
THE SENATE DEBATES

(UNOFFICIAL REPORT)

PARLIAMENT 2013 – 2018

THE SENATE

Wednesday, July 27, 2016

The Senate met in the Senate Chamber, Parliament Building on Wednesday, the July 27, 2016 at 11.00 a.m.

PRESENT

Her Honour Senator Miss Kerryann F. IFILL, B.Sc. (Hons.) M.B.A., (President) His Honour Senator the Very Reverend H. E. CRICHLow, G.C.M., B.A. (Hons.) Dunelm (Deputy President)

Senator the Hon. Miss M. P. O. McCLEAN, B.Sc (Hons.) M.A., M.B.A. (Minister of Foreign Affairs and Foreign Trade) (Leader of the Senate)

Senator Dr. the Hon. E. R. BYER, M.B., B.S. (Minister of Labour, Social Security and Human Resource Development) (Minister of Commerce and Trade)

Senator the Hon. D. W. BOYCE, B.Sc. (Econ.), M.B.A. (Fin.), CMA, F.C.A. ((Minister in the Office of the Prime Minister with responsibility for Energy, Immigration, Telecommunications and Invest Barbados)

Senator the Hon. P. M. T. Todd, B.Sc. (Minister of State in the Office of the Prime Minister)

Senator Mrs. V. I. SANDIFORD-GARNER, CIM, Dip. Mng., M.B.A. Parliamentary Secretary, Ministry of Tourism and International Transport)

Senator H. A. HUSBANDS, M.L.I.R., B.Sc. (Public Administration) (Hons), Ed. Cert. (U.W.I.) (Parliamentary Secretary, Ministry of Education, Science, Technology and Innovation)

Senator J. INCE, J.P., BB.A., M.B.A, Dip (Mgmt.) (Parliamentary Secretary, Ministry of Finance and Economic Affairs)

Senator R. A. HUNTE, J.P.

Senator Rev. Dr. D. L. DURANT, D.D. (Hon.)

Senator A. R. WORRELL, B.A. (Hons.)

Senator Miss V. A. G. De Peiza, B.Sc. (Hons.), LL.M. (Merit)

Senator Dr. J. X. Walcott, M.B., B.S., F.R.C.S

(Edin.) J.P.

Senator W. A. Abrahams, LL.B. (Hons).

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

Senator Dr. Sir Trevor Carmichael, K.A., L.V.O., Q.C., B.Sc., (Econ.), M.A., Ph.D.

Senator A. A. ADAMS, J.P. B.A., Ed. Cert., M.Sc. Ed.

Senator J. A. WATSON

Senator Carol Lady Haynes, M.B., B.S.

Prayers were led by Reverend Cannon Errington Massiah.

MADAM PRESIDENT: This Senate is in Session.

ANNOUNCEMENTS BY HER HONOUR THE PRESIDENT

MADAM PRESIDENT: I am in receipt of excuses for the absence for Senator Sir Henry Fraser, and Senator Worrell and Senator De Peiza who will be joining us late this morning.

Honourable Senators, I would like us to take a moment to acknowledge the passing of the late Sir Frederick Smith, former Attorney-General of Barbados, who in his early stages was a member of this Chamber. I will therefore ask that Honourable Senators rise in their places and observe a minute silence.

A minute silence was observed in honour of the late Sir Frederick Smith.

MADAM PRESIDENT: May he rest in peace.

MINUTES

MADAM PRESIDENT: Honourable Senators, we are in receipt of the Minutes of the last Sitting of the Senate, however, as there is an error on the final page, we will defer acknowledgement of those Minutes until another Sitting.

PRESENTATION OF PAPERS

Senator the Hon. Miss M. P. O. McCLEAN: Madam President, I am commanded to lay the following:

1. Central Bank of Barbados 2015 Annual Report; and
2. Duties, Taxes and Other Payments (Exemption) University of the West Indies, (Humanities Festival) Order, 2016.

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

SUSPENSION OF STANDING ORDERS

Senator the Hon. Miss M. P. O. McCLEAN: Madam President, I beg to move that Standing Order 45 (2) be suspended for the remainder of the day's Sitting.

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

INTRODUCTION OF BILLS

Senator Dr. the Hon. E. R. BYER SUCKOO: Madam President, I beg to move the first reading of the Magistrate's Courts (Amendment) Bill, 2016.

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

PUBLIC BUSINESS

ORDER No. 1

MAGISTRATE'S COURTS (AMENDMENT) BILL,
2016.

MADAM PRESIDENT: Senator McClean, you have the Floor.

Senator the Hon. Miss M. P. O. McCLEAN: Thank you very much, Madam President. I rise to speak to the Magistrate's Courts (Amendment) Bill, 2016, which makes provision for committal proceedings under the Act which would require the use of written statements. It essentially does away with what we normally hear described or termed as preliminary hearings.

Madam President, in speaking to this Bill I will try to explain it as best as I can in layperson's terms. I sometimes have difficulties with legalese and so I hope that this makes it easy and that I am correct, if not I am sure the

legal luminaries in our presence would ensure that I do not drift far from what is correct.

This Bill makes provisions for what is called committal proceedings where written statements can be provided in an effort to make a case for a trial of an accused. In essence, what we are talking about would be moving from a situation where we have what are called preliminary hearings held before a magistrate and where that step is eliminated and the accused could go directly to a trial judge. I think that is the simplest way I can explain that. There are some changes as well that will go along with this. There is a common practice where oral evidence is used and depositions taken or given. This new provision would make necessary the use of written statements. This process applies to what

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Senator the Hon. Miss M.P.O. McCLEAN: Madam President, this process applies to what is termed as an indictable offence. Ma'am, in Commonwealth jurisdictions like Barbados, of course, most of the Commonwealth countries are common law jurisdictions, there is a requirement that an offence could only be tried on indictment after a preliminary hearing which is done to determine whether or not there is a case to be brought against an accused person. If it is established that a case can be brought, it then goes before a judge and jury. Madam President, what we therefore have is what I would describe as a two-step process in which we see evidence. For example, if we look at Barbados and other jurisdictions, we would see evidence of significant delays between the initial step to bring an accused person before the court and the actual sitting of a judge and jury. That is, of course, the opposite of what is considered a summary offence where the case is heard without a jury.

Madam President, it is felt that with the appropriate kinds of measures put in place that one of those steps could be eliminated in order to ensure that we have in place a procedure that is not compromised in any way. Barbados is at this stage following a number of other jurisdictions both outside and inside the Caribbean and so if I could remember correctly a number of countries including Antigua and Barbuda, Trinidad and Tobago, et cetera, have all eliminated that process.

Madam President, I believe that if we look at the statistics we would see that we have in Barbados a number of persons on remand for extended periods. Ma'am, while this process of having preliminary hearings may not be the only explanation for that situation, I am sure that the

process does, in fact, contribute somewhat or significantly even to the situation. Therefore the intention really is to do like other countries, the United Kingdom, for example, has for some time now eliminated preliminary hearings, which is intended to ensure that justice is as swift as possible, because we know the saying “justice delayed is justice denied”. That essentially is at the heart of what we are trying to do.

Madam President, I believe that if we are to talk about the whole question of the proceedings that must be followed when bringing an accused person to court and having that person tried, we need to look at it, not only within the context of the process, but perhaps to look at the context in which we find ourselves facing increasing numbers of accused persons being brought to the court.

Madam President, we in Barbados have seen a significant increase in some kinds of crimes. We get on an ongoing basis reports from the Commissioner of Police. For those of us who follow these matters we see, from time to time, reports of cases before the law courts in the print media, we hear reference in the news broadcasts of various radio stations and of course depending on where we live we sometimes see evidence of criminal activities, et cetera. Madam President, that has to be a concern for a country like Barbados. In fact, it speaks to the whole issue of not only what constitutes the critical elements of our criminal justice system, it also speaks to issues beyond that, to what I would describe as the issue of citizens security.

Madam President, I recall that in the past when we talked of security we either talked or thought of physical security but at the end of the day I think countries like Barbados are challenged, at the level of the individual citizen, to strive for a level of peace, comfort and security in our day-to-day existence and at the level of our institutions, most particularly at the level of Government, Government is charged with ensuring that there is an environment or a series of environments that are conducive to peace and comfort, so that in the context of our judicial or criminal justice system we have to think in terms of the rights and responsibilities of citizens, also in terms of the responsibility of the Government to provide a measure of security in several dimensions to its citizens.

Madam President, in reading the legislation and the efforts to do so, as I said I often look at these issues from the perspective or through the lenses from where I sit within the Government structure. One of the things that struck me and has caused me to reflect on the matters that concern what I would call the international community as reflected in issues before what I would describe as our primary multilateral entity, the United Nations, is that at the level of the United Nations there is a lot of talk about security. We know of the United Nations Security Council which does not have members like Barbados sitting on it as

a matter of course and we often think of them being preoccupied with regional and international terrorist issues, international transnational crimes, et cetera.

Ma’am, it is important to recognise that even though we are talking about our procedures in our courts, we have to recognise that there is some kind of nexus between what happens at the domestic level in terms of our court system and what happens at the level of national security as it relates not only to the security of our borders but the security of our citizens, what is it that perhaps will drive persons to criminal activities.

Ma’am, if I could make a very, what I would call a current reference. Madam President, only this week I would have heard the Right Honourable Prime Minister addressed participants and ultimately given the broadcast it would have been brought the attention of the public where there was a consultation on society. The Right Honourable Prime Minister would have identified and flagged some issues which needed to be tackled if we are to address the matter of crime and violence which leads to court appearances of suspects of accused persons and the adjudication of those matters. Ma’am, essentially the Right Honourable Prime Minister was identifying that there are certain things that we have to look at, that we have to address, that we have to develop strategies around, one of which had to do with the alienation of people in our society. The Right Honourable Prime Minister then went on to list either three or four critical issues that must be tackled.

Madam President, in doing that, it implies that as we look to strengthen our judicial system we must also put in place two things:(1), a set of preventative measures to ensure that there is minimal likelihood of persons engaging in criminal activities. In addition, (2), we also have to look at putting in place what I would describe as remedial measures.

Madam President, I think that as we talk about putting in place structures to allow for a more efficient and effective what I would describe as court system, that has to be buttressed by a set of policies and initiatives to support citizens. Ma’am, in doing that, it must look at not only at economic policies but at the range of social policies that are put in place. In fact, as I look at that notion of the kinds of policies that would inform the living conditions, that would inform the responses of our people to the various circumstances which ultimately would influence either positively or negatively the likelihood of persons finding themselves on the wrong of the law, it brought me to, as I said, to reflect on the kinds of issues that we need to tackle.

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Senator Hon. Ms. M.P.O. McCLEAN: ... It brought me, as I said, to reflect on the kinds of issues that we need to tackle. I looked at it, as I said, from the perspective of what I do and where I sit as I represent the Government. In looking at this whole question, I think that one of the things which we in Barbados have had to face is the growing daily trend and the challenge of a small island developing state like Barbados being caught in a rising tide of trafficking in small arms and light weapons, which are of course very much tied to the business of illicit drugs and organised crime. In essence, as we look to ensure that we provide adequate education, a proper social safety net in terms of certain facilities for child care, welfare benefits, assisted housing, free secondary education and a social and physical infrastructure, we are doing that in a situation where our borders, both physical and inferred -- I do not think "inferred" is the word I really want but the word I am thinking of will come back to me -- and some citizens are open to the temptations of the negative activities that are developing around us. Therefore, at the heart of any effort to improve the management of our judicial system, whether or not it is at the level of the Magistrate's Court to which this Amendment refers, we also have to pay some special attention to issues like working to provide an adequate standard of living. Of course, we also have to think in terms of some of the commitments that we make, one of which I will cite because they create certain kinds of responsibilities.

Madam President, as we talk about legislative reform as it relates to the courts, we are doing that against a background of our commitments made, for example, at the third international conference on Small Island Developing States quite recently in Samoa. At that conference, where Barbados would have been represented, the global family made a commitment or reaffirmed itself to the importance of peace and security. I think I would just share very quickly what they were talking about when they talked about reaffirming a commitment to peace and security. In that reaffirmation, nations of the world, including Barbados, identified "the importance of freedom, peace and security, respect for all human rights, including the right to development and the right to an adequate standard of living, the right to food, the rule of law, gender equality and women's empowerment, reducing inequalities, and the overall commitment to just and democratic societies for development."

The question is, "What does that have to do with a discussion of the Magistrate's Courts (Amendment) Bill?"

Asides.

Senator Hon. Ms. M.P.O. McCLEAN: Madam President, I am not listening to asides but I was absent from

the Senate, I believe, on the last Sitting, and the absence of others, I suppose, made me forget how people constantly seek to distract and also how perhaps.... Anyway, let me proceed with what I am saying. As I was saying, Madam President, there is a nexus -- I used that word before and I will use it again -- between what we seek to do or what we fail to do and what happens to the state of mind, to the behaviours, the attitudes and ultimately the actions of some of our citizens. Therefore, if those things to which we have committed ourselves in terms of peace and security are not happening, we will see a level of crime. Having said so, Madam President, I am happy to say that this country, while it is focusing on reform of our courts and their procedures, is also focusing on ensuring that the average citizen does not have the excuse that he or she must find himself or herself engaging in crime because they do not have access to a good social safety net, because they are uneducated by having no access to education, or because they have no access to proper human rights and therefore have become alienated from the community.

When we look at those issues that are put on the international table, so to speak, what we can say is that this country has consistently worked, across several Administrations and certainly this Administration, Madam President, to ensure that our citizens are protected and supported in areas of critical importance to the quality of life. Therefore, when we talk about these things it is often the case that Barbados can stand up in any forum -- domestic, regional or international -- and say to the world that we consistently work to ensure that the average citizen of Barbados can live in a frame of mind which says that he or she feels they have a fair chance and are therefore less likely to face the courts. Madam President, notwithstanding that, I believe that we have a situation where, in this country and over the last couple of decades, we have seen a movement away from some of the fundamental values that have driven this country, that have informed our behaviours, that have informed our family values, and that have informed our national values. As such, we have seen a reducing concern for the interests of others, and on the other hand we have seen an increasing selfishness. We have seen increased materialism; thus people feel that if they probably do not have it, some may feel they should take it. Therefore, I believe that as we talk about these things, as we talk about our judicial system and our criminal justice system, we also have to spend some time doing exactly what my colleagues, the Minister responsible for Social Care and the Minister responsible for Youth, would have been doing recently, and that is to take some time to reflect on the issues that must be of importance to us. As the Prime Minister pointed out -- and I hope I paraphrase him right -- if we do not see ourselves as part of a society, we could see certain consequences. He used the example of an article which cited the late former Prime Minister of Great Britain or the United Kingdom, Margaret Thatcher, saying there was no such thing as a society but

that they were a collection of men and women; and we could see the consequences of that.

In this country, we have always seen ourselves very much as a society, and certainly this Administration identifies itself with the very philosophy that Barbados is more than an economy but it is a society, Madam President. However, when societies start to break down, even when we amend the rules to expedite cases and so on, what we will have would be an explosion of cases before the courts, Madam President. Therefore, I am arguing that we cannot only address improvements within our court system. We have to do so against the background of strengthening those systems that we have in terms of fostering family, strengthening a commitment to the traditional values that have brought us to where we are, and putting in place mechanisms to protect and rescue the vulnerable.

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Senator the Hon. Ms. MAXINE P. O. McCLEAN:
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Strengthening a commitment to traditional values that have brought us to where we are and that we also put in place mechanisms to Protect and rescue the vulnerable including persons who may find themselves prone to criminal activity because in some instances they might have fall through certain cracks, that is, they might not have taken full advantage of our educational system, they may find themselves as part of a dysfunctional family, they may find themselves abused by some of the very members of their family or community et cetera but at the end of the day the critical point I am making is that we cannot talk about amendments of this nature without focusing on the supporting mechanisms that have to be put in place to ensure that as we look to strengthen our judiciary, to strengthen our court processes that we cannot do that in a vacuum. Madam, to do that in a vacuum is to ignore the very factors which contribute to the presence of our citizens before the courts.

Madam, therefore, for me, as I look at this amendment, the amendment is critical to ensuring that we can expedite the process of hearing cases, of bringing accused persons before the court but doing so in a manner that ensures their rights are protected but as we do that, if the necessary mechanisms outside of that are not put in place we may very well that we would soon have to find other ways to deal with the increasing incidences of crime that would put people before the court.

Madam President, I believe that I do not have to take an entire hour because at the end of the day it was my intention to simply demonstrate the necessity for the

amendment but beyond speaking to that, I think that it was more important that we speak to the necessary provisions and the necessary mechanisms that must be put in place to ensure that at all times, Barbadians have access to a mix of support system, structures and resources to ensure that we minimise the likelihood that our citizens would find themselves having to face the law courts and have to be subjected to the processes which we are trying to improve.

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

MADAM PRESIDENT: Senator Abrahams, you have the Floor.

Senator W.A ABRAHAMS: Madam President, I rise to pick up effectively where the Leader of Government Business left off and to expand on some of things she said and to add my own slant, that we can more fully appreciate exactly what the implementations are for this particular amendment. Madam President, I have stood in the Senate over and over and I have said that my particular issue is when we take an ad hoc approach to legislative amendment. We quite often miss the opportunity to make things easier for those we are trying to help with our amendments because we fail to look holistically at systems where systems are in jeopardy or we do not even look holistically at the particular piece of legislation that might need updating. Madam President, case in point, we are now seeking to amend the Magistrate's Court Act to negate the need for the lengthy process of preliminary inquiries. You would get no real problem from me or anybody on our side in relation to that. I do not think you would get a problem from the Barr Association in relation to that and the reason being is that has long been identified as a necessary step towards getting our justice system working again but it is not the only thing in the Magistrate's Court Act that needs to be amended.

Madam President, I thank my learned friend when she started and she said she was not a legal person but that she has no doubt that the legal luminaries would amplify what she is saying and being the only lawyer at the table today, I happy and graciously finally accept the accolade from the other side of legal luminary having had it pointed out to me over and over that I am not one. Madam President, in my capacity as a non-legal luminary I was ...

Asides.

Senator W.A ABRAHAMS: Thank you Madam President, I will continue and my presentation will speak for itself, that is all I am going to say. Madam President, in 2007, the Judicial Council, which is the body responsible for judicial reform and to have the justice system running properly did a novel thing. Madam, under the leadership of the then Chief Justice, Sir David Simmons, the Judicial

Council had a judicial retreat where everyone, all the players in the judicial system were represented. We said we could not advise ourselves at that point in 2007, it was accepted that our justice system was slowing down it was experiencing difficulties. We accepted that then and in an attempt to take a holistic approach to it, there was a two-day retreat and the entire of the first day was dedicated to delays in the justice system. Madam President, all the judges were present, all the magistrates were present, the Barr as a body was represented by myself as the President, the criminal Barr was represented by Andrew Pilgrim at the time, the prisons were invited, the counselors, the welfare service was invited and everybody that had a hand in the justice system in Barbados was invited and it was a long session. Madam, at the end of that session, 101 recommendations were made to improve the delivery of justice in Barbados. Madam, so far we have one, the implementation of the Drug Treatment Court and this is the second one. Madam, that report was laid I believe in 2009 in Parliament so the content of that report was shared with the Prime Minister by a letter from the Chief Justice to the Prime Minister dated in 2008 and the report was formally laid in Parliament, so the discussions and the recommendations were at hand and at the disposal of this current Government for a while, for many years.

Madam President, I as a practitioner of law am hurting because of our collapsed justice system. It is not collapsing any more, the horse has run off a cliff and the horse is now dead. Madam, our justice system in Barbados has collapsed and we are now putting plasters on a corpse. What is necessary, Madam President, is a complete and radical overhaul of our justice system. Madam President, there is no need to reinvent the wheel because the legal luminaries met in 2007 and the legal luminaries and all the supporting and all the players together ...

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Senator W. A. ABRAHAMS: ...utilise the facility for electronic recording of statements. He spoke about that in the Evidence Act as well. If you videotaped a guilty plea from an accused person and perhaps have an impartial person like a judge or a Justice of Peace, we have plenty of them in Barbados, sit in, that person then cannot come back and say they were beaten or coerced, so we cut out another layer. That was recommended from 2007. We debated that in here in our amendments to the Evidence Act and we have gone no further. It is as if the debate did not happen. It

is an implementation deficit. If we are serious and we recognise things and we debate and we put things in place, then follow through and put the necessary things in place that they can happen.

Madam President, introduce a Crown Prosecution Service to deal with file preparation. This will cover the same situation I spoke about earlier with respect to the statements that are necessary for the paper committals. If we do not have a department dealing with statements, it is not going to work. We recognised that in 2007, so at least with the paper committals we need to create a department that deals with the statements. One cannot work without the other.

Create a special department to deal with issues of pre-trial disclosure. That is the same thing, Madam President. Madam President, at Number 37, where the police file is not complied in a timely fashion or within a certain amount of time or where the prosecution is not able to proceed within 180 days from the date of the charge, the charge shall be withdrawn or dismissed. It is all here. Give more autonomy to prosecutors to resolve matters, that is at number 44. Institute a public defender's office; 49.

Madam President, from miscellaneous in relation to the Magistrate's Court, require a magistrate to dismiss a charge if the case is not proceeded with within 180 days of laying the charge unless it is the fault of the accused or there are extenuating circumstances. This now legislates for the magistrates that if the case cannot start within six months, out it goes. That should be in this. We are at the Magistrate's Court and that should be in here.

Introduce technology at the Magistrate's Court level to allow for taking of notes. Madam President, the days of us taking notes longhand in court should be done. Perhaps, the most significant procedural delay in our court system is the judges and magistrates longhand taking of notes. Madam President, some accused people look forward to it because you have then on the run, they are tripping themselves up and an attorney-at-law is cross-examining and you hear wait, hold on, I have not taken that, what was that you said again, and the person corrects. Madam President, when I spoke about the longhand taking I saw a number of nods from that side. I saw Sir Roy and Senator Crichlow nodding. We have been complaining about it forever.

Madam President, years ago when we were preparing to move across to the new court some people came to do a demonstration in what at the time was Court 5, I believe, and they set up a monitor and they had this special transcriber from, I think, Canada and as the person was speaking the transcriber was typing and the words came up in real time on the screen. They allowed people to wire in their laptops and the words came up in real time on

your laptop. That is happening everywhere else. People are pushing towards that. We have been crying out for it. This one is a no-brainer. That is in here since 2007.

Centralise some magistrate's courts to provide for more efficient service. With the greatest of respect, Madam President, why are we still... In the days when you could get one or two buses a maximum to get into town... People do not walk to court anymore, a lot of people drive to court. Some of these outlying courts crippled the justice system because you have a set number of criminal attorneys-at-law practicing and if I am in town then I cannot be in Horse Hill or at District "B". Do we still need to have all of those satellite courts in Barbados? That was a recommendation since 2007.

At number 79, institute a plea bargaining system at summary trials and in the High Court. At 78, to repair a ticketing system. Madam President, if you have the misfortune to attend the Traffic Court, half of those matters there can be dealt with otherwise. If you get a speeding ticket, it should be a set fine. If you are within 10 kilometres over the speed limit, it is \$250 for the first offence and \$500 for the second or whatever, and if you are 20 kilometres above or whatever, a defined amount so that when the police give you a ticket you could write on that ticket I agree and mail in that ticket with your cheque or go down to the court office and pay that and done. It never gets into the court. Every single traffic offence, no matter how minor, finds its way into the court. We have to streamline some of those out before they get there.

This is not magic, Madam President. I cannot claim the ultimate wisdom. This came out of a meeting of about 30 people all concerned with the improvements to the judicial system and has been available since 2007.

In 2007 we recognised that we were having a problem and we saw the need to meet, discuss and make suggestions. We are now well past the point where we see we are having a problem. We are at the stage where everybody sees that there is a problem. The newspapers have been littered in recent weeks talking about delays in the criminal justice system. It was unfortunately inspired by talk about people getting bail for murder but all that did was to bring to the fore a problem that existed that was being swept under the carpet.

Madam President, at No. 81, limit the amount of adjournments allowed. At 87, allow depositions for experts and absent police witnesses to be read into court once the evidence is not contentious. Madam President, at 94, review the nature of the offences which are tried in the Assizes. Certain firearm offences, escaping custody and indecent assault should be hybrid offences and capable of being tried at the Magistrate's Court.

I urge this Government to dig out the Report from 2007, that has been almost 10 years. On this our 50th year of anniversary go back 10 years and dig out that Report, look carefully at the recommendations that a whole set of concerned people including many eminent legal luminaries applied their minds to, look at the report that people in the public sector is concerned with the welfare of the individual, look at the report that the prisons were consulted on and they made input into and look at the report that the Solicitor-General, the Director of Public Prosecutions Chambers and the Attorney-General Chambers were consulted on and made their input. Never before in the history of our fair land before independence and since independence have this many people got together to discuss the criminal justice system and sat down and made recommendations. All are not capable of being dealt with now but there are some which it is past time for them to have been done. There are some that are easy. If there are some that require legislative amendment, then look and see what legislation you need to amend. Had we looked through those before we brought this Magistrate's Courts Bill, this would have in about six amendments.

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Senator W. A. ABRAHAMS: There are some that are easy, there are some that require legislative amendment, let us then look and see what legislation we need to amend. Had we looked through those clauses before we brought this Magistrate's Court (Amendment) Bill, this would have had in about six timely and practical amendments that could have worked with the current amendment to actually make a difference, instead of us making this amendment and coming back in time to make this one practical and capable of working. Ma'am, as it stands now, it is not practical and capable of working, it is but one part in a multipart puzzle.

Madam President, I believe that the issues with our criminal justice system should not be partisan because if it works or does not work it does not affect the Barbados Labour Party or Democratic Labour Party alone, it affects every single person in Barbados. Ma'am, the Government cannot cherry-pick amendments, our system is in need of a complete overhaul. We have to give our system, our judicial system, our criminal justice system, our justice system the priority and recognition that it deserves.

Madam President, this is why it was inexcusable that when Madam Justice Pamela Beckles was elevated from the Magistrate's Court to the Supreme Court it could not have been a surprise to anybody. I am sure that the Right Honourable Prime Minister did not wake up one day and

said that he was going to select this person. Ma'am, for the bulk of us who use the Magistrate's Court we knew that Miss Beckles was eventually going to become a judge. We knew that she was a great Magistrate; that she was a diligent, practical, efficient, thorough and fair magistrate; that she had all the qualities to make her a judge. Madam President, her elevation to the Supreme Court was expected and welcomed.

Madam President, it was inexcusable that the Government appeared to be caught by surprise that seven months later we still could not have a magistrate sitting in the Oistins' Court, it is inexcusable and so that all the cases that are stacked up in the Oistins' Magistrate's Court continue to be stacked up. Ma'am, the bail was dealt with by Magistrate Burch but the substantive cases were not deal with, so we then added new cases onto those. It is inexcusable that we do not have an appointed Chief Magistrate in Barbados at the present time.

Madam President, if, as I had suggested, the magistrates had island-wide jurisdiction, it may not be as acute an issue because magistrates could deal with and could whittle down that backlog from the Oistins Court, but there is only one person in Barbados who is authorised to hear across jurisdictions, that is the Chief Magistrate or the Acting Chief Magistrate.

Ma'am, my point is this, people talk, people complain, suggestions are made about our judicial system and our justice system and they are not being given the precedence and priority that they deserve from this Government. Ma'am, it is time for us to stop playing with the judicial system, let us look holistically at what is necessary to be done to make it work, let us make the very, very, hard decisions and let us do what is necessary to make it work. Madam President, we need more magistrates, we need more judges, we need more courts hearing criminal cases in the Supreme Court. The Barbados Bar Association has not been silent, it is not trying to protect anybody, it has been speaking saying that these are the problems because it affects our pockets, Madam President, it affects the rights of the individual and it affects our jobs.

Madam President, Dr. Walcott is a surgeon, if every time he goes to the Queen Elizabeth Hospital there were ten hurdles in his path that he had to climb over en route to the operating theatre, then the tables in the theatre are collapsing, then Dr. Walcott cannot work. Ma'am, that problem would be acute to him because it would be affecting his pocket, he would be seeing it and would be dealing with the frustrations. Madam President, we are too.

Madam President, I am glad that we have amended the Magistrate's Court Act to make the provision for paper committals. I am glad, but it is not enough, it was not soon

enough, more needs to be done and more needs to be done now, Madam President. Madam President, with those few words, I take my seat.

MADAM PRESIDENT: Senator McClean, you have the Floor.

SUSPENSION

Senator the Hon. Miss M.P.O. McCLEAN: Madam President, I beg to move that this Sitting be now suspended for Lunch, until 2.30 p.m.

The question was put to the Honourable the Senate and was resolved in the affirmative, without division and Madam President suspended the Sitting accordingly.

1.07 p.m.

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RESUMPTION

MADAM PRESIDENT: This Sitting is resumed. Senator DePeiza, you have the Floor.

Senator V.A.G. DePEIZA: Thank you, Madam President. I rise to lend my support to the Magistrate's Courts (Amendment) Bill, which is being debated in the House today.

Asides.

Senator V.A.G. DePEIZA: I beg your pardon. I am in anticipation, Ma'am.

Asides.

Senator V.A.G. DePEIZA: In the Senate, Ma'am. This Bill seeks to address one of the many issues that the justice system, not just the criminal justice system, faces at this present time. To understand why this is necessary, we need to be aware of what transpires at present. There are essentially two types of matters; the simplest ones are dealt with in the magistrate's courts in their entirety, and then the second set belong really in the High Court, but presently the evidence is tested first in the Magistrate's Court to see if it should go to the High Court. There is, of course, a hybrid in between but we do not need to discuss that for the purposes of this matter, and these are matters that are triable either way. When matters are of sufficient severity to require what we have now, which is a preliminary inquiry, they join the list on the usual docket of the magistrate. Alongside Protection Orders under the Domestic Violence (Protection Order) Act, private actions

for harassment, assault or anything of that nature, traffic matters and your usual docket of summary matters, will sit these other matters which really are not the business of the magistrate except to examine the evidence. How that is done at present is that the actual oral evidence is given by each witness, and there is opportunity for defence counsel to cross-examine each witness. We like that -- I am speaking now as defence counsel -- because we have the ability to set up a case; that is, we can ask the witness questions at the Magistrate's Court and then ask them again, maybe worded slightly differently, in the High Court, to see if we get a different response. Now those are just tactics; they do not actually go to the substance of the matter. That is just tactics.

However, what we find is that because the magistrates' case load is so significant in any event, when it comes to preliminary inquiries, if you are lucky, you will have two witnesses heard on any particular day. Bear in mind that your average case will have a whole lot more than two witnesses. You would understand that there are times when, even though there is a delay in starting a preliminary inquiry, there is an even greater length of time, once it has started, in bringing it to conclusion. Why this becomes a major issue is because magistrates are creatures of statute, so if, as often happens, magistrates are rotated and a matter is part-heard, the new magistrate has to start it all over again. If, as happens, a magistrate is promoted, he is not at all allowed to return to the lower jurisdiction to finish off matters, nor is there any grace period between one appointment and the other; so again we find that matters have to be started over. This lends to significant frustration on the part of everybody involved. The prosecution has to prepare the case all over again, defence counsel has to prepare the case all over again, and witnesses who have no actual interest in the outcome of the matter have to be found all over again; but then the players who really matter -- the accused person and the victim -- feel as though their lives are being torn asunder every time they have to speak their evidence or hear the deliberations again. Think only of a rape victim, who has to relive circumstances that they would much rather forget, though they probably never will. Every time, there is a regurgitation of the same, not just events but emotions; repeatedly. An accused person who is swearing on their innocence but who finds their lives truncated because they cannot travel without difficulty, and who cannot hold down a job because the boss feels that they are taking out too much time to come to court cases, this also has a significant negative impact on society. This is especially so when, and I say it again, you start with a circumstance where the docket of the magistrate, in respect of things that are actually his or her jurisdiction, is quite large.

That is the background against which the system is looking to change. Now, I digress for a little bit to indicate that we need to disabuse our minds of any notion you may

have or any notion that may have been planted that this is the only initiative that is being canvassed. Just last year, the Drug Treatment Court started. That too is intended to pull certain types of matters away from ordinary Magistrate's Court work, although a magistrate does sit in the Drug Treatment Court. It is intended to pull certain matters away from the ordinary docket and have them dealt with differently; not quite within the criminal justice system and not really in a civil jurisdiction either, but more in terms of being therapeutic. There are different methods that are being used, and we must not think that we are creating a situation by abolishing preliminary inquiries. This committal system has been in place in several jurisdictions, including jurisdictions around the region, and Barbados is playing catch-up. We are now getting to the point that others have been at for a decade and more.

Let me digress again. For the time being, we found an accommodation. It is not the best. It is not perfect, but it works for some matters. That is to say, the Director of Public Prosecutions (DPP) always had within his arsenal the ability to issue a voluntary bill of indictment. He presents the evidence to a judge, and he says this is the type of matter that we think needs to be fast-tracked, and it would avoid a preliminary inquiry and move straight through Order of the Court to the High Court for deliberation. We also had within the Magistrate's Courts Act a circumstance where, not the DPP but now the accused person could say, "I do not wish to waste the court's time. I know I cannot give a plea in the Magistrate's Court, but I wish to go straight away to the High Court to sentencing," and something called a paper committal was done in such an instance. What we have now that we are looking to bring through this Bill is to have that first system with the voluntary bill of indictment more perfectly within our law.

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Senator V. DEPEIZA: (Seq 11)

What we have now that we are looking to bring through this Bill is to have that first system with the voluntary Bill of indictment more perfectly within our law. It will not carry that title but the effect would be the same. The magistrate would still sit as an examining magistrate but will now examine the statements that are produced by the police as a bundle to determine whether or not the matter should go forward, so we are skipping a whole step that actually took months and oftentimes years and moving the matter towards the High Court a little faster.

Madam President, I take the criticism that for such a system to work and work well, we would need to have more judges, so I think we would know to a logical

conclusion that would follow. What we do not have in an over-arching piece of legislation that would sweepingly clear our criminal justice system and let us face it, our problems are not new problems.

Madam President, I came to practise, unfortunately I can reckon it in decades now and found a system in need of repair. Madam, today, we are not talking about civil, we are talking about criminal, so I will keep my comments in relation to that. We have had need of change before. We have had complaints about the workload of magistrates and about seven or eight years ago, we increased the number of magistrates to assist in easing that case load. Madam, in certain jurisdictions, they are named by letters and certain jurisdictions now have more than sitting, or should I say more than one location for sitting because that would make more sense to a lay person. We have had incremental changes all designed to address the issues that are so evident in our system. Why as lawyers we appropriate this change is because for us it actually means that we get to streamline our work a little bit better. It also ought to mean that we get the information in relation to charge, not just the charge sheet, but the evidence or the reputed evidence ahead of time because you would not have to wait now for the start of a preliminary enquiry and get witness statements the day that they are giving the evidence. It would be similar to the Voluntary Bill of Indictment, where an entire bundle is delivered one time. Madam, that is the utmost in efficiency (3:35). We need to have significant change, the time has passed for talking about the issues that we have in our justice system and actually making steps to change them.

Madam President, I am aware of the Report of the Judicial Council from 2007, I believe delivered in July, 2007, which suggest that any argument on the other side suggesting that there was delay in application would have to also be a criticism of themselves.

Senator W.A ABRAHAMS: Madam President, I rise on a point of order. The Honourable Senator I believe is inadvertently misleading the Chamber. The report for the Judicial Council for 2007 was delivered in 2008. The letter of transmittal that is inside the document has an error. I believe that should be July 22, 2008. Obviously the Judicial Council Report for 2007 would not be delivered in 2007. I do not think that the Honourable Freundel Stuart was the Prime Minister of Barbados on July 22, 2007. Madam, there is an error in the letter but the bottom line is, it was delivered in 2008.

Senator V. DePIEZA: Madam President, I also wish for this Chamber to recall that just a few months ago, changes to improve the criminal justice system from its starting point in relation to policing also passed both Chambers. It definitely passed the Senate, so it is not as though this stands in isolation to be criticised because it

cannot work without other things happening when there is sufficient evidence to show that those other things have already started to take place. I retain the point though that the recommendations, some of them are so utterly basic that there can be no argument on the other side for not implementing them, for instance the first one, court should start on time. Madam, they did not do anything about it. I do not think you need a Commission to tell you that you should start on time. You do not need a Commission to speak to the need of judicial officers to manage their own court. Madam, those stand to reason within any justice system but certainly this administration has taken a position that there must be fundamental change.

Madam President, now, there are some who require a revolution in order to take note of fundamental change but then there others of us who understand that adjustment is a lot easier when we have incremental changes to implement. Madam, case in point. Under the last administration we had a wholesale spring-cleaning in the civil justice system, out with the old and in with the new and almost 10 years later we struggle with some of the changes that were made in the CPR. It perhaps would have been better if we made incremental changes at that point and I do believe the lesson is well learn that you do not need to fault everything in order to make meaningful change and that truly is the lesson that needs to be learnt in relation to this and other amendments that are coming.

Madam President, speaking only off the top of my head, besides the police, we have had changes of different types to the Evidence Act impacting on the criminal justice system. We have had changes in terms of how we manage certain types of cases and I will acknowledge that in relation to capital matters, the change that came did not happen under this administration but we have had over time, a change that we can get accustomed to before we get another type of change. Madam President, I am satisfied that the intent of this amendment will meet the requirements of the system. It will not be the only measure that is employed in order to bring sense and also sensibility, because we have to remember that we are dealing with people when we deal with the criminal justice system, and we are dealing with people at their lowest, so we know of a certainty that these changes are necessary and that the changes have to be made.

Madam President, I wish to commend this administration for taking note of the Report of the Judicial Council and actually taking steps ...

Sequence 11

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Senator J. INCE: ...handcuffed and shackled. These are young men who have physical and mental resources that are good for the development of a country. When I see that I ask myself what is happening in society. This did not happen since the Democratic Labour Party came to office because there are those who would want you to believe that since we came to office young men started getting arrested, and that is what bothers me. Black on black crime. I have said it more than once.

What then is happening in society when we have these backlog of cases? There are not backlog of cases. When you go down to the court, and I always mention it, you do not see young white boys in Barbados and we know they live here, that is a fact. I say that is what bothers me. Why is it that when I go down to my court and your court and this country's court or you pass through the precincts of the court you see young black men? What are we doing?

The Amendments are necessary but what are we doing to our social amendments. We need amendments to social Barbados so that we can keep our young black men and women out of the shackles and the handcuffs and out of the courtrooms. As I said before, do not tell me that the young white male of Barbados do not have broken relationships. Do not tell me that the young white male of Barbados do not go through divorce. Do not tell me that. Why it is that the young black male would resort to a gun and murder to solve a problem? It reflects in the court because when the act is committed that is where you end up so that is why I said what are the social amendments that we need to put in place so as to minimise the exposures of our people having to end up in a court system. That is the reality.

What we are doing here is trying to minimise those exposures because at the end of the day a broken society... People make the society and when you have a broken society you have broken people. There is no guessing about that. If we have problems in our judicial system it is going to affect you and I. I always say, and I use two words, that this country is not isolated or insulated from adverse activity so what we must do is treat to the ills of society and when you start treating to the many ills of society, it will reflect in a reduction in criminal activity and the law courts.

Courts are important and critical for the day-to-day activity of a country. Nobody can argue against that because it is part of our law and order. It is where you go for settlement. It is where you go for justice. It is where you go sometimes for peace. Some people go there for peace and quiet.

What this Administration is seeking to do is to remove those time-lags. We know there are time-lags, it is outlined clearly. We said that we are looking at the

possibility of adding more judges to the judicial system to improve the magistrate's courts. For example, Madam President, I believe that we should have a traffic court in Barbados. I believe that we should separate traffic out of normal civil because if you have a traffic court... I had to appear to what I call a traffic court and when I went there, you hear adjournment, adjournment. A magistrate is sitting there where that magistrate could consume herself with other things in the system but you hear about running a red light and insurance and road taxes not paid. I am saying why consume the magistrate court with these things because there are certain days for traffic hearings. You have situations where a police reports a guy let us say for, as we would call it, running the lights, and that individual could easily be given a ticket, where they go and pay it and finish with that, but if in running that red light someone dies in the process and it is felt that this accident warrants a case or a charge against the individual I could understand that, but sometimes you go to those places and you sit down and all you hear is: You did not stop at a junction, guilty, \$250 or \$700 and sometimes that thing takes two or three hours and sometimes an entire day when that could easily be eliminated and allow the magistrate to deal with other things that are important.

Madam President, that is why I say that we need to set up a system because if you look at some of the statistics that are presented you would see that in 2015 we had 17 029 traffic cases and in 2012, it was 11 503, so you are looking at an almost 48 per cent increase between 2012 and 2015, so there is no way that many of those cases would be heard or would be solved within a two to three year period. In fact, if you had to say each case takes about three months you wonder if they would ever be heard, because if you had to take these cases and say okay each case takes three months you are looking at 34 000 months, so do you really believe that we would be able to hear 34 000 months of man-hours. This is the type of thing that this Administration is trying to solve. We are not going to do it overnight. It is not going to happen overnight because as I said when you have the ills of society, it reflects in the courts. As I said, what bothers me most is not the amendments but the number of young black men that I see in our court system. Black on black violence is what bothers me. How are we going to

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Senator J. INCE: Madam President, the question is how we are going to deal with that situation. Madam President, sometimes when you speak about black and about black violence, sometimes people become uncomfortable, but it is as a reality. We have to deal with

what is happening in a white Barbados that is not happening in a black community. We have to face it. What is happening is that sometimes you go and you would see, yes, but what is happening? You ask, is it that we need to mobilize more resources? It is job opportunities? Is it financial opportunities? It is educational opportunities for our young black men? Is it that business resources are not available?

Madam President, these are the types of questions and answers that we would need to look at because as I said, what is reflected in the court is a reflection of what is happening to Barbadian families; it is a reflection of what is happening in the society because you do not have a court where you get up one morning and find 11 000 cases or 5 000 files, those files instead represent activities, they represent people, they represent businesses.

Madam President, what we are doing is that we are simply amending the legislation not only to reduce time lags but in reducing those time lags and as you seek to reduce the number of cases, then the possibility exists that you would be able to identify some of the reasons for many of these cases end up in court. Ma'am, you would then be able to answer and to say that these are the reason so many of our young people are coming before the courts. It is something that we must all join hands because at the end of the day this is Barbados, it is not a Democratic Labour Party Barbados, nor is it a Barbados Labour Party Barbados, it is Barbados and despite the political differences what we are dealing with here today Madam President, is what I call a national issue. Ma'am, it is not a Barbados Labour Party issue, it is not a Democratic Labour Party issue, it is a national issue that all of us have to deal with. If we do not deal with it, then all of us would have failed Barbados, it must be dealt with and you have to start somewhere. We may not have all of the answers at present, yet the amendment is a start to many of the solutions that were outlined in 2007.

Madam President, as I said before, if we are to achieve that society that we speak about, one that is socially balanced, economically viable, environmentally sound, and characterised by good and transparent governance, then we must seek to remove many of those time lags or anomalies that are within the criminal justice system because if you do not do so, then we are going to create a dividing line in what we call lovely Barbados because then it is going to reflect a justice system for the 'haves' and for the 'have-nots' and we in Barbados pride ourselves as a socially balanced, economically viable, environmentally sound, and characterised by good and transparent governance. Madam President, on that premise we say that we were going to create a society or managed a society where we want to diversify that society, then the amendments to laws are part of that diversification.

Madam President, it is therefore critical and important that we look at this amendment in the light of developing that Barbados that we all truly love; that Barbados that we want to leave for our children and grandchildren where one can feel safe, where one can feel that there is justice, and where one can feel that he or she is part of this great country which is one of the most beautiful countries anywhere in the world. Ma'am, I always call it heaven, I say Barbados is heaven, that is what it is, and that is what God has blessed us with, He has blessed us with persons with the ability to be able to create that type of environment where all of us can be proud. Madam President, with those few words, I am obliged to you.

MADAM PRESIDENT: Senator Watson, you have the Floor.

Senator J. A. WATSON: Madam President, I will be brief because I am not a lawyer, really, nor am I really versed in the legal system, but I think that while listening to this debate there are some comments that I would want to make. Ma'am, first of all, I think that there is a problem. Obviously, we can all accept that there is a problem and that the problem seems to be two- or threefold. First, we have a system that seems to be clogged, with no real strategy or known method of solving or clearing that log. When I read some statistics in a recent newspaper I was surprised. The other problem, of course, is that we want to reduce the numbers of new cases that come into the system.

Madam President, I think Senator Ince would have spoken about black-and-black crime but I would not worry too much about that because we are 98 per cent black and so that will happen. Of course, the other problem that we would have is the type of crime that is taking place in Barbados today. I am concerned with the amount of gun violence that we have in Barbados. Ma'am, this whole justice system is a problem, from policing to imprisonment is a situation which has to be dealt with at different levels.

Madam President, first of all, I would want to deal with the idea of reducing the numbers of new crimes. I think that is critical to part of this solution. I mentioned in here some time ago and I am going to repeat it because somehow I am getting more and more convinced that that is a way of dealing with it. I believe, Madam President, that we should have our children going to school or remaining in an educational system up to age 18. The reason, Madam President, is that it gives the opportunity for those children to be socialised in such a way that they could become meaningful citizens. I think that too often they drop out of the system and then there is no socialisation in a positive manner, but that they get involved in the 'block' culture, if you want to call it that, then, of course, that is the beginning of whatever else that comes after.

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Senator J.A. WASTON: ... I think that too often they drop out of the system and then there is no socialisation in a positive manner, but they get involved in the block culture, if you want to call it that. Then, of course, that is the beginning of whatever else comes after. I think that is something that needs to be considered whenever we are looking at trying to deal with this problem. Madam President, there is the question of the existing cases. I listened to Senator Abrahams and I think that, based on what he said that is mentioned in the report, this point has to be taken. I think that the report of this Council should really be considered very seriously. As a matter of fact, I think it should be considered immediately, and based on what Senator Abrahams said, I think that we all agree that the report is a very worthwhile one. I believe that there needs now to be some task force that would look at the implementation of many of the things in that report.

There are some of the things, of course, which the judicial system itself could implement. The first one that was mentioned about starting on time is something that the system itself could deal with. I think there are other things. I believe that there should be time limits on the cases being adjourned. I do not see any reason for certain cases to take excessive time. I want to suggest, Madam President, that I have no doubt that it is being done but maybe it needs to be fast-tracked, and that is to look at the report of the Judicial Council and really start to implement many of the things. I know that Senator Abrahams has mentioned this on several occasions, and every time he mentions it I get a little closer to agreeing with him, and it is that whenever legislation comes to the Senate or comes up, it should be as comprehensive as possible so that it is not a piecemeal approach. From what I heard and from what I understand, there could have been, maybe, a little expansion to this Amendment, but be that as it may, a step is a step. Once you are going forward, that is important, so if we take a step now and we take a step later, no problem, but of course if we could take a large step at one time, so much the better. I take the point that wherever it is possible to bring comprehensive legislation, then that is better.

Madam President, we have to recognise that a lot of our productivity in Barbados depends on a lot of variables; transportation, health, many things. I have experienced the problems with the court system, because several times people go to court four and five and six different times and they still have to be going and nothing happens. It presents a substantial waste of productive time in Barbados. Any method at all that is going to be used to reduce that time spent in the court obviously would be beneficial, and this paper committal seems to be one that would decrease the amount of time being spent at court. Madam President,

again I say I am not a lawyer, and it was mentioned again by Senator Abrahams, and I cannot really determine whether it is so or not, but it does raise the question: When you get cases moved faster through the Magistrate's Court, is it not going to create a larger backlog in the higher courts? That is something that we will have to do, because if you are going to run them through faster in the Magistrate's Court, you have to run them through faster in the High Court as well. Therefore, that is another area that I believe we will have to look at.

All in all, Madam President, I have no difficulty in supporting this Resolution. I believe it is a step towards reducing the amount of time in the court. My caution is, "What will happen when it gets to the higher court?" I think that should be something to consider. In supporting the Resolution, I sincerely want to recommend that the consideration of the Judicial Council's report be fast-tracked. I think that there should be some team that maybe can determine what can be done about the present backlog, because I think that there is something that has to be done about that. Otherwise, you will just be putting more on top of what is existing. I think that some recommendations were made about how to reduce that backlog. Whether when certain cases exist for a certain period of time, you throw those out; or whether you bring in somebody to deal with simple cases and get rid of all of them, there must be some strategy that will get rid of that backlog so as to have the courts move faster. In terms of the idea of increased personnel, I am sure that if that is necessary and the Resolution or the Bill comes here, I am sure it will be supported. The crime rate has increased in Barbados, so we must have more people to deal with them. If we have to increase the judiciary, then that is what has to happen.

In that light, Madam President, I also want to make a plug for the police, because I think they have a lot of vacant posts that need to be filled and we need to, again, do something about that because safety is an important part of having a well-ordered society. It is also important for our tourism because people are more comfortable when they know that they are in a safe environment; and if they know that we have a Police Force that is well manned and well equipped, that would be of comfort to them. Madam President, with those words I want to support the Resolution, and I just want to hope that a few of the comments I made in terms of the recommendations are heard and are considered very seriously. Thank you.

MADAM PRESIDENT: Senator Hunte, you have the Floor.

Senator R.A. HUNTE: Thank you very much, Madam President. I shall not be very long. I rise to support the Bill before us, not because it is a Government-sponsored Bill but because it is clear that there are challenges, and serious challenges, within our court system.

It seems to be reaching a very serious stage. I have listened to those two practitioners - one on this side and one on the other side -- in stony silence, so to speak. They work in the system and they clearly would have a better idea about the system than we do; those of us who do not practise in the law courts. Madam President, the law courts are not only for the attorneys-at-law but there are civilians, of course, who have to deal with the system, whether they are clerks, messengers or accused persons, or persons who might have matters filed in the courts such as divorce, debt and mortgage circumstances and so on which are not necessarily criminal matters. The court system belongs to all of us as civilians because, obviously, we will have to go there at some time. I listened to the late Errol Barrow, who said to us to keep from the law courts, and I try to keep very far from them. I do not even pass there, but one never knows.

I heard Senator Abrahams say that Barbadians love to go to court, but he did not say in what capacity. I am sure that those who have shackles on their feet and wristlets on their wrists certainly do not want that.

3.36 p.m.

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SENATOR R. A. HUNTE: (Seq 16)

I am sure those who have shackles on their feet and wristlets on their wrists, certainly do not want that, security of tenure the courts are for all of us and therefore for whatever reasons or whatever circumstances we can end up there unless we of course want to take the law in our own hands and we will still end up there unless we end up in a box.

Madam President, my reasons sometimes for responding in some of these matters is because it comes across at sometimes for those who do not sit on the Government's side as though the Democratic Labour Party is responsibility for almost every ill that comes about in this system. Madam, I will say this. It is alright when you are not in a position of authority but sometimes when you are there, there are so many hiccups will come up in the system that sometimes it is like a guy running for the House of Assembly who says when he gets in he will fix that road as though he is the Minister of Finance and as though there is no budget. Madam, those kinds of promises made to people, as I have said, I have passed that stage a long time ago and I do not even like to hear it and I have never been an elected parliamentarian but I have been in the field long enough to understand what you should tell people and what you should not tell them and how the system work. It is alright to promise people these things. I heard a lot coming out in recent times of what we should do and what we should not do, all that sort of thing I have

hearing but when these people have the opportunity to correct a lot of these matters they do not. It is always very easy the say what should be done and what should not be done.

Madam President, I am not diverting because I have a lot to say on this matter but I want to use an example of when you are in a position of authority and when you are not. This Democratic Labour Party Government used to be accused by a member on the other side a spokesman of the Barbados Labour Party that the Freundel Stuart administration was borrowing \$40 million a month to pay salaries, repeatedly at every sitting of Parliament that statement was being issued. Madam, that might be true to some extent but when the Government took action and recognised as any other operation would do that you had to reduce the numbers on your payroll, that was thrown every day, every week and every hour at the Democratic Labour Party. They laid off the people, the people get lay off, they send home 3 000 people but when according to them, you were borrowing \$40 million a month to pay salaries, you were keeping people at work. Madam, if you do you are damned and if you do not do, you are still damned. Madam, that is what tickles me sometimes and not for me to laugh and 'skin' but to get mad.

Madam President, when I hear that sort of thing coming across from people who oppose this Government I always take up those things because I have been around long enough and I have heard enough. Madam, people call it politics but not me, I call it ignorance and hypocrisy and that is what stirs my emotion. Madam, in that regard nothing has changed.

Madam President, this amendment is the first step of trying to ease the circumstances that currently our judicial system faces. I have never known any piece of legislation coming to Parliament that has been amended one time. I have never known of any. I have always heard of amendment. Madam, not even our Constitution in 1966 had in everything that was new, there was other things that were being practised in Barbados before. Madam, I do not wish to go back to that time because I think it remains a bitter moment in the history of politics in the country, the issue of Independence in 1966. It stands out very clearly in my mind.

Madam President, it is true for those who practice and for those who do not. We can read some of us better than others. We can understand some of us more deeply than others but the fact remains there are challenges within our judicial system. We have heard a lot of it here today. We have heard it from this side and we have heard it from the other side but this is one of my observations. I do not hear the old practitioners in law in Barbados as vocal as those who have just come on the scene. I listen very carefully and when there are debates on matters I listened

to those who went around a long time and those who have not. I listened and I do not hear them because they were part of the system for a long time. Madam, sometimes you get very little debate on some of these matters elsewhere but of course when you are young, you are full of enthusiasm and all the things that go with it and of course you express yourself and there is nothing wrong with that. Madam, in passing, I can say that Senator Abrahams is probably one of those practitioner and whenever he gets the opportunity in this Chamber he expresses himself and I admire him. He is a guy that I appreciate very much because I believe he is a person with a good heart. It is not always the best thing to say about Attorney-at-Law but I believe he is a person that is sincere. I certainly believe that but the truth of the matter is that sometimes you have to tour the line from which you are drawn. I have seen in this Chamber since 2009, that there were formerly two Senators in here that rarely agreed with what happened elsewhere even though there were in the same lineup and we used to hear the comments not necessarily on the Floor, but we used to hear the comments as to why they do not agreed.

Madam President, it is alright to say bring these things wholesale and bring these things to Parliament for these changes but what we have seen happened recently elsewhere it seems to me that a lot of politics are being played in the country and that maybe the name of the game but not necessarily in the interest of this country.

Madam President, I will say quite frankly to Senator Abrahams that he represents a political Party that the history of it as far as supporting legislation is concerned coming from a Democratic Labour Party Government is not a very good one. I say that in all honestly and sincerity, the record is there starting from Independence right down. The 1974 amendments to the Constitution, and there were over 26 of them and a few insertions but while they were not supported in Parliament and created tremendous uncertainty around this country, led by the late Tom Adams and his cohorts but in a couple of years time, when they reached this Parliament as the Government ask what was changed.

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MADAM PRESIDENT: Senator Hunte, I caution you on that one.

Senator R. A. HUNTE: I thank you very much, Madam President, for reminding me what to say or not to say anymore.

MADAM PRESIDENT: Yes. If you would come back to the meat of the debate...

Senator R. A. HUNTE: I am right in the meat, I am sticking my fork in it now.

MADAM PRESIDENT: Thank you. Please do.

Senator R. A. HUNTE: Madam President, we have to take very seriously in this country when matters come before the Chamber that means something to our country and not only think about the 'to now' but about tomorrow because one day we would be sitting in a position where all of these things will blow right up in our face as a Government. It is alright when in Opposition but then there needs to be a sense of responsibility and patriotism that should come from persons who sit on Opposition Benches. I have seen it from both sides but there has to be a sense of direction, purpose and responsibility when the time really matters.

Barbados is not the only country either in the Caribbean or probably elsewhere that has challenges in its judicial system. This is because that persons in the various countries have become more aggressive. All of the weaponry that is being fed into small developing countries like ours...

I have a particular daughter who went to a particular secondary school, because most of my children went to what we call the older secondary schools, and she takes up the newspaper and says he went school with me. I do not want to call the name of the school although it does not really matter. Well I might matter because certain people might caution me again. It is sad to see that whatever this Government had done in terms of providing free secondary education when people had to pay for it at that time or before that time rather than looking to make use of the skills available in trying to help themselves, not all because there a lot of good young people out there that mean well, they want to get the fast buck once they get their hand on a firearm they are now obsessed with all of this action and reaction and so on to every little matter, and it is sad. I do not feel good about that at all. I could never cry down those persons who are academically qualified because education is the current that runs through a country. The more people that could be educated in a country it is better for the country. The party of which I am a member of has seen to that back in 1962 when they introduced free secondary education in this country. Some people do not like to hear it because they do not even understand the origins of it. They try to bring all kinds of red herrings across the trail about who do this here first and it was not the Democratic Labour Party and all of that. That is history now anyhow, but what is done or what was done in that regard cannot be undone so I would let that pass outside the off stump, so that was the intention to educate our people.

Only today I went down town and I saw one of the sons of our recent centenarian a man named Mr. Sisnett who died at 113 years old and we spoke about what a Mr. Peterkin at Hansom had said to his father when free secondary education was introduced: "Who 'gine' pick the pond grass now, who 'gine' pick this now, 'wha' Barrow gone and do and all of that sort of thing. That is how those people felt because he felt that because his son was going to school at The Lodge School that every Tom, Dick and Harry now would enter the Lodge School and sit next to his son. This spite and dislike for the Democratic Labour Party did not start last week it is an old thing and by people who do not look like me. Unfortunately for a lot of us we do not like to talk about these things because we see some sort of embarrassment confronting us.

Madam President, I thought I had to put in those few remarks in that regard but I wish to say as far as this matter is concerned that Senator Abrahams would allow us to know that the justice system in Barbados have collapsed. I do not know at what level. You know how collapsing got different levels but if he says that as a practitioner in the system well I hope...

MADAM PRESIDENT: The Honourable Senator has two more minutes.

Senator R. A. HUNTE: Thank you very much, Madam President. Those two minutes would be spent just looking at what my friend Senator Abrahams on the other side has said that we seem to be coming here patching up and patching up but it is not as easy as he says. When he rears his head, if he does get there, he would recognise it is easier said than done. The Government of Barbados and this Administration in introducing this amendment should be supported. It is a start at least in the direction which everybody wish it to go.

With those few words, Madam President, I am obliged.

MADAM PRESIDENT: Senator Crichlow, you have the Floor.

His Honour Senator the Very Reverend H. E. Crichlow: Thank you very much, Madam President. When I signalled my intention to speak, Senator Watson said what I wanted to say and so I do not have to say it again. I think it was Senator Ince who spoke of the colour divide and Senator Watson cleared that up. I think that Senator Ince said that you do not see many white boys in the courts but Senator Watson cleared that up very well, I thought. Senator Watson said just 2 per cent but I would have said that the white element is about 5 per cent and the blacks 95 per cent and so you would be bound to see...

Asides.

His Honour Senator the Very Reverend H. E. Crichlow: Well, I think that most Barbadians know that the very small white element had more money than the massive black element and so their children got better education at the time, so I do not think that you could compare a 5 per cent with a 95 per cent so that

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Senator the Very Rev. H. E. CRICHLLOW: I do not think that you could compare 5 per cent to that of 95 per cent, so that I think we in Barbados have done very well to educate the whole of the country and that this has been seen in the kinds of persons whom we have been able to turn out. I think you can recognise the Barbadian character in whom education and religion have played a very important part in the formation of that character.

Madam President, as Senator Watson has said that which I wanted to say, I do not think I should spend any more time on it. Madam President, I thank you.

MADAM PRESIDENT: Senator Durant, you have the Floor.

Senator Rev. Dr. D. L. DURANT: Madam President, I too am happy for this opportunity to give a brief intervention as it relates to the Magistrate's Courts (Amendment) Bill, 2016. I must applaud the initiative of the Honourable Attorney-General and his staff for bringing this Amendment Bill to this Honourable Chamber, as well as to the Other Place. I think it is long overdue and I think this was already expressed earlier.

Madam President, it is clear that this Bill will facilitate criminal cases that are sent to the High Court much faster but of course when they get there then a speedier system must be instituted at that level to make sure that whatever is sent there is not overloading that system, so that we are then back to square one. Ma'am, I heard that more judges will be hired and I think that is commendable but that must be followed through.

Madam President, I am happy that plea bargaining would also be further encouraged within the system, so that an accused person is able to plead guilty to a lesser charge so that that particular case can be more speedily expedited and done, so that we will really try to clear up the huge backlog.

Madam President, I have visited that institution a few times and I am amazed at the number of young men who are on remand at Her Majesty's Prison. As a matter of

fact, it is said that 45 per cent of the population is on remand and to me that is not right. Of course, at \$93 per day for the upkeep, without staff being added into that amount, this is not something that we should encourage to be continued much longer, although this has been happening for over the last 15 or 20 years.

Madam President, I think it is about time that this matter is addressed because any prison population with at least 45 per cent or more of persons who are on remand is totally unacceptable. Ma'am, not only that but some of them are there for as long as between seven to ten years on remand and that is not fair to the accused persons, as well as to their families.

Ma'am, I am pleased with this Bill coming on stream and I hope that it will be implemented. I think implementation is the thing so that I will be another talk shop but that at least we would see some things being done to really speed up cases and to reduce significantly the backlog that we have.

Madam President, I would even suggest that we implement a shift system where certain cases could be tried up to either 9.00 p.m. or 10.00 p.m. That is something, I think, that would really help to reduce the huge backlog that is presently there. If they can have a shift system up to 9.00 p.m. or 10.00 p.m. where even if it is just to reduce the present backlog, if we can do that for a year where the backlog would be reduced considerably, then they could go back to normal times. Furthermore, if it is working well after a year and it is likable and people are pleased with it, then you can continue with that shift system, so that we would never come to the place of having this huge backlog again, where so many people would not have to be on remand and the population within Her Majesty's Prison can be reduced significantly. Madam President, all around that would be beneficial to the island.

Madam President, I really want to ask the question, how did we get here? Also, how do we move from here? Madam President, this is alarming, here we are in a small island State, Barbados, grappling with backlog of cases, having an institution for incarceration really heavily populated and everything just seems to be going in that direction where our young people are being impacted upon negatively and are continuing to fall.

Madam President, I heard Senator Abrahams this morning saying that the criminal justice system has collapsed but there are other things that have also collapsed or that are on the verge of collapsing if there is no change in our behaviour. Madam President, for example, the institution of the family is under serious attack. We have also our educational facilities and curriculum that are under attack and could be on the verge of collapsing, something we do not want. There is also the social media that to me

has already collapsed because they are so irresponsible, they are posting things that should not be posted, they are doing things that are really not right to individuals, they are exposing people's privacy and so forth and they are acting very irresponsibly. Therefore such a social media is becoming more irresponsible and of course based on a lot of sensationalism we find that it is bringing a lot of discomfort to individuals.

Madam President, our educational facilities ought to be a safe zone for our children, not to be bullied and mistreated, not for that to be a place of all kinds of things like being lured into sexual perversion and things of that culture. When we think of the way things are now and so many of our young people being sent to prison, so many of them being on the streets, so many of them being on the 'blocks' there have to be other things that were collapsing around us while we slept. Madam President, while we slept things were collapsing and we did not pay attention to them.

Madam President, out of the things that I have mentioned, the family, the social media and our educational system, I think the family is the most fundamental and important one, that is where the buck falls. The family is under serious threat in this generation, marriages in our nation seems to be falling apart at an alarming rate. As a matter of fact, a survey some time ago revealed that marriages lasting up to five years that the divorce rate among that group is 24 per cent. Madam President, to me you are still on your honeymoon in that five-year period. What is the meaning of that 24 per cent of divorce rate around our island? The survey also revealed that for marriages lasting up to 10 years that the divorce rate is 47 per cent, which is an alarming high percentage or almost half.

Madam President, that is why I asked as we debate this Magistrate's Courts Bill and as we are trying to deal with backlog, what has caused it and how did we get here, how do we get out of it. Madam President, I think the breakdown came in the family if you could have this number of divorce cases.

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Senator Rev. Dr. D.L. DURANT: ... I think the breakdown came in the family. If you are going to have this number of divorcees. It is also said that 40 per cent of our households are run or are headed by women. I said all of that to say that we are dealing with some young people out there who are angry, who are vexed, who are feeling rejected and who have a lot of venom inside of them, and

they go out there and they begin to ventilate and let it out. They begin to lash out at society, because they feel society is unfair to them, which is not a right thing but that is the reality; that is what we are facing. Fatherlessness is not adding any benefit to this. As a matter of fact, fatherlessness is adding to the dilemma. There are young men and young women who do not even have a father around to give support; whose fathers are neglecting and abandoning them, and not even supplying their needs. There are mothers out there trying to work hard for these young men and women, and therefore they are left alone most of the time, so they will have to go to a community that accepts and embraces them. They therefore find themselves in all kinds of deviant behaviour and on the block that will embrace them quickly and make them feel at home, when in truth and in fact the block just wants to use them as foot soldiers or slaves or pay them \$1 500 and give them a gun and the picture of the person they want them to assassinate. The young men are just going. Just within the last 36 hours, we had another shooting, and another young man has gone down.

This is really creating a problem, and it stems from the family. The root of the problem, I would say, is the family. Quite a number of other things are collapsing around us but the greatest collapse, I think, is the family structure, the institution of the family. We need to get back. Children are not being sent to Sunday School, children are growing up in a generation where there seem to be no rules in the home, and every child is doing "what seemeth right in his own eyes," and most times it is not the right thing. I find that children tend to do what is wrong more quickly than what is right. This is because of the peer pressure that they are under, and when they see other children doing things that seem glamorous and sensational and so forth without getting into trouble, they feel that they can do the same things. That is why I always say to young people, "You see a pigeon flying but you do not know how he got his feathers. Do not try to fly like that pigeon. You may not have the same luck. Try to do that which is right."

We want to clear the backlog. We want to clear our judicial system of all these cases, all these criminal cases pending there. It ought not to be so in such a small society as ours. I am sure if I look at 30 to 35 years ago and I try to get figures for incarceration at that time, they would be very low. I was trying to get the figures but I have not got them as yet. I am sure it would be very low. Today, it is extremely high. I say it is the breakdown. Our parents had a stronghold on us, and when it was not our mothers and fathers, it was the grandparents playing a very significant role in that time. Today, sadly, we hardly have grandparents who are able to do that because they, too, are young. Children are begetting children. Of course, the dilemma continues.

It is important, and I want to make a very passionate plea to our young people today to put down the guns, please. Put down the guns and the drugs. They are not helping you. I can speak this way because I go among some of them on the blocks, and if they are hearing my voice now, they know that what I am saying is true. I talk with them, I stand in the midst of them, and I am not ashamed of that, because I love them and I want to see them change. I go and I say, "You need to put down the guns. You need to stop the drugs. These things are not benefiting you or helping you, and you do not know who you will hear about tomorrow that will be carried down in a box to the cemetery." Too many of our young men are carried to the cemetery in a box or, in the reverse, carried to her Majesty's Prisons, Dodds, in handcuffs. It is either one or the other, and both are very negative. The first, of course, is the ultimate: death, being carried in a box. Otherwise, they end up in prison, and they are there on remand for years, as I said before, with their cases not being tried. Sometimes, because of the particular crime for which they are charged, they are on remand longer than the particular sentence that they should be serving. We are in a quagmire. That is why I would really suggest that since we are thinking of the 24-hour opening of commercial entities and so on, an important thing would also be to have courts opening a bit later. Have a two-shift system up to at least 9:30 to 10 o'clock in the night. Do you know how much work you can get done during that time? One shift in the day and one shift in the evening from four to nine or four to ten or whatever, and cases would just be rolling over. I think that would help and would be one of my remedies for clearing the backlog of cases.

In looking at the way forward, I think it is important for me to make a few suggestions.

1. Communication. We need more roundtable discussions, more workshops talking about getting things heard. Senator Abrahams said there was a retreat some time ago, but we do not want retreats that will not yield results. We need the dialogue and communication that will be able to help those professionals and those involved in those disciplines to come together, because we have brilliant people here in Barbados. We have brilliant lawyers, brilliant magistrates, brilliant judges, brilliant judicial people who can all come together and really come up with plans that will make a difference in our island.
2. We need also to devise a strategic plan on handling criminal cases. That is basic. That is 101.
3. Cooperation is needed. The people rebuilt the wall in Jerusalem because they had a mind to work.

4. Implementation. Solid implementation is needed so that whatever we say and whatever we decide, this is the way we will go. Whatever strategic plan we come up with should not be left to dry on the paper, but at least should be carried out, and things should be happening as a result of your Consultation.

I therefore think that as we look at this very seriously, we can see the reduction of these cases being tried in a much faster manner, with those on remand coming out, being sent home or being given a sentence which they will serve. We should especially get those on remand dealt with in a speedy way. Also, I would want us to make sure that we take introspection of our own lives. I myself and each of us in this small nation of ours, let us relook at the family, the institution of the family, the greatest institution on earth. God, in His creative plan, made man and woman, blessed them, joined them together, and said, "Be fruitful, multiply and replenish." Of course, parents are responsible for training their children up in the way the child should go, so that when they are old they would not depart from the things they have learnt. The things I have learnt from my parents, my grandmother and so forth are still with me as a big man. I try my best to pass it on to my children. I have three boys and, thank God, all three of them are still serving God. Now I have some grandchildren, and I trust that they will pass on what I passed on, to my grands and great-grands, and in that way there can be a generational transference.

Aside.

Senator Rev. Dr. D.L. DURANT: Yes, in the line of David. I think that is very important. Let us pass on those good values, because Barbados is an island that has been built on biblical principles.

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Senator Rev. Dr. D.L. DURANT: (Seq 21)

I think that is very important. Let us pass on those good values because Barbados is an island that has been built on biblical principles. We cannot get away from it and I would hope that we would continue our spirits to set a good example before our children. We want to see the crime reduced. We want the young men to put down these guns. We want them to get away from the drugs instead of getting up in the morning, tea, breakfast and dinner using a spliff and your eyes are red, running water and for hours you are blown out and in another world, that is not life, that is a miserable situation and in love we want to reach out to these young people, we want to be able to talk with them with understanding, not to talk down to them but to really

share with them, and to let them talk as well, so that we can hear their hearts and their concerns.

Madam President, when you listen to them, you realise that many of them are angry and bitter and most of that anger and bitterness comes because of a dysfunction in the family. Sir, that is why I said that the ball was dropped from the institution of the family. Let us get to good family life. Let us get back to the hearts of fathers as was said in the last verse of the old testament, Oh, that the heart of the fathers will return to their sons and the sons to their fathers that we would see that restoration of good family life where the village can become like a family again and where we can be our brother's keeper. Madam, in that way we will love one another and we will have respect. I would not want to take up a gun because a man gave me a thousand dollars and gave me a photo and I gone looking for this person. Madam, that would not even enter my mind because of the level of communication, the level of relationship, the level of the family structure and the community setting. I would not dare even think of that. Madam, as a matter of fact, the person would not even dare approach me with such an offer but because of the breakdown now we see young men falling into this and getting themselves killed or getting themselves incarcerated and wasting their lives. I am calling on our young men. I am making an impassioned plea today to our young people that we love you dearly because you are important to this nation. We are not talking down to you, we love you but we want you to know there is a better way. Of course, drugs, guns, prostitution, human trafficking and all those activities are not beneficial to you and they are not going to make your life better, they are not going to cause you to fulfill your potential in life. They are not going to cause you to expand, be productive, progressive and be a valuable person to this society making a valuable contribution, they will not. They will have the opposite effect on you. I hope that we can continue to encourage you so that this kind of situation we have in front of us today, where there are a backlog of cases in the Magistrate's Court and we are trying to get the High Court to function. I would like this to be so reduced so that this does not become a problem anymore in the future and I think that is where it begins. Let us get back to basics so that this kind of buildup and this kind of situation can be avoided.

Madam President, with that, I give this my support. I am glad it is coming on board, it is long overdue and I hope that the implementation will be speedily and there are other things because this is just the beginning and there are other things that needs to be added to this the help enhance and strengthen that area of the judicial system and also our social system so that our young fathers, young mothers and families can be so reconciled, restored and that family unit can be rebuilt again to help heal our land and see the scourge in our society reduced significantly.

Madam President, with that, I want to thank you. God bless Barbados.

MADAM PRESIDENT: Senator Todd, you have the Floor.

Senator P.M.T. TODD: Madam President, thank you very much. I rise to support the passage of this Magistrate's Court (Amendment) Bill 2016 and to congratulate this administration for not just making promises but actually fulfilling these promises one by one, piece by piece, steady as she goes as it were. Madam, Rome was not built in a day so I wish to invite the spokespersons for the Opposition to remember that and to be man enough to congratulate the Government full stop without any further ifs and buts given that they have agreed this amendment Bill must be supported. Madam President, I am not a lawyer but the passage of this amendment Bill as other speakers would have mentioned would definitely go a long way in ensuring that wheels of the criminal justice system are able to turn with impediment so that as Senator Durant mentioned we can effectively reduce the time accused persons in general have to spend on remand at Her Majesty's Prisons at Dodds. Madam, we still to assume according to the tenets of our criminal justice system and our laws that the accused person is considered innocent until proven guilty and therefore, when you look at the fact that if persons have to be on remand for many years, that is a cost to the State and the taxpayers in terms of the provision of food, toiletries, shelter, utilities, et cetera and, of course, this increases the likelihood of first-time offenders being exposed on a daily basis to more hardened criminals to be indoctrinated in such deviant behaviour. Madam President, I am very happy to see this legislation come before us today.

Madam President, I believe that Senator Ince mentioned earlier that when we look at why we have a criminal justice system, why we have courts of law, what would we have without such a system. We do not want to go back to the days of anarchy, of the Darwinian approach to live in terms of survival of the fittest, crabs in a barrel, a rat race where we are only concerned about ourselves and no one else, perhaps our immediate family but no one else because clearly, Madam President, we say we are a Christian society and as other mentioned, we really have to be our brother's keeper and, therefore, the criminal justice system provide the country with a mechanisms in which we as a people can remain confidence that justice will be served and therefore, we can have a peaceful homogenous society. I am no biblical scholar, Madam President, but as a lad I came along hearing of the story of wise King Solomon and the case in which you had a dispute between two women, who claimed to be the mother of a babe in arms and when King Solomon threatened to take his sword and cut the child in half and give each half to the mother, we know that the true mother said, gave the child to the other person because she could not bear to see here flesh

and blood, her progeny perished in such circumstances. Madam, that was the tale that told us that King Solomon was indeed a wise man because deliberately adopted that approach so that the truth would prevail.

Sequence 21

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Senator the Hon. P. M. T. TODD: ... by the system. I am saying that we as a society as we celebrate our 50th Anniversary of Independence must reflect on these issues that give rise to crime. This is highly relevant. Madam President, I am trained in Mathematics and I think very logically and I take an argument from the beginning to the end step by step so I will just urge the good Senator to be patient and follow the argument.

Madam President, I do not get up because I like to hear myself. We are not just speaking to ourselves. We are being carried live and we are speaking to Barbadians and I take this opportunity which I have been given very seriously to talk to fellow Barbadians so that we as a society can achieve a consensus in terms of the way forward.

Our Honourable Prime Minister encouraged us at the beginning of this year to reflect on the aspects of our society that we need to jettison because there are negative and those that are positive that we need to keep and so on and so forth, so I am just looking at any negative behaviours that we as a society must frown upon. Madam President, I have made my point.

Madam President, I go further. Again, the Honourable Prime Minister, the Right Honourable Freundel Stuart, spoke passionately from the heart as it were without a script for a long period of time at the opening of this national consultation on the society on Monday about the role of the church in terms of ensuring that our society functions in a more homogeneous way and not just as an economy adopting this Darwinian approach of the survival of the fittest, and I fully support those sentiments, Madam President.

Madam President, as regard the whole issue of ethics and morality, as a student of History at the Lodge School I remember the teacher Mr. H. K. Riley, who is deceased, telling us that in the late 60s the Anglican Church was officially disestablished and dis-endowed, so we separated the church from the state. There is a difference between the law and morality in terms of the Bible and so on but clearly they are not, as we say in Mathematics, mutually exclusive, there is an intersection between those sets that many of the

laws that we as lawmakers enact are based on some sense of morality, right and wrong.

The Honourable Prime Minister reflected again that a number of people not just young people but people in general commit some heinous crimes. I believe sometimes there is this sort of lack of clarity in terms of differentiating between what is right and what is wrong. Many of us take this for granted but when we hear from time to time of people being killed because one person mashed somebody's toe in a public space and a fight broke out, this anger that Senator Durant talked about, the issue of conflict resolution has to be addressed. I therefore congratulate those agencies that a few years ago put together a dramatization which would have been aired on public television as an infomercial from time to time in which two young men were on a basketball court and they were just about to trade punches and then they had a sort of awakening and then they reflected and they were able to cool down and ended up giving themselves a knock as these young people would do to show love. That was a happy ending to that story so we need to look at issues of anger management and training and exposing these persons to counsellors who are professionally trained to help people to deal with anger management. Madam President, that is why I speak about the whole issue of the role of the church.

We have, for example, over the years been exposed in our curriculum, as Senator Durant mentioned, to the whole issue of Religious Education but it has to be more than just memorising the Beatitudes, the Ten Commandments or the Hail Mary or what have you but really understanding, as I said, the difference between right and wrong. I remember Professor Emeritus Newton in education at the University of the West Indies delivering a lecture a few years ago at the Major Noott Hall at the Combermere School which was hosted by the Democratic Labour Party and the Combermere Old Scholars Association and calling upon the powers that be to look at ensuring that some sort of moral education is compulsory throughout our educational system.

I support this call 100 per cent, Madam President, because we have a multifaceted society and some schools have challenges in terms of insisting on Religious and Christian Education because we have people of different faith and so on but we could manoeuvre through them. Madam President, certainly issues such as ethics and citizenship that are not denominational must be emphasized in our system, and therefore I congratulate the Barbados Community College... I spent a year there and I know that as part of the Associate Degree Programme regardless of whichever discipline the student is pursuing there are certain core courses, Politics, English, Ethics and Citizenship that are compulsory. I remember while attending that Barbados Community College reading that course and we had the late Cannon...

Senator W. A. ABRAHAMS: On a point of order. The Honourable Senator is misleading the Chambers. Madam President, Mathematics aside, this is wholly irrelevant to the Magistrate's Court (Amendment) Bill. It is entirely irrelevant to the abolition of Preliminary Inquiries, Paper Committals and speeding through the justice system. It is wholly irrelevant at this stage, Madam President.

Senator the Hon. P. M. T. TODD: Thank you, Madam President.

Madam President, I know that in the great traditions of this Honourable Chamber and the Other Place we take our lead from the person introducing the Bill. I remember the Leader of Government Business referring to this conference on the society and the whole issue of morality and so on, so I am taking that lead, but I will be concluding shortly, but as I said, Madam President, it is very, very relevant and other Honourable Senators would have spoken uninterrupted, I dare say, on these same matters but anyhow I will continue.

Madam President, I am saying that what we learn in there in the whole issue of ethics and citizenship is the difference between right and wrong so that nobody, no policeman, no judge or no lawyer would have to tell us that doing X is right and doing Y is wrong and stay away from the wrong because these ethical standards are being enshrined in these impressionable minds within the educational system. I am saying that is highly relevant, Madam President, so I really am at a loss why the goodly Senator is not grasping these essentials; deep thinking, you see that is the problem.

I remember, Madam President, that in the same class of Cannon Seon Goodridge he talked about the deep ontological approach, high-class philosophy. I am sure that Senator Crichtlow would be able to enlighten him after. I am saying that these philosophical tenets are very important in terms of allowing the person to think logically and to understand the difference between right and wrong because this is the first principle. We in Mathematics talk about the underlying axioms, the foundation upon which we build theorems and so on. I am saying it is logical.

What I am saying, Madam President, is that we have seriously to clear all of the negative stuff out of the minds of these impressionable persons. For example, Senator Durant talked about the need for mothers and so on to be responsible. Again, these are issues that are very relevant because if we have irresponsible parents, we are in Crop Over now, who rather than spend their money looking out for their children's education and feeding them and keeping them out of negative behaviour... We even hear it in the songs, money well spent, do not worry

4.58 p.m.

Wednesday, JULY 27, 2016

Seq. 25

Senator Dr. Sir T.A. CARMICHAEL: ... I do not think that the Office of the Solicitor General had much choice in terms of what was done with the legislation that was put before that Office, because Barbados had to have that piece of legislation before the end of the relevant year so as to benefit from a large number of foreign sales corporations which were without a home as a result of United States legislation, which deprived other jurisdictions of that benefit which they had and which we then took up. That is crisis formation, if you will, and there are a couple of other areas like that. The Amendment to the International Business Companies Act in 1993, for instance, was a comprehensive amendment but it took place in a matter of three months. Again, there were other circumstances which resulted in that piece of what I call crisis formation of legislation.

We have, as I say, situations where you have the crisis situation where formation is taking place quickly, almost in a matter of weeks or months. You have the situation which is even better, more routinised, such as what is taking place through the Joint Policy Working Group, but which is very effective but maybe takes just a bit too long in some cases. Madam President, I suggest that we can improve the situation. We can improve this situation if we give serious consideration to setting up in Barbados a Law Revision Commission. I suggest that Government should seriously explore and ask for a Paper on it. I know someone who can write a Paper on it quite well. I have spoken to that person quite a bit. I speak to him every day. I am actually speaking to him now. The only reason I say that is because we have actually done the Paper already. Government should look seriously at setting up a Law Revision Commission. Such commissions are nothing new. They have their origins actually in the 17th Century when, I think, it was in 1605 that the first Commission was set up in the United Kingdom (UK), but it was only in 1952 that the first formal Law Revision Commission was set up by the Lord Chancellor in the UK, and then, interestingly enough, a couple of years later it was disbanded and you then had more of a criminal justice commission or something like that. The point is that it was disbanded. What was important, however, is that the Commonwealth countries, as so often happens, took up the best elements within that Law Revision Commission and set up their own Law Revision Commissions. The principal persons who did this were obviously Australia, not surprisingly, Canada and New Zealand, and as has happened so often, the main Federal Law Revision Commission in Canada had problems with regards to funding. That also disbanded after a while. However, all of

the provincial Law Revision Commissions flourished and did well, and continue to do very well. They have now worked in such a way that they are able to produce the type of work which the Federal Government is able to use, and it therefore obviates the need for a formal Federal Law Revision Commission, even though there is still one operating in Canada. There are Law Revision Commissions in Fiji, Hong Kong, India, Bangladesh, Ireland, obviously New Zealand as I mentioned, and Jersey. Not only in India, but you even have a Law Revision Commission which functions very well in Nepal. The South African Law Reform Commission is very useful and played a very important role at the time of the dismantling of apartheid. There is also the Scottish Law Commission in England and Wales.

What is interesting is that, in speaking of the Anglo-American tradition, one of the most effective Law Revision Commissions is to be found in terms of the Office of the Law Revision Council of the United States House of Representatives. Not surprisingly, California, New York and New Jersey have Law Revision Commissions that function like machines of maximum efficiency. Within our neighbourhood, the Bahamas and Bermuda have set up functioning Law Revision Commissions. I am not going to go into all of the details on why a Law Revision Commission is needed, because that is not the purpose here today. Madam President, I will ask you to accept that the fact that they have functioned so well in these other places might be an indicator that we could give one a try.

What encourages everyone who seeks to set up a Law Revision Commission are the four elements on which any such successful commission functions: Its independence; its knowledge which it can have within the Commission or which it can purchase in terms of getting reports of submissions; its concentration because that is all it does since it concentrates on the job as opposed to other agencies that function at the moment and do good jobs in law revision but deal with many other things; and its continuity. The Law Revision Commission is a good model of success.

Madam President, the good thing that also stands very much in our favour is that we, again, are blessed in Barbados with a cadre of skilled, enlightened, gifted and talented women and men who are capable of serving on such a Commission. No doubt, Madam President, people are always happy to hear that a Law Revision Commission is not a commission of lawyers. As a matter of fact, you may just have one lawyer on the Commission. It is a Commission which looks, based on specialised advice, at how laws can be revised, and it is an ongoing process. It is feeding Government on a regular basis with revision of the laws. We are looking here today at the Magistrate's Courts (Amendment) Act, but there are so many other pieces of legislation that need amending. I am sure that you all

remember a case of maybe a couple of decades ago when a certain young lady went on an East Coast beach and she was found undressed running on the beach. There was some difficulty in finding how one dealt with this, and under some arcane law, I think, efforts were made to prosecute her. I am sure that they fell not only on deaf ears but maybe also on “deaf” eyes.

I suggest that the composition of the Law Revision Commission is something which we are ideally capable and suited to do. We have the people to do it. We have people who are retired and people who are not retired; many people. I could think of names just like that who could serve on a Law Revision Commission. They themselves will then go out and commission reports and studies, and again this would be another area of good work and employment for young lawyers who would be doing a lot of the legal work but would not be on the Commission. I say that and I go further and suggest that if we sought to set up a Law Revision Commission, we would have no difficulty in getting it funded because these are the types of projects that the regional bodies like to fund.

5.14 p.m.

Wednesday, July 27, 2016

Senator Sir. T. A. CARMICHAEL: (Seq 26)

Madam President, I suggest that if we sought to set up a Law Revision Commission, we would have no difficulty in getting it funded because these are the types of projects that the regional bodies like to fund. I do not say that in any sarcastic way because these are things very capable of funding. I do not think there would be any difficulty in seeking to get funding from either the Canadian community or the European community or in a post Brexit world from the United Kingdom because they would be more fund accessible in that area if we play our cards right.

Madam President, I said this would be brief. This is not the purpose of this interventions is not to give a position paper on a Law Revision Commission, it is just to put it out there in the popular language, as a teaser, if you will, to suggest, Madam President, that the Law Revision Commission became extremely popular in the 1960s, so it became extremely popular at the time of our Independence so what better gift could we give ourselves on our 50th Anniversary of Independence than to give consideration to setting up a Law Revision Commission.

Madam President, I am much obliged to you.

MADAM PRESIDENT: Senator Boyce, you have the Floor.

Senator the Hon. D.W. BOYCE: thank you, Madam President. I just want to add support to this amendment but also to raise a couple of matters that I think we would do well to pay attention to as we go forward. Madam, I start by trying to get my head around the growth in the demand for the services of the court system over the last 30 years of our existence as a country. It just seems that it had an explosion of cases coming into the courts both at the level of High Court and at the leverage of Magistrate’s Court both criminal and civil and one shutters to think in a sense about what that load would look like if we had the same rate of increase over the next 20 years of our history. Would we ever be able to put in place the capacity in a court system to deal with this explosion of cases and not only the criminal but also the civil? Madam, a lot of what we have spoken about here today had to do with the criminal system but I think that in general terms we have seen this explosion of cases.

Madam President, we have not over the 30 years put in place the capacity that needed to be put in place to deal with this explosion and for that we all have to carry some blame and now we are trying to put that capacity in place both in terms of technology improvements, in terms of process like what we are doing here today and in terms of additional physical capacity and human resource but Madam President, we have tried and we have not yet succeeded in putting that capacity in place. What we have had happened particularly in the commercial area is that the slow-down in handling commercial cases has hurt the reputation of the jurisdiction as someplace to do business.

Madam President, we cannot contemplate putting in place the capacity to deal with this kind of explosion in the demand for the court system. We just do not have the resources to it. We do not have the personal resources, technology resources or physical resources to do it. we have to find a way to slow down this demand for the court services and we have to look at two approaches (1) the matter of alternatives was to treat this Resolution when you have cases to resolve, so that we unclog some of the courts and Senator Sir Trevor has been doing a lot of work in that area and we are hoping that we can do our part in Government to get some of that in place.

Madam President, the other approach is that we have to find ways to persuade people that they ought not to come to situations where they have conflicts that they cannot resolve. I know that my colleague, Senator Todd got stopped on one or two occasions just now on point of order of relevance. Madam President, we must not bowl the ball too close to your own toes because the ball can be hit for six. We have to find reasons that people get so angry, we have to find reasons why people cannot deal with themselves, we have to find the reasons why they cannot deal with each other and deal in ways that do not push them into conflict and into the courts and they would not be any

need for this dispute Resolution. We have heard some discussion here today targeted at young people and the way that young people are handling themselves in problems they are facing. Madam President, the matter is not confined to young people. The matter is very much also one for the older generation. Madam President, not your generation, your generation is slightly different from the generation in which I place myself. Madam, that generation in which I place myself probably because we are always fighting with each other, that generation may be giving the signal to the younger generation that it is fine to fight with each other because we have gone into the courts and maybe it is fine for them also to be going into the courts because in our generation we would not be handling our own psyches as well as we might and we are unable to help our youngsters to understand their psyche and to manage their psyche.

Madam President, the issue we have is not how to expand and improve our justice administration system to deal with the growth of the demand for that system, the real problem we have is how do we get all of us to begin thinking and feeling in ways that avoid all of this conflict. Madam, that is the real issue we have to deal with and nobody can teach you that explicitly all the time. It is something you have to learn by observation, we get some of it by orientation from the people who you associate it and we get some from the way we operate in schools, in churches and in businesses, and there is no one way to do it. I am not going to pretend that I know the way to do that either.

Sequence 26

INSERT JULIETT S27

Wednesday, July 27, 2016

Senator the Hon. Miss M. P. O. McCLEAN: ... would find themselves not before the law courts but being able to impose on themselves the necessary restrictions and standards of behaviour, their own personal standards of law and order and good behaviour, et cetera, which would minimise the need for us to go before the court and certainly serve to check that almost exponential increase in demand for court services.

With those words, Madam President, 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 resolved in the affirmative without division.

On the motion of Senator the Hon. Miss M. P. O. McCLEAN, the Senate resolved itself into Committee, His

Honour Senator the Very Reverend H. E. Crichlow in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

Clauses 1 -- 16 inclusive were called and passed.

The Schedule was called and passed.

On the motion of Senator the Hon. Miss M. P. O. McCLEAN, Mr. CHAIRMAN reported to Her Honour the PRESIDENT the passing of one Bill in Committee and MADAM PRESIDENT resumed the Chair and reported accordingly.

On the separate motion of Senator the Hon. Miss M. P. O. McCLEAN, the Bill was read a third time and passed and cited as the Magistrate's Courts (Amendment) Act, 2016.

ADJOURNMENT

Senator the Hon. Miss M. P. O. McCLEAN: Madam President, I beg to move that the Senate do now adjourn sine die.

The question that the Senate do now adjourn sine die was put and resolved in the affirmative without division and MADAM PRESIDENT adjourned the Senate accordingly.

Senate C32 Sequence 28

5.48 p.m.

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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. 1, gaps in the record. The source contains unfilled reporters' placeholders where takes were never inserted: 'INSERT S5 JULIETTE', 'INSERT S 6 CHRIS' and 'INSERT S7 CHRIS' (in Senator W. A. Abrahams' speech), 'INSERT S12 JUIETTE' (between Senator V. A. G. DePeiza and Senator J. Ince), 'INSERT JULIETTE S17' (in Senator R. A. Hunte's speech), 'INSET S22 JULIETTE' (in Senator P. M. T. Todd's speech) and 'INSERT JULIETT S27' (between Senator the Hon. D. W. Boyce and Senator the Hon. Miss M. P. O. McClean's reply). Take 24 is also missing between Senator Todd and Senator Dr. Sir T. A. Carmichael. The placeholders print as headings and the speeches resume mid-sentence; the missing passages are not in the source.

Q3. Order No. 1, speakers whose openings are missing. Because of these gaps, the speeches of Senator J. Ince and Senator Dr. Sir T. A. Carmichael and the Leader's reply begin mid-sentence with no call from the Chair, and the opening of the reply is lost. Printed as in the source.

Q4. Order No. 1, Senator the Very Rev. H. E. Crichlow. The first part of Senator Crichlow's speech is run into paragraphs beginning 'His Honour Senator the Very Reverend H. E. Crichlow:' after Madam President's call, so it prints under Madam President's label. Printed as in the source.

Q5. Order No. 1, sequence markers. Several speeches open with a bare reporter's marker as their first paragraph ('(Seq 4)', '(Seq 11)', '(Seq 16)', '(Seq 21)', '(Seq 26)'). Printed as in the source.

Q6. Order No. 1, Leader's opening speech. Senator the Hon. Miss M. P. O. McClean ends her opening speech 'with those few words Mr. Speaker, I beg to move...', in the Senate. Printed as in the source.

Q7. Speaker labels and Prayers. The source has 'Senator J.A. WASTON' for Senator Watson, 'Senator V. DePIEZA' for Senator DePeiza, and 'Reverend Cannon Errington Massiah' at Prayers. Printed as in the source.

DEBATE SUMMARY

(Editorial summary — not part of the record.)

The Senate met on Wednesday, 27th July, 2016 at 11.00 a.m., with Madam President in the Chair; prayers were led by Reverend Canon Errington Massiah. Madam President offered excuses for Senator Sir Henry Fraser, and noted that Senators Worrell and De Peiza would join later. The Senate observed a minute's silence for the late Sir Frederick Smith, former Attorney-General and once a member of the Chamber. The Minutes were deferred because of an error on the final page. The Leader of Government Business, Senator the Hon. Miss M. P. O. McClean, laid the Central Bank of Barbados 2015 Annual Report and the Duties, Taxes and Other Payments (Exemption) University of the West Indies (Humanities Festival) Order, 2016. Standing Order 45(2) was suspended, and Senator Dr. the Hon. E. R. Byer Suckoo moved the first reading of the Magistrate's Courts (Amendment) Bill, 2016.

Senator McClean moved the second reading of the Bill, explaining that it provided for committal proceedings on written statements for indictable offences, doing away with preliminary hearings before a magistrate, as other jurisdictions inside and outside the Caribbean had done. She linked the measure to citizen security and to the protection of the vulnerable. Senator W. A. Abrahams said the justice system had collapsed and that the Bill was 'putting plasters on a corpse'. He cited the Judicial Council's 2007 report and called for a Crown Prosecution Service to prepare files, electronic recording of statements and fixed penalties for traffic offences; he argued the Bill could have carried about six further practical amendments.

After the lunch suspension, Senator V. A. G. DePeiza explained that magistrates hearing preliminary inquiries could often take only two witnesses a day, and that under the Bill the magistrate would examine the statements produced by the police. Senator Abrahams rose on a point of order to say the Judicial Council's 2007 report had been delivered in 2008. Senator J. Ince spoke on the young black men he saw shackled at the courts and on 17 029 traffic cases in 2015. Senator J. A. Watson spoke on gun violence and young people drawn into the block culture. Senator R. A. Hunte supported the Bill and attacked the Opposition's record, and was cautioned by Madam President.

Senator the Very Rev. H. E. Crichlow responded to remarks on race and education. Senator Rev. Dr. D. L. Durant said 45 per cent of the prison population was on remand at \$93 a day, cited divorce rates of 24 per cent

within five years and 47 per cent within ten, and said 40 per cent of households were headed by women. Senator P. M. T. Todd called for ethics and citizenship to be taught, drawing a point of order from Senator Abrahams on relevance. Senator Dr. Sir T. A. Carmichael and Senator the Hon. D. W. Boyce, who said the courts had not built capacity to meet 30 years of growth in demand, also spoke. Parts of several speeches are missing from the source.

Senator McClean replied and the Bill was read a second time. In Committee, with Senator the Very Rev. H. E. Crichlow in the Chair, clauses 1 to 16 and the Schedule were passed, and the Bill was read a third time and passed as the Magistrate's Courts (Amendment) Act, 2016. The Senate was then adjourned sine die.