-Money Laundering Authority to serve for a period of three years to supervise institutions in accordance with the Act and to comprise such persons who have a sound knowledge of banking, financial and legal matters. A number of distinguished persons served the country with distinction and, of course, with honour, but when their term expired at the end of July 2006, no new Authority was appointed.

Sir, the work of the Anti-Money Laundering Authority involved a number of activities. It involves the establishment of training requirements for our financial institutions and the provision of training with respect to business transactions, record keeping and reporting obligations under the Act, and the compilation of statistics and records. Their work also involves the dissemination and sharing of information inside and outside of Barbados.

In accordance with Section 6 (a), through the Financial Intelligence Unit, that Authority has received reports from financial institutions as well as disclosure of information from other sources relevant to the administration and enforcement of the Act.

The Authority, through the Financial Intelligence Unit, has also furnished reports to the Commissioner of Police where, on investigation, there are reasons to believe that a business transaction involves criminal activities or proceeds of crime.

That important Committee, the Anti-Money Laundering Committee, on receipt of information under the Act, has also made application to a judge or judges in Chambers for an order to freeze - they have that authority - a person's bank account for a period not exceeding five days.

In accordance with Section 22 (c), the Authority has also kept proper account of transactions relating to the administration of resources of the Authority. In accordance with Section 22 (f), the Authority in collaboration with the relevant regulators, has issued guidelines with respect of the detection, prevention and deterrence of money laundering and the detection of funds allocated, or used for the purpose of committing an offence, under the Anti-Terrorism Act to the Assurance Securities and Banking Industries.

Sir, one can, therefore, judge from what has been applied that the Authority had some authority, and it was very important to the development of the country's Financing and Terrorism Control Act.

Sir, last year the Cabinet of Barbados recognised that there was a problem due to the fact that there was no continuity. Therefore, a validation Bill was necessary because of that administrative oversight, whereby appointments to the Anti-Money Launder Authority had expired in 2006, and no new appointments had been made until September 15, 2008. Therefore the Chief Parliamentary Council, on consultation, advised that Section 5 of the Money Laundering and Financing Act, does not impose any limitation on the length of service of a member of the Authority. However, in the instrument of appointment, where appointments for a three-year period ended in July 2006, it becomes necessary that we seek to validate that legislation to cover the operation of the Authority.

In other words, put simply, the Anti-Money Laundering Authority was established in 2003 for a period of three years, a term which expired July 2006, but continued to do the work. Therefore, recognising that their term of office had expired, but they continued to function, this Bill is now to validate whatever function or any decisions that were made by the Anti-Money Laundering Authority between August 1, 2006, the day after their office expired, to September 2008, when a new Board was appointed.

Sir, between that period I mentioned that the Authority did not have a legal basis for any of its actions. Therefore, this Bill is to clear up any fuzzy or hazy situation there. They did not have any legal basis for any of their action. As I said earlier, they continued to act.

Sir, the Bill is necessary because of an administration oversight, and this Honourable Chamber is asked to move that this Act be validated.

11.30 a.m.

Sequence 3

Wednesday, May 27, 2009

Senate A16, Sequence 04, 11.30 a.m.

SENATOR the Hon. H. LaV. BENN: Mr. President, we are here today seeking to have the Money Laundering and Financing of Terrorism Prevention and Control (Validation of Functions) Bill, 2009 passed in this Honourable Chamber.

Mr. President, with those few words, I beg to move that this Bill be read a second time.

The question was put to the Senate and agreed to.

On the motion of Senator the Hon. H. LaV. BENN, the Senate resolved itself into Committee on the Bill, Her Honour SENATOR Miss K. F. IFILL in the Chair.

COMMITTEE

Madam CHAIRMAN: The Senate is now in Committee.

Clauses 1 and 2 were called and passed.

On the motion of SENATOR the Hon. H. LaV. BENN, Madam CHAIRMAN reported to His Honour the PRESIDENT, the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR the Hon. H. LaV. BENN, the Bill was read a third time and passed and cited as the Money Laundering and Financing of Terrorism (Prevention and Control) (Validation of Functions) Act, 2009.

ORDER NO. 2 – THE CRIMINAL APPEAL (AMENDMENT AND MISCELLANEOUS PROVISIONS) BILL, 2009

SENATOR Hon. H. LaV. BENN: Mr. President, this Bill seeks to amend the Criminal Appeal Act Cap. 113A and certain other inactions, in order to make expressed provisions for the bringing of this Act into line with the Law that abolishes the right of appeal to Her Majesty's in Council.

It is also to appeal and replace those provisions of the Law that follow in certain circumstances, the detention

of persons doing Her Majesty pleasure, and to make provision for the granting of a legal aid, in respect of certain appeals.

Mr. President, the Government of Barbados is taking steps to remove the uncertainty contained in the Criminal Appeal Act, while at the same time, ensuring that there is no doubt that the Caribbean Court of Justice (CCJ) which we discussed a few weeks ago is this country's final Court of Appeal.

Barbados agreed to abolish all appeals to the Judicial Committee of the Privy Council and to have the Caribbean Court of Justice as its final Court of Appeal, thereby replacing the Judicial Committee with its own final Court. The following enactments were passed to give effect to that decision:

-The Constitution (Amendment) Act, which effectively established the Caribbean Court of Justice.

-The Constitution (Amendment) Act, which speaks particularly to the jurisdiction of the Caribbean Court of Appeal.

Again, let me thank the Senators, particularly the Independent Senators, for their support with this Constitution (Amendment) Act, the last time we met.

It also gives that decision, the Caribbean Court of Justice Act, which is concerned with giving effect to the Agreement establishing the Caribbean Court of Justice.

The Caribbean Court of Justice (Amendment) Act, 2005-2008, which extends provisions relating to the jurisdiction of the Caribbean Court of Justice, and also covered the financial arrangements of the Court, the tenure of judges, et cetera.

Mr. President, at the time of the passing of the enactment mentioned, section 37 of the Criminal Appeal Act, and the Criminal Appeal Rules, were not expressly repealed, although they would have been regarded as impliedly repealed by the coming into effect of the statutes mentioned by me.

Senate A16, Sequence 04

11.40 a.m.

Wednesday, May 27, 2009

SENATOR the Hon. H. LaV. BENN: In December of 2009, the Caribbean Court of Justice dismissed an appeal on the conviction of murder and the sentence of death, thereafter, the appellant indicated his intention to

appeal to the Judicial Committee of the Privy Council in London.

Mr. President, when this matter was dealt with in the Other Place two weeks ago, the Criminal Appeal (Amendment and Miscellaneous Provisions) Bill, the Caribbean Court of Justice as the final Court of Appeal, which this Honourable Senate debated and passed two weeks ago, as well as the sentencing of juveniles in cases of murder, it was recognised that this amendment to the Bill would become necessary.

The amendment of this Bill, therefore, would seek to effect the Juvenile Offenders Act wherein it is prescribed that juveniles who are convicted of murder, should be sentenced until Her Majesty's pleasure is known. The use of that term will be corrected and replaced by "until the Court's pleasure is known".

Mr. President, it has been determined that sentencing a juvenile until her Majesty's pleasure is known is an unconstitutional act, within the context of what the Constitution prescribes. As such, we expect that a lot of cases will return to the court to have re-sentencing hearings, or to have certainty brought to their term of imprisonment.

It must be noted here that it is the function of the Judiciary and not the function of the Executive to determine the length of sentencing when persons have been found guilty before the court. Therefore, Mr. President, we are here again this morning in this Honourable Senate seeking to amend the Criminal Appeal Act.

Mr. President, I look forward to some debate on the matter, because we have in our midst, a number of legal luminaries. Mr. President, I know that when the matter was discussed in the Other Place, a lot of other discussions took place relative to how juveniles should be dealt with. They talked about providing legal aid to persons who are unable to provide their own legal attorney. We looked at even the treatment of punishment in schools, and therefore, I suspect that those areas touched on should inform some of the discussions that we would engage in as we seek to have this important piece of legislation passed.

With that, Mr. President, I beg to move that the Criminal Appeal (Amendment and Miscellaneous Provisions) Bill, be read a second time.

SENATOR the Hon. Mrs. V. E. NEWTON: Mr. President, I am sorry that I was unable to attend last week when a wider discussion on the constitutional amendments and other matters to do with one of the provisions of this Bill before us would have been discussed in full, I believe, but I had an engagement that I could not avoid. Mr. President, I am very happy to see this amendment to the

Criminal Appeal Act for two reasons. The first - and I am hoping that it is a start of a trend - is that as soon as possible after an Act has been passed which gives rise to consequential amendments in other pieces of legislation, that the Parliamentary Counsel gets around to making the necessary amendments. For too long, and even now, we have legislation on the Statute Books of Barbados which needs to be amended just to change terms, sometimes to change more important provisions that have arisen as a result of new legislation or amendments to other pieces of legislation.

Mr. President, because of the pressure on time, I imagine in the Chief Parliamentary Counsel's Office, they do not get around to these amendments for a long time, so I am very happy to see that these pieces of legislation are being amended to substitute the Caribbean Court of Justice for the Judicial Committee of the Privy Council. The other major provision in this Bill is Section 3 which amends the Criminal Appeal Act in relation to juveniles detained at the court's pleasure. What used to happen, Mr. President, is that persons would be sent to the Psychiatric (Mental) Hospital under an amended provision and forgotten. Mr. President, there was no precise way of knowing when the Queen's pleasure stops to be such and often there was no cut-off provision for reviewing these cases.

Last year or the year before, there was a case which went to the Judicial Committee of the Privy Council dealing with the question of the detention at the Queen's pleasure. It was determined that the provision was unconstitutional and that it should be changed, so that when juveniles are sent to the Mental Hospital under the provisions of the Act that the case is kept on the court's calendar, and that at some fixed time, the case would be reviewed and that person would not be left to languish at the Mental Hospital, so I am extremely pleased to see this amendment. As I said, given the scale of things, it is a fairly timely amendment after the case in which the call was made for the amendments to be made.

With those few words, Mr. President, I wholeheartedly support the Bill, and I thank you.

SENATOR R. O. MARVILLE: Mr. President, I will ignore the plea of the Honourable Leader of Government Business for lawyers to speak. I think that this is also a matter of governance which I think I should point out.

Mr. President, I am very pleased, like Senator Newton, that much of this is being done now. I think there is a lot more of it in all sorts of little areas that need to be looked at, because we constantly realise, sometimes centuries down the line - because this is an old provision of British Law which I think the British themselves only recently recognised and changed.

The fundamental difficulty for me is not simply a legal one, it is one of governance. In our system, the only point of distinction which we have between the Executive, the Queen, the Prime Minister and his Cabinet, and the legislature, is the Judiciary. It is, therefore, totally appropriate that any unconstitutional right given to the Executive be put back with the Judiciary where it belongs because we need to maintain that element of separation at least, and therefore, I welcome this one.

With respect to the changing of the subsidiary Law, if you like, regarding the Caribbean Court of Justice, what is interesting is that although in the Constitution it says that our final court of appeal could be the Judicial Committee of the Privy Council, or an equivalent regional court and that we switch from the Judicial Committee of the Privy Council to a regional court, at that time whatever residual Law was there that needed to be changed was not changed, and I am very pleased that we are doing this now, because we cannot have two systems between which we switch constantly.

With respect to the matter of children or juveniles and people who are considered mentally incapable, we particularly welcome this change, because they have been people who have suffered rather gravely because of the absence of the removal of this particular clause.

With that, Mr. President, I support the Bill. I thank you.

Senate A16 Sequence 5

11.50 a.m.

Wednesday, May 27, 2009

SENATOR the Rev. P. A. V. MILLINGTON: Mr. President, I want to say that I wholeheartedly support the amendments to this Bill before us and I do not think we need to go over what has already been said.

Sir, I would like to use this opportunity to speak a bit about crime and the effect that the lack of discipline among our children is having on crime. I am very concerned about what I am seeing throughout the length and breadth of Barbados. I see people bending over backwards to make excuses for people who are doing nonsense.

Every day women are being raped and battered. As a counsellor, most of my cases involve females, and there seems to be little recourse for the victims of crime and rape in our country. When I say recourse, I mean to say that it seems to me that the Law is pre-occupied with giving the perpetrators all of the amenities, legal aid and all the things they need to escape what I think is something for which they are responsible.

I believe in our society, people do not want to be responsible for what they do. For example, if a man of 21 years old murders somebody, psychoanalysts, psychiatrists and psychologists are going to come and say that when he was small he was beaten for wetting his bed, and therefore, he has developed some kind of syndrome. Sir, we are making excuses every day for people who are doing nonsense throughout the length and breadth of this country.

Mr. President, I think on another occasion I had remarked on the fact that a gentleman had told me that he would kill me and get five years for it. Sir, that man's perception is that he could do something like that and with a good legal system and a good attorney, he could get away. Sir, I am a very strong supporter of the death penalty and corporal punishment, but with limitations. I think this is well-known in certain circles. I believe strongly that if somebody does something, he should be made accountable for his actions.

Mr. President, the Words of God makes it very clear but it seems to me that people now have a greater knowledge of how mankind is supposed to live than God. The Bible says: "Foolishness is bound in the heart of a child and that the rod of correction should drive it far from him." I am sure that many of us in this Honourable Chamber have felt the rod of correction, but today, we are still here and it has not done us anything ill. As a matter of fact, I will say we have turned out to be reasonably "good men and women".

Mr. President, today people are telling us that if we hit the child, that child would become traumatised, that it would not be able to function properly. Sir, that is a whole set of nonsense. It is a set of irrelevant facts that are based upon what has happened over the years.

I have known Barbados scholars who were disciplined when they were children. I know attorneys-at-law, teachers and other professionals who were disciplined when they were children, who are not traumatised in any way by such beating.

Mr. President, like any other system, I believe there could be an abuse of any system. I believe there are some people who I would say, brutalise and take advantage of the fact that they are in authority, and as a result, take advantage of the system, but I believe strongly that there has to be room for discipline.

Mr. President, on several occasions, I have seen mothers in supermarkets with their five-year old children, and when that child wants a bag of sweets and the mother tells the child no, the child sits down on the ground, rolls all over the supermarket and creates noise and the mother becomes embarrassed. Sir, this happens because of a lack of disciplining that child at an early age. This lack of

indiscipline at an early age is going to result in criminal behaviour.

I also realise that a lot of young men today have the view that if a relationship comes to an end, they do not want the relationship to end, due to the fact that they believe they have a right to the other individual. This has resulted in the deaths of a number of females. We have had a few cases highlighted recently.

Mr. President, this behaviour did not just happen when persons reached 21 or 24, this happened as a result of a lack of parental guidance, a lack of instruction and a lack of discipline. Sir, we have become soft on criminals and on children, and we tend to blame somebody else.

Mr. President, in one of my courses I did at Bible School, an experiment was carried out in a criminal institution in the United States of America. The counsellor went into the institution and told the people there that it was their fault they were institutionalised, that they needed to take accountability for their mistakes.

They were told that it was not somebody else's fault why they would have beaten their wives, nor that it was not somebody else's fault that they would have robbed or killed somebody, the fault is all theirs. Sir, they were told that only they are responsible for their own actions.

Mr. President, it was said that when several of the inmates at this psychiatric institution acknowledged their fault, that facility became almost empty. Those inmates were hiding from the fact that they had done something wrong.

Mr. President, in our society, criminals or people as a whole, need to acknowledge their fault, instead of getting two or three eminent and learned attorneys and try to escape the fact that some young lady has lost her life, some family is in mourning, the fact that all of a sudden, that person who has committed the crime now wants to live. He now wants to have an appeal.

Mr. President, when we are talking about crime and about making changes to the Constitution and to a number of Acts, we must realise that we have to start right now when the child is small. People have to take accountability for their actions. I do believe that capital punishment or hanging is not necessarily meant to be a deterrent, but you are going to pay for what you have done.

The Words of God, if you go back to the Hamarabic Code, if you go back to the Old Testament Law of Moses, coming forward, it makes it clear, the soul that sinneth shall die. Whatsoever a man sow, that shall he also reap. The Bible makes it very clear that you cannot do something and expect to be free from accountability. This is something

that really disturbs me in this society where the victim has little or no recourse.

Everybody is concerned about saving the neck of the criminal, but when the girl is found in a canefield murdered, what does her family get? What do they do? Maybe the guy spends eight years in jail and after eight years, he comes out, but the victim is still dead. They do not have any repeal, they have no recourse.

Mr. President, I am saying we have to be very careful that we do not implement Laws and rules which, Sir, it sounds humane, it sounds remarkable and logical but it is not Biblical, where the perpetrators of crime are treated, I would say with kid gloves.

Another fact is that they have so many organisations to appeal to. In times past, persons had one or two recourses, but now they have a number of recourses to which they can appeal. There are also organisations such as the Human Rights Organisation, Amnesty International, et cetera, that become involved in these persons' affairs. Sir, more often than not, nothing gets done or the sentence meted out to those persons is reduced.

SENATOR the Rev. P. A. V. MILLINGTON: Mr. President, I would want to say that though they cannot escape the wrath of God, they have many facilities at their disposal that allow them, in most cases, to escape the vengeance of man or the sentence of the court, through skillful attorneys who represent them, as their attorneys have a right so to do.

Mr. President, I fear a day is going to come like some other countries, I hope it would not happen in Barbados, where crime is so rampant that we have to have a curfew, or people are afraid to go to Church at nights because of being afraid. Sir, I can speak with authority. I have reliable sources.

Sir, any victims of crime do not get in the newspaper or media. Some people are too embarrassed to come to the media to say they were raped by a colleague, especially if they are high profile female figures in society. People do not want their names tossed about.

H:No.A16 (6)12:00 noon.

Wednesday, May 27, 2009

SENATOR the REV. P. A. V. MILLINGTON: I have had close friends in the legal fraternity who spoke to me about colleagues who were raped, but because of their profession and not wanting to be looked down by others, decided to withhold it and not to prosecute and take it further.

Sir, I have heard directly from the Police that a lot of crime does not get into the newspaper. Some of us might feel that we are fairly safe, that things are not as bad as it really is, but Sir, the truth of the matter is, things are worse than they appear. I do not want to be an alarmist, but we have to face the reality that the victim does not have much opportunity for recourse. It does not seem that way to me.

Mr. President, I would also like to make a point about a simple case of house breaking. A man comes into your house at 3:00 o'clock in the morning, there is a scuffle and the man is accidentally killed. Sir, you have to be very careful that you are not charged for excessive force.

The point I want to make is this. When the man comes into your house, you are not going to stop to ask him if he has a knife, a gun or a gutterperk. Sir, this is something I would like to speak on further at a later date, that you can get into trouble for defending yourself, and Sir, it should not be so. It should not be that at 2:00 o'clock in the morning, you see a figure, maybe the person is shot, you are told that you use too much force, but you did not know if he had a gun, umbrella or stick in his hand.

Mr. President, there are certain things that are stacked against the innocent citizen in our country who wants to do the right thing. Sir, in a case like that, you could find yourself before the Law Court for using excessive force. Sir, there is no way you should be charged, or get a day in jail for a person, who comes into your house at 2:00 o'clock in the morning. He scaled your fence, broke your window, broke the dead bolt and then he was shot. Sir, you find out that he had a knife, but you did not know that because it was dark. Mr. President, this is just a rough scenario of what could happen.

Mr. President, throughout the length and breath of the western world, we see societies now wanting to reverse things that they did. Unfortunately, it seems as if a handful of people usually dictate the will of the majority. Sir, a sample was taken in Britain not long ago and the people wanted the return of the death penalty because of certain high profiled cases where members of the Law enforcement were killed and the public was calling for reinstatement, but because it has been abolished it does not seem to be easy to reinstate it. Therefore, once again, we see that societies all over the world are saying that something has to be done about it.

Mr. President, I understand that Jamaica is having a close look at it because it is not about deterring somebody. It is letting a person know that he could go into a house, murder a woman and her three children, that his life should be forfeited and that it is not about deterrent. Sir, in certain eastern countries, you do not...

Asides.

SENATOR the REV. P. A. V. MILLINGTON: I could advocate it, even though I am not a Muslim. Sir, I am not going to be distracted right now. The fact of the matter is that people do not break into houses because you know your right hand is held up before a crowd. Everybody in that crowd is cheering and it is chopped off. Sir, I am not saying it should be done that way, but those people can go out, leave their houses open and come back and find their goods intact, because they know they are going to pay a penalty for doing nonsense.

My concern here is that people are doing nonsense all over the country and the penalty is not being paid, because somebody is going to find some loophole, some legal opening to escape the judgment due.

Mr. President, I am going to close on this. Sir, people do not take crime seriously until it happens to them, until their daughter is raped, until a home of their relative is burgled, or somebody is shot. Sir, all of a sudden, people become aware of the fact that crime is a serious issue.

Mr. President, once again, I support this Bill, but I want to draw to your attention that there are lots of things that need to be changed, and that things have to be done to ensure that the victim, at least, has compensation. Sir, those who are killed, the perpetrators need to be able to pay some sort of monetary compensation to the family of the bereaved and we have to look at these things. Sir, I am really concerned that we are so soft and concerned about the rights of the victim and very few people seem to take into consideration the person who has lost a hand or has been shot.

Mr. President, I know a shopkeeper, an old lady that was shot three times. Sir, it was overkill because what could an old lady do in a shop, and Sir, these are the types of situations I am talking about. Sir, unless we do it, people are going to become callous and indifferent to what is going on.

Mr. President, everybody is saying that things are terrible and that they should go home early. I know one lady who does not go to Church at night because of the way things are. Sir, already, we find a lot of people are concerned about crime and the rising level of illegal activity. Sir, people know that drugs are being sold next door, but because they are terrified, they say nothing. Mr. President, I would like to thank you for the opportunity to speak a bit, having accepted the Bill and supported it. These are some of the scenarios that I see that I am concerned about in our society.

Mr. President, I thank you.

Mr. PRESIDENT: Senator Crichlow.

SENATOR the Very Reverend H. E. CRICHLow: Mr. President, thank you. I rise in support of the Bill. I want to just give another interpretation of the biblical text that Senator Reverend Peter Millington used just now when he said that “a soul that sinneth, it dies.” Sir, this is a very difficult text to use.

I just want to point out that the meaning of this text is that the individual is responsible for his own sins. When the Prophet Ezekiel spoke and said that a soul that sinneth should die, he is speaking to people who believe, and believed for centuries that sin ran in the family and in order to get rid of it, you would have to get rid of the whole family or the whole tribe.

Sir, people were saying that it was not fair and Ezekiel had to point out, and he spent a long time doing it, that if you had a good father and that good father had a bad son, that the bad son would not inherit the blessings of his good father. If that bad son comes along and has a good son, the good son will not inherit the evil or punishment of his bad father. Sir, it is a bit technical and I do not want to spend a long time on it.

What the Prophet is saying is that there is now individual responsibility for sin. He says you must not use the proverb that people was using all the time, that the father has eaten sour grapes and that the teeth of the children are set on edge and that the proverb would no longer be used in Israel.

11.10 a.m.

Sequence 7

Wednesday, May 27, 2009

SENATOR the Very Rev. H. E. CRICHLow: Sir, you are not suffering for the sins that your parents committed. You are suffering for your own sins. The soul that sins shall die. It is not to be taken literally, because it would mean, of course, that everybody would die. Everybody sins.

Asides.

SENATOR the Very Rev. H. E. CRICHLow: I was not looking at you, but I was speaking to you. You were worried that you may be caught in this, so that the sinful shall die. I was not speaking to you personally, Mr. President.

Mr. PRESIDENT: I am grateful.

SENATOR the Very Rev. H. E. CRICHLow: I had to correct it, because so many people misunderstand that text. Through you, Mr. President, I do not know if my

colleague sees the point that I am making. Sir, each person is accountable for his own sin.

A few years ago, some American psychologists were saying that if the child does something wrong, you must spank the parent and not the child. It is the parent's fault. I am saying that Ezekiel, some several hundred years BC, is saying that you must not use that proverb anymore.

Thank you very much, Mr. President.

Mr. PRESIDENT: Senator Thompson.

SENATOR Miss H. E. THOMPSON: Sir, I do not want to speak for a long time. I do not want to join the religious debate, but it turns out that is really where we are. I would wish, if I may, to make an observation.

I listened to Senator Reverend Millington with great interest and then Senator the Very Rev. Dean Crichlow. Senator Millington was making the point about punishment and about God requiring punishment. I have often found in reading the Bible, that there are people who do very well in the Bible. Someone who stole somebody's birthright turned out to be a father of nations.

Then there was another person who desired a man's wife greatly and sent the husband into the thick of battle to lose his life, so that the wife would be accessible to him. He was a King who turned out to be blessed.

Sir, when you read the Bible, there are many interpretations, many questions and many conflicting parts. I think, however, without citing the Bible, and like you, I am a born again Christian, some days are better than others. Some days I am very good and other days I am not so good, but I try.

Asides.

Mr. PRESIDENT: Which day is today?

SENATOR Miss H. E. THOMPSON: Sir, sometimes I start out good, but at the end of the day, I realise that the day has not gone quite as I had planned. Today has been very good. Sir, you would be pleased to know that yesterday I even managed to pray for you. I saw you and we had a very pleasant exchange in the morning and I even remembered you in my prayers.

Mr. PRESIDENT: Please do not tell the whole Senate what we do when we are not in here.

SENATOR Miss H. E. THOMPSON: I am sure that some people outside who hear may be curious.

Sir, I think that the point Senator Millington is making, and I would not want to seek to craft his point for him, simply to say that in a context where there is a severe crime, then it would appear the Senator is saying, let the punishment fit the crime. Let us remember those who have fallen victim to the criminals. That in itself is laudable within the context of the criminal justice system.

There have been attempts to address the rights of victims. In fact, under the former Administration, one of the initiatives that was put in place, where a policeman or a member of the military, paramilitary or armed forces was injured or killed, and this extended to prison officers, in the line of duty, then their family is liable for compensation equal to five years' income of the deceased. That was an attempt to remember victims. That is Law.

In fact, we did have two or three policemen who died in the line of duty, and a prison officer who was also killed in the line of duty. Legislation came after that prison officer's death. The right of the compensation for the victim's families remains. That is something that, perhaps, we might want to look at, extend or consider how appropriately the parameters should be extended. Sir, at the time, I certainly advocated it very strongly then. It was something that we took onboard as a policy initiative and the legislation was passed.

Sir, the thinking was, because the police, prison officers, members of the armed forces and so on are on the front lines of the battle against crime, they are the ones most likely to be harmed. If they are giving their life and limb in service for the rest of the society, then should they be harmed in the course of that service, then their families who were previously entitled to nothing, unless they had personal insurance, should be entitled to compensation. I have indicated what the level of the compensation is.

Outside of that, I nearly said the court, the Chamber may wish to consider, and Senator Millington spoke in terms of compensation for victims' families. Where the victim is deceased it is the family to whom you want the compensation to go.

Under Criminal Law, the punishment is fining or confinement or you can have both. You can have more severe forms of punishment, but there has generally in the Criminal Law, not been compensation for victims or their families. However, in civil practice, the families do have the right to sue in the Civil Court, persons who are convicted for criminal acts or killing loved ones, and are entitled to compensation. It is not often pursued, but the right exists.

Often, however, what happens is, very many of the perpetrators of these crimes are what we term "men of straw" or what old people used to call "head and belly

men". They have no more than what you see them walking with invariably. If you are to be compensated in the Civil Law, they have no resources on which a judgment can bite. Therefore, if they are going to go off to prison, and if they are working, that income is to be taken away, there is no money for the victim's family, or the victim. That is not a lack of knowledge of the Law, but the lack of capacity of perpetrators often frustrating those who would want to be compensated in the Civil Law.

I do not know if I will find favour with Senator Millington, but I believe that one of the things we need to make amendments for within the context of our criminal justice system, is compensation for persons who are wrongly convicted, and who spend a significant amount of time in prison.

12.20 p.m.

Sequence 8

Wednesday, May 27, 2009

Senate A16, Sequence 9, 12.20 p.m.

SENATOR Miss H. E. THOMPSON: Previously, when convictions were acquired largely by investigative or physical techniques, one did not have that level of technology. There was no DNA testing. You did not have the kinds of chemicals and other kits that are now so widely used in forensic labs. In Barbados we, in the last Administration, built a high-tech forensic lab, which has the capability of assisting in the investigation of crimes.

As a matter of fact, there was a very interesting case not long ago, when a person was killed in Barbados. The perpetrator used the bathroom at the person's house and did not bother to flush. Sir, DNA sampling was done, and that was used in the end to help to find the perpetrator. This is very interesting. Therefore, we have the technology now to assist in crime.

Sir, previously, there was an amendment to the criminal legislation in Barbados that made a requirement for techniques to be used, which would allow us to be sure we are getting the right person. For instance, tape recordings of interviews with suspects, proper finger printing, and DNA testing and sampling. Therefore, there is now a comprehensive grid work within the legislation such as would allow us, if properly carried out, to exclude persons who are truly innocent.

However, my experience in the Criminal Law, and I did practice crime for some time, is that the police can be a little over-enthusiastic.

Asides.

SENATOR Miss H. E. THOMPSON: Yes, Criminal Law. I did practise Criminal Law, not crime. Did I say crime? No. Thank you.

Asides.

SENATOR Miss H. E. THOMPSON: I am absolutely sure, Sir, a terrible Freudian slip. In fact, my parents in their mid-1980s are still working. I do not know any other way except to work hard and work honestly, so believe me, I would not practise crime, but I did practise Criminal Law for some time.

There is now a grid work of legislation, as I was saying, which allows good investigative techniques and measures to protect the rights of the innocent. The reality is that there are a number of people convicted who go to prison saying: "It was not me, the police have the wrong man. A confession was extracted of me by pelting some warm blows and some other rough techniques and so on." Sir, these have been complained about for many, many years, long before I started practising Law in 1987.

Sir, again, there were complaints about some of the techniques used to extract confessions. Recently, you heard the Commissioner saying that the police need to be careful in relation to the techniques they use.

Mr. President, various international organisations have commented, from time to time, on the physical methods of the investigative mechanisms used by the police.

Mr. President, where persons are innocent, and where persons are wrongly convicted, not with any malice, but perhaps because of an absence of DNA at the time, a capacity to do DNA, errors with fingerprints or absence of fingerprinting and so on, then these persons who lose a tremendous amount of time in their lives, who come out with the stigmatisation of having been a prisoner, who lose income, contact with family, wife, girlfriend, children and so on, there really should be some compensation for them, and some mechanism for bringing them back into society.

Equally, I do not know what the time-frame is now, but previously when I practised, Sir, a person who was charged with a crime could stay at Glendairy - it was Glendairy at the time - (but stay in prison) for as much as two years, prior to the case being heard before the High Court.

They may have the preliminary hearing completed, but they may take a long time before the case comes on before the Assizes. When such persons are acquitted, then they too have lost a lot of time. If they are in the private sector, they are often unable to get back their jobs.

Mr. President, as we amend and expand the Law, and look at a whole body of jurisprudence and how we address criminal matters, we need to look at these issues.

Mr. President, prior to leaving office, we had also completed work for a parole system. I believe that a properly regulated parole system has a place within our Criminal Law system. In my view, the work relative to that needs to be continued.

I am pleased to see that in the legislation, where people are detained at Her Majesty's pleasure, there is now a better structure for dealing with such persons. Sir, previously, they really very often stayed until they became old and ancient, or until they die, which really is an inhumane way of dealing with them, especially because whatever mental deficiency or condition operating on them at the time the crime was committed may, in fact, be temporary or short-term. But, over time, with treatment, counselling, medicine and so on, people come to recovery and to restored health and are able to function properly in society.

There has to be a mechanism, just as you would do in the parole system, for seeing if there is regret, remorse, a change of heart, where there was some intent and on the other hand, where there has been a mental deficiency, under which the individual was operating, if that has in fact been cured, and the person can, again, be restored to normal society, without being a risk to themselves or to other persons.

There is too, to be considered, the whole issue of the death penalty and at some point, we have to determine, as a society, what it is we really want.

On the last occasion, I think it was, or the time before when we were here and speaking about debating, Sir, the Caribbean Court of Justice, I would have made some comments, tangentially about the death penalty.

Sir, when the debate comes up, I do not know if the parties will determine that this is a matter of a conscience vote, but it is a debate in which the society has to be engaged. There are very strong proponents on Both Sides, for and against the death penalty. Sir, in my view, the society has to debate it and make a decision on what is best in our cultural, social and economic circumstances.

Sir, if we are going to have the death penalty, in my view, it requires a corollary provision within the criminal justice system, that our measures for investigation and reaching conviction, are almost as airtight as they can possibly be, so that you reduce the incidence of people who are wrongfully sent to their death, because of a mistake somewhere in the investigative or trial system.

In fact, many of the people who are against the death penalty are against it for that particular reason. They fear that the conviction and death of even one innocent individual, even if they feel it sends signals of deterrence to the rest of the society.

Sir, there are other amendments under the Bill, moving functions from the local Privy Council within the court system, allowing for better separation of powers and proper administration of the justice system.

Senate A16, Sequence 9

12.30 p.m.

Wednesday, May 27, 2009

SENATOR Miss H. E. THOMPSON: Apart from the provisions for detention at Her Majesty's pleasure, there are other amendments moving functions from the local Privy Council within the court system, allowing for better separation of powers and proper administration of the justice system.

I think too that in looking at further amendments, perhaps the Government might want to consider the whole battered spouse defense, which is very much a defense in the United States of America and in the United Kingdom, but has not been imported into the Barbados legislation. We have also not looked comprehensively at the number and types of mental illnesses which can operate on an individual and cause them to commit crime.

If my memory serves me correctly, within the context of our criminal system, the standard is whether the person knew what they were doing at the time and whether they knew that it was wrong.

Mr. President, a person, a schizophrenic or somebody with some mental disease who acts compulsively and cannot escape those compulsions may feel, yes, I know that I am killing John, and under the legislation that would be enough to convict them, but really if a person is so compelled that they cannot escape those compulsions, then certainly we would want to look at whether that person does deserve to have the full weight of the law brought down on them.

Mr. President, review of the whole mental health provisions as they relate to convictions and to the Law, is something which we have to consider as we go on to modernise and update the criminal system and bring it in line with modern science, modern technology and modern thinking.

A justice system has to reflect and it has to mirror and measure the society that it seeks to regulate, therefore, the society cannot grow out of step with the justice system.

Criminal legislation has to be updated all the time. In fact, one of the measures where it would become very apparent is that in a culture where people lime on the block, or on Broad Street all the time, people stand up and just lime and talk and wait on friends. You see it particularly with teenagers and young men and so on. People could have been convicted for loitering on people's premises, when it is totally out of synch with modern cultural norms. Sir, that is just one example to demonstrate how we must keep our criminal justice system growing as the society grows and cultures, norms and values change.

The Act also makes provision for the detention of juvenile offenders during Her Majesty's pleasure. That resonates with me, Mr. President, because I was involved in a criminal case in which a juvenile who had the mental capacity of a seven-year-old, that was the medical evidence, acted compulsively and struck someone.

Mr. President, we can be very cruel in our society. This boy who was clearly very slow, was being made fun of, called an idiot and cruelly teased and he struck somebody losing his temper and was detained during Her Majesty's pleasure. His family was poor and were not able to help him, and clearly within the school setting, he did not get the kind of assistance that he needed. After he had gotten treatment and "grew up", because he would never be his chronological age, he was able to mature and come to a point of reason and understanding and was able to control his impulses, but because he was detained at Her Majesty's pleasure, he remained detained even when he could have come out and work and been a useful member of this society.

Mr. President, this amendment will now give an opportunity to persons like that to be properly rehabilitated and live a useful and productive life with their families. In our society, this constitutes an important change.

Mr. President, I know that sometimes the Parliament is ahead of what the society may want and you may hear people say, "wait dey gine leh go all dem mad people fuh trute, all dem people that want looking up and so". The people in Senator Millington's Church, might be saying that, I do not know, but I think we have a duty to explain what the realities are of how the Law really is practised and the practical administration of some of the provisions of the section which we are amending today.

Sir, I think that I have fully much covered the interventions I wanted to make. The only other one would be where a person is detained until the court's pleasure is known, and since you never know the court's and the

Queen's pleasure, invariably the detention turns out to be a detention of indeterminate and indefinite length, which was not the intention imported within the legislation.

In fact, in the United Kingdom where we would have adopted these very archaic provisions from, they have gone on and their sentencing structure is a lot more lenient than ours. I do not believe, like the Senator, that in our system, sentencing is lenient. If you were to compare sentencing in our system with that in the Commonwealth system, those deriving from the United Kingdom Common Law history - I am not going to speak to the United States of America system at all, because that is completely different - you would find that our sentencing structure is not particularly lenient.

I do believe, however, that there has to be greater uniformity. Perhaps by means of a practice direction, His Lordship the Chief Justice could help to guide that process, so that you get greater uniformity in sentencing where similar crimes will attract similar types of sentences, rather than it appearing to be such an arbitrary thing with one judge giving what would appear for one set of circumstances five years and another giving 10 years, because the bands within the Law allow for maybe a sentence of not less than five and not more than 20 years and so on.

There are administrative means, like practice directions, by which, in my view, we can come to more uniformed sentencing practices. By all means where the crime is a severe one, let the punishment be severe, and where there are circumstances for mitigation and where the provocations may have been severe, or the mercy of the court can be applied, then let the sentence be lenient so that the person can, in fact, get on with their life.

Mr. President, I think that I have spoken on all of the amendments being brought today to the Chamber, therefore, I conclude by saying that I am supportive of these amendments being brought before the Chamber, but I am asking for further consideration to include, as I indicated, compensation for people who are wrongly convicted and some mechanism for assisting victims' rights.

There is now no advocacy group within the society who will take up the rights of those who were wrongly convicted or fight for victims' right, but perhaps some retired judge or lawyer, or somebody who has some sensitivity for these things, or even Senator Millington, since he feels so strongly about them, can start a victim rights association.

Mr. President, as societies develop, you find that there are bodies of individuals who come forward to act as advocates for consumers or disadvantaged groups. Part of

the maturity of the society is that you have a lot of vibrant civil organisations acting as interest groups and lobbyists for various things within the society and engaging Government, because I do not want it to appear that they are acting against Government, in what they view as their core function and changing the face of the Law in this society, often for the better.

Senate A16 Sequence 10

12.40 p.m.

Wednesday, May 27, 2009

SENATOR Miss H. E. THOMPSON: Mr. President, I am very supportive of these provisions and I would hope that in due course, the areas I am suggesting, which I think will enhance and improve the administration of the criminal justice system, will also be incorporated into the Law, and that we could come back at some time in the future to debate those.

Mr. President, I am much obliged to you.

Mr. PRESIDENT: Senator Benn.

SENATOR the Hon. H. LaV. BENN: Mr. President, I rise to thank all Honourable Senators for their contributions and support to this amendment before this Honourable Senate.

Sir, we have a lot of juveniles now being sent to the mental institution. I am not sure that is so because they are involved in the usage of marijuana and alcohol.

Sir, I remember years ago as a lad, as you pass by the Mental Hospital, you would see a large number of elderly people there, it appeared as though only old people became mad. Sir, there are now a lot of younger people in our mental institution, who just stares out at vehicles as they pass by. I believe we need to have a look at this.

Mr. President, I recognised that most Honourable Senators used Biblical expressions to support their arguments. Reference was made to Esau and Jacob, to their birthright, to David who was one of the wisest men, about Moses, who is also reported to have killed somebody, Sampson was a person after God's heart, Saul who was renamed Paul. I am not giving support to people who were wrongdoers and who were after God's heart, but as much as people were talking about the Bible, I just thought I would also talk about it.

I also recognised, and I am happy for the support from Senator Marville, who spoke about a matter of governance, indicating that there is an old provision of British Law which we need to change. Senator Marville

indicated that this Bill we are looking at today also has some substance for governance.

Senator Peter Millington said he supports capital punishment. There are some persons who are against capital punishment, while some are in agreement with it, while there are others who are both for and against it. We are also concerned about corporal punishment in schools.

Sir, I was a teacher some years ago and in those days before the Education Act, 1981 came about, we teachers took the opportunity to reprimand. We used the strap to bring 'hard-ears' children in line. I am told it was described as Christian justice. Mr. President, I do not think that anybody was harmed by a beating with the strap. Sir, you may not agree with me - you do not have to - but I believe that the removal of that system from teachers, where teachers can chastise children...

Mr. President, I do not think there are any teachers who have ever sought to brutalise a child, but today you cannot even look too hard at the youngsters at school before they would run home and complain to their parents. Nowadays everybody is talking about their rights.

Mr. President, in my day when parents came to the school, they would come with sticks and stones. Today they no longer walk with sticks and stones. Sir, in those days, you would not find many well-respected parents coming to the school to beat up a teacher. As a matter of fact, in my early days growing up in my district, I could not have afforded to do anything considered to be naughty because if my neighbour, or any friend of my father were to see me, I would get a lashing from that person. The matter would then be reported to my father and I would get a second whipping. It was not about brutality in those days, and it has done all of us well.

Mr. President, we have decided that we are going to do away with corporal punishment. Sir, I would want to say that in so doing, we will find ourselves in serious problems. Sir, I say there must be a way that we could seek to revisit the school system. There must be a way for us to look again at the Education Act.

Mr. President, we have a number of studies about youth involvement in serious crimes. We have done a lot of studies, but I am not sure if they have sought to put the results of those studies into practice. We have to look at the Juvenile Offenders Act. I am aware that the Juvenile Offenders Act, which was enacted in 1932, was amended a number of times. The most recent time it was amended was in 1989, 20 years ago, and a lot of things have happened since.

Mr. President, I heard a few weeks ago, a few days ago, and even a few hours ago, where we are finding

problems in filling vacant positions in the Police Force. The Police Force is short of about 100 young people. We are looking for persons ages 20 and up. Sir, some of those very persons who we are seeking to attract, 20 years ago would have been the ones asking the question, through a song, "what de police can do". These would be the very young persons who were singing songs composed by artists and having fun about what the police can do.

Sir, today we expect those same people to be part of a system where they believe that once they join the Police Force, somebody might be asking the same question.

Mr. President, we need to have a look at our young people. We need to find out why they are involving themselves in such criminal behaviour.

Sir, the justice system in Barbados is good, but I would also say that I agree with Senator Thompson that we need to upgrade our criminal legislative system constantly. It needs constant updating.

I agree with Senator Thompson about compensation for persons who are wrongly convicted. I am concerned also with situations where we do have people being charged for criminal offences, where these people spend long periods on remand, sometimes two to three years, before going to trial. Some of these reasons are that police statements are not ready, among other things.

Mr. President, I remember being at work at another place a number of years ago, where persons were caught red-handed with produce that did not belong to them and were apprehended. These persons were not jailed, but a number of cases were thrown out of court, until such time that when lawyers representing those persons asked for information, the police were tardy in presenting that information - and this is not an attack on the Police Force and the case was thrown out through something called pre-trial disclosure. I think Senator Thompson or Senator Newton may be able to tell us about what pre-trial disclosure means, but the cases were thrown out.

Mr. President, I remembered it happening in the farming community where persons would have trespassed on to other persons' properties - not to do security work, perhaps to take produce, to reap what they did not sow -and the farmer would have sought to apprehend.

12.50 p.m.

Wednesday, May 27, 2009

SENATOR the Hon. H. LaV. BENN: I know of one case where a farmer apprehended and ended up at the other side of a knife. There was another farmer, because he had a licence to shoot would have shot at someone he saw in his

field. The person, similarly armed, shot back, the farmer return fire again, shot the guy in his ankle because he did not want to cause harm, but the farmer ended up before the court for grievous body harm. Sir, that is why I agree with our goodly Senator Thompson that we need to update our criminal legislation constantly.

Mr. President, you find that a farmer apprehends somebody on the farm, the produce is taken and the person is brought before the court for stealing, something called “praedial larceny”. Sir, at the end, some very qualified, smart lawyer is able to get involved because he should have been charged for trespassing and not stealing, because he was caught in the field and he did not leave the field with the produce.

Mr. President, when I was involved in farming, there was another thing that I found. Sir, having been part of a group that apprehended two persons in a robbery, we pleaded for pictures to be taken and the produce released, but nothing was done. Sir, it was long ago. There were not many cameras available then, so no pictures were taken, but when the case came up, the produce had spoilt, the carrots were no longer carrots and the evidence was no longer there. Sir, this is why I support the need to update our criminal legislation constantly.

Mr. President, there is also a need for us to have a very serious look at the manner in which cases are prolonged in court. Sir, I am told there are a lot of cases backed up in court.

Sir, I do not watch a lot of television, but if I get home early an evening, which is rare, I see a lot of people doing juvenile courts. I do not know if these are set up for television alone, but it tells me there is something in place where cases are held outside of the regular courts that we have set up in this country.

Mr. President, I suspect that we could, if we want to, have a look at that system. I suspect that it would help to ease the backlog of cases we have presently in this country.

Mr. President, I am happy that we have had some very strong support for what we have been discussing today. I want to end by saying that there is a need for a broad-based approach to tackling crime in this country. We have to look at how we prevent our youngsters from getting involved in marijuana and strong drinks.

Mr. President, I believe there is a need for a look at a parole system for Barbados. Sir, people who go to prison are sentenced for a long time and now that we have, perhaps, persons who are resident at Dodds, who are Christian-like and are able to preach to prisoners there, might change the habits of some of those persons who are presently incarcerated, and perhaps, we might have a

review of this system where a guy behaves well and he is converted to Christianity, because we have persons who are qualified pastors, et cetera, and we might look at a system of parole which would assist in easing the volume of the population as it is presently in our prison.

Sir, I am suggesting a parole system, which complements our overall objectives in relation to the sentencing of persons in this country and their detention in prison.

Mr. President, I believe we also need to look at programmes that would assist those persons when they are released from prison to be rehabilitated into the society. I believe there are some young men who go to prison, not for any hardened crime, but perhaps from failing to pay child money.

Asides.

SENATOR the Hon. H. LaV. BENN: The Honourable Senator says it is a hardened crime, but I do not think that failing to pay child money is a hardened crime, and Sir, that is only my opinion. Mr. President, those persons who have not been apprehended or incarcerated for hardened crimes...

Asides.

Hon. H. LaV. BENN: Sir, I do not know what system is in prison where they mix now with the hardened criminals, but we have to look at a way of separating them in prison, identify what skills they have, finding programmes that they could use the skills they acquired in prison. Sir, they may be masons, carpenters or joiners.

Mr. President, many years ago, when exhibitions were held in Queens Park, the prisoners used to have wonderful displays. Sir, we need to find ways in which these guys could be useful and when they are at the point of being released, that we assist them in being rehabilitated.

Mr. President, with those words, I beg to move that the Criminal Appeal (Amendment) and Miscellaneous Provisions Bill be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR the Hon. H. LaV. BENN, the SENATE resolved itself into Committee on the Bill, Madam DEPUTY PRESIDENT in the Chair.

COMMITTEE

Madam DEPUTY PRESIDENT: The Senate is in Committee.

Clauses 1 - 6 inclusive, were called and passed.

The Schedule became the Schedule to the Bill.

On the motion of SENATOR the Hon. H. LaV. BENN, Madam DEPUTY PRESIDENT reported the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR the Hon. H. LaV. BENN, the Bill was read a third time and passed and cited as the Criminal Appeal (Amendment) and Miscellaneous Provisions Act, 2009.

1.00 p.m.

Sequence 12

Wednesday, May 27, 2009

ORDER NO. 4 – RESOLUTION TO APPROVE THE
GUARANTEE BY THE GOVERNMENT OF BARBADOS OF
THE PRINCIPAL SUM OF NINE MILLION DOLLARS
AND INTEREST THEREON TO BE BORROWED BY
THE BARBADOS INVESTMENT AND DEVELOPMENT
CORPORATION FROM CONSOLIDATED FINANCE
CO. LTD. TO FINANCE THE CORPORATION'S
CAPITAL WORKS PROJECT

Mr. PRESIDENT: Senator Benn.

SENATOR the Hon. H. LaV. BENN: Mr. President, this is a straightforward Resolution. It is seeking to provide the Barbados Investment and Development Corporation (BIDC) with the amount of \$9 million from the Consolidated Finance Co. Ltd, to finance the operation of the work there.

In 2005, the BIDC obtained a facility in the amount of BDS\$38 million in order to finance this capital works programme. The facility is a 15-year, non-callable bond. The BIDC's capital programme sought to renovate various buildings, its portfolio as infrastructural work. The buildings earmarked for renovation include Building No.2, Harbour Industrial Park, and Building No.4, Newton, among others. Sir, a number of things were done to complete this capital work. We had to take money from this Vote to complete works that were just mentioned.

I am not in a position to indicate what over-runs there were, but I am seeking to have this Honourable Senate support the passing of a Resolution to approve the guarantee of the principal sum of \$9 million and interest thereon, to be borrowed by the Barbados Investment Development Corporation from the Consolidated Finance Company Limited to finance the Corporation's Capital Works Programme.

Sir, with those few words, I beg that this Resolution do now pass.

Mr. PRESIDENT: Senator Thompson.

SENATOR Miss H. E. THOMPSON: Sir, I had indicated to Senator Benn that I would not detain the Chamber a long time on this one. My view is, I am compelled to support it. I indicated previously that my view is, given the nature of the global economy and the consequences for the national economy, it is critical for the Government to take measures that will stimulate enterprises and cause economic activity.

It is, therefore, important that we provide capital that would give momentum to local businesses and enterprises and some encouragement be given to them through Government financing and general assistance. Once such is for the use of the Barbados Investment Development Corporation, (BIDC), I am going to support this measure. In particular I would wish to remind the Government because I do not think you should just criticise for the sake of criticising.

There were a number of measures which would now be four Budgets prior to this year. Measures have been put in to support BIDC and there was a stimulus package, in particular, for the manufacturing sector, for the fashion sector, condiments, furniture and a joint initiative between the BMA and the BHTA so that there could be supplies from the BMA to the tourism sector. In fact, in the last Budget of 2007, there was also a green economy initiative, which would have seen another synergy between the agricultural sector, and the tourism sector.

Sir, a point that I made previously, when you go to the Eastern Caribbean and you stay in Eastern Caribbean hotels, very often for breakfast and even for your main course, there are a lot more indigenous foods on the menus than we are offering in our hotel sector, and they are well received by guests.

Sir, if there was greater encouragement, I know the hotels often say that the problem is one of supply, but I believe if there was greater Government stimulation and support for an initiative from the agricultural sector and the opportunities were available, then farmers would produce so as to allow us to have menus.

Sir, we have all of these top Chefs that win awards at all kinds of international shows. There must be designing as well, Chefs doing cuisine with local supplies. It is entirely possible. There was a time when you did not see fish cakes, for instance, on certain kinds of menus. It is now commonplace. It also happens routinely with chicken wings and so on. I am saying that within the hotel sector,

there can be greater development of some of those synergies.

1.10 p.m.

Sequence 13

Wednesday, May 27, 2009

Senate A16, Sequence 14, 1.10 p.m.

SENATOR Miss H. E. THOMPSON: Sir, I am supporting the provision for the BIDC, and reminding the Government that there was a policy framework put in place to give support to various sectors. Because, not only will they help with stimulation of the economy at the local level, but the intention was to try to penetrate certain sectors of the export market with Barbadian goods and with Barbadian branded goods. Sir, there is still scope for that, even in the current economy.

I close on the point that there is an issue, which the BIDC must take on, Sir. I am speaking as well, if I may, for Senator Marville, because this is a measure about which we spoke, given the time.

There are a number of countries and manufacturing entities outside of Barbados, producing branded goods with the name “Barbados” from which we are receiving no economic benefit and no benefit at all.

It is critical that we look at branding, perhaps, and patenting the Barbados name, relative to goods that are coming on the market, because it deceives the public that this product is connected. The most common one, perhaps, is the use of the notion, Demerara sugar, for any kind of brown sugar, irrespective of where it is produced.

There are now, in international trade and in tort law, provisions that can deal with this, because it constitutes an economic loss to Barbados and an unlawful use of our name, and BIDC must seek to protect us.

Sir, I support the Resolution and encourage the Government to consider the issues to which I spoke.

Asides.

SENATOR the Hon. H. LaV. BENN: Mr. President, I wish to thank the Honourable Senator for her recommendations, which will be taken on board and considered.

There being no further contributions, I beg that this Resolution do now pass.

The question was put to the Senate and agreed to.

ADJOURNMENT

SENATOR the Hon. H. LaV. BENN: Mr. President, that brings us to the end of Government Business for today and I beg to move that the Senate be adjourned sine die.

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

Senate A16, Sequence 14, 1.13 p.m.

CONTENTS

PAPERS

SENATOR the Hon. H. LaV. BENN.....1

SUSPENSION OF STANDING ORDERS

SENATOR the Hon. H. LaV. BENN.....1

INTRODUCTION OF BILLS

SENATOR the Hon. H. LaV. BENN.....1

PUBLIC BUSINESS

ORDER NO. 1 – MONEY LAUNDERING AND
FINANCING OF TERRORISM (PREVENTION
AND CONTROL)(VALIDATION OF FUNCTIONS)
BILL, 2009.....2

Senator the Hon. H. LaV. Benn, 2, 3.

ORDER NO. 2 – THE CRIMINAL APPEAL
(AMENDMENT AND MISCELLANEOUS
PROVISIONS) BILL, 2009.....3

Senator the Hon. H. LaV. Benn, 3, 12, 13, 14; Senator the
Hon. Mrs. V. E. Newton, 4; Senator R. O. Marville, 4;
Senator the Rev. P. A. V. Millington, 5, 6, 7; Senator the
Very Reverend H. E. Crichlow, 8; Senator the Very Rev.
H. E. Crichlow, 8; Senator Miss H. E. Thompson, 8, 9,
10, 11, 12.

ORDER NO. 4 – RESOLUTION TO APPROVE THE
GUARANTEE BY THE GOVERNMENT OF
BARBADOS OF THE PRINCIPAL SUM OF NINE
MILLION DOLLARS AND INTEREST THEREON
TO BE BORROWED BY THE BARBADOS
INVESTMENT AND DEVELOPMENT
CORPORATION FROM CONSOLIDATED
FINANCE CO. LTD. TO FINANCE THE
CORPORATION'S CAPITAL WORKS PROJECT15

Senator the Hon. H. LaV. Benn, 15, 16; Senator Miss H.
E. Thompson, 15, 16.

ADJOURNMENT.....16

Senator the Hon. H. LaV. Benn, 16.

SPEAKERS IN THIS ISSUE

BENN, Senator the Hon. H. LaV.
CRICHLLOW, Senator the Very Rev. H. E.
CRICHLLOW, Senator the Very Reverend H. E.
MARVILLE, Senator R. O.
MILLINGTON, Senator the Rev. P. A. V.
NEWTON, Senator the Hon. Mrs. V. E.
THOMPSON, Senator Miss H. E.

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EDITORIAL NOTES — NOT PART OF THE REPORT

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

EDITORIAL QUERIES

Points noted while preparing this report from the edited transcript. The text has not been altered except where stated.

Q1. Masthead. The session is not stated in the source, so no session line is printed.

Q2. Order No. 2, Senator the Hon. H. LaV. Benn. The Minister says ‘In December of 2009, the Caribbean Court of Justice dismissed an appeal on the conviction of murder and the sentence of death’, but the Sitting is on 27th May, 2009; presumably an earlier year is meant. Printed as in the source.

Q3. Order No. 2, title of the Bill. The heading gives ‘THE CRIMINAL APPEAL (AMENDMENT AND MISCELLANEOUS PROVISIONS) BILL, 2009’, while the Minister’s closing motion and the third-reading note give ‘the Criminal Appeal (Amendment) and Miscellaneous Provisions’ Bill and Act, 2009. Printed as in the source.

Q4. Take-slip, about 12.10 p.m.. During Senator the Very Rev. H. E. Crichlow’s speech a take-slip reads ‘S/A16/11.10 a.m.’, Sequence 7, between slips at 12.00 noon (Sequence 6) and 12.20 p.m. (Sequence 8); presumably 12.10 p.m. Printed as in the source.

Q5. Orders of the Day. The source moves from Order No. 2 to Order No. 4; there is no Order No. 3 and no note that it was postponed or withdrawn. Please confirm.

DEBATE SUMMARY

(Editorial summary — not part of the record.)

The Senate met on Wednesday, 27th May, 2009 at 11.10 a.m., with the President, Senator Dr. B. M. Taitt, in the Chair; prayers were led by Rev. Father Errington Massiah. The President read a letter from Senator Maxine McClean, the Leader of the Senate, asking to be excused from 24th May to 4th June, 2009 while she attended the ACP Council of Ministers in Brussels and the OAS General Assembly in San Pedro Sula, Honduras. Senator the Hon. H. LaV. Benn, the Minister of Agriculture and Rural Development, led Government business in her absence. He laid the Barbados Economic and Social Report, 2008, Standing Order No. 45(2) was suspended, and the Liquor Licences (Amendment) Bill, 2009 was read a first time.

Under Order No. 1, Senator Benn moved the second reading of the Money Laundering and Financing of Terrorism (Prevention and Control) (Validation of Functions) Bill, 2009. He explained that the Anti-Money Laundering Authority appointed in 2003 for three years had continued to work after its term expired at the end of July, 2006, without a new Authority being appointed, so that its decisions between August, 2006 and September, 2008 had no legal basis; the Bill corrected that administrative oversight. There was no debate, and the Bill passed all its stages with Senator Miss K. F. Ifill in the Chair in Committee.

Under Order No. 2, Senator Benn moved the Criminal Appeal (Amendment and Miscellaneous Provisions) Bill, 2009, which brings the Criminal Appeal Act, Cap. 113A, into line with the abolition of appeals to the Judicial Committee of the Privy Council in favour of the Caribbean Court of Justice, replaces detention of juveniles ‘during Her Majesty’s pleasure’, which had been found unconstitutional, and provides legal aid for certain appeals. Senator the Hon. Mrs. V. E. Newton welcomed the long-delayed amendments, and Senator R. O. Marville supported them as a matter of governance and the separation of the Judiciary from the Executive.

Senator the Rev. P. A. V. Millington supported the Bill but spoke at length on crime, the lack of discipline among children, the plight of victims, the use of force against intruders and his support for capital punishment, citing the text ‘the soul that sinneth shall die’. Senator the Very Rev. H. E. Crichlow offered another reading of that text from the Prophet Ezekiel, as a statement of individual responsibility for sin. Senator Miss H. E. Thompson, declining to join the religious debate, called for compensation for persons wrongly convicted and for victims’ families, a parole system, review of the mental health provisions in criminal law, consideration of a battered spouse defence, and more uniform sentencing through practice directions from the Chief Justice.

Replying, Senator Benn spoke on young people in the mental hospital, corporal punishment in schools, the shortage of about 100 recruits in the Police Force, praedial larceny and delays in the courts, and agreed on the need for a parole system and rehabilitation programmes. The Bill was read a second time, passed in Committee with Madam Deputy President in the Chair, and read a third time.

Under Order No. 4, Senator Benn moved the Resolution approving the Government’s guarantee of \$9 million and interest to be borrowed by the Barbados Investment and Development Corporation from Consolidated Finance Co. Ltd. to finance the Corporation’s

capital works programme, for which a 15-year bond of BDS\$38 million had been raised in 2005. Senator Miss H. E. Thompson supported it, urged more local food on hotel menus, and asked the Corporation to protect the Barbados

name from use on goods produced abroad. The Resolution was agreed to, and the Senate was adjourned sine die at 1.13 p.m.