
THE SENATE DEBATES

(UNOFFICIAL REPORT)

PARLIAMENT 2013 – 2018

THE SENATE

Wednesday, October 11, 2017

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, the October 11, 2017 at 11 o'clock a.m.

PRESENT

His Honour Senator the Very Reverend H. E. CRICHLAW, G.C.M., B.A. (Hons.) (Dunelm)(Deputy President)

Senator the Hon. Miss MAXINE P. O. McCLEAN, B.Sc., (Hons), M.A., M.B.A. (Minister of Foreign Affairs and Foreign Trade) (Leader of the Senate) Senator the Hon. DARCY W. BOYCE, M.B.A.(Finance) B.Sc.(Econ.), C.M.A., F.C.A., (Minister in the Office of the Prime Minister) Senator Mrs. V. IRENE SANDIFORD-GARNER, M.B.A., C.I.M., Dip. Mgn.,(Parliamentary Secretary, Ministry of Tourism) Senator JEPTEER INCE, J.P., M.B.A., BB.A., Dip. (Mgmt) (Parliamentary Secretary, Ministry of Finance and Economic Affairs) Senator HARCOURT A. HUSBANDS, M.L.I.R., B.Sc. (Public Administration) (Hons.), Ed. Cert. (U.W.I.) (Parliamentary Secretary, Ministry of Education)

Senator REGINALD A. HUNTE, J.P.

Senator Rev. Dr. DAVID L. DURANT, D.D. (Hons.)

Senator the Hon. PATRICK M. T. TODD, B.Sc., (Minister of State in the Office of the Prime Minister) Senator Dr. the Hon. ESTHER R. BYER-SUCKOO, M.B.B.S., (Minister of Labour, Social Security and Human Resource Development)

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

Senator Miss VERLA A. G. DePEIZA, LL.M. (Merit), B.Sc. (Hons.) Senator Dr. JEROME X. WALCOTT, J.P., M.B., B.S., FRCS (Edin.)

Senator WILFRED A. ABRAHAMS, LL.B. (Hons.)

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

Senator Prof. Emeritus Sir HENRY H.S. FRASER, G.C.M., B.Sc., M.B.B.S., Ph.D., FACP, FRCP. Senator Dr. Sir TREVOR A. CARMICHAEL, Q.C., S.C.M., B.Sc. (Econ.), M.A., Ph.D. Senator ALWIN A. ADAMS, J.P., B.A. (Ed.), Ed.Cert., M.Sc. Ed.

Senator JOHN WATSON

Senator Dr. C. LADY HAYNES

ABSENT

Her Honour Senator Miss KERRYANN F. IFILL, M.B.A. B.Sc. (Hons.) (President)

Prayers were led by Rev. Father Errington Massiah.

ANNOUNCEMENT BY HIS HONOUR THE DEPUTY PRESIDENT

MR. DEPUTY PRESIDENT: The Senate is now in Session. I have received a letter from Her Honour the President of the Senate. I shall read it:

“Dear, Sir, I write to inform you that I must take medical leave from my duties from Friday, September 29, to Friday, October 20, 2017. I will therefore be unavailable for any duties during this time. I look forward to returning to service. I thank you for your customary support. Yours sincerely,

Kerryann Ifill.”

I should like, on behalf of the Senate, to express our sympathy to the President and wish her a happy and speedy recovery from her illness. I have never known the President to be ill, and I think this is almost 20 years that I have been in here. She has never been absent, and I think that is a record, and we all wish her well and look forward to seeing her at the end of her period of illness.

PRESENTATION OF PAPERS

SENATOR the Hon. Miss M.P.O. McCLEAN: Mr. Deputy President, I am commanded to lay the following documents:

The Needhams Point Development Incorporated Annual Report, 2015. The Needhams Point Holdings Limited Annual Report, 2015. The Duties, Taxes and Other Payments Exemption (University of the West Indies, Errol Barrow Centre for Creative Imagination) Order, 2017. The Barbados Deposit Insurance Corporation Annual Report, 2016. The 15th Actuarial Review of the National Insurance Fund's Unemployment Fund and Severance Fund of Barbados as of December 31, 2014. The Offshore Petroleum (Amendment) Regulations, 2017. The Barbados Port Incorporated Annual Report, 2016. The Barbados Prison Service Annual Report, 2016. The Waste Characterisation Study for Barbados, 2015. The National Productivity Council Annual Report for the period April 1, 2014 to March 31, 2015.

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

SENATOR the Hon. Miss M.P.O. McCLEAN: Mr. Deputy President, I beg to move that Senator Sir Roy Trotman be appointed Chairman of Committees for the remainder of today's Sitting.

The question was put to the Senate and agreed to.

SUSPENSION OF STANDING ORDERS

SENATOR the Hon. Miss M.P.O. McCLEAN: Mr. Deputy President, I also 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 agreed to.

INTRODUCTION OF BILLS

SENATOR the Hon. Miss M.P.O. McCLEAN: Mr. President, I beg to move that the following Bills be read for the first time:

1. The Employment Sexual Harassment Prevention Bill, 2017.
2. The Latin American Development Bank (Amendment) Bill, 2017.
3. The National Social Responsibility Levy (Amendment) Bill, 2017.

The question that these Bills be read for the first time was put to the Senate and agreed to.

PUBLIC BUSINESS

ORDER No.1

The Second Reading of the Employment Sexual Harassment Prevention Bill, 2017.

11.31 a.m.

Insert s2 juliette

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Senator Dr. the Hon. E. R. BYER SUCKOO: Indeed, even lesbians and homosexual men and so on are the subjects very often too of sexual harassment. Even if our society in general has not been encouraging them to treat with respect and with fairness and with equity, by virtue of having workplace policies we would start to see the conversation changing, we would start to see the behaviour changing, so that when whoever's ministry is responsible then for bringing sexual harassment legislation in general we would not have as much of a struggle as we have had in bringing this legislation for the workplace.

Sexual harassment, of course, is not new to Barbados, it is not unique to Barbados. There are actually two very prominent cases in the United States of America that I have been reading of recently: One is Mr. Weinstein with Weinstein's Movies where certainly very popular figures came forward. Gwyneth Paltrow and Angelina Jolie, names that we know came forward. These folks have come forward to say look I was sexually harassed by this gentleman. We have seen on Fox News too that there are allegations against the Chair of Fox News, again sexual harassment. These are just the topical ones that we are hearing of this month, but sexual harassment goes back way too long. I think if we go back as long as we have had...

Asides.

Senator Dr. the Hon. E. R. BYER SUCKOO: Certainly we can go back to the slaves' days where there was sexual harassment. Certainly, there was violence as well and rape and all those things going back then. Sexual harassment goes back a long time and it is certainly time enough that we have the legislation on our books to address sexual harassment.

Sexual harassment speaks to the power dynamic. In the workplace it may be because of the power dynamic between the employer or the supervisor or the manager and those under him or her. I say him or her bearing in mind that this legislation is gender-neutral. This legislation does not presuppose that the perpetrator is a man and the victim is a woman, but it allows for those occasions where either could be the victim and either could be the perpetrator, so it

is gender-neutral and so it does not say he or she. This sexual harassment occurs in the dynamic where there is an imbalance of power, so as I was saying in the employment relationship those persons higher up the rank, the supervisor, the manager, the employer. Those persons may, because of that position of power, feel that they have even the right to sexually harass workers under their charge. Then we see it even with workers at the same level who again maybe because society ascribes some power to one group, maybe men, they feel that they are able to sexually harass others in the workplace.

I spoke about our young women who go into male dominated workplaces. We certainly know that where women venture into such places very often they do have a challenge with that. We know of the BICO case where there were just three females working in this environment and again because the physical infrastructure was not in place it led to other things happening. They had to change in an office and when that office was opened, so they got to the plant late and so they were not as productive as they should have been and then there were allegations that persons who had the keys and persons who came in and out of the office did so purposely at those times when the women were changing so that they could get a glimpse. These are the kinds of things that have been happening as women have gone into male dominated workplaces.

There are two types of sexual harassment in the workplaces. We have been speaking of this legislation as sexual harassment in the workplace but the correct title is the Employment Sexual Harassment (Prevention) Bill because in the main what this legislation aims to do is to prevent sexual harassment and that is why the main focus in the legislation is on having policies in every workplace that describe what you should and should not do and then what happens if you feel that you have been harassed sexually in the workplace. There are two types of sexual harassment. There is the hostile work environment, and that is the latter one I referred to, where co-workers may make this workplace unsuitable and make you uncomfortable in this workplace because of the kinds of gestures, the kinds of things they are saying and the kinds of pictures that they are passing around making the workplace hostile for you.

Our legislation defines what is sexual harassment. As I said, this legislation will look at ensuring that we have the policies in the workplace. Mr. Deputy President, Section 3 of the legislation actually speaks to the meaning of sexual harassment and to what sexual harassment includes. The reason it is worded like that is because there are other things that could constitute sexual harassment, so the drafters of the legislation chose to give a listing of things that sexual harassment could include and so I believe it is useful for me to actually make specific reference of this Section. It says: Sexual harassment includes:

“(a) the use of sexually suggestive words, comments, jokes, gestures or actions that annoy, alarm or abuse a person - again making that workplace hostile;

(b) the initiation of uninvited physical contact with a person;

(c) the initiation of unwelcome sexual advances or the request of sexual favours from a person;

(d) asking a person’s intrusive questions that are of a sexual nature that pertain to that person’s private life;

(e) transmitting sexually offensive writing or material of any kind;

(f) making sexually offensive telephone calls to a person; or

(g) any other sexually suggestive conduct of an offensive nature.”

Specifically I want to reference (e), which is transmitting sexually offensive writing or material of any kind. Again, this came out of the consultation that we had with our stakeholders. Over the time we were developing this legislation that Clause or that phrase was not in there that spoke to transmitting sexually offensive material. Of course, this is here mindful of the fact that with the technology today I may not have to send you a note in writing that is sexually offensive but with WhatsApp’s, emails, facebook, other media and all other ways of reaching out to people can be used to send sexually offensive material so that is why it is written in that way that sexual harassment will include that.

Then, of course, the other thing that was changed as we worked on this legislation was the definition of the workplace. When this legislation was first envisaged the workplace was the four corners of an office building or some defined area. If you work on a plantation you work on the property of the plantation or whatever, but it was a clearly defined space. Of course, the definition of workplace has now been amended to mean any location or place where persons work and includes any other location or place where an employer is required to conduct the business of the employer because your work may take you outside of the office into some other business place or any location or place to which that person is sent by the employer for the purpose of receiving training or attending a conference on the employer’s behalf. One of our stakeholders did raise the concern: So suppose you go to a seminar at the Hilton or Sherbourne or at one of those places, your work sends you and you are harassed while you are there, does this mean that the legislation would not protect you because you are not in the workplace, and so that was included in there. That is why I said I thank the

critics because it was out of a concern such as this that we made this kind of amendment to the original draft to ensure that these kinds of situations were addressed.

The second type of sexual harassment is what we call quid pro quo harassment. It is as the name suggests, this for that, do for do, 'wuk for wuk'. That made my colleagues smile.

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However, that is quid pro quo and we are familiar with that. The legislation speaks clearly to that in Sections 5 and 6, it speaks to an employer not suggesting to an employee that the prospects of working conditions of that employee are contingent on the employee's acceptance or toleration of sexual advances. Section 6 also speaks to where an employer grants an employment opportunities or benefits as a result of an employee's agreement to grant sexual favours to the employer or the employee's agreement to grant sexual favours to a client or supervisor, then the aggrieved employee can complain to the Chief Labour Officer.

"Employer not to allow unfair opportunities to be granted

(5)(1) An employer or a supervisor of an employee shall not in any manner suggest to an employee that the prospects or working conditions of that employee are contingent upon the employee's acceptance or toleration of sexual advances.

(2) Where subsection (1) is contravened, the aggrieved employee may lodge a complaint with the Chief Labour Officer and the Chief Labour Officer may take such action as he thinks necessary under section 12 to resolve the matter."

"(6)(1) Liability of employer where unfair opportunities granted

Where an employer grants employment opportunities or benefits as a result of

(a) an employee's agreement to grant sexual favours to the employer; or

(b) an employee's agreement to grant sexual favours to a client or an employee's supervisor,

an aggrieved employee who was denied an employment opportunity or benefit may lodge a complaint with the Chief Labour Officer and the Chief Labour Officer may take such action as he thinks necessary under section 12 to resolve the matter.

(2) An employer shall only be liable under subsection (1) for the actions of a client or an employee's supervisor where the arrangement was brought to the attention of the employer and the employer failed to take appropriate action."

Mr. Deputy President, that is important because as I mentioned, the Schedule to the Bill describes this workplace policy, that we all will be required to have in our workplaces, ensuring that our workplaces are safe, that they are fair, that they are equitable and that they treat all workers with respect.

Mr. Deputy President, we do not have a draft, the Schedule outlines what must be in such a policy, the Labour Department will assist in guiding you through further if further guidance is needed but paragraphs "A" to "G" of the Schedule actually outlines what must be there. In the Definition I just read there is a statement to the effect that every employee is entitled to employment free of sexual harassment; a statement to the effect that the employer will make every reasonable effort to ensure that no employee is subjected to sexual harassment; a statement that the employer will take such disciplinary measures as the employer deems appropriate in dealing with such complaints; it also must include how complaints may be brought before the attention of the employer; a statement to the effect - and this is important - that the employer will not disclose the name of a complainant or the circumstances related to the complaint to any person, except where disclosure is necessary for the purpose of investigating that complaint; a statement informing the employees of the provisions of this Act which gives them the right to make a complaint where sexual harassment is committed against them, and the relevant authority to whom the complaint must be made. Therefore this must be in the policy so that you know if you are sexually harassed, to whom you should go and that if that is not dealt with, to whom you go to next, et cetera. Therefore that must be in the policy and certainly the legislation does speak to it.

Mr. Deputy President, I highlighted the fact that it says that the employer will not disclose because we know one of the reasons victims do not come forward is because they are afraid and so we made it very clear in the legislation that the employer is not to disclose, that the Labour Department will not disclose, and that final recourse is to the Employment Rights Tribunal and that the Employment Rights Tribunal in this instance will hear these matters in camera.

Mr. Deputy President, we know that presently the Employment Rights Tribunal hears cases and that we have occasions where, for example, in its first big case for the National Conservation Commission we have had television coverage and so on, but for sexual harassment matters they will be held in camera, in circumstances where nobody is

allowed to report on such matters. Nothing is supposed to come out and go into the public domain to sexual harassment.

Mr. Deputy President, we have done whatever we can and all that has been suggested by our stakeholders to ensure victims are not or do not have to feel afraid to come forward because they are of the opinion that everybody will know their business. The legislation also speaks very clearly to what happens if there is a failure to comply with such. The legislation also speaks to the prohibition of victimisation against such a worker.

Mr. Deputy President, you may know these lyrics as we speak about quid pro quo sexual harassment:

“You want to help to mind yuh family

You want to help yuh man financially

But nowadays ‘tis really very hard

To get a job as a girl in Trinidad;

You looking now to find something to do;

Yuh meet a boss man who promised to help you;

But when the man let down the conditions

‘Tis nothing else but humiliation --

They want to see yuh whole anatomy;

They want to see what yuh doctor never see;

They want to do what yuh husband never do;

Still you ain’t know if dem scamps goin’ hire you

Well, if it’s all this humiliation to get a job these days as a woman;

Tell dem they could keep their money,

I will keep my honey and die with my dignity.

Mr. Deputy President, it ends by:

“I have muh pride and I have muh ambition;

I want to hold muh head up high as a woman;

So brother they could keep their money,

I goin’ keep my honey and die with my dignity.”

Mr. Deputy President, that is and has been the cry of so many women, that song by “Singing Sandra” a very popular song. It describes the reality of so many woman. Mr. Deputy President, it gets a little more graphic there as well, but it comes down to, if this is what it is about then I will die with my dignity. Mr. Deputy President, that is why this legislation is important today, there have to be more options to a woman than her dying with her dignity, there has to be some recourse, there has to be some protection granted by the State through the legislation that women do not have to die with their dignity, that they can seek employment in fair and equitable conditions; that women could look to have the same respect in the workplace as their other colleagues have.

Mr. Deputy President, this why we are here, this is what social engineering is about, it is about changing the power balance, it is about ensuring that women do not just have to die with their dignity, that they can hold their heads up, that they can take that job and that anybody who tells that person to do this or else....

Mr. Deputy President, somebody here taught me an expression of “not working twice for your salary,” but that this does not have to be the reality, especially for our women. Mr. Deputy President, as I have said, it is not just for our women, in case you may doubt me I have had men saying to me that they have been harassed by women at work; I have had women saying to me that they have been harassed by women at work; and I have had men saying to me that they are harassed by men at work, so that it goes every which way, that is why as was mentioned before this legislation is gender neutral. Mr. Deputy President, I will from time to time make reference to the women because we hear so much more and in the main this is mainly a problem of women, because it speaks to power.

Mr. Deputy President, I know that I will get some pushback because whenever there is legislation that seeks to address that power imbalance we do get pushback, especially from those persons who in the main who have the power. I know that with the Employment Rights Act which has attempted to bring about a balance of power in the workplace by ensuring that workers have rights, fairness and better conditions, we do get a lot of pushback sometimes from employers. I have had employers saying to me that the legislation gives all the rights to workers, but that is what the legislation was about, it is about giving rights to workers because in the work environment the workers are not the ones with the rights, in the workplace environment it is usually the employers who have the rights, while workers do not and so the legislation is attempting to address that imbalance.

Mr. Deputy President, if I may go off course for just a minute, I have seen where with the Employment Rights Act, in an attempt to grab this power back, employers are

actually saying that if the Employment Rights Act gives a worker power only after 12 months, then everybody that they hire from one on will be hired on 11-month's contracts. Why? Mr. Deputy President, because rather than living up to the responsibilities that they have in the Employment Rights Act, the employers will do whatever they can not to have employers having these rights, so that they are thinking that since employees get these rights after working for one year, they will only give 11-month's contracts, so that, for example, if we word the legislation to say six months they would probably only give five-months' contract.

No.D13 (4)12.03 p.m.

You will get this struggle as long as there is an attempt to adjust the power balance, so I know we will get push-back on this matter but the labour law reform has to continue. We have to ensure that the workplace is safe for all workers. It is why we have brought in the last few years a suite of labour legislation. We have brought the Employment Rights Act, the Holidays with Pay Act, the Minimum Wage Board Act which, as you know, does not address only minimum wage but speaks to the terms and conditions of the workers of Barbados. We have got the Shops Act, and we have now the final draft of the Anti-Discrimination in the Workplace Act, which I hope to have before the Parliament shortly. All of these are with one similar undercurrent, and it is to ensure that the workers' rights are protected, that the workers are in better conditions, because until this happens, a worker who is afraid in a workplace cannot speak about productivity.

Mr. Deputy President, as I said, my first interaction with this was talking to my patients, and these are patients who may come to me not wanting to go to work. Now when a worker does not want to go to work, when a worker needs time off, when a worker gets stiff neck and back pain and migraine as soon as soon as they near the workplace, then they cannot be productive in that workplace because of the fear in there, so this is another reason why we have to ensure that the conditions are safe; that the conditions are such that people do not have to fear when they go in. You cannot operate fully in a work environment where you are afraid or where every time a particular colleague passes you, you get tense, you get the headaches, you get the migraines and you get everything.

I remember speaking to a patient who described her migraine to be really violent, and as we drilled down we realised these migraines happened only from Mondays to Fridays. Of course, you are thinking, "Okay, maybe this person does not want to go to work." She could pinpoint exactly where the migraines happened. They started as she went over the bridge by the Queen's Gate of Queen's Park. I think that is what the easternmost gate at Queen's Park is called. Anyway, she would describe that on every work

morning as she drove over the bridge over the Constitution River, she would feel the migraines start to come on from Mondays to Fridays. If she drove over there on a Saturday or a Sunday, she did not have the headache. That is what caused us to have to drill down to find out exactly what was going on with her. The problem was she was afraid, she was tense and she was nervous about going into that workplace because of what was happening to her in the work environment.

Mr. Deputy President, all of this legislation is going to come to ensure that the workplace is safe, that it is equitable, that it is fair and that there is respect for persons in the workplace. I alluded to it at the beginning: How will this legislation change society? As I said, when I introduced it in other fora, I have people saying, "So does this mean I cannot compliment a woman now?" I always say to them, "As a woman, I always know when I am complimented, and I like a compliment. If I get a good compliment, I would say 'thank you'." There are some I have written down because they have been "beauties", they have been very good ones.

Asides.

SENATOR Dr. the Hon. E.R. BYER-SUCKOO: I remember a gentleman one day who was washing cars at the Queen Elizabeth Hospital carpark, and as I walked out, I had my white coat on, he said, "You have permission to leave?" I said, "I do not need permission to leave the hospital." He said, "No, you got permission to leave Heaven this morning?"

Asides.

SENATOR Dr. the Hon. E.R. BYER-SUCKOO: Beautiful! Exactly. I have never forgotten it, and there is no way on God's earth that is harassment. That is a compliment, and a woman knows when she is complimented and a woman knows when she is harassed. Trust me, gentlemen, if you have been harassed, you will know when you are harassed as well.

Asides.

SENATOR Dr. the Hon. E.R. BYER-SUCKOO: There is a difference. You will know. It is about respecting a person as an equal, it is about respecting boundaries, and it is about respecting where somebody says no. If you come and you touch me every morning, and I say to you, "Please do not" or "I would rather you did not touch me when we spoke", and you insist on doing it, then this is unwanted, this is unwelcome physical contact, and I should be able to say to my manager or my supervisor, "I have a challenge here," without the supervisor saying to me, "You have to tough it up, man. There are a lot of men here. You women have to stop complaining." This is what happens

sometimes. That is the response you get. The policy will address what is supposed to happen in that regard, so that if I say to the employer “I am not comfortable,” he does not say, “You women are always complaining,” or ask “What is the problem now? You have to learn how to live in the real world,” and all of that kind of thing.

No, you have the right now to have that matter dealt with. Of course, because they are the policies that would have to be put in place and because we would have to see all the workers getting engaged in this -- of course, they would need to be sensitisation and we would need the help of the trade unions, the Labour Department which would have to take on this mandate as well, the Employers' Confederation and other employers' groups and other non-governmental organisations -- to ensure that there is the sensitisation about sexual harassment. It has started but it has to continue, so that people understand how you treat others respectfully. Our society may not be teaching it, or our schools. We have to reinforce this in schools and in our communities; this respect for others. The National Values Survey which the Prime Minister commissioned from the University of the West Indies' SALISES (Sir Arthur Lewis Institute of Social and Economic Studies) is now out, and it speaks to some of the values which we want to see Barbadians hold onto. Certainly this respect for others was included in there. We need to have this respect for others, because that is the foundation upon which we can build these equitable workplaces. When the anti-discrimination legislation comes, we will be having this same discussion. It will not be about sexual harassment against women, but it will be about discrimination on the basis of gender, which looks pretty similar sometimes to some of this sexual harassment. Also, it will look at discrimination on the basis of race, colour and nationality, because we do have persons from other nationalities and races in workplaces where there are predominantly Barbadians Blacks, and these other folks tend to sometimes experience a lot of discrimination and a lot of harassment in the workplace by virtue of their being different. I spoke about the power dynamic in society; when one group feels that it has the right because they are the majority or because society ascribes that to them. The anti-discrimination legislation is coming right after this one to address those other things; but I spoke of that respect.

We are also looking at disparities of wages, working conditions and conditions in the physical plant. I referred to what happened in one of our workplaces years ago. All of this is coming to ensure that we can have the kinds of workplaces which we want. As I said, this Bill is gender neutral. I refer to the policies and to the Employment Rights Tribunal and to the fact that the hearings of that Tribunal will be in-camera. I look forward to today's discussion, and I wonder if there will be anything new thrown up as we have the debate today. As I said, we have been debating this for many, many years, and I know

Senator Trotman is here and he would be aware of some of the discussions that have occurred. As I said, we have attempted to address all of the concerns in here, but I look forward to hearing if any new things will come up today and how we need to address those. As I said, as we found with the Employment Rights Act, after the legislation was passed and enacted, then we did see that there were other things which were thrown up just from giving effect to the legislation. This happens with all legislation, so we anticipate that even though it has been many years in the making, once we start to actually apply this legislation, we may see where changes are necessary. We have seen with the Employment Rights Act, again, no major changes are being required. We will not go into a lot of that now but no major changes, but some things have been thrown up because the spirit of the legislation may not be captured when you read the words now on paper; so a lawyer picking up the Employment Rights Act today, for example, may not understand the spirit in there.

12.10 p.m.

Insert S6 juliette

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Senator Dr. the Hon. E. R. BYER SUCKOO: The truth of that matter is that if the joke you crack in the workplace is off-colour and it makes me feel uncomfortable, I should have the right to say do you mind, can you not do this here, you quack your off-colour joke elsewhere, you do not need to do it where I am. This is what we are trying to achieve with this legislation, so I believe that will happen, as I said with everybody working together to ensure that we have the Bill.

Mr. Deputy President, there is one other area I wanted to highlight in the legislation before opening it for further discussions. First of all, this Act binds the Crown as well because that has been a concern: Is this only to happen in the private sector but not in the public sector. As I said this Act binds the Crown. Indeed, it speaks to what happens if the Chief Labour Officer is the offending party.

Prohibition of victimisation of employees, Section 26.

“(1) No employer should carry out any action which adversely affects the opportunities and terms and conditions of service of an employee who has (a) rejected that employer's acts of sexual harassment; (b) lodged a complaint under this Act; (c) given testimony with respect to any investigation conducted or hearing held under this Act in connection with a complaint of sexual harassment; or (d) participated in an investigation, procedure or hearing under this Act.”

As I said, no employer shall carry out any action to victimise such persons.

Under Subsection (2), no person shall subject or threaten to subject another person to any detriment on the ground that the other person

(a) has made or proposes to make a complaint under this Act; (b) has furnished or proposes to furnish any information or any documents to a person exercising or performing any power or function under this Act; or (c) has attended or proposes to attend an inquiry under this Act or to appear there as a witness.

Subsection 3: “A person who contravenes subsections (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of two years or both”. Mr. Deputy President, that speaks to victimisation.

Section 28 speaks to any person who makes a false complaint of sexual harassment against another person is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of two years or to both. Again, our partners were concerned that there could be frivolous and vexatious claims, that just because a woman and a gentleman in the work environment are no longer dating that one may decide that they are going to bring a claim of sexual harassment. These kinds of scenarios were put on the table so we wanted to ensure that there was a provision in the legislation to deter persons from making any false claims. Again, that was one of the earlier concerns that we had in going out to the public with the proposal to have this legislation: the concern being so if the woman is trying to get back at me for X or Y does it mean that I am going to find myself in all of this hot water. It would be investigated and if it is found that it is false, then that will be dealt with. As I said, on summary conviction, there would be that fine.

Mr. Deputy President, we have before this Chamber today the Employment Sexual Harassment (Prevention) Bill which will make provision for the protection of employees in both the public sector and the private sector from sexual harassment at their workplace, which will provide also a framework for the reporting of sexual harassment cases by employees and a method of resolving such cases, which will also establish a procedure for the hearing and determination of matters related to sexual harassment and provide for related matters.

This legislation, Mr. Deputy President, I am honoured to have finally have before this Chamber as we continue to work in the Ministry of Labour and the Labour Department to try to address all of the concerns of workers. There are still some outstanding. I am hopeful that the Minimum Wage Board Act that we did pass in this

Chamber... The Minimum Wage Board under that Act has now been established and they will look in general at terms and conditions in the workplace so that will speak to workers' rights and all of the other suite of legislation that has been passed certainly since I have been the Minister of Labour. As I mentioned, we have this sexual harassment legislation, we have the anti-discrimination legislation coming. The ones we have passed include the Shops Act, the Minimum Wage Act, Holidays with Pay and the Employment Rights Act, again all to ensure that our workers are protected.

I look forward to the support of all my colleagues in this matter because the truth is you may not have experienced harassment but I am sure you know somebody who has if you were to just ask. I am sure you know somebody who has been exposed to harassment. I was surprised when I started hearing cases myself that there are many people out there. The first time that a young man comes and tells you about it you would find yourself also shocked and that is why I specially mentioned the homosexuals.

Mr. Deputy President, let me just make this point. There is a concern when I say gender-neutral. When I speak to harassment of vulnerable groups such as women, homosexuals, lesbians and so on, there is a concern that I would hear in the public's domain: “Oh, this is opening the door to legalising homosexuality and so on.” That is not the aim of this legislation, that is not what this legislation is doing, so I am very careful. When you say gender-neutral folks immediately start to think that is what you are trying to do or you are trying to introduce it through the backdoor but that is not what this legislation is about. This is about ensuring that all persons can be free of sexual harassment. It is not just about a male employer or co-worker harassing a female co-worker. Gender-neutral just means as I said before - but I want to repeat it because I know that in the commentary that would follow in the media and in the streets and so on somebody would say: “Oh, you are opening the door to legalising homosexuality.”... That is not what we are doing, we are saying that all persons need to be protected in their workplaces. All persons have rights. All persons need to work in conditions where they can be free of fear, they can be free of harassment and they can be at their most productive because the environment is conducive to it. Nobody needs to have to show up to a workplace, because you have to work, to put up with this. As I said before, it is no longer about dying with your dignity. This legislation is about ensuring that you can actually work with your dignity, you can work and live with your dignity regardless of your gender. Nobody has the right to do that. You now have the recourse under the legislation.

It is my honour, Mr. Deputy President, to be able to bring this today, to be able to lead this debate and to see

this come to fruition after many, many years and to be able to finally say to Barbadians you have the protection in your workplace henceforth nobody can do this to you, you can go to work in peace, you can earn your living in peace, you do not have to die with your dignity, you can live and you can work with respect, with honour, with pride, with ambition and with your dignity.

Mr. Deputy President, I am obliged.

MR. DEPUTY PRESIDENT: Senator Abrahams.

Senator W. A. ABRAHAMS: Mr. Deputy President, I rise to make my contribution on what I would call the Sexual Harassment (Prevention) Bill, because it is shorter and easier to say.

Senate D13 Sequence 7

Mr. Deputy President, I hate to use the language that some others from the opposite side of the table have used, but I would only say that this Bill is timely, it is well-passed due. Mr. Deputy President, I see in the Gallery a lady who I know very well.

Asides.

Senator W. A. ABRAHAMS: Mr. Deputy President, there are people who I have admired for a very, very long time and there is a reason for that. Mr. Deputy President, about 18 years ago, as a young attorney-at-law, I was invited to speak about domestic violence. I was not overly familiar with it at the time but I made myself familiar and spoke about domestic violence to a group which was very well-received. As a result of that first speech I got another invitation. Mr. Deputy President, they invitations keep coming and then I became known as a domestic violence expert effectively, but what it was is that there were a group of people fighting for the rights of the individual. Quite often it would appear as if they were fighting for the rights of women, but legislation like the domestic violence legislation, sexual harassment legislation, et cetera, are geared at protecting everyone to whom they apply; they are geared at increasing those protections across the board so that people can feel comfortable in their relationships, that they can feel comfortable with access to justice, and in this most recent instance they can feel comfortable with respect to not being harassed in their workplace.

Mr. Deputy President, in preparing for this debate, I canvassed this issue widely, I spoke to women, to men, to professionals, to the working public and to everybody. Mr. Deputy President, this is a hot topic, but because it is a hot topic it is not one that should be shied away from, it is actually one that should be dealt with frontally. I am glad that in her presentation the Honourable Senator did not seek to claim the ownership for it by this Government,

because the previous Administration also had this on its agenda and before it demitted office it had sought to advance the creation of legislation to deal with this necessary issue, so that this is a bipartisan concern, it is not one specific to this Government, it is not a concern specific to our party, this is something that really and truly should be welcomed and heralded by any right-thinking member of our society.

Mr. Deputy President, having used that as my introduction, one of the most common words that came up in discussions about this piece of legislation was our culture. Barbadians are a very casual people, we are comfortable, for the most part, with ourselves; we are comfortable, for the most part, in our relationships with each other and we accept that as part of our culture we are a friendly people. Our default is words when you cannot recall somebody's name is to call them sweetheart, love or darling and it is not necessarily that you mean anything by it, but the fact that you mean nothing by it does not mean that the term is not offensive to the person upon whom it is bestowed.

Mr. Deputy President, a sensitive or a Christian person may not feel comfortable being called by the same term of endearment that their spouse calls them by and while you do not mean anything by it they have a right to express their discomfort where that discomfort affects them in their work environment. Mr. Deputy President, I will use an anecdotal example of how that happened this morning. This morning I walked into an office -- not my office -- and I said to the secretary that we are debating the Employment Sexual Harassment (Prevention) Bill, 2017, this morning. I had barely said that when the door opened, somebody came in, rested their hands on her shoulder, gave her a kiss and told her that she looks nice. It was not done in an offensive way, neither did she take offence. Mr. Deputy President, I was about to say something else to her but before I could even finish my next sentence the door opened, somebody else came in, spoke to her, then rested their hands on her shoulder again. Mr. Deputy President, I made the point that were we in any country other than Barbados both of those instances could be construed as sexual harassment.

Mr. Deputy President, when I walked into the Senate Chamber this morning a very well-dressed, resplendent Senator was commenting on her outfit. The words used were: "Today you look really fetching" and a hand was rested on her arm. Mr. Deputy President, I asked: "Are you aware of what we are discussing this morning? Did she asked you to put your hands on her?" Mr. Deputy President, we laughed at it, but this is what we accept as our norm in Barbados and that may be okay if the person who is the object of your compliment or the object of your greeting is on the same page as you, but the legislation is not meant to deal with those who are on the same page as you, the legislation is meant to protect those who in their

own right are not on the same page as you. I may not want you to touch me.

Mr. Deputy President, there are some people in Barbados who cannot have a conversation with you without touching you. There are some people who shake your hands and after the handshake should be finished they continue the conversation and they are still holding your hand, or they would grab you by your arm and you cannot get away, but they do not mean anything by it.

Asides.

Senator W. A. ABRAHAMS: Mr. Deputy President, for the most part they do not mean anything by it. Mr. Deputy President, the point is, once again, that is okay in our context and in our culture when the other person is on the same page as you.

Mr. Deputy President, why do I keep referring to culture, our context and being on the same page? Barbados is trying to align itself with international standards in most other areas, why should this one be different? We are seeking to adopt international standards in relation to the environment, to quote an example. There is a global move towards banning Styrofoam and plastic bags and reducing the use of plastic that goes into our landfills and we are happily embracing that. It is inevitable, we are taking a while to get there but in the end it will happen. These are now accepted international standards that we are opening our arms and minds to, so then if we are changing our culture, our perception with respect to environment issues, why should we not be prepared to change our culture with respect to what may constitute sexual harassment?

Mr. Deputy President, to use an example, when we first started to speak about banning plastic bags or paying for plastic bags in the supermarket, there was a huge uproar in Barbados. I could not believe that that raised the blood pressure of so many Barbadians.

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Now that it is enforced for the most part and people understand it will be tacked on, people actually go into the supermarkets with their reusable bags, as they should because we need to reduce what goes into our landfills. It has died down because it has now become our new and acceptable norm. Let us not hold onto things that need to change in the name of culture, because the culture can change. They say a Bajan can be found anywhere in the world. Wherever you go in the world, you find a Bajan. If this is so, then we need to understand that our culture here may not be acceptable somewhere else. We are exporting labour and we are educating our young people and encouraging them to find jobs overseas. As the global markets and what constitutes global trade expands, there is

no such thing as a homegrown economic environment anymore. The world is the trading place. Senator Ince spent some time in New York, on Wall Street, plying his trade. He exported his skills somewhere else and came back. The point is, when he went to where he was he could not take his norms with him and expect others to respect them because those were the norms where he had come from. When he went overseas, he had to toe the line overseas; so if we accept that Bajans are all over the place, what is dealt elsewhere with severity we have to accept that we now owe it to our young people to educate them and prepare them for the fact that it is not an acceptable norm outside of Barbados. We do not need to give up our unique Barbadian culture and our unique Barbadian identity to conform with norms that are elsewhere in the world, but where there is an acceptable standard that serves a purpose, we must not resist it because our norm and culture are something different.

Mr. Deputy President, I have just used the example of environmental issues and environmental consciousness and littering, but let us also talk about travel and security. Following the 9/11 when the security in airports throughout the world increased and you could no longer carry liquids, Bajans complained about how we were going to carry the rum. When you had to take off your shoes at the airport, some asked, "Why do I have to take off my shoes?" Grantley Adams International Airport is an international airport, and for it to retain its integrity and respect, then it has to toe the line with what the international dictates are for an airport. It does not matter how much you complain. If the bottle of rum cannot go into the carry-on bag, it cannot go in the carry-on bag. If the shoes have to come off going through the scanner, the shoes have to come off going through the scanner. Now we do not even complain anymore. We have learnt to pack the rum in the check-in bag and send it through. If you want to have rum in your hand, buy it. Once it is scrapped, call the security. We adapt. We have adapted, but we complain bitterly at the beginning. The standards at Grantley Adams of searching and screening are the same at any other international airport, and Bajans do not get inconvenienced when they go to Miami or when they go to London or when they go to Germany or when they go anywhere else. Our local travelling population understands, by what is being done in Barbados, what is expected in the rest of the world. It should be no different with the protection of the individuals from unwanted advancements or uncomfortable situations. Let us learn it here first.

Sadly, littering is a part of our culture too. We seek to educate the public and define the impact of littering, the alternatives to littering and the consequences of littering. We now also need to educate the public similarly about sexual harassment. I understand from the Honourable Senator that a lot of consultations were had prior to this legislation being finalised and being debated. That is

commendable, because you were able to pull from a long list of views to make as comprehensive a piece of legislation as you could possibly get, but it must not actually stop here. In the same way, we need to keep reinforcing to our young people “do not throw the garbage out of the car window” and that an empty fast-food box belongs in the garbage and not in the street. When we hammer home to people, we should keep doing it as often as possible. Littering in gullies is not okay. Dumping your dead animals on the side of the road is not okay. These things have to stop. In the same way, now that the legislation is up for debate, it will likely be passed, because I cannot presume to think what anybody else is going to say, and I cannot see anybody strenuously objecting to anything in here. As the Honourable Senator said, it would be interesting to find out if any new, constructive points are put forward which could be incorporated into further versions of this legislation.

When this legislation passes today, we cannot stop then. It is now that we have to embark upon a full-scale course of education that this is now the law in Barbados. These are the consequences for breaching the law, and more importantly, these are the avenues to make your complaints. Also, for those of you who have fears about how widely the legislation is drafted, you need not have these fears because these are the protections enshrined in the legislation that protect you from frivolous complaints or penalise others for making false complaints. The educational push needs to start with a fervour now.

Mr. Deputy President, most businesses and most companies in some form or fashion already do have sexual harassment protocols in place. This is not coming out of the blue. It is not a monster which we need to be afraid of, because for practical reasons companies have already put in force protocols to deal with situations of potential harassment and to control their workforce in their workplaces. What has happened now is that this legislation has given teeth to the internal protocols of many companies or many workplace environments. Our businesses adapt. We in Barbados are adaptable people. We will adapt to this as well. I also commend the fact that separate legislation is being passed in relation to this specific circumstance; just in the same way some people have argued throughout time that any action which constitutes an act of domestic violence is probably caught somewhere under some other piece of legislation, like the Offence Against the Person Act -- things like that -- and that there was no need to bring dedicated domestic violence legislation.

12.49 p.m.

Insert s10 juliette

Wednesday, October 11, 2017

Senator W. A. ABRAHAMS: ...we could make the complaint. Now, as I say, it is very, very wide. We all... Sorry, let me not impugn myself in this one. Quite often in workplaces I hear jokes being made that take no cognisance of the sensitivities of others or the sex of anybody else. My mother used to have a saying when I was a lot younger... Actually, my mother made this saying apparent to me when I made a joke that she did not appreciate. She said I remember when jokes that could not be told in mixed companies were not. Right now with the advent of the Internet, WhatsApp and thing, if I get something that I consider humorous, it may be slightly distasteful to a sensitive person, I would probably turn and share it with one of my fellow senators, I might say look at this. Now, understand it may be funny to me. I may have no issue with the explicit nature of the video or the joke that is being shared but somebody down the line may not wish to see it and may be concerned about the deteriorating standards, so the legislation is very wide. Really and truly, anything that happens in here, anything that happens in a workplace that makes you feel uncomfortable or makes you feel like a potential victim can possibly be construed.

Now, I am not quarrelling how wide it is. I would say this, there is no norm for this thing. There are some exceedingly high tolerant people and there are some who have no tolerance at all, so the difficulty will not come in the drafting of the legislation because the drafters did what they were supposed to do, they drafted it wide to catch all. The challenge is going to come in the investigatory process, the reasonableness of the person who is doing the investigation and conducting the disciplinary process, so for example if I told the Honourable Senator who proposed: “Wow, sweetheart you look real nice today, I like how you are wearing that skirt” and she took horrible and serious offence... Well, I do not think that she actually would because she believes that somebody saying that she looks like an angel and that she fell down from heaven. I had to ask if she snatched away the white cane and beat him over the head with it. My point is that she may not take an offence to that but she may and if she does take offence it is her right to make the complaint. In this case, Mr. Deputy President, it would actually be to you, you being my boss for this purpose now. If she makes the complaint to you, it is then up to you to exercise some discretion to say you know what I do not think that having heard everything he meant anything by it but let me caution him because a word to the wise is sufficient and he speaks to me on the side and say I do not think you meant anything by it but just remember that everybody does not have or hold to the same standards that you have and that is squashed, so people need not fear how wide it is but those investigating also need to be responsible in their investigations and not seek to make examples of people because if they drop the draconian hammer then the legislation is going to backfire and the goodwill that went into the legislation is going to backfire so it needs to be

contemplated and implemented in the spirit of the legislation.

Why I say that we need to have someone that is trained in the workplace is that like domestic violence, and there is a serious parallel between the concepts which informed the Domestic Violence (Protection Orders) legislation and the concepts which informs this legislation, is that both because of their peculiar circumstances need to be dealt with quickly. You are looking at a situation in a workplace which can explode, the complaint needs to be taken seriously and investigated very, very quickly. The other thing you need to factor is once that complaint is made the victim is on tenterhooks, the victim knows the complaint is made and is going to be worried every day until a resolution is reached with respect to that complaint. They are wondering am I going to get in trouble for the complaint, they are wondering is everybody looking at me, they are wondering who else knows about this, they are wondering a whole set of things so the resolution of these things must be fast and the mechanisms must be put in place for it to be dealt with quickly so that the companies in setting up their disciplinary procedures.... I see that the complaint should be made within three months and dealt with, but once the complaint is made it should be a priority of the business or the employer to hear, deal with and dispose of that complaint as fast as possible.

In the courts for domestic violence the complaints come before the courts within two days after they are laid. Within 48 hours after laid the respondent must appear in front of the court to at least preliminary answer to this so that the court could put certain rules in place, it is the same thing here. It is not mentioned in the legislation how and it gives the companies the ability to set up their own structures and how to deal with it, but I would recommend that if a complaint is made that the person being complained of is spoken to within the same 48 hours period of time to let them know that a complaint has been made so that they do not in ignorance persist with the behaviour which informed the complaint in the first place because they may not appreciate the consequences and the nature of their behaviour, so in setting up the structures I would suggest that we actually put some timeframes or the companies listen in and act quickly recognising that it is an issue.

The flip side of that is not only to protect the victim or the complainant but they should also be investigated very quickly to protect the reputation of the person being complained against because once that complaint is made people will find out and you do not want to be going to work where people saying he troubled her, he did this, she laid a complaint against him and it is taking two, three, four or more weeks or months to be dealt with and everybody is calling you an abuser where it might be a situation of a misunderstanding, so it is imperative that whatever

framework is set up to address these complaints must be set up with having the complaints heard and dealt with, at least a preliminary hearing, within the shortest possible period of time. The more time that elapses the more the complainant may lose their nerves.

There is provision in there for withdrawal so the company cannot continue with investigations if the complainant has pulled back the complaint. The Chief Labour Officer cannot continue with an investigation if the complainant has pulled back their complaint. It gives the complainant the right to withdraw their complaint. That often happens as in the case of a lot of sexual offences in Barbados. The longer the time goes the more frustrated the person gets with the process and just wishes to not have that hanging because it does cause stress to both the person being complained about and the person who has made the complaint.

Asides.

Senator W. A. ABRAHAMS: I have an hour, Sir. I will not use all of it.

Everything points and all interests as served by a speedy investigatory process. As I said the legislation has not prescribed it but for those who are setting up then they need to bear that in mind.

I see in there that companies or employers need to publish their guidelines within six months.

Senate D13 Sequence 11

Mr. Deputy President, I actually feel that it should be a lot shorter than that, this one is not brain surgery. The framers of the legislation have put most of the concerns within the Schedule and from the time one company drafts one that is sound, the rest can easily follow, there is no need to reinvent the wheel. There is no reason if we are taking this seriously, that the implementation period can be six months. If this legislation passes, I can say at most two months there is no need for longer than that.

Mr. Deputy President, I spoke previously about the need for the Government to embark upon an educational bliss to advise the public as to the implications of this legislation but also the companies, from the time they publish their rules, they should immediately meet with their employees to sensitise everyone as to its impact and as to what is expected and what is not expected. Mr. Deputy President, realistically, if there are four people in an office and we all get on well, the regulations that are set internally in that office may not be the same as those in a 600-persons company, so that whatever rules and regulations that the company puts in place, the company should immediately

acquaint its employees with it and minimise people running afoul or falling in breach of the proposed regulations.

Mr. Deputy President, I cannot resist this one, I did note with interest as well the provision that if the respondent is the Chief Labour Officer what must happen. I started to read it and thought what if it is the Chief Labour Officer? Well, obviously I do not think alone and a number of people had the exact concern, but I will say this, I know both the Acting Chief Labour Officer and the Deputy Chief Labour Officer. I think that this provision was put in solely for dotting all of the i's and crossing all of the t's but I did smile because quite often that exact situation is not contemplated by the legislation and it then leads to issues where the person who has responsibility for investigations actually becomes a perpetrator, so that anecdotally I am glad to see that all of the bases were covered in this piece of legislation.

Mr. Deputy President, at the end of the day it is about respect, it is about respect for yourself, for your coworkers, for boundaries and for differences. Someone who is more sensitive than another person should not be ridiculed because their sensitivities are what they are. We appreciate it with respect to allergies and with respect to intolerances so that in the same way if my standards for moral conduct are not yours, then you should not cry me down because I have a different standard, so that as a Christian I may not wish to be a part of an office environment where it is openly flirtatious or openly provocative and I must not be made to feel like an outsider because of my standards.

Mr. Deputy President, to the Honourable Senator I have this other constructive consideration. We talk about harassment and for the most part we looked at what are contemplated as overt acts of harassment but we need to consider and just bear in mind a situation where the harassment does not actually get a chance to happen, and I will use an example. Mr. Deputy President, if as your boss I invite you to lunch or to meet me for drinks and you say no, I do not think my invitation can necessarily be deemed as inappropriate, depending on far that invitation went and the words used. Mr. Deputy President, your saying no may be well within your rights because your work day starts at 8: 00 a.m. and ends at 4.00 p.m., but if my not having gone to drinks with you or my not having gone to dinner with you yields a change in our relationships where as boss you now start to subject me or assign me menial tasks which I did not before have, then we need to consider those situations.

Mr. Deputy President, in many cases, they may have already happened, so that while we have a three-month's threshold on a complaint, in many cases, they may have happened already and the people have no cause for complaint, but if all things being equal and I have been

passed over and over and over for promotion or there is a chance for training and I have never got selected and the only thing that I can think of is the fact that the boss had asked me out for drinks and I had said no, but other people go for drinks with the boss, then we need to consider those situations. I do not know how we will get that situation drafted in but it is something that actually should be considered because it is real. Mr. Deputy President, if my work is up to scratch and I do all of the duties that you have provided me but I have chosen not to socialise with you and that is the only thing, then I should not be penalised for it. My progress in my job should be based on my work once there is no disrespect attributable to me. Mr. Deputy President, that is something that we should actually try to consider. I will try to wrap my mind around it, you never know in a year or so when things may be different we might be able to come again for another amendment but I will still attempt to wrap my mind around it and perhaps we can come up with something because I believe that where we have a genuinely bipartisan piece of legislation informed by good faith and a desire to do better, then we should actually work together to see that all of the objectives of the legislation are fulfilled.

Mr. Deputy President, the last thing I am going to say is that now that we have dealt with sexual harassment in the workplace, a thoroughly comprehensive piece of legislation where we have considered everything, we have considered the complaint structure, we have even considered the protection from victimisation of the person making the complaint. Mr. Deputy President, it is almost as though the Honourable Senator was peeping at my notes, which I have doubled underlined saying "most important section" because if victimisation is allowed to happen at all during this process by virtue of the person having made a complaint in good faith -- and note I said in good faith -- then this is going to fall flat because people are not going to make those complaints.

Mr. Deputy President, the protective part of the legislation, I believe is exceedingly important but equally so is the part that protects the person complained about from frivolous and false claims because let us be real and this is not to trivialize it, whenever you put protective legislation in place there is the possibility either to misuse or to abuse the legislation, so that you may find people who will make a complaint in order to get something out of it, they make the complaint with the intention of settling. Those are not the majority of people and those are not the ones who are acting in good faith but this legislation also deals with them, so that I am glad to see that that is there and that the penalties for abusing the legislation are significantly high to make people pause, but it should never deter a genuine claim, especially when the focus of the legislation is mediation.

I am pleased to say that we are debating what I believe to be a holistic and thorough piece of legislation. It is going to get some comments because, as we are, we are accustomed to doing things one way and we are afraid of change, but sometimes change is forced upon you and when it is forced upon you, you have no option. Sometimes it is necessary to force change, and I believe that this is one of those circumstances where it was necessary to force the change on Barbados and Barbadians. We have our culture, and I think that the dissemination and investigatory process should take into consideration those aspects of our culture that are different from the United States, and that is where the mediation comes in. While it may be a mediating factor, it should never be an excuse where your behaviour or what you consider to be your cultural norm is actually genuinely offensive to someone else who is acting in good faith, regardless of how sensitive they are.

Having said that about the Sexual Harassment in the Workplace legislation, I think that we need to look very quickly at sexual harassment in public, because too often -- way too often -- our ladies, in particular, are subjected on the streets to some of the most awful comments. I heard it very recently when I was somewhere on Saturday.

Asides.

Senator W.A. ABRAHAMS: I heard some comments directed to a woman who is not even known to the person who was commenting. She happened to pass and she looked a certain way, and she was dressed a certain way, and someone saw the need to comment in a way that made me uncomfortable. If anyone had commented to that person's daughter or their wife or girlfriend in the same way, the person would have wanted to resort to violence. We are therefore looking to change our cultural norm with respect to comments and behaviours in the workplace; let us next, as responsible Barbadians, turn our attention inward and look at how we deal with each other in public and try not to deal with other Barbadians in a way that is offensive when they have done nothing to offend you. It is about respect for others, it is about respect for yourself, it is about respect for your work environment, and it is about respect for our culture. It is about respect for our standards in Barbados, that we keep them at a point where we can hold our heads up and say, "Cultural norms notwithstanding, I am proud of the behaviour of Barbadians. Long may we live."

I have nothing further. Thank you, Sir.

SUSPENSION

Senator Hon. Ms. M.P.O. McCLEAN: Mr. Deputy President, I beg to move that this Sitting be suspended for lunch until 2.40 p.m.

The question that the Sitting do now suspend until 2.40 p.m. was put and resolved in the affirmative without division and His Honour the DEPUTY SPEAKER suspended the Sitting accordingly.

1.23 p.m.

Insert s14 juliette

Wednesday, October 11, 2017

Senator Sir Roy TROTMAN: We should be developing the resources of the human beings in the workplace, the human resources talent at the workplace, to improve conditions at the workplace including relationships among people. We were of the view that companies would join into that relationship, they would develop and support proper open-minded human resources department and that within that arrangement people would learn greater respect one for another and that in that way we would remove many of the misconceptions, many of the difficulties, many of the problems at the workplace which often spring from ignorance, from lack of interaction between persons and from there being an absence of a proper relationship top down and then down up because usually there is only a top down relationship where workers are asked to be seen and not to be heard. We have to do something about issues of this sort and it is my hope that this particular piece of legislation would help to do something about that.

Mr. Deputy President, under the Interpretation of this particular piece of legislation, if we were to look at Clause 2 we would find that there is some little reason, not little, I will not qualify it, that there is reason for some concern and those who are more trained in the profession of the law than I am, since I am not, might be able to recognise with me and join with us in suggesting that where Clause 2 speaks to the Contract of Service at (a) and where it speaks to Employer that we must take into account alternatives employment relationships. I am afraid that if we were to leave this piece of legislation in the way that it is drafted there may be some smart persons who somewhere down the road might challenge the Interpretation we have in much the same way that we now have some new gurus, some of them just having studied in the subject, who challenged the Employment Rights Act and looked to find that the Act says things that it did not intend to say and use those issues as a means of arguing that the Act should not be followed and it should be disregarded entirely.

I think we would find, if we look in this Definition area or Interpretation area, that there is the need for us to take account of contracts for service and there is a need as well for us to take note of disguised employment relationships. In both of those areas there are occasions

where there is not that immediate relationship of contracts of service and therefore the liability exists for the Act, it will be the Act, to be recognised and to be respected by those who want to see the good there is in it but who might otherwise want to find ways around it.

In the same Clause, one needs to recognise that when we speak in that definitional area about the respondent that the impression could very well be gotten across that we are referring only to the owner of the business or that we may be referring to the supervisor and I would want to throw out the thought that very often harassment in the workplace comes from same level relationships. It is not always a relationship of a supervisor on the supervised or the owner on the weak and incapable employee, it very often can be one worker to another worker at the same level and that could come from several different reasons not always to do with the power of office but sometimes could have to do with the abusive feeling that one gender is either older than the person being attacked or that because the fault is that the male had right on his side. Whatever the reason is, I think it is fair for us to understand that the employer at that workplace has a duty of care to exercise and that even though the relationship may not be the supervisor on the supervised where there can be a clear case seen and recognised, where the relationship is relationship of equals then the same responsibilities in my view has to be taken by the employer where he gets or she gets to know of that abuse and where the matter then has to be treated in much the same way as it is dealt with in the rest of the Bill soon to be the Act.

When we come to the matter of policy statement, and that comes up a little later, it comes up at Clause 4, there is also some further reasoning in my view for discussion and for expressions of some concern. Under this area of the policy statement, the Minister will no doubt agree, because understand and remember in any event if she does not agree, and many other persons who are in this room could well recall, that there sprang up a certain number of gurus who spoke to the need to provide employment particulars who for no other reason in my view than the reason that they wanted to show that the Employment Rights Act had weaknesses, which we all admitted it had and which we all recognised had to be revisited, and they then used those weaknesses to argue that the Employment Rights Act should be abandoned and disrespected and that the rights intended for workers should not be granted. I spoke to one of them who is so illustrious as a guru and indicated that the Act was always wrong but that he would in his goodness, if he were advising an employer, which he does from time to time, advise the employer to give employment particulars because it makes sense and it saves the employer a lot of trouble. The Act said that they should have it but he argues that if the worker were working before the law was passed then that worker should not be given employment particulars. There are

people who are able to correctly argue that a cat has nine tails. You just have to start with the right premise and then you can argue anything. My view is that we would have to be careful in looking at Section 4 (1) (a) to understand the difficulty which might come about where we speak at 4 (1) (a) to the written policy statement and where at 4 (1) (b) we speak about this written policy statement on the commencement of employment.

Senate D13 Sequence 15

Policy statement against sexual harassment

4.1 Every employer shall ensure

(a) that there is a clear written policy statement against sexual harassment within the workplace for which that employer has responsibility; (b) that a statement of that policy is presented to each employee on the commencement of employment with the employer; and

(c) that procedures are put in place to assist every employee in understanding the policy statement.”

Mr. Deputy President, now, having been once bitten, I believe that the Ministry of Labour, Social Security and Human Resource Development; having been once bitten, I know that the Barbados Workers Union for whom I speak; having been once bitten, I believe that the wise people of Barbados should make sure that we do not allow the frivolous to impose their will on those of us who are much more serious in their thinking and in their approach to nation-building. I believe that we should therefore ensure that the naysayers do not get their day in court and that we should make it clear that the Schedule should set down the procedure and provide the guide in the language that is required. Indeed, I heard Senator Abrahams eloquently argued that he will himself provide the language when once he sees the first one that somebody else writes and that then it would be one that we could all very easily copy and make sure that we do not have a problem in Barbados arising because some people would claim that they do not have a big enough staff, or that they do not have the time, or that they do not have the money or whatever else it may be that would prevent people from wanting to observe and to implement such a simple requirement in the law.

Mr. Deputy President, the Bill raises too some concern at Clause 12 which I think we may want to look at. At Clause 3 it says that:

(a) “The Chief Labour Officer shall not carry out investigations into a complaint, or if investigations have commenced shall discontinue investigations, where the Chief Labour Officer is informed by the complainant that

the complainant does not wish the complaint to be investigated; or

(b) that the investigations that have commenced should be discontinued.”

Mr. Deputy President, it speaks to the breaking off of proceedings and when one takes the approach that Senator Abrahams takes and one sees this as an effort being made to get better working relationships at the workplace, then one can very well understand, promote and support the argument for the mediation process to be put in place, but when one understands that this Bill has taken more than a dozen years and that part of the problem for that time was because everybody was aware that there was deliberate abuse, particularly of females at the workplace and that sexual harassment was alive and well at the workplace in the Barbados environment, one has got to be able to recognise that the mere passage of a piece of legislation is not going to remove that misbehaviour or that abusive behaviour from within the environment and that simply because we have got the law will not mean that there will not be actors who will not seek to ply whatever clever trade that they have but who will also endeavour to use whatever skills or whatever power and authority that they have to thwart the waves of justice. Therefore, we need to be concerned about the ease with which we make reference to the breaking off of proceedings.

Mr. Deputy President, of course, there must be provision for the breaking off of proceedings but there must be concern as well that the complainant is not having that complainant's rights unduly swayed in one direction or the other. Mr. Deputy President, I do not claim to have the form of language which would go into the text and I will leave that to my more illustrious legal brains to come up with those thoughts, but I can only speak to the sufferings which have been made known to me. Mr. Deputy President, the awareness that I have is that many people who have had cases where they cannot take the pressure had been forced, not because as we heard during the beginning of the discussion, that they are weak, but because of their circumstances and who are therefore forced to discontinue proceedings, thus wasting the time of the court or in this case the Labour Department, thus thwarting the course of justice, and leading to a position where the wrongdoer may continue to practice his or her wrongdoing simply because of the fact that the person has the number. Mr. Deputy President, when I say that the person has the number, I mean that that person has the pulse point where they can make that complainant or that sufferer change that particular person's mind. Of course, education and training must be used as part of the effort to bring this matter about but when the question needs to arise as to whether there cannot be an approach in this way, the person who raises the complaint needs not necessarily be the person who himself or herself, the immediate sufferer,

but who has the welfare of the community at heart and who is able to blow the whistle.

Mr. Deputy President, the question of what that means in Barbados and how it will be properly interpreted is a matter that would have to be discussed more fully but I believe that we are all our neighbour's keeper and that we all have a responsibility to protect the community in which we live and that when there are those nearest and around us who are not capable of helping themselves, then there must be others within our community who are able to render that assistance.

Mr. Deputy President, now, because I do not have the privilege of a lengthier statement that I could make, I have to cut to the chase and make two other very quick points. Mr. Deputy President, one relates, I think, to the important issue that we should note in this Bill, that is, the relationship between the Labour Department and the Employment Rights Tribunal. Mr. Deputy President, for many, many years when we were first talking about these kinds of issues more than a dozen years ago, the Chief Labour Officer of the day and I were very concerned with ensuring that there was a certain relationship that had to be seen, recognised, understood and respected in the office and the respect due to the Labour Department. We have argued over all those years that the Labour Department must be seen as the final non-legal authority on labour management issues. Mr. Deputy President, it has to have the personnel both at the technical level and at the support level to be able to do what is required, so that the Labour Department becomes an institution for the lodgment of records, which records as evident should be a cost-saving means and a cost-saving space for the further work that may be done by the Employment Rights Tribunal

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In short, I am making the point that issues which go to the Employment Rights Tribunal must be passed through the Labour Department, and although courts would like to take their own evidence from the beginning, so I have been told -- I have no way of knowing myself and I have been told this by the Tribunal -- it should be clear that very often the Labour Department spends hours and sometimes days in dealing with labour management issues, including issues like the matter of harassment at the workplace. If there were proper records, because we have enough personnel, and those records were taken and signed off by the parties, when that issue was sent on by the Labour Department to the Employment Rights Tribunal, then the records could not have been gainsaid because they would have been signed by the parties who came to the meeting at the conciliation stage, and would then be a body of information which would make the task of the Employment Rights Tribunal swifter and would make justice appear to be more real because it is not delayed.

Mr. Deputy President, I think that two parties, the Labour Department and the Employment Rights Tribunal, need to be brought more closely into a working relationship generally for the employment right in its overall performance, but particularly bearing in mind that it is the Employment Rights Tribunal that is going to be the final referral point for issues which go past the Labour Department when it comes to issues or matters of this sort. Of course, the Chief Labour Officer, although not being himself -- I am using the language of the text -- an attorney, has the right to go to a Magistrate's Court to treat with those issues within his competence that arise out of this legislation. While that may be so, it is true that what we need to do is to make for greater efficiency, and the greatest level of efficiency that we would want to see is the arrangement where matters of the kind that are being addressed here can be handled with the kind of urgency and swiftness which Senator Abrahams spoke about, with the time-frames being considerably less than the number of months that were referred to. We would delay, we would cause frustration and we would cause workplaces to be operating in a sense of flux if we had situations where it was known that there were problems but those problems were being kept in abeyance.

I support the Bill that is before the House, and I hope that it will have speedy access through the two Houses towards eventual proclamation. Thank you.

MR. DEPUTY PRESIDENT: Senator Hunte.

Senator R.A. HUNTE: Thank you very much, Mr. Deputy President. I rise to give support to the matter before us, namely the Employment Sexual Harassment (Prevention) Bill, 2017. Mr. Deputy President, the subtitle, so to speak, jumped out at me and, of course, it was referred to by the Senator who just sat down: Senator Trotman. Those words are "harassment" and "prevention". I do not know how we are going to stop harassment or prevent anything, because every one of the Ten Commandments which were inspired by God have all been broken. "Thou shalt not kill." "Honour thy father and thy mother that thy days may be long in the land which the Lord thy God giveth thee." All of those laws were broken, but of course a Government or an administration does have a responsibility to protect its citizens, particularly those who are vulnerable in matters which we are now debating. I know that the Bill speaks of not favouring one gender over the other, and of course it is supposed to be non-discriminatory, but we know that a tradition is alive and well and some of the practices which we have enjoyed are resented by others; by both sexes, male, female, white, black and Asian.

Mr. Deputy President, sexual harassment is like that everlasting organ which is present in all living matter and substance derived therefrom. We know, of course, you can

carry a horse or cow to the pond but you cannot make it drink. This does not mean that the horse or the animal is that stupid, but the instincts of the animal may kick in, whereby it may know something in that water is not fit for drinking and may well refuse to drink on that basis. Recently, accusations have been levelled at some superstars, namely Bill Cosby and several bishops around the world, basketball players, movie producers, as recent as what is playing out now down in Hollywood. Presidents, even if they were prospective and have become President since then, and several local businessmen and women over the years have had to deal with harassment over the years. We have had this matter looked at from the position of the former General Secretary of the Barbados Workers' Union -- a trained trade unionist -- and because he has had to deal with this matter over the years in his capacity as a trade union leader who has served at the highest level, he spoke of how he interprets this Bill. We heard the Opposition Member, Senator Abrahams, who is a trained attorney-at-law, I believe, and he spoke glowingly. He supported.

Aside.

Senator R.A. HUNTE: A belief is a reasonable doubt.

3.30 p.m.

Insert s18 juliette

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Senator R. A. HUNTE: ...primary stage but because that is who she grow up with. I know what she was disgusted about. Every evening at the end of working hours a Mackeson or a Guinness was placed on her desk and not by men but by women. It became so annoying that she said to them: "I did not get in here because anybody 'gih' me a lift up, or what we call a heads up, I got in here on merit". She resented it. If anybody knows who is the head of that particular department there will be no shock at all, absolutely none. I cannot tell you if she is still working there now or whatever. She was a fairly young woman. I cannot tell you because I have not seen the family or the young lady for a little while and so on.

Senator Abrahams gave an illustration this morning about people who walk up to people and touch them on their arm and do all kinds of things to them and give them a kiss. Some might mean nothing by it. I do not know how he would be able to interpret that, but with laws like these you are taking a risk because if somebody intends to pursue the matter you are in trouble. You might be innocent. Just because it is our sort of culture, you just might be innocently even though inappropriately resting your hand on them. There are still things on the statute book like

molestation and assault, but this Bill mainly speaks about in the workplace.

I want to say this. Sometimes legislation like this can be used, misused and abused. I spoke in that way and I gave illustrations and quotations and I did some research on it because I am sort of retire now so I does find a lot of time to research especially these matters because when I come into this Chamber I want to bring facts, it was always my kind of thing anyhow, and to look around the world and to compare it with practices in Barbados that we have been sweeping under the carpet for years because nobody wanted to be pointed out.

I heard Senator Trotman spoke about the levels of harassment and he compared levels of persons. It would be at this level, at that level or at that level but never at that level down. I am not too sure that that is necessarily so. I know a friend of mine who has passed. He was the father of 32 children. He was a businessman. I am not going to say what business though. He is dead but he was my very good friend. He died at 91/92/93 years old, but I will tell you something, to the best of my knowledge, he gave each of those children a home. I went at several of them. This is no joke. When persons have gone to the great beyond, you are not going to call their name or speak ill of them, not at all. He was a very well-known person too. How would you look at that? There would have to have been some sort of harassment to begin those relationships but look how fruitful they were in the end, so it is all about interpretation. People can use themselves to get what they want even though legally it is an offence because harassment is a harassment. You encourage a harassment. You tolerate harassment. Harassment is harassment is harassment.

When these matters are challenged in the law courts it will come down to interpretation. It is just like murder. Defences are put up like provocation and long periods of abuse but it is still murder. It is still I kill the man or the woman. All of these things are drawn into when these matters are prepared to be fought out in a court of law or in the presence of a tribunal, so I do not get too worried about legislation and you come here and you should put in this and you should put in the next thing and all of that because any matter can be fought in the court of law. Any matter can be fought in a court of law so I do not get confused when a line does not look too right or it should be taken out or put in. I do not get confused about that.

What I know was said by Senator Abrahams is that he seemed to have been giving us the impression, and might be quite rightly so because Senator Trotman gave some credence to it, that this sexual harassment - well I cannot call it a Bill because as far as I know it never came to these Chambers as a Bill, it is not legislation - had been given some thought by his Administration or the party of which he belongs, but giving thought to things and keeping

them around like the Employment Rights Act for 12, 13, 14 and 20 years does not necessarily make sense. Implementation is what matters, and if corrections and amendments and so on have to come at a later date they will come at a later date, but why? Because you want to please a particular sector. That is what has been going on in Barbados for years because of who the people are and what they look like. A lot of us do not like to speak about these facts in Barbados but I will continue to do it until the day I die because I grew up in a Barbados and I saw the petitions, the categories, and the levels in this country. I saw it and had to live by it. I am never afraid to speak on these matters because I think there was a kind of sweeping things under carpets for too long in this country and that is why a lot of our citizens find it extremely difficult to adapt to change. I think Senator Abrahams spoke about some of the things that people found difficulty with; complaining about plastic bags when they start to draw a line with them.

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I also added in my notes that I remember when helmets became part of the way for motorcycle rides in Barbados when people complained that they kept their heads too hot, but it is for their own safety. There were also complaints about seat belts. Mr. Deputy President, last and not least there are complaints about the National Social Responsibility Levy, and they will get accustomed to that.

Mr. Deputy President, to show you the kind of hypocrisy that dwells in this society, I have a number of clippings from a newspaper, one is the headline of a president of a union. I cannot quote from that newspaper but there is in the rules stating that you cannot show that newspaper. I have it here where that president says to pay the taxes or they will march. Mr. Deputy President, but there is something else, there is the backup to that. I would not call the name but the president of that organisation was requesting 10 per cent of the National Social Responsibility Levy. Mr. Deputy President, it is the same tax levy that they wanted withdrawn, it the same levy on which they said they would march, which they did, but they now want 10 per cent of it. Do you see the hypocrisy that we get in this society, so that eventually they would have to get accustomed to the National Social Responsibility Levy, like the other things that they never liked and complained about but got accustomed to?

Mr. Deputy President, that is the Barbados society, we complain. I know of no imposition of tax in this country where there was ever a big cocktail party, a barbeque or a big excursion to celebrate that tax. I know of none, we never got that, but when they got back pay and some money they invite everybody for some 'big-mouth' drinks. They celebrate those things without understanding that what the Government does, that is why I say that you cannot separate the Government from the people, so that

when I hear comments used by union's leaders, with these leaders being distinct about this Government. Instead of them saying "the Government" they say "this Government". Mr. Deputy President, Customs Officers are part of this Government, teachers who work in Government schools are part of Government, the Sanitation Service Authority workers are part of Government but what we try to do in this country is to narrow everything down to the politician, that the politician is the Government. No, they are not, they are part of an Administration that governs the country.

Mr. Deputy President, one or two of my colleagues who have gone to the Great Beyond have told me that at one point a public servant said to them not to worry about that, that they would not be here for long, that they the public servants will be here for ever, or so to speak, so that they will be a public servant until they retire unhindered where they would get their gratuity and all of those other things, while the politician could be thrown out within the next five or ten years. Mr. Deputy President, before Senator Benn left this Honourable Chamber we heard him speaking about going to the Port to have a matter sorted out, where as soon as one of the Customs Officers saw him that officer began to close up the book, saying: "I ain't doing a thing, I ain't driving a stroke 'til the short man comes back." Well, we know who the short man was, so that that Customs Officer saw a Government Minister and so he felt that that was the only way he could have expressed himself, but yet he is working and drawing a salary and if it was ever short by five cents he would go to the union.

Mr. Deputy President, that is what I am against, I have nothing against the union, the union has played an important role, something I have said more than once in this country. I am concerned about the kind of leadership that that union now has leading it. I am concerned about this militant who is trying to hide their affiliation but it has to come out in the end. Mr. Deputy President, who are they hurting but the country. Mr. Deputy President, I am against that and I will say it anywhere and anytime, and some of them of course have been educated by the same Government that they now want to fight. I will not go for that, but as far as the union as an institution is concerned, I have great respect for it because it has played an important role in the development of this country.

Mr. Deputy President, this Bill is important. Sir, like the International Financial Services Sector, all of those things were hanging around for years. Now people would wish to claim them as their initiatives but they never brought these things to bear.

Mr. DEPUTY PRESIDENT: The Honourable Member has two minutes left in which to conclude.

Senator R. A. HUNTE: Mr. Deputy President, I am very pleased to support this Bill because I think that for a long time women were harassed, molested, taken advantage of because they wanted to hold onto their job to be able to support their children, but like a mother hen she had to search for food for her baby chicks. Mr. Deputy President, a lot of things have taking place in this country where in some cases we have tolerated because we knew that they were taking place, so that this itty-bitty shut up your lap tight, tight circumstances in this country has been going on for a long time but now there comes the time where we must open up sesame, let it all come out.

Mr. Deputy President, I thought that I would come from a different angle because I feel that those are the areas that we hopscotched around and so on, but I believe that I was around long enough that I could have expressed those matters in the way that I wanted to and at the level to which I am entitled to. Mr. Deputy President, I wish to thank you.

Mr. DEPUTY PRESIDENT: Senator Fraser, you have the Floor.

Senator Prof. Sir Henry S. FRASER: Mr. Deputy President, I rise in support of this Bill which as has been said before no right-thinking person would oppose. We all support it because it has been needed for a very, very long time. Mr. Deputy President, when I was a teenager - and that was just a couple of years ago, Bajan couple, of course - it was very widely known across Barbados that there was a certain store owner in Bridgetown whose employees always had to provide favours to be employed. This was widely alleged I should say and nobody did anything about it, it was an accepted fact of life in Barbados because there was no such legislation and there was perhaps no social conscience, no way of influencing people who were corrupt and engaging in inappropriate behaviour. As Senator Hunte just made the point, we have swept things under the carpet, we have allowed corruption to be sustained, we have known or heard things that were alleged to be taking place and there has been very little to curb that.

Mr. Deputy President, of course, the whole issue of sexual harassment is indeed a touchy subject and the pun is intended but I would like to allude to a point that Senator Byer-Suckoo made earlier on in relation to the research questions that were set by the Right Honourable Prime Minister as part of the Golden Anniversary Celebrations.

No.D13 (20)4.07 p.m.

The issue of sexual harassment is indeed a touchy subject, and the pun is intended, but I would like to just allude to a point which the Honourable Senator Byer-Suckoo made earlier on in relation to the research questions that were set by the Prime Minister as part of the Golden Anniversary celebrations. He said, "What of those features

of Barbadians life that we have not lost and we need to retain? What of those features of Barbadian life that we have not lost and need to retain? What of those features that we have not lost but we have to try and discard as quickly as possible?" It was pellucidly clear, coming across in the last survey that was done by Dr. Don Marshall and his team at SALISES (the Sir Arthur Lewis Institute of Social and Economic Research), loud and clear, the point about respect which has been made already. I want to emphasise this, the point about respect is an aspect of Barbadian culture that has been largely lost; respect of men for women, women for men, respect of the young for their elders, respect of people in general for the elderly who have created the life which we enjoy. This matter of respect is something that came across very strongly in the SALISES Policy Forum survey; that it is something we have lost and we need to embrace once again.

I think that we have to go back to the beginning to our schools. There has been a lot of criticism recently about the schools' curriculum and the way in which the schools have perhaps not evolved adequately; that they are knowledge-focussed rather than emphasising personal development and other issues. I am reminded that there was a Barbadian who lived in Jamaica. He was a teacher, a University of the West Indies graduate, and became a civil servant in Jamaica. At one point in the 1970s he was actually the Prime Minister's personal assistant, and he produced a magnificent book for teaching in Jamaica in the lower secondary schools called 'How's That Again?' It was a book on civics, and the Jamaican school had introduced in the 1970s a programme called Civics, the goal of which was to create good citizens. I think there is insufficient of that approach in our schools in terms of human behaviour, relationships between people and the issues of conflict resolution. All of these things most teachers are inept at because it is not a part of their training. They are trained in an academic subject, they may be trained in teaching methodology for that subject, but they are not trained in the development of the human personality and of the child. Many of those children and many of our children lack the appropriate environment at school, where they will learn appropriate ethical behaviour, learn respect for each other, boys and girls learning respect for themselves and for the adults.

Mr. Deputy President, my second point -- and I do not have very many points to make, just a couple, a Bajan couple, of course -- is that the child must begin in school to learn about the respect for the opposite gender, to learn about conflict resolution, and to learn about the issues related to what could be called sexual harassment. Our schools' curriculum does need a refinement in civics to create solid citizens.

The third point is the issue of delay; the issue of long delay, the issue of the period allowed for complaints and

then in follow-through. That is an issue which is quite remarkable, and the world Press, of course, has been showering us with cases from over the last few years of people who have complained at the age of 50 and 60 of harassment in their childhood by a Catholic priest or by a celebrity, and it is remarkable how these complaints will take 20, 30, 40 years of festering before the complaints come to light. Of course, that makes the investigations infinitely more difficult, because neither the complainer, the victim nor the person complained against is going to be able to remember the intimate details. They may remember some of the intimate details, perhaps, but not the contemporaneous and contextual details of things that happened a long time ago. Therefore, I am concerned when I read about the long delays that might occur in this situation. I think the time-frame should be very much shorter because not only, as Senator Trotman says, justice delayed is justice denied, but because it creates all kinds of difficulties in the investigation, it makes both the accuser and the accused unable to recall details of what might have happened many months ago. I think that delay is something which might be tweaked, as has been said, in terms of improving the activation of this legislation to avoid the frustration which involves both the victim and the accused; whether the accusations are accurate or whether they are in fact false, because that is another issue. False accusations then may be brought against someone who may be quite innocent, but who has himself encouraged perhaps or created an attitude of vengeance, and that individual would find it very difficult, perhaps, to remember what he was doing on the day he was accused of doing something wrong. The issue of delays are therefore very important.

The final point, Mr. Deputy President, is the issue of mediation, because it comes right down, as Senator Hunte said, to an issue of being what one person said against what another person said: "He say, she say, he say, she say." The investigation of that kind of complaint can be extraordinarily complex and difficult. It may come right down to the judgement of an individual, whether it be the Chief Labour Officer. I believe it may be very difficult in very tiny workplaces, but large workplaces, Sir Trevor Hassell and I have said, should have health-related staff and nurses to cater to the primary care of a large body of staff who can get into all sorts of workplace situations; both physical, accident and mental stresses. Large workplaces should have counselors, psychologists and people who can be mediators in situations like this. I think that large workplaces should have those kinds of people. It has been popular in Barbados to regard a human resource staff member as someone who simply deals with the issuing of the contracts, rather than someone who has skills and training in counselling, skills and training as a psychologist or as a counselor. These people used to be very few and far between, but they are absolutely essential for the smooth running of large operations and would be particularly valuable in this situation. I do not think there is anything

here about the mediation that would help to resolve these extremely complex situations, where you have accusations and it can be almost impossible to decide who is right in the “he say, she say” situation.

Mr. Deputy President, those are just a few points which, as others have said, a little tweaking would perhaps improve the efficiency, accuracy and success of this very well-meaning but very long-delayed legislation. Thank you, Mr. Deputy President.

MR. DEPUTY PRESIDENT: Senator Ince.

Senator J. INCE: Mr. Deputy President, I rise to support the Employment Sexual Harassment (Prevention) Bill, 2017; a Bill that seeks to underline human behaviour in the workplace, a Bill that on paper, as presented, has its origins in 2004, but I prefer to reflect prior to 2004 on the premise that our forefathers fought the battles of equality and respect. We can look at the 1937 Riots, and we can examine the formation of the Barbados Workers’ Union and the battles which that union would have fought with the masters of capital for the rights of workers who were termed blue-collar workers and who worked in the fields of Barbados. When we look at the work of the National Union of Public Workers, and when we look at this Bill today, we all know what existed in those times because we would have heard many of our elderly in Barbados speak to the conditions and some of the favours asked by managers.

4.09 p.m.

Insert s22 juliette

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Senator J. INCE: Sometimes you can be driving going home and because of the harassment at work you get a stroke or you could easily run a red light just thinking about going back to that place the next day: Do I have to go into that place tomorrow? It is important that as I said we educate our people that the process is in place, and we have a process in place. What I found critical was the whole idea of hearings in camera. I had the opportunity to go to court on a number of occasions and the whole thing about it is that sometimes you are sitting there to hear family matters being discussed openly. Mr. Deputy President, I find it very offensive and embarrassing to hear family matters, husbands and wife and mother and daughter, being discussed openly in a court. I always felt that these things should be away from an open court, in camera, so that whole idea of having this and then not publishing the names of persons because as beautiful as Barbados is, it is a rumour mill... We have a corn mill. You have other mills. Barbados is a rumour mill, and I have watched the lives of persons destroyed by vicious rumour and malicious gossip.

Sometimes to be in a workplace you would hear persons say he or she deserves that not knowing the facts.

We all remember, I call it the great case of Anita Hill and Clarence Thomas, the judge. I followed that case where Anita Hill, because she said he was in what you would term the power broker, a well-respected judge, so in the eyes of the public he could not have done anything wrong because sometimes we like to classify people, good morning Sir.... We go to church every Sunday and we take communion and we have the family with us so we are a decent man. The other fellow that is barefooted and in short pants and would drink a little white rum he is no good, that is how we classify people, that is how we do it. As she said, those of us who followed it, she would pick him up from the airport and he would have these conversations but she did it and the prosecutor took her to task: “Why you did not say something a long time ago, why you wait until now”. We know you always hear that coming out: Why wait until now. As she said, just listening, she was working as an intern in the chambers but for her crossing that mark was important despite she felt pressured. Why did you not leave? What we are saying is that these are some of the things that are going to confront the employee in the workplace and these are matters that must be dealt with and the legislation for dealing with these matters...

As I said before when we look at the social and economic impact: What do we want as far as a Barbados going forward? I think that when we speak of a Barbados going forward, as I said we are speaking of a socially balanced society because if we destroy our females and our males, but more so our females, we are going to push our generation 15 or 20 years backwards because structured families as well as a structured workplace play a very important part in the development of any society. We can have all of the glamour or we can have everything that we want but when the lights go off and the sun goes down the only thing you have left is your family. When all of the glamour is over I always said that the only thing that you have left at the end of the day is your family and your good name and that is why it is important that we have these things.

You are going to have the critics, you cannot stop it. From biblical times you had critics. Tomorrow you would read in the newspaper that the legislation favours women and this is another disadvantage for men but that is why it is gender-neutral because we know that there are also circumstances where the men are silent because men are also harassed in the workplace. You ever watch that picture “Silence of the Lamb”, a masterpiece? Sometimes when you watch “Silence of the Lamb” you reflect on the silence of men. Women tend to speak and are more vocal about what affects them. Whether they speak about it in the beauty salon or whether they speak about it over a bowl of cou cou a Saturday with their friends women are going to

talk but men tends to be more withdrawn and would speak about certain things. They would speak about how many beers they drink or which rum tastes better but when it comes to things that affect them personally... that is why studies would show that the suicidal rate among men are higher than women, that is a fact.

This is the beginning. As I said before this is the basis of which we want a better Barbados. This is the basis in which this Administration when we say to the people of Barbados that we are going to diversify and restructure the economy are also talking about making changes to those pieces of legislation that are critical to protect our children and our families and to create an environment not only in the workplace because when your workplace is conducive to work you can also take it to your family, so that good day of work can be transferred to your family when you reach home at 4:30.

Mr. Deputy President, with those words, I am obliged.

Mr. DEPUTY PRESIDENT: Senator Adams.

Senator A. A. ADAMS: Mr. Deputy President, I rise to support this Bill and also to make a contribution but before I start I just want to say that I have learnt at least one thing from the debate so far and that is that Senator Ince, notwithstanding his robust demeanour in debating, is really a romantic at heart.

Secondly, I want to say that one of the beauties of this Bill is that while the emphasis is on women, and it should be, it also protects the men and therefore the concept of it being gender-neutral is fine, but the point is that in relation to sexual harassment we have to face the fact that it is really women for the most part that are at the receiving end of it, so this Bill, Mr. Deputy President, sets out to bring to the forefront sexual harassment in the workplace and therefore must be seen as a significant Bill because it tends to bring a new dispensation into the debate.

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Mr. Deputy President, I say that because historically the concept of sexual harassment in the workplace has generally been kept under the carpet as has been said by Senator Hunte, but I would say that, in fact, Barbadians have actually adopted an ostrich-like stance in relation to this issue. In other words, we have put our heads in the sand and tried to pretend that it does not exist, or in a similar fashion we operate like the Pharisee, we beat ourselves on the breasts and praise the Lord and say how glad and happy we are that we are not like other countries. It is, in fact, a very hypocritical stance because sexual harassment can be found all over the world and as we

should find out and it has been said before, it is also very personal.

Mr. Deputy President, in moving the Bill Senator Byer-Suckoo has indicated that if you have not been sexual harassed yourself, that you know of some person who has been sexually harassed or some person's child, children or grandchildren and in this sense we need to get away from the hypocrisy.

Mr. Deputy President, what I would want to look at is that we have to understand that this Bill is a welcomed departure from an old dispensation that is not only discredited but it is the discreditable. We therefore have to recognise that in introducing this Bill that you are really sending a bow across the bow of those persons who are involved in this hideous affair. Mr. Deputy President, in that sense we want to alert them that what has been going on before should and will no longer be accepted.

Mr. Deputy President, we want to find out what the Bill is saying, we want to look at the "Objects and Reasons," which I will call more or less the preamble of the Bill. Mr. Deputy President, I refer to this because it sets out the framework for the clauses which follow in the Bill. Sir, there are really three clauses and perhaps I will not read them in full but they are set out as follows:

"OBJECTS AND REASONS"

This Bill would

(a) make provision for the protection of employees in both the public sector and private sector from sexual harassment at their workplace."

Mr. Deputy President, this is very important, it does not deal with one sector and not the other. It also goes on at -

"(b) provide a framework for the reporting of sexual harassment cases by employees and a method of resolving such cases;

(c) establish a procedure for the hearing and determination of matters related to sexual harassment; and

(d) provide for related matters."

Mr. Deputy President, in going through the Bill I also looked at Clause 26 which I thought was an important clause, which says as follows:

"Prohibition of victimization of employees

26 (1) No employer shall carry out any action which adversely affects the opportunities and terms and conditions of service of an employee who has

(a) rejected that employer's acts of sexual harassment;

(b) lodged a complaint under this Act;

(c) given testimony with respect to any

investigation conducted or hearing held under this Act in connection with a complaint of sexual harassment; or

(d) participated in an investigation, procedure or hearing under this Act."

Mr. Deputy President, I think these are almost the bedrock of this Bill. There are several other important sectors and these have been dealt with before but I thought that I would mention those particular areas.

Mr. Deputy President, I believe that the ordinary Barbadian worker or indeed the prospective worker, as a result of this debate, will now be able to see that sexual harassment in the workplace is no longer a bogeyman but that it is something with which he has become acquainted and something with which he has the machinery that he can actually deal with it.

Mr. Deputy President, it is important that that should happen because this is a rather insidious behaviour, it is morally repugnant and outrageous, it is psychologically damaging in a long-term way, not just short-term, it is something that 20 and 30 years on you can still be grievously harmed by, it is also emotionally disconcerting, it will affect how you will react with your family or friends, it can even bring about mental dissonance, it can send you, as people would say, to the 'mad' house.

Mr. Deputy President, I want to make the point that what we are faced with here is really an asymmetrical relationship where on the one hand, perhaps if we look at it from a scale of 1-10, we normally have a situation where the very powerful is at the scale of 10 and the weak person is at the scale of 1 and sometimes even zero. We are speaking here about a Chief Executive Officer, either in the public or private sector and a new recruit who has just come on to work. Very often, as we have said, it is a case of an elderly gentleman at the height of his profession and a young, struggling female who is now trying to get her footing in the workplace and therefore, Mr. Deputy President she is put at a severe disadvantage. Mr. Deputy President, this is something that we need to put a halt to.

Mr. Deputy President, we have a situation whereby right now in the news we have a situation in the United States of America where it is all over the networks where a television and Hollywood mogul has been accused by virtually scores of females who in their starting out times were taken advantage of by this gentleman. Mr. Deputy President, while that is in the news it does not mean that it is not happening elsewhere and at different levels. Therefore, it is something that we need to really get out of the way.

No.D13 (24)4.46 p.m.

When these sordid stories keep coming up, we in Barbados cannot, as I said, beat our breasts like the Pharisees and say that it is not happening here or has not happened here. There is a side of the culture that says that, but there is also another side of the culture that we know which is saying that these things had been happening and were actually kept under the carpet. This Bill, Mr. Deputy President, should be a wakeup call for the entire society. It should be a wakeup call for the perpetrators of harassment. It should be a wakeup call for parents who have children who are now going out to work and therefore can say to their children that, as a result of this legislation, they now have protection and they need not be afraid, as they would have been, to come out and say what is happening or what has happened. Each of us, as I mentioned before, is likely to have either a child or a grandchild, and we also know friends who also have children and grandchildren, and we definitely do not want to know that our children, grandchildren or even great-grandchildren would be subjected to this type of behaviour. I am therefore calling on all Barbadians to come on board, to get involved, to get themselves aware of what is in this Bill. Therefore, we want to get to a stage where sexual harassment no longer exists in this country.

Mr. Deputy President, I want to make the point that the legislation alone -- it has been made before -- is not going to do the trick. We cannot just depend on the passing of legislation. What we need to make sure of is that we have a system of education and a system of getting the news out via the media and through public relations. In doing so, we want to involve the entire body politic. We want to involve the schools, the university, the colleges, the credit unions, the labour unions, and the churches, of course, because we need not put our heads in the sand and pretend that it is not happening in the churches since the evidence is there. The churches must be involved, and the non-governmental institutions as well. By doing so, we would virtually be sure that there is not this knowledge deficit in place, so that when we come to the actual implementation of the Bill, it would be the more easily implemented. The difficulty with implementation usually comes when people are ignorant of what is going on, but once we have a good public relations and educational

programme, then people will get to know what is actually going on.

Mr. Deputy Speaker, I mentioned the trade unions among those institutions which we ought to bring on board, and I do that because -- and we have to agree with this -- it is really the trade union members who are on the frontline in relation to this Bill, because it is dealing with the workplace. Therefore, the workers' unions have a duty to get this message out to their workers. If it is not happening already, I am proposing that almost from tomorrow seminars and symposia be announced and held, and that competent persons should be involved. Therefore, the workers in Barbados will get to know that their trade union is in sync with the Government and the other institutions in Barbados in relation to seeing that the provisions of this piece of legislation are implemented and implemented smoothly.

The record shows that in the United Kingdom, the TUC (Trade Union Congress) has been in the forefront of dealing with this matter. We found today while the Bill was being proposed that there was a kind of absence of statistics; and I think that this is a weakness in Barbados. The statistics are important because, while in fact we know anecdotally and otherwise that sexual harassment is happening, it is very useful to be able to refer to actual statistics. You do not have to depend on the Government to do all this. It is good if the Government were to do it, but the trade unions and other organisations can in fact carry out surveys scientifically. You do not have to get a million surveys; you do it in terms of how surveys are to be done, and if you get 1 000 or 1 500 persons or so, this will give you a good insight into what is actually happening in the workplace. Indeed, in the United Kingdom the TUC actually sent out a survey to just over 1 500 workers and found that 52 per cent of females were confronted with unwanted sexual behaviour. This included groping and the feeling of their body parts, slapping on the buttocks and all that sort of thing; unwanted advances and a lot of unwanted jokes as well. Some men feel that this is just banter, but for women it is life and death, it is their reputation, and it should not be tolerated.

In relation to the 16- to 24-year-olds, because sometimes they are not bothering with the "old" people, some 63 per cent were actually sexually assaulted, Mr. Deputy President. One per cent, which may sound a bit low, were actually raped. Even if it was only one person, that obviously would be a disgrace. One-fifth of those 1 500 persons -- you can do the maths -- which was at least 300 persons, were harassed by their bosses. Mr. Deputy President, this is behaviour that we really need to banish from our society. As I said before, it is not just banter which people may want to push aside, but it is really undermining our females. It is actually humiliating them. We want to say also that it is affecting their mental

wellbeing. These are often young women with children and families, and they have to get up on mornings and go to work and come back home to their families, and so on. Can you imagine having to get up on mornings, put on your clothes and go into that type of hostile environment? This is something that we really cannot tolerate.

Therefore, we need to perhaps ask the Press, the media, to get involved. We believe that if we are going to have a real public relations blitz that the media should also be involved. Why should we say that? We say that because we know from elsewhere, from this very case that is in the news now, that powerful people can actually buy off the media.

4.48 p.m.

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Senator A. A. ADAMS: ...this legislation firstly is proclaimed, then that it is implemented and, as I mentioned, that the implementation is not going to happen just so, the implementation has to be planned. This is so important that coming out of this debate we must see a full press as they say in basketball. We must see in our tertiary institutions, in our high schools, in our churches, in the trade unions and in all of the non-governmental organisations a concerted effort to ensure that the provisions in this Bill are discussed, that persons are informed and that as a result of that information they are armed in the workplace, meaning the employees and indeed the employers because those employers who would descend into this insidious behaviour are now being put on notice, and therefore we will a situation and an atmosphere in the workplace where sexual discrimination will have absolutely no place in our society because harassment, favouritism and victimisation are the very opposite of what we would want to see in our workplaces. It is like having children. If you allow your children to listen to terrible things, to say whatever they like and to do whatever they like, when they grow up they will be the very opposite of what you want them to be. The point that I am making here is that once you educate the public in all of the areas in relation to this Bill we would have a different atmosphere which, Mr. Deputy President, before I sit, I want to say that you should not only have the survey now and the educational programme but what we should also have is that within three years, maybe a year, we should be able to go back with a post-test as you would call it and see what are the differences between what has been happening before and what will be happening now that this Bill has been proclaimed.

With those few words, Mr. Deputy President, I want to thank you.

MADAM PRESIDENT: Senator Husbands.

Senator H. A. HUSBANDS: Thank you very much, Mr. Deputy President, I rise in support of the Bill before us this evening. Let me begin by saying that in my presentation, I have a few bits and pieces, I am going to wander about a bit not necessarily very coherent, although some people would say but he is never coherent, but on this occasion I take full responsibility for that. In the early stages of this inquiry into the development of safety and health legislation, I was in a different life and played some role in the early drafts in the early discussions around this so I am pleased to see that this process has come this entire distance and that I could have played a little part at the beginning and now I am helping to bring it to its closure.

Mr. Deputy President, I want to also congratulate the Honourable Minister of Labour and her staff in the ministry and the Labour Department for shepherding this legislation through all of these various iterations. There must have been about, I do know, 10, 15, 20 drafts over the last number of years and they have remained with it and they have seen it to the end. In relation to the Minister of Labour, I do not know that I would join the person she met in the car park at the hospital and said that she descended from Heaven but I would say that since she has become Minister of Labour, we have had a number of important and progressive pieces of legislation brought to this Chamber and the Minister ought to be congratulated.

Asides.

Senator H. A. HUSBANDS: Bearing in mind the topic that we are discussing however this evening, Mr. Deputy President, I am going to stay far away from that, we will deal with that later.

The Employment Rights Bill and the establishment of the Employment Rights Tribunal which for many years we look forward to, we have had the proclamation of safety and health, we have had issues around holiday with pay and many other important pieces of legislation have come to this Chamber in the time...

Asides.

Senator H. A. HUSBANDS: Well, you have only emphasised the point that I am making Senator that she has performed well in making sure that the legislation in Barbados especially the social legislation in relation to labour and so on have been brought up to date.

Mr. Deputy President, I think there is a wider issue here. It is important what we are doing. On Friday I had the opportunity to address some young teachers, 86 of them and only two men, who were graduating in a course on autism and while speaking to them it dawned on me that

this was more than just about autism because I thought of all of the people who would have gone through schools in Barbados who might have been dyslexic or whatever challenges they had, and in our ignorance in the good old days these people were put at the door or in the corridor or were expelled from school because they created too much trouble for the teachers and so on, and it said to me that despite all of the challenges this country is confronting that we are really building a modern mature society and this evening we have, as much as we compliment and congratulate the Honourable Minister, to stop and spare a thought for all of those, particularly the women... Yes, I take the point about gender-neutral and all of that but listen we are essentially talking about issues that affect women. Yes, there are some men who are harassed and so on but by and large we know that it is largely women who are sexually harassed in the workplace and we have to stop and spare a thought for all of those women - I think one Senator alluded to it earlier, we talk about suffering now and people having migraine headaches and so on - or anybody who was sexually harassed at work mainly women over the years who we, in our ignorance not necessarily with any malice, would have said to them: "Oh man try and guh long, that is something too" in our typical Barbadian way, so I think that this legislation and the fact that we have reached this stage in this country is in a weird kind of way a fitting tribute to these people who suffered all these years without any recourse even if they turned to their church. We were a society so much with so much psychologists and so on and so forth.

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They did not get a listening or a warm reception from their work colleagues and so on and we have in this process this evening to consider them, so that as a society we are moving forward.

Mr. Deputy President, it is always easy for us to look and talk about how many problems there are and we describe the problems over and over again but sometimes I do not think that we take enough time out to recognise how we are moving forward in tackling these problems. Mr. Deputy President, this piece of legislation, I want to suggest to you, is in that context.

Mr. Deputy President, I also want to make a broader point, that is, in the last eight or so years this Government has spent a lot of time reordering and rebuilding this society and that is manifested in many forms. It is manifested in this legislation here, it is manifested in the Employment Rights Bill, it is manifested in the domestic violence legislation that was discussed, it is manifested in what we have done in tourism, so that this is not one little cutout that we are describing, we are talking about a master plan.

Asides.

Senator H. A. HUSBANDS: Mr. Deputy President, it did not come directly from the Master but it has his input. This is, I am suggesting to you, what we have done in education, the very course I talked about in which I participated last Friday, the fact that these 86 teachers now have skills in dealing with and directly recognising and developing strategies to deal with autistic children in the classroom and to stop putting them in the corridors, sending them to the principal's office or expelling them from school and so on. Again this legislation occurs in that context. Mr. Deputy President, I do not want to say that too much to take away from the importance of this specific legislation but I thought that I would make that point.

Mr. Deputy President, I want to spend the rest of the time that I have in saying particularly to employers, because I know that there is a tendency when the employer group is faced with legislation such as this, for them to complain about additional legislation and regulations. Mr. Deputy President, sometimes one must admit that additional legislation or regulation can be burdensome and that sometimes, as good as these things are, they do add to cost. Mr. Deputy President, we cannot dismiss out of hand our employers/colleagues, some of whom are our brothers, sisters, friends or relatives in this small country, we have to use every opportunity to educate and to bring these people along and to explain to them the benefits.

Mr. Deputy President, one of the things that I discovered earlier in a different life is that there is considerable business-to-business pressure for progressive moves like this. For example, international businesses coming to do work in Barbados have incrementally begun asking local businesses to see their sexual harassment policies. When these local businesses do not have a sexual harassment policy those international businesses would then want those local companies to adopt their sexual harassment policies of their province. Therefore, as we grow out, as we internationalize, there is a lot of business-to-business pressure. If our local businesses want to do business with different countries overseas they are progressively going to be asked about these things. They will be asked about these things, not because these foreign businesses like Barbadian women or Barbadians so much that they would want to protect them, but that they want to protect themselves from law suits and so on that can be brought by employees, as they encounter these challenges in our economy.

Mr. Deputy President, if we really want to start doing business around the world we have to become aware of these things. I think that essentially the legislation is asking capital owners of businesses to do three things, (1), to have a policy. Having a policy is simply that, having a policy. Getting a policy is not something where you get

that policy but tamper with it every two months or change it every year, it is the policy that must be put in place. At some time it may need to be changed or to be modernised but it becomes the company's policy.

Mr. Deputy President, the thing about this is that in those countries where the legal action of sexual harassment is much more pronounced than here in Barbados, these are the questions that the tribunals and the courts ask. The first question is, do you have a policy? If you can say yes that you do have a policy, then you are one step away from any punishment that may apply. The second thing would be to make people aware of that policy. That policy will be in the company's handbook so that when new people come on they are given a copy of that handbook, they are made aware of that policy and the guidelines in the Act would say what the essential elements of the policy ought to be. For this you can get any human resource person who is worth his or her salt to draft that policy.

Mr. Deputy President, with the internet and Google being so prevalent and being so much part of our lives today you can Google anything. Did I ever tell the story about the time my wife asked me, or I asked my wife, do you think if I googled the question, "Why is my husband so foolish?" if there would be an answer to that? Mr. Deputy President, would you believe that there were thousands of answers to that question, so that anything could be googled and there are hundreds of policies that can be copied and adopted to suit one's situation?

Mr. Deputy President, it is also necessary to provide training, so that the tribunal or court will ask, do you have a policy to which you reply yes. Secondly, they will ask, do you provide training on these issues, to which you would indicate that you do. Again, institutions like the Labour Department, institution like the local employers' organisations to which you belong, to which you pay annual subscriptions do provide training activities around these things.

No.D13 (28)5.24 p.m.

The point I am making or attempting to make to employers is that while in the beginning this thing sounds like a mountain to climb, when you apply a little Barbadian commonsense to it, it is not that difficult. You have a policy, you provide training and -- I do not want to say "investigate" because when you use that term it sounds like Scotland Yard - you look into, inquire, and have a process for taking the complaints which people make seriously. The court, the Tribunal, will not expect you to carry out an investigation as if you are the Criminal Investigations Department (CID), but still there are certain basic things that they would expect of you. After all, you are not police officers or detectives, but there are certain basic inquiries which you would be expected to make.

I encourage all employers, small and large. There is a lot of help on the financing end of businesses, and people get involved in business because they like some particular area, but there is not enough help sometimes in Barbados on the human side; on the employment side. What does it mean to employ people? What are the implications? My advice to all these employers out there is: Rather than looking at this as another burden or another imposition, you can save yourself a lot of cost and anguish in the end by using simple commonsense approaches to give effect to this piece of legislation.

Some colleagues have spoken about the in-camera hearings, and I understand the value and importance of that, but I feel sometimes that is one which can cut both ways. There is some value to naming and shaming afterwards, because you do not want to expose the victim, but there is some advantage to naming and shaming. I think that has to be taken into consideration. Overall, I end by telling another story about how seriously I began on a personal level to take this sexual harassment issue. When I was a student in industrial relations talking about sexual harassment, they talked about the reasonable woman's standard which they used, and you raised a lot of issues about that. I remember at a certain place where I worked it was male-dominated in its leadership but not numerically. The heads were all men, and a calendar, or almanac as we in Barbados would call it, of a scantily-clad lady was placed on the wall to the office in January. It remained there for quite a few weeks. Life continued as usual, nobody said anything, everybody apparently was just as friendly. Then one day, one woman, one person, raised an objection to this calendar on the wall, and I was shocked at how every single woman in that office had serious issues. They had never said anything and everything had continued as hunky-dory as ever, but on that one occasion every single person expressed how offended they were from the very first day they had seen it.

Asides.

Senator H.A. HUSBANDS: It caused me to look at these issues. You always have to go behind. Never accept the story on the face of it. There is always that thing behind. Understanding the perspective of these people and how hurt they were that the three or four men in this office did not share their disgust and hurt at this thing, educated me more so than probably anything about this issue of sexual harassment. That is a hostile environment, that is not quid pro quo, but one has to take these things and truly try to understand how they affect other people and other work colleagues and how they can do damage to the atmosphere in the workplace.

Mr. Deputy President, I want to close by, again, congratulating the Honourable Minister of Labour and her staff for a job well done, and say that the Government

continues to re-organise and develop this economy and this Barbados that we love so well in a mature and positive way. I thank you.

SUSPENSION

Senator Hon. Ms. M.P.O. McCLEAN: Mr. Deputy President, I beg to move that this Sitting be suspended until 5.45 p.m.

The question that the Sitting do now suspend until 5.45 p.m. was put and resolved in the affirmative without division and His Honour the DEPUTY PRESIDENT suspended the Sitting accordingly.

5.25 p.m.

Isnert s30 juliette

Wednesday, October 11, 2017

Senator J. A. WATSON: I heard somebody mentioned, I do not remember who it was, the idea of a good citizens. A good citizen will not start at 17 and 18 and 19 and 20, a good citizen starts at birth, and that is why I have always commended the Government for its effort to get the nursery schools going because I believe that our grounding in a good citizen must start at the nursery schools and right through the schools. The examples and the guidance must be all through school.

I am convinced, Mr. Deputy President, that we have to put our foot down, to use a Barbadian term. I believe that we must start with the teachers in Barbados in our schools and the first thing we must do is to get them to dress properly. I think there are too many teachers who go to school dressed very much as though they are going to a party. I was once told, and I believe it, I was told it at a young age, that dress is a mark of respect. If you do not dress appropriately you are really disrespecting where you are going, and if you are going into school and you are dressed inappropriately you are disrespecting the school at which you are teaching. I mentioned in here before that I go by the University of the West Indies - when things are good I go three times a week and when things are not so good like today I am not going there - every Monday, Wednesday and Saturday to do exercises and I am appalled at some of the dress that I see some of the students there wearing. The secondary schools have their uniforms, that is no problem and I am glad to see that after all of the old talk the length of uniforms were dropped and in a decent way but I believe that all of the tertiary level schools, the Samuel Jackman Prescod Polytechnic, the Barbados Community College and the University of the West Indies, need to start having a dress code. I see too many girls at the University of the West Indies in nippy, nippy shorts and in all sorts of tops that are exposing too much of their bodies,

and I believe that all of that to my mind is a mark of respect. You cannot be respecting the university to which you are going and going in a classroom with jean shorts torn off and that type of thing and tee shirts. I believe that that is an area that will bring about some order to what Barbados needs. We are definitely too far out of order now and we need to get back in order.

The other myth, and I call it a myth, Mr. Deputy President, is that a woman who is scantily dressed should not cause anybody to want to rape her or cause anybody to want to say any derogatory remarks to her, the sorts of things that probably Senator Abrahams talked about this morning. I think there are a few men who would catcall at a nun passing down the road, but if a woman passes down the road with her chest out and in the tightest dress she will get catcalls and that is understandable and I think that women need to accept that and again respect themselves and dress appropriately at the right times. I am amazed and embarrassed sometimes at having to stand in front of ladies sometimes and have to either look up or down, it is very difficult to look directly at them and I do not think that is right. I think that women need to do something about that. When they go to the parties and that kind of thing no problem but when they are in the workplace I think they should be appropriately dressed. The signs that are at some of our institutions now I think are well placed, no armholes or alter tops or tights or anything like that. I think that is appropriate for a workplace, so once you are going to work you must dress appropriately and in that way I believe that there would be a reduction in the sorts of things that you may attract by that sort of behaviour.

Mr. Deputy President, that is generally but specifically in terms of the Bill I just want to mention two things because everything that needs to be said about this Bill I believe have been said and I believe that the presentations so far have been very inclusive of almost everything. One thing that I want to mention, I believe Senator Trotman may have mentioned this or one other speaker, is this idea of the written policy. One of the things you do not want is confusion and I am glad to see that the Bill itself has given some guidelines for the written policy and I am wondering whether it should not be that the Labour Department actually writes a template for the policy and where companies want to adjust it that they would adjust it with the input of the Labour Department so that you would have something that is relatively standard.

The other reason for that, it was mentioned by Senator Husbands and I am glad that he mentioned it, is that there are some regulations that put a bit more burden on businesses. When you are small it puts even more burden and when you are micro it is even more burden and for that reason I would like to suggest that some, I do not want to call it compromise and I am not going to make the suggestion because I believe that the Small Business

Association is more competent to make a suggestion when they look at this Bill -- consideration be given to the micro sector regarding this Bill. We do not have to worry about it now because we do have a national criteria for what is micro. A micro business is one that employs under six people, one that has under \$250 000 in sales and \$100 000 in investment. Any two of those would qualify you as a micro business, and I believe that something should be done to give consideration to micro businesses as far as the Bill is concerned. What exactly? I am not going to make suggestions but I believe that some of the provisions could be relaxed in areas for that sector of our business community.

The other area - and I will wrap up on this one, I do not think I heard anybody mentioned it -- is that I believe that sexual harassment on the job could be very difficult for the victim whether it is male or female. I believe that if you are being harassed on the job by your boss it could be traumatic for you. You do not know what to do, you do not know whether to give in because of your own standard, your own morals, or you do not know if to go and tell somebody else so it really puts the victim at a real disadvantage and whatever he does I think there is going to be a problem, so I would like to suggest that within the legislation there should be some provision for counselling those victims. Those two suggestions are the two suggestions... There are three really: the idea of the counselling, the idea of the template and the idea of some consideration given to micro businesses.

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Mr. Deputy President, I have listened to all of the speakers and I am convinced that this is really a step in the right direction. I think that Barbados needs very badly to start lifting our standards back up. Mr. Deputy President, I do not mean just people of the lower economic bracket, I mean every one. Mr. Deputy President, senior people in Barbados do not know what are good standards, they do not know what is good behaviour, and the decorum exhibited by some people is surprising sometimes. I think that when this legislation goes in, companies are bound to take notice of what is good practice, what are good morals, and what are the things to do to make Barbados good again. Mr. Deputy President, I have no doubt that the suggestions made here today and taken, that we will see Barbados beginning to become the Barbados that we knew of years ago. I thank you.

Mr. DEPUTY PRESIDENT: Senator Boyce, you have the Floor.

Senator the Hon. D. W. BOYCE: Mr. Deputy President, I also would wish to commend the Minister of Labour, Social Security and Human Resource Development for piloting this bit of legislation through

Cabinet and bringing it here to this Honourable Chamber. Mr. Deputy President, it is a bit of a nettle that we have looked at an approach over the years and pulled our hands back from it, for fear of the thorns being left in our hands, but at last somebody has been prepared to put her hands around it, gloves or no gloves. If she were a gardener of some substances, she would know that sometimes gloves do not protect you either when the thorns are sufficiently sharp and sufficiently large. Mr. Deputy President, not that I am a gardener of any substance but there are some people who may be gardeners of substance. Mr. Deputy President, I say that because very often in our society we like to talk about issues but we do not like to grapple with them and I think it was courageous of the Minister of Labour, Social Security and Human Resource Development to decide to let her grapple with it, put her hands around it and get it here to this Honourable Chamber.

Mr. Deputy President, I consider all harassment to be violent and this bit of legislation dealing with the prevention of sexual harassment in the workplace essentially is a bit of legislation to help us to stop some of that violence that has crept into our society and that continues to creep into the society. When we talk about violence, we often think about things such as murder, robbery, beatings and so on, but this is a particular kind of violence and it moves intimately into parts of person's lives. It is therefore a most insidious bit of violence that one has to nip before it goes any further.

Mr. Deputy President, I deem it as being unfortunate that as a society we have come to the stage where we have to codify what behaviours are not acceptable in so many ways, when, for so long, we have known what behaviours were and were not acceptable, in the same way we have had to codify the issue of domestic violence, the issues of employment rights and so on. Mr. Deputy President, it is all part of the general trend where things that we have known that ought to be a certain way, we have had now to put legislation around them because we have chosen to depart from those things, from the ways that we know are the right ways.

Mr. Deputy President, this bit of legislation provides for people, companies, institutions, managers and people working in those institution, in a sense, a manual of how not to risk the reputation of yourself or your business. You often think of the assets of a company or an institution as those inanimate things which can yield income but very importantly, Mr. Deputy President, a company's reputation is vital to its ability to survive and to attract the best people to work for that company; a company's reputation is also vital to its ability for it to attract the best sorts of customers/clients for that company, therefore, companies ought to take this legislation and bear it as a manual as to how to preserve the reputation of those companies or institutions.

Mr. Deputy President, managers should also see this bit of legislation as a manual for them as how to preserve their personal reputations. It is hard to build up a reputation but it is very easy to lose it. Mr. Deputy President, that is why I am glad that we have in the legislation a balance to make sure that there is not just a matter of people making false complaints to endanger somebody's reputation or to go further, Mr. Deputy President, to stop people from making frivolous or unreasonable complaints that are designed to hurt somebody's reputation and to destroy that person's reputation. Mr. Deputy President, the legislation puts us on notice and makes one wonder about behaviours that occur outside of the company, outside of premises that the company uses for company purposes, for example, conferences or whatever, how do you behave with your coworkers in a purely social occasion that has nothing to do with the company or institution for which you work. Is that behaviour likely to impact upon the power relationships within the company when you all go back to work? I do not know. I do not think the legislation covers that. I do not know if it is designed to cover that. I do not know that it can cover it, but it puts people on notice that what they do outside of work on purely social occasions may lead to perceptions inside the company or company business and that those perceptions may then lead to charges of inappropriate behaviours.

Mr. Deputy President, furthermore, one wonders about what happens when not using the assets of the company, coworkers annoy each other on their own time, for example, by making telephone calls, by social media, et cetera, then coming to work in the same location and having to deal with each other. Does that create a sense of fear or a sense of powerlessness? What does it do? How does it affect behaviours in the workplace?

No.D13 (32)6.24 p.m.

The point made by Senator Watson about supervisors being particularly watchful, noticing changes in behaviour, changes in work habits and the work ethos of their workers, and investigating properly is very important. For that purpose, we may need to consider making sure that our supervisors get adequate training in counselling and in how to do this kind of investigation, so that they do not go and create a hornet's nest where there is none or go and do things the wrong way and cause more trauma. I think the idea of having supervisors being put on notice to look for behaviours that change is an excellent one which we have to follow through.

We have to then think about how behaviours which are not captured by the Act may affect behaviours in the workplace because of the perception of the person who finds the social behaviours unacceptable and may therefore bring that perception over into the workplace; even though the behaviours in the workplace may not objectively be

unacceptable. It is all related to the issue of how the employee feels, how the person in the subordinate position feels about his or her perception of the power in the workplace and the use of that power by someone superior to themselves.

Mr. Deputy President, there is another issue that was raised that has to do with the issue of socialisation of our youngsters. It has to do with what is appropriate behaviour between genders. We have, therefore, in our work and schools, and in our mentoring and guidance in the home, to make sure that our children understand how to behave towards each other; whether they are of different sexes or of the same gender. I believe a lot of the behaviour which we have starts because children are not being mentored and not being shown how they ought to behave towards each other or to others of different gender. If they do not have that ingrained in them very early, it is going to be very difficult when they become workers to be able to behave in the way that is considered appropriate. I know we talk about culture and so on, but there is never everything in one's culture that is always desirable. There are some things in one's culture which one has to jettison, and we now live in a global world where a lot of our business is international, as well as our tourism and our financial services. So much of what we do is international business where our people go out to work elsewhere and where others come in to work here; therefore the standards have got to be standards which can pass muster wherever we go and however we operate.

Mr. Deputy Speaker, part of the issue which I think the Bill deals with is a matter of the perception by a party or an employee that another employee is getting better treatment because of some arrangement which has nothing to do with the business of the organisation. In other words, we all have to be very much more careful, when you promote someone or discipline someone, to have your performance appraisal system working properly. Too often we consider it to be too much work to document performance and to have objective measures of how people are doing or not doing. This Bill's legislation suggests to me that you ought to make sure that your performance appraisal systems and disciplinary systems are properly documented and that they go through the right processes, because you do not know when someone -- because they are dissatisfied with the way they have been treated as compared to how someone else has been treated -- may raise the spectre of discrimination based on sexual harassment. Then you would not have anything in your files to very clearly distinguish that your behaviour has been based on the facts of the case and the facts of performance. Too often, we take the short-cut and not do the things we ought to do in terms of documenting behaviours, documenting performance and documenting the steps we have to take to deal with remedying behaviours which we do not want. Therefore, we have got

to work on those systems that help to protect the supervisors from false claims, help to protect co-workers from claims, and help to protect the integrity and reputation of the organisation and its people.

Mr. Deputy President, let me also share the recommendation made by Senator Watson. Earlier on today I did speak to Minister Byer-Suckoo and suggested to her to have her Ministry develop a sample or template of this statement of policy. It is something which I also believe the unions and the Employers' Confederation may well find they should help to develop from the templates so that it is not just a straight Ministry of Labour template. I think the three groups could get together and come up with what is a satisfactory template, and make sure the lawyers have a look at it as well and see that it is something that could withstand legal scrutiny. That would certainly help people to put in place a policy, and so that micro-businesses would not have to spend a lot of time either in doing it. You have to be careful that you do not open a door a little and then something gets through that you did not expect. I think we should make it easy for micro-businesses and all businesses to adopt that policy statement and be able to follow it through rather than to find exemptions or lower standards for one or the other.

I think, Mr. Deputy President, that there are issues inside here quite beyond the matter of sexual harassment; issues which say to us that we need to do a lot of things differently in the way we conduct business in terms of documentation. We need to recognise how we ought to behave and how we ought not to behave, and that this legislation really helps us to protect ourselves, protect our businesses, protect our reputations, and therefore protect the quality of what we do in this country. Mr. Deputy President, the legislation should help us to recognise that while we make this start here, we should combine the work done with the work that has to be done in socialising our youngsters in how they ought to behave as they grow up and enter the workforce and, of course, in making sure that we not only set standards for how we should deal with sexual harassment and how we should behave in the workplace but standards for how we do so many things in the workplace. This includes standards in how we do work, because if we do not have standards for how we do the work, then it is very difficult to be able to say to people, "You are not performing properly," and then you would create openings for all sorts of accusations to come at you.

6.31 p.m.

Insert s34 juliette

Wednesday, October 11, 2017

Senator Dr. Sir TREVOR CARMICHAEL: If you think about it carefully, in a non-mediated matter it is a lot

easier. It is easier because there are fixed remedies in litigations. There are damages, there are specific performances, injunctions and all of these things. They are specific and there are rules. The mediation is a much more nuance process, if I may use that word which is becoming very popular now. Nuance, I like it. It is almost onomatopoeic. It is a nuance process. Again, and this again is to the credit, it is quicker, it is cheaper and it is confidential, so again all of these things are going, so I suggest, Mr. Deputy President, that the mediation process is a more reflective process. It is a more reflective approach to solving disputes and it gives the parties an opportunity to focus on the issues in dispute, to consider the cost and the risk, and obviously it always provides an opportunity, and this is very critical, to re-establish lines of communication which will not happen in a typical dispute settlement which is non-mediated.

Now, why have I gone into all of these? I go into them to suggest, Mr. Deputy President, that there are also some circumstances where mediation is not an appropriate. It is not appropriate where obviously... A court remedy is something that is a necessary injunction, specific performance. One has to recognise also that the mediator has no power to impose a binding decision on the parties and we also have to recognise that mediation will not produce a satisfactory result unless both parties to the dispute are committed to a resolution, which is very important.

Having said all of this, I am suggesting that without going into..., and I am not doing this here, but the mediator would have to look at the types of harassment that have taken place. Clearly some types will not be right for mediation. She or he, the mediator, has to balance these things. She or he could only balance these things if she or he is trained. Mediation is not a case of saying oh he is a nice person, let him mediate it, I mean no. She or he has to be trained, and I suggest we therefore have to have trained mediators. Now, where is this leading me? Where am I going with all of this? Where I am going is that tomorrow, tomorrow and tomorrow, somebody said that in Shakespeare, the Arbitration and Mediation Court of the Caribbean is undergoing what I call a soft launch. It is going to have its full launch in January of next year when it has premises, but that Centre is already functioning as a virtual Centre. It has a floating panel of mediators which it is using from people who have expressed an interest, people who are within the court system, mediators, persons who have undergone some of the courses which the Centre has. We have sponsored courses which the Centre has. These courses, one took place only last week, were put on by the Centre for Effective Dispute Resolution out of the United Kingdom, CEDR, which is like the leading mediation centre in the western world, so that we have here now a facility which will be available to the Chief Labour Officer when this legislation comes into play because there

will be mediators who are already trained and who will continue to be trained and who will be accessible.

Those persons who know a little about me know that I strongly believe in public service. The Chief Labour Officer may also leverage his position and his credibility, which is very strong, and encourage some of our mediators to donate their services. It is doing a public service in giving back to the community. My point of raising all of this, I mean it is not a big point, is just to emphasise that this is going to be a critical pivot of this piece of legislation. This is the devil in the detail that I spoke about. This is the keynote to success, that of execution. It would have to be followed closely, but as is so often here in Barbados, we have the tools, we have to make sure that we use the tools because they are here.

Mr. Deputy President, John Arlott, that famous English commentator of cricket, whom you Sir would know very well as would I being of that vintage, at this time when would say that the clouds are coming across the field and play is about to close, and I have to echo John Arlott because as I look at the watch, not necessarily look outside because it has been dark for a while, I could see that the clouds are coming across the field so I think this is an appropriate time for me to thank you Sir, for indulging me.

Thank you very much.

Mr. DEPUTY PRESIDENT: Senator McClean.

Senator the Hon. Miss M. P. O. McCLEAN: Thank you very much, Mr. Deputy President. I rise to certainly support the Employment Sexual Harassment (Prevention) Bill, 2017. I believe, having heard the introduction of the Bill by my distinguished colleague and subsequent contributions including that of the spokesman for the Opposition, that we are left with no doubt that this is an important piece of legislation. Basically just to remind myself as I speak, the Bill makes provision for the protection of employees in both the public sector and private sector from sexual harassment at their workplace. It further provides a framework for the reporting of sexual harassment cases by employees and a method of resolving such cases. It establishes a procedure for the hearing and determination of matters related to sexual harassment and as usual, as with other legislation, it provides for other related matters.

Typically, when I make contributions I often use the word context or contextualise and I believe that it is important that I do so again because while it is an important piece of legislation - it is not a piece of legislation brought before this Chamber, and we would note of course that it has taken a slightly different course because the Minister of Labour, Social Security and

Human Resource Development sits here with us and on previous occasions she would have introduced an important piece of legislation and rightly so because it would have been her legislation as Minister responsible - but as I said to contextualise this Bill, I would join my colleagues in congratulating the Honourable Minister on bringing to Parliament, since this Government has taken office, a comprehensive suite of legislation which offers major coverage or treatment to a number of important labour issues. We have legislation on the Employment Rights Act, the Shops Act,

the Minimum Wage Act, Safety and Health Act, Holidays with Pay Act, et cetera and what we see therefore would be a mixed of legislation, and interestingly enough many of these would have been contemplated in the past but our previous Governments did not seem to have an appetite to bring this legislation.

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Mr. Deputy President, so that for those cynics among us and out there, this legislation really falls within the focus of the Ministry of Labour, Social Security and Human Resource Development. Mr. Deputy President, I want to step back from that to speak to the bigger picture or the bigger context which we have before spoken to. I believe I heard some reference being made to elements of this by Senator Ince, if I recall correctly. Mr. Deputy President, the legislative agenda of this Administration is pretty much bound up in what Government has identified as the four pillars which certainly go towards informing the achievement of a vision for Barbados. I believe Senator Husbands talked about a maturing society in terms of how we do things, including addressing issues of sexual harassment in this instance. Those four pillars of course also provide a foundation and a basis for policies, strategies and programmes, meaning specific action or actions. Those pillars very briefly are good governance, achieving social balance, economic viability as a critical part of the existence of this economy and this society and grounded in practices which engender environmental soundness. Mr. Deputy President, all in all, when we look at this we are not only talking about good governance on the part of Government but on the part of all sectors as they engage in their respective arenas.

For example, if I could deviate a little bit, I know that one of the things that we have long contemplated would be regulations translated in legislation to address the issue of non-governmental organisations. As I was driving here this morning, I saw a lady in a place where she is often collecting money, supposedly for charity. My question is, who monitors what she collects and what does she do with it.

Mr. Deputy President, the point I am making is that as we talk about good governance, it cannot be restricted to what obtains in the public sector, and in relation to this pieces of legislation, Mr. Deputy President, an essential part of good governance has to do with the environment in which people are able to work, whether in the public or private sector. If we are talking about good governance, we are talking about the maintenance or the setting of high standards of business, our work conduct, integrity and principled behaviour and how do we seek to ensure and maintain that in a society where diversity of values, diversity of cultures, et cetera, those things are becoming very much part of our society.

Mr. Deputy President, we in Barbados have established over several decades a very significant International Business Sector or Sectors, for example, tourism which is very important comes in the form of investors, employees, customers, et cetera. Mr. Deputy President, the point I am making is that when we talk about good governance, we have to look at it in its several facets in all of the areas to which it applies, so that is part of the context in which we do this.

Mr. Deputy President, we talk about social balance as well and in pursuing social balance we have to have a blend of policies, programmes and supporting legislation that not only speak to things economic but that also speak to the social realities and needs of our people, including employees. Mr. Deputy President, in this legislation we are also talking about the protection of the other parties too, that is, the employer, so that while we are talking about sexual harassment it does not only speak to the employee. Mr. Deputy President, I can envision a situation where if you had a surrogate in the form of a manager or supervisor, that person could be harassed by an employee as well. Let us take, for example, a young female boss and I often use examples. I have a relative who at 23 or 24 years old was placed in a management position in a field where she was working with a whole set of men. In the first instance it was not sexual harassment, instead they gave her a couple of flat tyres and so on and persons sought to intimidate here. Of course, it would have gone to other things. Fortunately for her she has a relative who understands some of these issues and I was able to walk her through how best to manage the young men who were not accustomed to having a young, well-educated woman working in a nontraditional area, managing a number of men, many of whom who were of limited educational accomplishment and who felt that the best way they could have dealt with a situation in which they were uncomfortable... Mr. Deputy President, I know that some of the principals in here would know of whom I speak, because they would have helped to shape her in terms of her professional career, et cetera, but it was a situation where a young "boss" could easily have succumbed to the intimidation and could have sought another job, et cetera.

Mr. Deputy President, the point I am making is that when we talk about this, it does not only speak to male/female employee alone, but it can operate within the context of many environments. Of course, having listened to the contribution of Senator Boyce we can also recognise that within the context of the legislation and the pillars of which I spoke if we are to maintain a level of economic viability collectively or at the level of the individual enterprise or business operation, the best way to make sure that you can perform financially is to have the kind of working environment in which employees feel free of harassment in the way we are speaking of it today and can feel to be able to function within a professional environment which allows people to be maximally productive and so on. Therefore, in that sense, Mr. Deputy President, I think that it is very important to recognise that notwithstanding the challenges that we have of trying to fulfil a very aggressive legislative agenda, again I would want to say that this piece of legislation is an element of a very comprehensive suite.

Mr. Deputy President, I really must say that on reflection, anyone taking a very objective assessment of what has been done in the Ministry of Labour, Social Security and Human Resource Development would recognise that the Minister, supported by a very competent team... Mr. Deputy President, as I reflect on that team, I will use the words that I am very proud of my children, many of whom I had the opportunity to have had them sit in class that I taught some decades ago. In fact, as I reflect on it, it is indeed decades ago, and so I hope that people would appreciate this.

Mr. Deputy President, I want very quickly to say that having listened to the lead by Senator Byer-Suckoo, where a comprehensive overview of the legislation, its intent, its processes and so on, having defined sexual harassment as it is in the legislation and has been described we are really talking about a phenomena that speaks to what we would have heard as largely unwelcomed sexual advances or conduct of a sexual nature which, of course, typically will interfere with the performance of a person's job or would create for that individual or set of individuals an intimidating, hostile or offensive environment. Mr. Deputy President, if we look at the definition that very much approximates the definition, so that I will not be accused of plagiarism, but it really captures the essential definition of some jurisdictions.

Mr. Deputy President, we have the evidence before us that this is an important issue. We heard several references to an individual of the United States of America who frankly, to put it very bluntly, was asked to leave a company that he formed, or to step back for some time because clearly evidence of misconduct over decades has given rise to the reputational risk not only to himself but to his family, as his wife has now decided that she cannot take

it anymore and has signalled that she will leave him. Mr. Deputy President, we have so many instances of this. Mr. Deputy President, as a young female in the past, I will tell you that I have had to deal with it, and many of us.

No.D13 (36)7.02 p.m.

I also have a young son and I hear young men talking about the comments of older women to them and so on, so it is not a thing that is done only to women, although that may be the greater prevalence. It is not something that is peculiar to or done to one sex. Of course, we know the gender differential, so to speak, if we look at the incidence, and I stress the word "incidence" because I get tired of hearing Barbadians refer to the "incidences" of something. It is the incidence of incidents, but not "incidences". The incidence of sexual harassments may be greater in relation to women, but it is an issue which is not talked about, particularly because we are in a small society and many of us know each other, et cetera. It is an issue which can be extremely damaging, especially when there are few options for some people in terms of employment, or where such occurs and they feel they need to leave.

Mr. Deputy President, to my mind it is behaviour which reveals the values of the individual, the attitudes to others, attitudes to women for example, and attitudes to subordinates because you may have, as we heard, woman-on-woman harassment, man-on-man or youth-on-older persons, and older persons harassing younger people, et cetera. It is about attitudes, the sense of power imbalances or asymmetry, as we heard before. In the cases of women, in many instances, it is about objectifying others; that tendency to objectify others, for example in relation to women we often see them as sexual objects. Younger men sometimes are viewed by females as not only "eye candy", to use the term that is often used, but as persons to be exploited, et cetera. The question, therefore, is how do you not necessarily change attitudes, which is something we hope to do, but how do we moderate behaviour? Part of doing that is to pass legislation of this nature.

It is very interesting because Barbados is an interesting society. We go around looking and behaving holier-than-thou but oftentimes that is a mask for a whole set of contradictions, and I think that is important to recognise. It is not some people over there doing that and so on. It is about persons sometimes exploiting their positions of authority; supervisors, managers and so on. That does not have anything to do with numbers. I was a little concerned or perhaps I did not understand when I listened, because I did actually step out of the room for a little bit, and I did hear reference to how young women dress at university. I will tell you that a former colleague of mine said that perhaps he should invite me back to give a very famous five-minute talk that I had to give to some

students, where I wrote on the board “how, when” and “where”. That had to do with presentation of self.

What I want to say, and I hope that I did not misunderstand because I hope it was not an implication that these persons were making themselves fair game for harassment. Irrespective of how I present myself, that does not give anybody licence. It says something about me and how I see myself and how perhaps other people will see me; it has nothing to do with how I want them to see me, but it may have to do with a sense of inappropriateness and so on. That is not a licence for anybody, male or female, to think that they can behave towards others in any particular way. Mr. Deputy President, I believe that in looking at this legislation, it is very important that people understand that it is absolutely necessary to protect the vulnerable. As I said, it is nice if people can self-regulate but sometimes it is important that we do these things.

One of the things I want to touch on is the whole question of multicultural realities. I mentioned earlier that we in Barbados are a small society but we have a very long-established tourism sector, which is itself international in nature because of the business it does, ownership and other aspects which I mentioned before. We also have companies owned by multinationals as well; our international business sector. Those sectors bring into the workforce a number of individuals who come from a cross-section of cultures. That therefore means we need to recognise the growing or the existing diversity in the workplace, and one of the issues which we must be sensitive to or adopt is a cross-cultural perspective on what happens. I was reading an interesting article, Mr. Deputy President, and I will share the title of it because it really was looking at this issue. It is an article by a Jacqueline Efron called ‘The Transnational Application of Sexual Harassment -- a Cultural Barrier in Japan’. It is published by Penn Law Legal Scholarship Repository and is a 2014 article. It is interesting because it was a case study, in essence, of the issue of sexual harassment as a problem in a society and how the society treats that matter. It is a problem from the article, and perhaps we have read about some of these things in international business.

In Japanese society, this is one of the issues that has long been talked about and it focusses on how efforts are made to address this problem in a society where the culture of the society and the culture of organisations is one in which people seek to operate in what I would call a collaborative kind of framework. Therefore, the challenge is how do you set up situations to address difficulties of sexual harassment where there is an accuser and an accused, for example? It runs pretty much counter to the environment that is very much part of how people engage as a society. It makes for very interesting reading. Similarly, I looked at that and looked at the Barbadian society in which we are very face-to-face, mainly because

we are a small population but in a small but densely populated island, living very closely together, with people being related to each other or knowing each other from neighbourhoods, from schools, from churches, from familial contacts, et cetera. The challenge with that, of course, how do you deal with this in a small society? One clear challenge, of course, is how do we deal with the fear of retaliation in a society such as ours? These are the kinds of issues.

I also would ask how do we deal with the problem of the fallout from false accusations, et cetera, and I think the legislation seeks to deal with those things, where the whole process by which reporting, assessment of those reports, investigation and so on should minimise frivolous accusations, et cetera. We heard all of those things, so I believe, Mr. Deputy President, that there are a couple things which we need to recognise here. I do not plan to speak much longer, but one is that this legislation is important to codify, as people would say, the pursuit of best practice. It is important within the context of fostering a social climate built on legislation -- let me put it that way -- that engenders best practice and the pursuit of the better kinds of values which we would want for this nation. At the same time, it recognises, of course, a number of things: I would almost describe one as the universality of the phenomenon of sexual harassment, and this is perhaps due to what I would describe as another universality, and that is the universality of sexual inequality.

7.10 p.m.

Insert s38 juliette

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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, missing takes. The source is incomplete: at ten points it carries a note instead of a reporter's take — 'Insert s2 juliette', 'Insert S6 juliette', 's10', 's14', 's18', 's22', 's26', 'Insert s30 juliette', 's34' and 's38' — and the text after each note resumes in mid-speech (for example, Senator Dr. the Hon. E. R. Byer-Suckoo's opening speech begins at 'Indeed, even lesbians and homosexual men...'). The notes are printed as in the source. Please supply the missing takes.

Q3. End of the record. The record stops during Senator the Hon. Miss M. P. O. McClean's speech, at the take-slip 'S: D13 (37) 7.10 p.m.' followed by 'Insert s38 juliette'. There is no record of the question on the second reading, any Committee stage or the adjournment. Please confirm.

Q4. Chair. Her Honour the President's letter says she was on medical leave from 29th September to 20th October, 2017, and Mr. Deputy President presided. However, the first readings are moved with 'Mr. President', the lunch suspension says 'His Honour the DEPUTY SPEAKER suspended the Sitting', and the call to Senator H. A. Husbans is labelled 'MADAM PRESIDENT', although Senator Husbans addresses 'Mr. Deputy President'. Two labels read 'Mr. DEPUTY PRESIDENT'. Printed as in the source.

Q5. Introduction of Bills and Order No. 1. The Bill is listed as 'The Employment Sexual Harassment Prevention Bill, 2017' at first reading and in the Order, but as the 'Employment Sexual Harassment (Prevention) Bill, 2017' in the debate. Printed as in the source.

DEBATE SUMMARY

(Editorial summary — not part of the record.)

The Senate met at 11.00 a.m. on Wednesday, 11th October, 2017, with Mr. Deputy President in the Chair; prayers were led by Rev. Father Errington Massiah. Mr. Deputy President read a letter from the President, Kerryann Ifill, saying that she was on medical leave from 29th September to 20th October, 2017. The Leader of Government Business, Senator the Hon. Miss M. P. O.

McClean, laid papers including the Needhams Point Development Incorporated and Needhams Point Holdings Limited Annual Reports for 2015, the Barbados Deposit Insurance Corporation Annual Report, 2016 and the 15th Actuarial Review of the National Insurance Scheme. Senator Sir Roy Trotman was appointed Chairman of Committees for the day, Standing Order 45(2) was suspended, and the Employment Sexual Harassment Prevention Bill, the Latin American Development Bank (Amendment) Bill and the National Social Responsibility Levy (Amendment) Bill, 2017 were read a first time.

The rest of the record is the second reading of the Employment Sexual Harassment (Prevention) Bill, 2017, led by Senator Dr. the Hon. E. R. Byer-Suckoo, the opening of whose speech is missing from the source. She said sexual harassment was about the power dynamic, that the Bill was gender-neutral and aimed chiefly at prevention, and that the definition of the workplace had been widened while the Bill was being prepared; she cited cases in the United States and distinguished a compliment from harassment.

Senator W. A. Abrahams recalled speaking on domestic violence some 18 years earlier, discussed how far familiar behaviour is acceptable in Barbadian culture, and urged a speedy investigation process. After lunch Senator Sir Roy Trotman spoke on developing human resources in the workplace and raised concerns about the interpretation in clause 2. Senator R. A. Hunte supported the Bill as protection for women long harassed, and Senator Prof. Sir Henry S. Fraser said no right-thinking person would oppose it. Senator J. Ince noted that the Bill had its origins in 2004 and spoke of the effects of harassment on health.

Senator A. A. Adams welcomed the Bill's gender-neutral approach while noting that women were mostly the victims, and urged that it be proclaimed and its implementation planned. Senator H. A. Husbans also supported it. After a suspension until 5.45 p.m., Senator J. A. Watson said good citizenship begins at birth and called for teachers to dress properly. Senator the Hon. D. W. Boyce commended the Minister of Labour, Social Security and Human Resource Development for bringing the Bill, said all harassment was violent, and regretted that society had to codify acceptable behaviour. Senator Dr. Sir Trevor Carmichael compared mediation with litigation.

Senator McClean began to wind up, setting the Bill in the context of good governance in the private as well as the public sector, referring to the Japanese experience and to the problem of false accusations. The record breaks off during her speech at about 7.10 p.m.; the source contains

no record of the vote or of the adjournment, and about ten | reporters' takes are missing from the body of the debate.
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