
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2004

HOUSE OF ASSEMBLY

Tuesday, June 27, 2000

Pursuant to the adjournment, the House of Assembly met at 11.20 a.m. on Tuesday, June 27, 2000.

PRESENT

His Honour J. M. EDGHILL, J.P., (Deputy Speaker)
Hon. Sir Henry FORDE, K.A., Q.C., M.A., LL.M.
(Cantab.)

Rt. Hon. O. S. ARTHUR, M.Sc. (Econ.), (Prime Minister, Minister of Finance and Economic Affairs and Minister for the Civil Service)

Hon. D. A. C. SIMMONS, Q.C., LL.M. (Attorney General and Minister of Home Affairs) (Leader of the House)

Mr. D. J. H. THOMPSON, LL.B. (Hons.) (Leader of the Opposition)

Hon. Sir HAROLD St. JOHN, K.A., Q.C., LL.B.

Hon. Dr. R. L. CHELTENHAM, Q.C., M.A., M.Sc.
(Econ.)

Hon. Miss B. A. MILLER (Deputy Prime Minister, Minister of Foreign Affairs and Foreign Trade)

Mr. G. W. PAYNE, LL.B.

Hon. R. C. EASTMOND, J.P., B.A. (Hons.),
Dip. Ed., LL.B. (Hons.), L.E.C. (Minister of the Environment, Energy and Natural Resources)

Mr. D. CARTER (Chairman of Committees)

Hon. R. N. GREENIDGE, B.A., LL.B. (Minister of Labour, Sports and Public Sector Reform)

Hon. G. A. CLARKE, B.Sc., Dip. Ed., J.P. (Minister of Housing and Lands)

Hon. R. D. MARSHALL (Minister of Public Works and Transport)

Hon. R. St. C. TOPPIN, LL.B. (Minister of Commerce, Consumer Affairs and Business Development)

Mr. D. St. E. KELLMAN

Miss H. E. THOMPSON, LL.B.

Mr. M. Z. WILLIAMS

Rev. J. J. S. ATHERLEY, B.A., B.Sc. (Parliamentary Secretary, to the Attorney-General and Minister of Home Affairs)

Mr. D. T. GILL, B.Sc.

Hon. A. P. WOOD (Minister of Agriculture and Rural Development)

Hon. R. R. FARLEY (Minister of Industry and International Business)

Prayers were taken by Rev. Canon Ivan Harewood.

Mr. DEPUTY SPEAKER: The House is now in session.

MINUTES

Mr. DEPUTY SPEAKER: The Minutes of Tuesday, June 20, 2000.

Hon. D. A. C. SIMMONS: Mr. Deputy Speaker, it has been drawn to my attention that on page 2 of the Minutes of June 20 there is an error after the Minute on Government Business, Order No. 3 it says:

“the Hon. Member spoke and moved, seconded by Hon. Miss M. A. Mottley, that this Bill be now read a second time, Hon. Miss M. A. Mottley resuming her speech.”

I ask that the word “resuming” be deleted and the word “reserving” substituted therefor.

Subject to that amendment, Sir, I beg to move that the Minutes for the Honourable the House of Assembly for its

meeting of Tuesday, June 20, 2000, which Minutes have been circulated, be confirmed.

Rt. Hon. O. S. ARTHUR: I beg to second that, Sir.

Mr. DEPUTY SPEAKER: If there are no other corrections or observations, then let these Minutes stand confirmed.

ANNOUNCEMENTS BY HIS HONOUR THE DEPUTY SPEAKER

Mr. DEPUTY SPEAKER: I am in receipt of the Accounts and Statements for the months of September and October, 1999 prepared by the Accountant General.

PAPERS

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, I am commanded to lay:

1. The Customs Tariff (Amendment) (No. 2) Order, 2000.
2. The Value Added Tax Order, 2000.
3. The Value Added Tax (Refund) (The Barbados Legion of the British Commonwealth Ex-Services League) Order, 2000.

REPORTS FROM SELECT COMMITTEES

Hon. D. A. C. SIMMONS: Mr. Deputy Speaker, last Tuesday this House proposed its nominees for the Joint Select Committee on the Fair Trading Bill and the Utilities Regulation Bill. The Honourable Member for Christ Church West in his absence was proposed as Chairman. I have spoken with the Honourable Member and the Honourable Member begs to decline and instead I would propose that this Committee be chaired by the Deputy Speaker. It is usual in our system for committees to be chaired by one of the presiding officers and I propose therefore that you, Mr. Deputy Speaker, should chair the Committee in place of the Honourable Member for Christ Church West.

Hon. Sir HENRY FORDE: Mr. Deputy Speaker, I would just state that I was not in the House on that day when the Chairman of the Select Committee was appointed. I will never abdicate my duty as a parliamentarian but as Chairman of the National Insurance Board which owns 22 per cent of the Barbados Light and Power Company, I sit on that Board and also on the Board of BARTEL which is still in part ownership by NIB.

I do not wish it to be suggested by any person, particularly in the political frame, that there is any conflict of interest. I obviously reserve my right to speak on any matter

in this House and so far as I see it, both according to the political philosophy of the Party I belong to and to the extent that I may disagree as far as policy as a representative of my constituency.

PERSONAL EXPLANATIONS

Hon. Sir HENRY FORDE: Mr. Deputy Speaker, I crave leave of the House to make a statement on a matter that I have given long thought to as to whether to raise it by way of privilege and I have decided against that.

Mr. Deputy Speaker, I am very happy when members of the public participate in what is obviously a matter of great momentum and significance for the public of Barbados, which is the constitutional debate. However, I am concerned when the reports that go out from the House do not accurately reflect the statements which Members of this House may make. I asked for the record of my speech made in this House on May 31st. When I was speaking on the question of the change in the Head of State this is what I said:

“There are some who have asked for a referendum on this issue. The Cox Commission had recommended a referendum but the Commissioners felt, after hearing from the public at large, that it would be wasting funds to go for a referendum on this issue and we can only say that that is the situation.”

I believe, Mr. Deputy Speaker, Sir, that that represents the statement I made on referenda. It is a grave distortion of the House's procedure for the *Nation* in particular to carry two Sundays ago a headline which says: ‘Henry Forde Against Referendums’. Sir, it does not make sense, particularly where the media has a special responsibility. In that manner, if people want to highlight matters in order to gain notoriety, they may proceed to conduct the business of the country, particularly where the media has a special responsibility, in that manner.

I say it does not make sense, Sir. It is a misrepresentation of the position of the Commissioners. On page 52 of the Report the Commissioners have recommended people's initiatives. For those people who have not taken the opportunity to do their homework and research this area, people's initiatives are a form of referendum.

At paragraph 9.36 to 9.37, you will note that we say in particular:

- 9.36. “The Commission noted the existence in a number of democratic countries of methods by which the popular will may be formally expressed outside of the purely representative framework of an elected

Parliament, in such a way as to be binding or at least of considerable moral and political force in the operation of government. These include referenda and plebiscites, as well as the limited popular initiatives which may be legally binding or create law and are a feature of a number of States of the United States of America. They are usually introduced and voted on contemporaneously with mid-term or quadrennial elections.

9.37 “The Commission was satisfied that the overall effect of such modalities is to enhance genuine public participation in the business of government and, thus, to reinforce the concept of the sovereignty of the people as part of the concept of national sovereignty.”

Again, Sir, if the journalists would do their homework and read the Report – it is a pity that a lot of people who are commenting have not taken the opportunity to read the Report before making statements on the matter – they would see that the Commission at page 9 of the Letter of Transmittal made this statement:

“The Commission and a sub-committee thereof have spent several hours considering two preliminary drafts of the revised Constitution. Outside of the membership of our Commission, we have had the benefit of the advice of the consultants on these drafts. Work is continuing to finalise the draft in accordance with the recommendations of the Commission. We are available for any further consultation required of us in respect of the final draft.”

This is the point I want to make, Sir, on behalf of my fellow Commissioners.

“We are of the opinion that even if all of the recommendations which we have made are accepted it will still be necessary to consult further on the draft final text and in particular to obtain the views of the members of the Public Service and the Judiciary before the final Bill can be made available for legislative action.”

I stress this point too, Sir:

“It has not been part of our Terms of Reference to advise on the procedure to be followed for wider consultation after our Report has been handed to Your Excellency. This is a matter essentially for the Government. No doubt the widest possible consultation with the political parties, the social partners and with Parliament is necessary, particularly since it is unlikely that constitutional reform will be attempted again for some decades.”

11.30 a.m.

Mr. Deputy Speaker, I think it is proper that I should put the record straight particularly because there are several Commissioners who have not had the privilege of speaking in this House but I believe that if the Press really genuinely wishes to make a contribution to this debate in a proper manner, as we expect of the free Press of Barbados, then I think it is absolutely necessary that members of the Press should really genuinely read the Report and secondly, put forward the views as represented by Honourable Members and as shown in the text of their speeches.

I am indebted to the House.

SUSPENSION OF STANDING ORDERS

Hon. D. A. C. SIMMONS: I beg to move that Standing Orders Nos. 6, 16, 18, 20, 42(5), 43 and 44 be suspended for the rest of the day's sitting.

Hon. Miss. B. A. MILLER: I beg to second that.

GOVERNMENT BUSINESS

ORDER NO. 1 – TO MOVE THE RESUMPTION OF DEBATE ON A RESOLUTION TO NOTE THE REPORT OF THE CONSTITUTION REVIEW COMMISSIONS AND THE PROPOSALS AND RECOMMENDATIONS THEREIN

Hon. R. N. GREENIDGE: Mr. Deputy Speaker, I rise to make a short contribution to the Constitutional Debate and I do so, Sir, being fully aware that there is a certain amount of apprehension and, indeed, scepticism on the part of some Barbadians when they hear that Barbados is seeking to change its Constitution. This small group, Mr. Deputy Speaker, obviously believe that we are tinkering with something which is sacrosanct and something which should not be touched at all.

I want to say, Mr. Deputy Speaker, that we should never think that a nation's Constitution is something which is cast in stone to be passed down from generation to generation without change. The Constitution, Sir, is not static. It must respond to a changing world and the changing ideas of its people. We should not even consider the Constitution as something which is reduced to mere words. Our Constitution represents those things which our citizens see as being extremely important because, in the long run, it is the people who will make the Constitution work.

When our Constitution was drawn up around 1966, it was more or less a working document. Barbados wanted to become independent and we had to sever our ties with our colonial masters. A lot of what the Constitution focused on then really facilitated that transition. We have come to

realise that we still have a lot of amendments and indeed, some expansion to work on within the Constitution. Of course, this does not mean, Mr. Deputy Speaker, that it gives us a licence to change for changing sake.

Mr. Deputy Speaker, today the clamour is for us to strengthen our democratic institutions as well as to endow individuals with novel liberties and rights. We are living in an age which we can clearly call an era of rights. Everyone has rights and everyone sticks out for his rights or her rights. People all over the world – I do not think that Barbados is any exception – are arguing that sexual orientation and sexual preferences should be enshrined in the Constitution as an individual right. We have gay rights activists who are very vocal in this area. Of course, Sir, in Barbados this would bring about a head-on collision with the present law against homosexuality and buggery and we would first have to repeal those laws.

I believe that our Constitution Review Commission, when it went around Barbados, would have heard such arguments but it did not recommend those changes. It appears, thankfully, that Barbados is not quite ready for this particular change at this stage of our development.

Sir, I have to say that I do not like the idea of treating this constitutional debate like tip and run firms, if you know what I mean, Sir, where you speak for two minutes on this and you jump away and speak for two minutes more on that and move on again.

Sir, I know that there are a lot of matters within the Constitution which we need to deal with. We have the whole question of fundamental rights, the Senate, the Head of the State, citizenship and so on which are calling out for debate but what I prefer to do, Mr. Deputy Speaker, is to take a couple of the issues and deal with them thoroughly.

The first one I want to deal with concerns the question of the appointment of judges. Sir, I will begin like this. No democracy is worth anything if prevailing circumstances force you to take away the power from your Head of Government – the Prime Minister. Quite a few of the recommendations seem to be suggesting this and I am quite uneasy about that and I have to be up front and be brutally frank about it. I do not think, Sir, that you can with conscience, take away the power of your Chief Executive Officer if the people gave him the power to govern.

There will be many, Mr. Deputy Speaker, who for one reason or another may want to strip a Prime Minister – I am not speaking about this present Prime Minister – they may want to strip a Prime Minister of every vestige of power but I caution that that is not the way to go. If you listen, Sir, you will hear that there are some who do not want the Prime

Minister to appoint the Services Commissions any longer, they do not want him to appoint the Governor of the Central Bank any longer, they do not want him to have anything to do with the appointment of judges any longer and these, indeed, are things which worry me.

Mr. Deputy Speaker, to date Barbados has had excellent judges. Our judiciary has not been politicised. They are appointed by the Governor-General on the recommendation of the Prime Minister after consultation with the Leader of the Opposition but they are never seen as being partisan. Being appointed by the Governor-General on recommendation of the Prime Minister does not taint our judges. The fact that a judge is recommended for appointment by the Prime Minister does not make it a bad appointment either.
11.40 a.m.

Party politics, Mr. Deputy Speaker, is relegated to the background when it comes to judicial appointments in this country, and I can stick my neck out and say that. If we think of the very last person who was appointed to act as an Appeal Court Judge, you will see exactly what I mean. There is no politics, really, in the appointment of judges in this country.

Indeed, Sir, our judges are often called upon in the interest of justice to give decisions against the very system and the very people who appointed them. I would say that we have had in this country judges who were as good as any on the Privy Council and who have been appointed by the Governor-General on the recommendation of the Prime Minister, and that they are free and they are far removed from politics.

People can talk all they want, Mr. Deputy Speaker, about appointing a Judicial and Legal Services Commission to be responsible for the appointment of judges, but I would say, Sir, that if that Commission is in itself politically appointed, it will destroy the whole purpose of having a Commission, because all you will do is to be moving from a direct perception of political manipulation or whatever, to an indirect one because that Commission can very well be appointed politically as well.

The key point which I would want to make in this regard, Sir, is to say this. The only way the system of having judges appointed in the way that we presently do will continue to have credibility in Barbados, is if we as politicians see ourselves as being people of integrity and people of very high standards, and if we continue to have politicians – or if we do have politicians who are corrupt and who will sell their souls and so on – and we continue to be cynical about political appointments then the country will be justified in crying out for this Commission for judicial

appointments. The politician has to realise, Sir, that the system is bigger than the politician.

At this stage of our development, Mr. Deputy Speaker, I see nothing wrong with our judges being appointed by a Governor-General or a President on the recommendation of the Prime Minister after he has consulted with the Leader of the Opposition.

I want to say something, Sir, which will be controversial. The whip is off so I could say it. Mr. Deputy Speaker, this form of appointment worked well before with other Prime Ministers and we have to be careful with the impression which we are sending to our people. I want to know, Sir, if we are saying that this breed of politician which we have now, has such little intellect or wisdom that they cannot be trusted. I want to know, Sir, why the cynicism is there now. I want to know, Sir, what makes the older politician, the older Prime Minister, who was appointed in that way and who appointed judges in that way, what makes him politically filled with more integrity, more substance, more common sense than the ones we have today? We have to be careful with the message we are sending to the people.

Our Caribbean leaders today are for the most part graduates of the University of the West Indies. That is the reality of it. We are making a row and saying that we want a homespun Head of State. I say that we have homespun people, homespun Prime Ministers. We have to be careful that we are not sending the wrong message, that because we were not educated at Cambridge and Oxford, Sir, that does not send a message to anybody saying that we cannot govern, you know, and that is something we have to get away from.

I have said, Sir, that it might be controversial but that is the only divide. The only divide that I can see between the ones of yesterday and the ones of today is that the ones of today are graduates of our institution.

I want say, too, Mr. Deputy Speaker, that there are some of us here who will speak later, and are not going to talk straight, they are not going to talk in a very clear and a very unvarnished way, and you might know which side they stand on and what they are trying to say, Mr. Deputy Speaker. They want to be able to half talk and later on jump into the camp that has the most people. Mr. Deputy Speaker, not me! I am going to say exactly how I feel because the whip is off and I can speak according to my conscience and according to my gut feeling. That is me, and I am going to speak in that way.

Mr. Deputy Speaker, I will move on to another section which is also troubling. It is the question of section 66 (2) of the Constitution. That allows a Prime Minister to seek a dissolution of Parliament in circumstances, Sir, where the

majority of the House has resolved that the Prime Minister's appointment should be revoked. We know the whole genesis of this, when Mr. Sandiford was the Prime Minister, and there was a vote of no confidence in him around 1994, and in the words of the Calypsonian Red Plastic Bag "he pulled up stumps and he left them without bat or ball", and we know how this happened, and I am saying, Mr. Deputy Speaker, even though I will be the boy on the burning deck, I will say, Sir, rightfully so.

There is now a recommendation from the Constitutional Review Commission that this power to dissolve Parliament and to call new elections should be taken away from him altogether. Mr. Deputy Speaker, I do not agree with the recommendation if that is the recommendation.

Asides.

Hon. Sir HENRY FORDE: On a point of order. Paragraph 10.14, the recommendation is "section 66(2) should be amended to remove the power of the Prime Minister to advise the President to dissolve Parliament in circumstances when the House of Assembly by a resolution of the affirmative vote of a majority of all the members thereof resolves that the appointment of the Prime Minister ought to be revoked".

If, my friend, the Honourable Member for St. Philip North, intended to say that the power of recommending the dissolution of Parliament, or Prime Ministerial power is being recommended for removal, that is not the import of paragraph 10.14 which is limited to circumstances where the House, itself, has an affirmative resolution before it of a majority of its Members resolving that the Prime Minister's appointment ought to be revoked, and if in that limited time, the Prime Minister then recommends a dissolution then in those circumstances the recommendation is that the House's will and its party's will in that instance should prevail. That is the recommendation.

11.50 a.m.

Hon. R. N. GREENIDGE: Mr. Deputy Speaker, as I said, I do not agree with the recommendation because I look at it from this point of view, Sir, that you are telling a Prime Minister that now he is not the one to lead you and you have no confidence in him. I am asking why should he simply acquiesce to this?

Sir, the Prime Minister is the person who took you into the elections. He mapped out the strategy and he won the elections for you. People associated the winning of the elections with him. The mandate was given with a perceived leadership in view and with a perceived leader at the helm and you told the electorate out there, that this is our Leader.

You pledged to follow the leader and now you are misrepresenting that position so you have a situation where six or seven people can, what we call in Barbados, gang up on a Prime Minister and say that he is not fit to lead.

Asides.

Hon. R. N. GREENIDGE: I do not have any problem with that, Sir, but I believe firmly that the Prime Minister himself should have some recourse. If I am not the one to lead you, then let us go back to the people and let them decide who should lead and that is exactly what Mr. Sandiford did. He said to himself, "let us see if they want me, let us see if they want you, or let us see if they want none of us." That is what he did and, Mr. Deputy Speaker, the person who wants to succeed the Prime Minister should not be allowed to ride freely on the Prime Minister's leadership.

It is clear, Sir, that if the person had been allowed a free ride at that stage that the intentions of Barbadians would have been thwarted and would have been pre-empted, so he went back to find out exactly what the people wanted because you want to be a leader but you have not faced the pressures of leadership. You did not abandon your constituency at nights. You did not speak on every platform during elections.

I see this section, Mr. Deputy Speaker, as doing one thing. It protects the person who takes you into elections and that is all I see it is doing. The Constitution we have to believe, Sir, is framed in a way to be fair and to make sense and we should not be too quick to change those sections that make sense. As I have said, Sir, I am convinced that this provision has a purpose. It is the most equitable facility which you can give to a Prime Minister who has led you into an election. As I said, I am not speaking of this present Prime Minister. I am speaking about any Prime Minister and the power to call for the dissolution of Parliament and to call for new elections should remain with him and that is my opinion.

We have to realise, Mr. Deputy Speaker, that some of us do not want to fight to build up a law practice. We want to go and find one that is ready built. Some of us do not want, Sir, to fight for a constituency. We want to find one that is loyal and one that is ready built. Some of us want to become Prime Minister by default and that is why I have spoken like that on that particular section.

Asides.

Mr. Deputy Speaker, we have to guard against the trash mashers of this world and just in case you do not know what the trash mashers are, Sir, they are the ones who come in

after the workers have done all of the hard work and want to reap the sweets. So we have to guard against those trash mashers of this world.

Asides.

Mr. Deputy Speaker, with all respect to the Commissioners and I respect each and every one of them, Sir, Sir Henry Forde, Hon. Oliver Jackman, Miss Norma Monica Forde, Mr. Daryll Jordan, Mr. Maurice King, Mr. Ivan Lynton, the late Mr. Wendell McClean, Miss Melanie Newton, the late Mr. Thomas Roach, Sir John Stanley Goddard, the Rev. Leonard Rock, I have nothing but the greatest respect for every one of them but, I will say this again, Sir, that the only person who is qualified in Barbados to tell me how it feels to be in the position which I have outlined is Mr. Lloyd Erskine Sandiford, because you do not feel the pinch of the shoe unless you have worn that shoe.

I believe, Sir, that no matter how strong or how weak a Prime Minister is at a particular time, it is for him to decide when is the best time to call the elections. There are certain things happening which we have to follow closely, maybe next door to Barbados where pressures are being put on Prime Ministers to call elections within a certain time. I do not agree with that at all.

A Prime Minister, Mr. Deputy Speaker, should be allowed to call elections even when he is dangling on a string and that is my position. I do not see, Sir, how you can give him that option on the one hand and then try to put an obstacle in his way to prevent him from doing just that.

Mr. Deputy Speaker, as I said, I thought it best to take just a couple of sections and deal with them relatively early. I, to be quite honest, did not think that we used the media enough and the public campaign was well organised for the Constitution Review Commission. Indeed, you still get the vibes that some members of the public do not care about the debate. I do not think that is the real problem. I think Barbadians generally care about the Constitutional debate. When you talk to some of them and you tell them what the particular issue and item is, they will lend their support and they will give their view points, but to tell them that it is the Constitutional Debate, sometimes they do not seem to know exactly what the Constitutional Debate entails.

I remember we used to get some little snippets a few years ago. I think it was Mr. Ezra Alleyne who used to do them, saying how many people are in the Senate, how many people are in the Opposition and so on and people tended to follow that and I would have liked to see a bit more of that being done. Even now as the Report is written to me, Mr. Deputy Speaker, it tends to be a bit too technical.

Asides.

Hon. R. N. GREENIDGE: Even that is technical, you know that too. I think that the titbits I am speaking about would have facilitated a better understanding, because you must not give our people the impression that it is not written for them and that only certain people are qualified to read and to understand the Constitution. Sir, remember that the Constitution is not written for what we call the intelligentsia only but as I said, I would like a bit more of the titbits being put on the television and on the radio so that it will allow more people to participate.

That is my contribution, Mr. Deputy Speaker.

Mr. DEPUTY SPEAKER: The Honourable Member for Christ Church East.
12.00 noon

Hon. R. R. FARLEY: Mr. Deputy Speaker, I consider it a genuine privilege to have this opportunity to participate in such an important debate. It is indeed a testimony to our democracy and to the level of importance which we place on the development of our people, as the humble representative of the people of Christ Church East – and being an ordinary Barbadian, having only outlived the Constitution by some 4 years, effective yesterday it would have been 5 years, one day after my 39th birthday – to have the opportunity to reflect on a 34-year-old Constitution is a privilege which speaks in great volume about the contribution which those great patriots who were involved in the process of framing our current Constitution and the arrangements which are embodied in it have made to the development of this nation.

It is against that background that I would first of all want to congratulate the Chairman of the Constitution Review Commission, the Honourable Member for Christ Church West, who himself was one of those great patriots who contributed in no small measure to the framing of the current constitutional arrangements which have served this nation well and which have made it possible for me to be able to participate in this particular matter.

Sir, we sometimes lose sight of the fact concerning the dynamism of both the law and the State. We sometimes think of them in static terms but in fact neither of them is static and each of them is in a perpetual state of change. That is a fact. The State makes the law but the State is also governed by the law in the exercise of its powers. It is really at the level of the Constitution that this particular relationship is most clearly exhibited.

Mr. Deputy Speaker, the State can only govern effectively if it is perceived as being legitimate. This is where the relevance and its connection to the people that it governs become important. In fact, any good Constitution which has relevance and which is able to engender the

feeling of legitimacy thrown up by the people is one which would reflect the principles, the contexts, the ideas and the ideals of those people. In that way, the people would deem it to be legitimate because it reflects what is of interest to them.

It is against that background and the recognition of a constant need for change that we have come today to debate this Constitution Report. We are not debating the Bill as yet. I make that point because there are some people who have the unfortunate perspective that those of us who will deem it necessary from time to time to amend a Constitution are tinkering with something holy, and that we are in some way touching the untouchable, without recognising that if at any period in the development of a nation there is too great a disconnection between the law that governs the society and the current thinking in the society then we are going to have a problem.

Sir, the eminent legal luminary, Sir Roy Marshall, one of the most distinguished Barbadian legal minds captured it well when he noted, and I quote briefly:

“Challenges to the legitimacy of the State and the law arise in all countries, large or small, more or less developed, democratic, or totalitarian, but it is only in free democratic societies that challenges are permitted and the prospects for change are peaceful.”

It is this process of the review of the Constitution by way of the establishment of the Constitution Review Commission, by way of having wide inputs from Barbadians both here in Barbados as well as Barbadians resident abroad that has ensured that this process of change on which we are embarking will be nothing short of peaceful, and indeed spectacular, because it will ensure that, in our attempts to bring the Constitution within the modern thinking and expectations of the people of Barbados, we reflect their principles, their concepts, their ideas and their ideals.

Sir, having already congratulated the Chairman of the Constitution Review Commission, I want now to congratulate the Commissioners for giving us of their time and their talent in coming to this stage.

Sir, I want to get on to a number of provisions which are contained in the Report, first of all, dealing with the matter of fundamental rights and responsibilities. The measure of rights as entrenched in our Constitution clearly have their origins in the fact that as we moved from the colonial situation to an independent, post-colonial situation, the matter of ensuring the rights of the downtrodden and the oppressed was very important and continues to be so. It is important that individuals be protected from the tyranny of the State if a State should choose to go in that direction.

We, however, are beginning to recognise a situation in which that excessive focus on rights has led to somewhat of an abandonment of responsibilities. All too often, Sir, in my everyday experience as a Member of Parliament, as a constituency representative, as an individual in society, as a Minister of Government and in several spheres, we recognise all too often this feeling that citizens have no responsibilities and that it is all thrust on the State or some other abstract body.

I must commend this Constitution Review Commission Report for introducing a new element into the proposed new Constitution that identifies what are some of the fundamental responsibilities which citizens are expected to bear as a trade-off for the protection which is given by the State. In fact, in the early days of the formation of the modern States that matter of the trade-off was more clearly and more easily recognisable than it is today. People generally allowed themselves to band together in a group and gave up some of their individual rights and freedoms in order to benefit from the physical and legal protection as members of the State.

Sir, I want to highlight some of those rights and more so the responsibilities which have been identified as being important. First of all, the responsibility of an individual to ensure that his rights do not immediately conflict with the rights of other individuals. It is believed – and we could take everyday life as an example – that people's rights to enjoy their own music should impact on other persons who may prefer to have the right of quietness and the right to enjoy themselves in some peace. That is just a basic example. But citizens have a responsibility to obey the law and abide by the Constitution. They have a responsibility to respect the national flag and emblems of the society. Sir, I am pleased that as a nation we have not gone so far in respect of rights, as for example in the United States, where persons have the right to burn the flag. I would hope, Sir, that never becomes the way in which Barbadians interpret their relationship to the State.

12.10 p.m.

The fundamental responsibility of the earlier constitutional arrangements ensured that the law was very clear that one had to respect the national emblems. Those are very important things. Persons have the responsibility to create and maintain a clean and healthy environment. They have the responsibility, Sir, to participate in their economic, political and social rights and it goes on.

The fundamental point, which I think is captured, is that whilst the State has certain responsibilities to the citizen and whilst the citizen has rights being a member of this nation, Sir, those responsibilities must be shouldered. I want that concept of being a responsible and proud citizen in the 21st century to be reflected in the society and the wider

family relationship. A proud citizen in the 21st century should not be one who abandons his parents, who fails to support his children, who fails to maintain his environment by thinking that there is nothing wrong with tossing litter out of the car or bus and that someone else, the abstraction called the Government, will clean it up.

I hope, Sir, that by creating this amendment and new direction in the social compact of the relationship between the governor and the governed we will have a new spirit developing in this particular regard.

I want, Sir, to move on to another aspect of the Report in the time that is given to me. I want to move to this matter of the Head of State. Now I must say from the very beginning, Sir, that I support the recommendation that the Head of State of Barbados should be a Barbadian. I do not support the view that there is any inherent blessing in continuing a relationship which clearly was only a matter of accommodation and transition whereby the Queen of England, a non-Barbadian, would be Head of State of Barbados.

In the Report, Sir, it was said that those persons who argued before the Commission in favour of the retention of the monarchy listed as one of their points, Sir, that it is an unseen and benign hand which has guided us through the decades. I would argue, Sir, that one of the reasons why it has been unseen was that it has not been present. Therefore, Sir, if it has not been present, what do we stand to lose by officially marking it off the books?

I do not share the view, Sir, that there is anything to lose other than our pride in not taking that bold step of affirming the confidence in ourselves as a people and in saying that anyone of us can rise to that position. Sir, it is worse. What are the qualifications that one needs to become the monarch of England and by extension the monarch of Barbados? That is an accident of birth. No matter how talented and qualified other citizens of England happen to be, unless they are born of the correct family, Sir, they cannot achieve that position. That is contrary to the principles of meritocracy which we have strived to promote and develop.

Most of us in Barbados would have reflected on the history of this country where over the last several hundred years at various stages there have been qualifications which limited the capacity of ordinary citizens to participate in the full development of society and they cannot support this provision. In one case in the era of slavery, Sir, if you were a slave, you were a non-person. You had to be a free man in order to have the right to participate in some aspects of the society.

Even after emancipation, qualifications were asked for again. You had to have property of a certain value and we

could go on and on, Sir. We would be flying in the face of our ancestors and of the brave struggles that they endured in order to bring us to the stage where Honourable Members of this House of Assembly can be chosen by the people of Barbados irrespective of race, class, creed, social origin or financial position, as long as you are not bankrupt, to represent us in here. Yet, Sir, we do not want to be too timid to go forward and say that the creation of the Head of State can be anyone of us fellow Barbadians.

Sir, I do not support the view of what I would term the closet monarchists because there are a number of persons who might not have lent their voices to the debate but who are quietly out there promoting fear. They are saying, Sir, that if we choose to go the route of the republic and have a Barbadian as Head of State we will lose business and tourists from the United Kingdom. I ask the question, Sir: what about the very strong lobby in England itself to discontinue the monarchy? I follow the newspaper articles in the U. K. and there is a very, very strong lobby. People are questioning the relevance of it, Sir. What do they do for England? How does one qualify and what does it speak about meritocracy? I fully support having a Barbadian as the Head of State of this country.

I also support the recommendation, Sir, that the Head of State be a non-executive position performing functions which are largely ceremonial. Where I differ from the Commission's Report, Sir, and as is reflected in other sections, is that I do not believe that there needs to be any extension of the powers, which the Governor-General now has, to be given to a new President. By extension of those powers, we are talking about removing some of the powers that presently rest in Parliament or with the Prime Minister and those powers being placed in the President.

I believe, Sir, that the truest expression and representation of democracy is for those persons who are given the responsibility to govern to be also given the full authority to exercise that mandate. Sir, how can we put politicians and parliamentarians, particularly the Prime Minister and Members of the Executive, in a position where they are held responsible for the economic, political and social climate of the country but yet strip them of powers which are already limited?

Sir, there is also an unfortunate view in Barbados which I trust will not gain further currency that politicians are by definition persons whose judgment is flawed, persons who cannot be trusted to be impartial and independent, persons who one wonders if the real accusation is that at the instant of becoming a politician one suddenly no longer acts out of sound judgment or even in a sound mind. That too, Sir, is a view that I do not support. Barbados has been fortunate over the years to have politicians, particularly

Members who have been elected to this Honourable Chamber, who have acted with the utmost integrity and who have been shining examples of all that is good in the Barbadian spirit who have done us proud not only domestically but internationally.

Sir, again it is a fundamental point of principle whether it is in a private sector company, Government or in any institution. How can you ask anyone to be responsible for a given mandate and not have the authority to act? So that in other recommendations in relation to appointments in the Public Service and other appointments in the society, I am strongly of the view that a Prime Minister must not be stripped of his powers. To do so would be to strip the people of their powers. I think that is very clear, Mr. Deputy Speaker. The people elect a Government based on the leadership of that particular Party which offers itself based on the Manifesto of that Party and they judge us by our performance. If we are to truly be held accountable by the people, then we must be given the tools with which to govern.

Sir, I would want to call not for any strengthening of the powers of the President in relation to making appointments but for the retention of all of the existing powers of the Prime Ministers of Barbados which they have held since the Constitution has been in place for the control of the apparatus of Government. I want to add, Sir, that in relation to the Public Service there needs to be opportunity given for Ministers to have more specialist advisors and to be able to have more options as far as how they conduct their functions.

I like the view expressed in the Report, Sir, as a minority position of one of the Commissioners where the relationship to the Public Service is concerned, that it is a laudable objective that constitutional arrangements should be concerned to defend the values of the non-political Civil Service rather than weaken them. I am not suggesting other than that. However, the opportunity should not be lost to ensure that our constitutional arrangements make adequate provisions for Ministers to recruit specialist advisors and experts to push forward the agenda of Government in critical areas unencumbered by the procedures for regular Civil Service appointments.

Sir, the other side of that is that we have to look at a matter wider than the Constitution. This relates more to how the Civil Service functions otherwise. But we really have to look at ensuring that there is a greater system of accountability between the Public Service and the public that it serves. Ministers and political persons are held accountable on a five-year basis. A cynical person once said that public officers are held accountable on a 33 1/3 years basis. That being the period between the start of service and the end of

service. With such a differential in the time frame of accountability, one can understand the disconnection which can occur sometimes. We need to ensure that the new constitutional arrangements protect the civil servants from arbitrary political action but also give those persons who have to answer directly to the public for their performance the opportunity to augment what may very well exist there with experts of their own choosing.

12.20 p.m.

I want to move quickly, watching the clock, to the matter of Parliament. It is my position that in this matter of the debate concerning whether we should have a bicameral or unicameral Parliament that we will in no way suffer by having a unicameral arrangement. In fact, Sir, I think that what is perhaps more fundamental than the question whether to have a bicameral or unicameral arrangement is the matter of how we handle the issue of representation of our people. It is my view that in the absence of a situation of local government we need to look at the size of constituencies which members are required to represent. The matter of the functioning of the Electoral and Boundaries Commission is properly the subject of the Constitution and perhaps we need to look at having smaller constituencies.

Indeed, Sir, one of the matters which the country in looking at the arrangements which are made for the governance of Barbados has to consider is the possibility of looking at a unicameral chamber of larger numbers. It is a reality that we function both as the equivalent of a national chamber in terms of the UK Parliament and we also function at the level of the [local] councils and the powers and other levels of Government which they have.

I am not making any call for local government. I do not think that we need that, but we need to ensure that Members of Parliament are able to represent adequately the interests of the members of their constituencies, recognising that there is no layer below us who function at the national level, passing laws for the entire country, dealing with international issues as well as also dealing with the matter of whether the garbage has been collected in our constituencies, what is the status of the roads and issues of flooding. We interface with the various agencies of Government in ensuring that those services are delivered to the public of Barbados.

I do not hold any romantic notion about the need to have a second Chamber just because we have had it before. I served in the Other Place and I enjoyed my term there and I believe I made a contribution. I support the move to a single Chamber, but just spread the load around much better.

Mr. Deputy Speaker, in the time which is left to me, I will make one or two other observations on other aspects of the Report. On the matter of the public service which I

adverted to previously, I want to make one or two specific references to the matter of the system of appointments of officers. I, of course, support the continued independence of the judiciary. That has served us well over the years. In the appointment of the officers of the public service, the retention of a Public Service Commission, appointed as recommended by the Prime Minister and the matter of the appointments of other senior officers, they should continue to be done as is presently undertaken.

Mr. Deputy Speaker, I want to salute the Commission once again for the excellent work which was done and I want to encourage Barbadians not to fear. I want them to recognise that in the same way they would have made a major change by way of moving from a colonial experience to an independent experience in 1966 and the country has not been worse for it, in fact, it has been better, that changes which are being proposed to be undertaken in the year 2000 are really meant to propel us into the twenty-first century with a new system of governance.

We have tried on this Side of the divide to ensure that democracy is given true, meaningful, everyday expression by creating devices by which the people of Barbados are able to participate more often than once every five years during an election cycle. We believe in a government of accountability and in a government which discharges its responsibilities. All I would say, Sir, is that I would want to ensure that any new constitutional arrangements do not in any way strip the Parliament or the Executive of the powers which are absolutely necessary if they are to discharge their responsibilities. We, at the end of the day, will have our day in court at the election and it is there that the people in whose name we speak here in this Chamber will have their say.

Mr. Deputy Speaker, I am grateful.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, I rise to speak on these recommendations by the Constitution Review Commission. I want to start by saying that I find it extremely difficult that in a time where our energies should be used discussing the economy of Barbados we are caught up discussing recommendations in this Parliament re the Constitution. I am not saying that the constitutional recommendations might not be important but I also believe that we should be today discussing the state of the economy and globalisation, the effects on the people of Barbados of the OECD's ruling and also the WTO's rulings. It is true that if these are discussed properly they can all help form the Constitution of Barbados. We cannot then in one breath state a fact like that and then in the other breath not recognise that it may be that we have the cart before the horse. It is my opinion that if we are to be successful in reshaping the Constitution of Barbados we must first make sure that we have the economy of Barbados right. It is from that standing

that we are in a better position to make decisions to affect the lives of Barbadians.

12.30 p.m.

I also want to deal with this issue of the Senate. You cannot tell me that we should get rid of the Senate because it is ceremonial and at the same time tell me that you want a President who is going to be ceremonial. You have to take a decision on what you want. You either have to get rid of the Senate and the ceremonial President or you are going to have no Senate and an elected President, that is a decision that I am asking Barbadians to consider. We are either going to be using cosmetics or we are not. We are either going to be serious or we are not going to be serious.

I am calling on this Parliament to recognize that we have to be serious about what we are discussing and recognize that this is the year 2000 and that we need to carry Barbados far beyond where we have taken it so far.

We also have to recognize, Sir, that one of the recommendations made here is asking for the right of citizens of Barbados to adopt children. I will say this, Sir, that this is the most serious error that I have seen anywhere in Barbados. I will explain to this House why that is so. Some months ago I said in this Parliament that there is a move afoot to make sure that Barbados does not belong to Barbadians any longer and that there is a group of people lining up with policies in place to destroy the minds of Barbadians and I used certain examples which I will not repeat today. When you look on the streets of Barbados you can understand full well what I am talking about and for Parliament to now come and tell me that there should be a right for Barbadians to adopt people outside of Barbados to be citizens of Barbados, every single Parliamentarian would have to be a madman. I will tell you why...

Asides.

Mr. D. St. E. KELLMAN: You were a party to it so you should go and read it. I will tell you why, Mr. Deputy Speaker, if that is ever adopted in the Constitution of Barbados...

Hon. Sir HENRY FORDE: Mr. Deputy Speaker, on a point of order. I want to understand the particular provision to which the Honourable Member refers so that it may be properly debated. Mr. Deputy Speaker, the Laws of Barbados have had an Adoption Act since 1956 as a part of the Laws of Barbados which allows the adoption of children, not only of Barbadian parentage but from any part of the world. That Act has been amended from time to time by the political parties who formed the Government since then. There is nothing in our recommendations that asks for the repeal of that Act. I believe the only section to which the

Honourable Member is referring is Section 6.4(c) of the Recommendations which says:

“a child aged not more than five years found in Barbados, whose parents are not known, shall be presumed to be a citizen of Barbados by birth.”

That is what is called a foundling. Because of the treaties to which Barbados is a party, provision for foundlings in those circumstances would be to carry out our international obligations and it seeks to do no more than that, Sir.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, I am a bit surprised that a person who was chairing a Commission would get up and make a statement like that. I recommend to the Honourable Member to read page 94 under section 4(d).

Asides.

Mr. D. St. E. KELLMAN: That is not my business. I am not here to educate or teach anyone because I am not a teacher. If someone is going to challenge me, they need to read it because it is not my job to teach anybody.

Mr. Deputy Speaker, I am saying that it will be a sad day in the lives of Barbadians when we adopt something like this, where you are asking people to support something like this.

Hon. Sir HENRY FORDE: Again, Mr. Deputy Speaker, Sir, page 95, Section 4 (d) says:

“A child under the age of 18 years, neither of whose parents is a citizen of Barbados, who is adopted by a citizen of Barbados shall, on application, be registered as a citizen of Barbados.”

Once again, Mr. Deputy Speaker, the Honourable Member ought to be aware that Barbados subscribes to the Hague Convention on adoption and that this is a normal part of law in every civilised country that I know which does not deny a Barbadian the right to adopt a child. If the child is adopted then the child becomes a citizen on registration and the child must be under the age of 18 years.

Mr. D. St. E. KELLMAN: If you are disagreeing with that, just get up and say so. Mr. Deputy Speaker, I am saying that there is no way that I could support something like this in this Parliament and I want to see the Parliamentarians who are prepared to get up and support it. I want you to put your voice where your mouth is because right now Barbadians are fighting to get work in Barbados and if we allow this foolishness to happen in Barbados, soon from now you will not be able to identify with people in here or in the gallery. We must understand that we need to protect Barbados for Barbadians.

Hon. Sir HENRY FORDE: Mr. Deputy Speaker, on a point of order. The Honourable Member is entitled to express his views but let me just again say that this is part of the Laws of Barbados. The Honourable Member may want the Laws of Barbados changed but all the Constitution Review Commission is summarizing is what should go into the Constitution and what should go into citizenship provisions normally. The Attorney General, when he speaks, will explain to the Honourable Member that this is part of the Laws of Barbados.

Mr. D. St. E. KELLMAN: If that is so, the Laws of Barbados need changing then. If you are telling me that this is part of the law, the people who put it in should change it then because I do not support this even now. When one looks at what is going on within the Caribbean and I am using certain countries within the Caribbean as an example, the future of Barbados will be under siege with this type of law that you are telling me is here. The same way that you can get marriages of convenience, now you will get adoptions of convenience and that is something that we need to protect Barbadians from where people feel that because they have large sums of money they can encourage citizens of Barbados to adopt children on their behalf and then Barbados would not be the Barbados that you and I know.

Asides.

Mr. D. St. E. KELLMAN: I do not care who disputes what I am saying. The point is that we must protect Barbados and Barbadians from this type of citizenship that has been part of our law or that is being recommended. We in Barbados must understand what is going on in the world and our brothers and sisters cannot be people who are allocated to the street corners to lime on the streets and because people have large sums of money they can enter arrangements where they adopt children.

Mr. Deputy Speaker, I am also saying that I do not support the Senate. I will tell you why I do not support the Senate. We have some Senators who are regarded as independent Senators and sometimes I wonder if independent Senators understand their role. I really wonder if they understand their role, because when I look at the debates and I listen to the issues that are being raised....
12.40 p.m.

Asides.

Mr. D. St. E. KELLMAN: It is clear to me that some of them do not understand their role. I am not talking about the present Senate. When you look back at the past records and look at the contribution of some Independent Senators, they could have well been on the Government's side.

Asides.

Mr. D. St. E. KELLMAN: I would like to see, Sir, this tokenism mentioned about the rights of citizens of Barbados to access beaches and to access land get into something more concrete. It is alright to say that you want rights and things like that. I want to see Government do something, Sir, to assure Barbadians that they feel that they have something concrete. To just pass it through a recommendation and after passing it through a recommendation they are going to gain something, it is foolishness. We need to see something more concrete. Tell Barbadians that they have a right to a beach and yet still they cannot get to the beach: what sense does it make? The right to own land yet they do not have the financial ability to purchase the piece of land!

Asides.

Mr. D. St. E. KELLMAN: We cannot legislate the right. To legislate the right means that a Barbadian can say that the Constitution states that I should have a piece of land, let me have a piece of land.

Asides.

Mr. D. St. E. KELLMAN: I want to see something that is more substantial, Mr. Deputy Speaker. All of this cosmetic thing, I cannot support. I want to see something of substance so that my people can feel that they have something to hold on to.

I want to say this again in this Parliament. There is no need for local Government in this country provided the Government of the day recognise their rights and their responsibilities. I have said already in this Parliament that it does not make sense for me to come into this Parliament at Estimates time and agree with Government on Estimates, when after agreeing with Government on Estimates, I cannot tell the constituents of St. Lucy how much of that money will be allocated to them.

Let us take an example of new roads. Since 1994, I have supported every single Estimates in this House and I have not seen one single road being constructed. It is true that it is a possibility I might get one this year, but there is no evidence that after supporting the Estimates in this House, that any parliamentarian is assured that he or she can get something to benefit their constituents from those Estimates.

I am proposing to this House, Sir, that an allocation be made where every constituency can be assured of a certain amount even if it is a cent. At least we would have started in the right direction. To come in here every year, Sir, and to debate the Estimates and at the end of the year you cannot see one single cent being spent on your constituency is

a waste of parliamentary time. This foolishness about democracy, it cannot be democracy. Democracy for whom?

There are people, Sir, who do not have to come and support the Estimates, but yet they can get on the telephone and call certain Government Ministers and they are sure what they can get from the particular votes spent in a particular area. I am saying that if we look at the Constitution and spend some time on the Constitution, maybe these are things that we should be looking at.

Another burning issue, Sir. There are a lot of people in this country who are saying that we should move from the monarchical system and go to the republican system and be a republic and all of that. I hope that with the type of republic we have, that all those who support the republican system are quite prepared to give up what they got from monarchy. I am serious about this issue. There cannot be two Barbadoses in here, where one group of people feel that they have a right to get certain titles and another group feel that they cannot get.

Asides.

Mr. D. St. E. KELLMAN: Yes. Give up the Knighthoods. If you feel strongly about Barbados being a republic then all those who feel so strongly about it should give up whatever they got if they ever received anything. You cannot have a situation where Barbadians are telling you they do not want this, they want that, and when they receive what they get, they support something else.

We cannot have double standards in politics. I am saying to all those Barbadians who call in on the call-in programmes saying that they want this and they want that and they have received certain honours, they must understand that for Barbadians to really appreciate what they are saying that they must give up those honours or stop calling the call-in programmes. I am serious about this matter. Anytime you give me any honour and I come out and I speak against the honour then I should first give up the honour and then speak.

What we must understand in this country, Sir, is that the youngsters are looking to see what we are doing, and if we do not set proper examples...

Asides.

Hon. Sir HENRY FORDE : On a point of order. Mr. Deputy Speaker, Sir, the Constitution Commission Report adverted to the question of what are called Related Laws and Transitory Provisions, relating to the honours system of Barbados. Its recommendation is summarized at 20(e) on page 107 "That the Barbados National Honours system should be retained but appropriate changes made to reflect

the change to a republican form of government and the new environment ensuing therefrom".

First, I must make it quite clear that Barbados has its own honours system. It is the Order of Barbados and it is reflected in the Barbados National Honours provisions and the public and Honourable Members must remember that. That Honours system cannot be given to anybody else or any other citizen of any other country without the approval of the Cabinet of Barbados. So it is not a matter within the Queen's prerogative as such. It is according to the Laws of Barbados and the Commission was deeply conscious of this position and made a specific recommendation for adaptation of the laws to reflect any change.

Mr. D. St. E. KELLMAN: I know that everybody in this House knew full well that I was not talking about the local honours.

Asides.

Mr. D. St. E. KELLMAN: I told you already that I am not a teacher. I am not here to teach you all. Even when I teach, you all do not learn, so why waste my time.

Mr. Deputy Speaker, if you are saying that the local honours can be bestowed on people and that the Queen's honours must be taken away, you need to tell the public that and you need to explain that to the public. There are some people who would never be able to get a local honour but might be able to get one from the Queen. So we need to explain that to the public because the public does not know that.

Asides.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, the Honourable Member for Christ Church West is saying that his was passed on to the Queen to bestow on him.

Hon. Sir HENRY FORDE: I have made no such comments, Sir. The Honourable Member is in a frivolous mood, Sir. This is a very serious matter. I really wish, like most of us, to have the benefit of the debate from Honourable Members as the public wants to. I am sure those who have to make the ultimate decisions would like to hear that there is a Barbados honours system which is being recommended to be retained.

I should also point out, Sir, that the system of honours by Knighthood is not peculiar to ourselves or to the British. Italy has it. There is an Order of the Knighthood starting from Malta and going backward. There is a long and revered tradition of Knighthoods given by countries that are even republics in different parts of the world, and we ought to be aware of that too.

Mr. D. St. E. KELLMAN: Thank you for explaining that yours was given by the Prime Minister and not by the Queen. Thank you very much. So you should not deprive anyone who got one from the Queen.

Mr. Deputy Speaker, a fixed date for elections. When this system is changed it means that the Queen cannot pass on any more honours.

Asides.

Mr. D. St. E. KELLMAN: I would not call on the Honourable Member to declare an interest because everybody in Barbados knows that he has been given one.

Asides.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, I would like to see a fixed date for elections. I honestly believe that if you are telling me that you are going to the presidential system, if you want to copy then you should copy some other things...

Asides.

Mr. D. St. E. KELLMAN: ... where you will know, Sir, every five years, the particular date the people will be going to the polls. I want to know...
12.50 p.m.

Asides.

Mr. D. St. E. KELLMAN: Yes, a good day will probably be Errol Barrow Day, when you will know, Sir, every five years the particular day that people will be going to the polls. I do not believe in a system, Sir, where a Prime Minister can get up one morning and decide that his Members are giving trouble, as was clearly stated this morning by the Honourable Member for St. Philip North. The truth is I did not know that the division was so wide in the Party, but I have been able, Sir, for us to have a tally that on one side they have the Honourable Member for St. Philip North and on the other side they have the Honourable Member for Christ Church East. I would not put the names of whom they support at this time but the tally is going on.

I am saying, Sir, that you can have a situation in Parliament where Members feel that other Members are not entitled to a pension and they decide to call elections. I have already spoken in this House on this matter and I would have expected, Sir, seeing that I have spoken on this matter earlier and much earlier than these recommendations that something like that would have been adopted.

The pension of an Officer of the House should not be the dictate of any Prime Minister to decide and with the system that we have right now, Sir, that can easily happen.

We can have a situation, and if you had listened to the debate well this morning you would have heard, that an election could easily be called when somebody feels that there are certain people outside of Parliament who feel that somebody else should be the Prime Minister and somebody feels that they do not want to relinquish power to that particular person, whether that particular person is supported by the private sector or not and the person decides that they are going to call an election. A lot of members of the Other Side and probably on this Side find themselves in a situation where, even though they are doing the work of the people, they cannot get the pension that is supposed to be given to them.

We must also admit that there was a serious error in the last Pensions Act and do not believe that what was passed as the Pensions Act was really the wishes of the House. Because of that, there are some people who have been held to ransom and who find themselves floundering through Barbados to catch the eye of the speaker. I am not talking about this Speaker, Sir.

I believe that measures like that should be corrected to make sure, and when I say 'speaker' let me say even though I say I do not mean this Speaker, I do not mean the Speakers that sit in this particular Chair, let me explain myself. Sir, I believe that a matter like that should be corrected so that we would not have politicians having to prostitute themselves to gain what is really their right entitlement.

I believe when politicians work hard in this Parliament whatever belongs to them – as one Member said, the civil servants have 33½ years for security; no one can take that right from them, and the only people that can take that right from them are the same civil servants – I do not believe that we should have a system where a Prime Minister can get up any particular morning and decide who should be pensionable and that needs to be corrected. I will hope, Sir, that for those who are listening and worked so hard, I am certain a recommendation like this would take them into consideration. I am not speaking for myself personally, in case somebody says that I get up in Parliament and put a case for myself.

We heard a lot of talk through the years, Sir, since 1974 about the amendments to the Constitution. I am happy to hear the Honourable Member for St. Philip North this morning, with the whip off, speaking in the way he did, because a lot of people in Barbados thought that those amendments were the worst things that ever came to Barbados.

Let me say this to this Parliament, I personally believe that those particular amendments gave entitlements to

politicians. For the simple reason that politicians then felt that they could do something good and I want you to tell me a judge that was appointed by a politician that did not perform right since 1974.

In Barbados we have this belief that the only people who can do things right are people from outside of Barbados. That is why whenever we have work to be done in Barbados that local consultants can do it, we take millions of dollars and send it outside, when we have capable people in Barbados who could do the work. Sir, I want to salute the recommendations and there are some parliamentarians that should be glad because if those recommendations and amendments were not made, there are some people in this House who would not have been in here today either.

We have to understand sometimes, Sir, that when you are making changes that people in Barbados have to realise that changes are not made for today that they must be made for tomorrow. I have found that there are too many politicians and people within Barbados who can only see things on a 24-hour basis and we need to move beyond that point, Sir, and we need to recognise...

Asides.

Mr. D. St. E. KELLMAN: The Honourable Member for the City asked me to speak for myself and forget her. That is why I do not, Mr. Deputy Speaker, think on a 24-hour basis. I think long term. So if the Honourable Member does not want to fit into that category, I can leave her out.

Asides.

Mr. D. St. E. KELLMAN: Another thing I would also like to see in the Constitution of Barbados, Mr. Deputy Speaker, and that is for the right for political parties to have political appointments to certain jobs within the civil service.

I believe that if we do not do that, Sir, we will continue to corrupt the civil service because some people will tell you that Ministers cannot give people work, but yet still the Minister can put somebody who can get all the work for him and I think that is unfair. I feel that anybody who has a political job, it should not be a secret. It should be something that person should be proud to say, I have a political job and when the Government has changed that person should be prepared to leave that particular job. There are a lot of people who get political jobs and do not understand they have political jobs because of the system and we need to change the system, Sir. There is nothing wrong in having political jobs but they must be seen as what they are.

Asides.

Mr. D. St. E. KELLMAN: You made the recommendations but I support you on this one. I hope you will support me on the other matters I raise, too.

Mr. Deputy Speaker, we also have a situation where we have to take into account the size of Parliament because it is clear to me, Sir, as happened in 1986 where a Government can get 24 to 3 and as happened in 1999 where one can get 26 to 2. The Constitution protects one of three but it does not protect the other two. In the 26 to 2, it protects one of two but it does not protect the other one.

Asides.

Mr. D. St. E. KELLMAN: It is regrettable sometimes, Sir, that people cannot see certain points and that is the same thing I explained to this House. For the simple reason, Sir, two of us are asked to match 26 of them. Of course, we can do it and sometimes we can do it with only one but the truth is that the two of us are asked to sit on every Committee of the House without choice.

Asides.

Mr. D. St. E. KELLMAN: Then, we need to boycott some of these Committees until the Constitution is changed.

Asides.

1.00 p.m.

Mr. D. St. E. KELLMAN: If I could not take the heat, Mr. Deputy Speaker, then you would recognise that every time that the register is called in here that my name will be off it so I challenge anyone to call for the register of the House so that they can tell me how many times I have been absent from this House.

I am here to make sure that I contribute to this country and to make sure that the Government does the work of the people. That is why sometimes Government Members are so scared to come in here although they have 26 Members because they know that the two of us are able to handle them.

Asides.

Mr. D. St. E. KELLMAN: That is why some of them take flight and head to all cities of the world. I would like Mr. Deputy Speaker seeing that this matter has been raised by the Government – that Government will do an account of the trips overseas and an account of the trips to Parliament and tell me if in some cases if the trips overseas are not more than the trips to the House of Assembly. I know that I cannot be counted in the trips overseas, I would have to be counted in the trips in here.

Asides.

Mr. D. St. E. KELLMAN: That is true because we need to get you to say something of substance.

Asides.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, I have said that the area dealing with citizenship should be accorded a special touch for the simple reason that if we do not safeguard that right – and people must understand the importance of being a citizen of Barbados. It cannot be a right that anybody can easily take money to get that right and if our laws as it stands allow people to do that today, I am saying that we need to change it and there is no better place to make that necessary change than in the Constitution of Barbados.

I do not feel happy to know that there is a law on the statutory books of Barbados which says that people can adopt foreign children and bring them to Barbados as they like provided they convince certain members of certain authorities that they have a legal standing to do it. I am worried about that and I am not going to make any apologies for it because the imbalance in Barbados can be changed by that particular law and I think any politician who is serious about Barbados would consider that fact.

People married women and men overseas and then bring them to Barbados so that they can become citizens of Barbados but when they get to Barbados they only live with them for a couple months and then they dumped them when they become citizens of Barbados. I am saying that this law can be used against us and I am warning this House to consider this particular point because if we do not consider it, it will come back to haunt all of us and we will not be able to say to our children and our grandchildren that we were not aware of this particular point because it has been said in this House today and it should be taken with some seriousness and those who claimed to care about Barbados should be the ones to get up and speak about this particular point.

The next one I would like to see repealed – and this would have been prior to 1966 where we had the slave masters. It is clear that the slave masters prior to 1966 felt that business was only for a particular group of people. In 1966, we had to adopt certain laws and we have allowed them to remain on our statutory books because of certain legal reasons but we do not necessarily have to do them in the year 2000.

To tell me that in order for certain persons in Barbados to become business persons that they have to have certain rights to do it and that other people do not have to have those same rights...

I am saying that we as a Parliament need to change some of the laws that are on our books prior to 1966. If we as Parliamentarians do not change them now, they will never

be changed because with the Adoption Act we will not get this opportunity to do it after now if we allow the Adoption Act to continue because it will not be in the interest of those who are adopted as citizens of Barbados to change those Acts so we as Parliamentarians must make sure that we take the necessary step to correct these particular problems.

We also have to recognise that there are some people who called for a recall of Parliamentarians. I would like to know what judgement will be used to recall a Parliamentarian. It is an assumption...

Asides.

Mr. D. St. E. KELLMAN: I am saying that although it is not a recommendation, it has been mentioned in the Report and once it has been mentioned in the Report – and it is true there are some of us who might not have read the whole Report – it should be dealt with because it means that there are people out there who feel that they can make judgement over politicians. I am not saying that politicians should not be made judgement over but at the same time people must understand that they cannot make judgements just like this. To recall someone or to recall a Government is a serious thing because if you are going to make a judgment on recalling a person you must be prepared to take it to its next logical step.

There must also be a provision on how we can recall a Government because sometimes the reason why some politicians do not perform is – not because of the politician himself and there was a very good example in here this morning – because there is something called a whip within political parties. Based on what has been said in this Parliament today, we sometimes wonder if the whip is the best thing for democracy. It might be the best thing for a party but I am not so sure that it is the best thing for democracy for the simple reason that there are politicians, especially politicians on that Side, who have good contributions to make but because of the party whip they have to stifle their conscience and in any political system where someone has to stifle their conscience I feel that that political system cannot be the best political system. Therefore, we need to look at the Constitution again.

Mr. DEPUTY SPEAKER: The Honourable Member has two more minutes.

Mr. D. St. E. KELLMAN: I am grateful to you, Sir, for recognising that...

Asides.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, I would like to finish on these two points. Sir, I feel, I do not

know about the others, that section 4(d) dealing with citizenship should be abolished from our Laws of Barbados because it has no place in Barbados now especially with trade liberalisation, the rulings of the World Trade Organisation (WTO), the OECD and also for the free movement within the Caribbean.

Sir, any country should feel that the citizenship of the country is its major asset but seeing how it has been placed in these recommendations, I am convinced that we in Barbados have not recognised how important it is to have been a citizen of a particular country, especially of Barbados. I would have expected, Sir, that those who dealt with these particular recommendations would have been calling for this particular section to be repealed and not mention it again in the recommendations.

1.10 p.m.

If one understands what is going on in Barbados today where money counts, and if money could talk, Sir, one can understand this particular recommendation.

I thank you very much, Sir.

SUSPENSION

Hon. D. A. C. SIMMONS: Mr. Deputy Speaker, Sir, I beg to move that this House be now suspended until 2.15 p.m. today.

Hon. R. C. EASTMOND: I beg to second that, Sir.

The question that the House be now suspended until 2.15 p.m. today was put and resolved in the affirmative without division.

1.11 p.m.

RESUMPTION

Mr. DEPUTY SPEAKER: This Sitting is now resumed. The Honourable Member for St. George North.

Hon. G. A. CLARKE: Mr. Deputy Speaker, I support the views that were expressed in this Constitution debate so far as Members were looking at the right of the Constitution Commission to review the work that was done since our Independence in 1966. It is true, Mr. Deputy Speaker, that the Constitution was reviewed on numerous occasions and the attempt last year to review the Constitution was in keeping with a changing society and in keeping with views expressed by a society to change itself from time to time, to look inward at its flaws to see how the Constitution, Mr. Deputy Speaker, impacts on its citizens. Therefore, the work of the Constitution Review Commission must be

complimented and I want to say too that the views expressed by the Commission in its report must be heartily congratulated. It does not mean that all of the views which were expressed must be taken by its citizens or by Members of Parliament.

For example, Mr. Deputy Speaker, I must say that in my own constituency there are many diverse views. Some people do not have a view at all about the changing of the Constitution. There are some people who believe that the Constitution is just another event. But a wider view, Mr. Deputy Speaker, is that people are looking at the right to retain the Queen as Head of State or the right to change to a republican form system of Government.

Therefore, I want to suggest that there is more to the Constitution than just the right to retain the Head of State as the monarchy or to change from monarchy to a republican system. I will deal with these later in my presentation. However, Mr. Deputy Speaker, I would like to say first that when one looks at the Constitution, one sees also the Fundamental Rights provisions which are indeed important. I want to speak on some of these rights that are enshrined in the Constitution. For example, Mr. Deputy Speaker, section 12 (1) of the Constitution states:

“No person shall be deprived of his life intentionally save in execution of the sentence of a Court in respect of a criminal offence under the law of Barbados of which he has been convicted.”

So that the right to life is guaranteed under the Constitution and it states that no person shall be deprived of his life. I think that the Constitution however stops short of saying that there needs to be a form of punishment that ensures that anyone who prevents a person from living, that person shall also suffer the same fate.

I want to say, Mr. Deputy Speaker, that I am one of the proponents of capital punishment and I believe that we must send a clear signal to those persons in society that would want to deprive another person of his or her life. We have to be clear on this. I know that Honourable Members on both Sides have their views. But I am of the view that in a society where you have lawlessness, crime or violence – and not necessarily by the majority of people but there are a few people in the society that terrorize the majority of people – those persons who perpetuate this type of behaviour should be punished. The Law Courts in Barbados must be clear in their mind about the law even though it is not explicitly stated here.

Sir, it states in section 12(1) that no person shall be deprived of his life and I believe that this point is important,

even though there is other provision which speaks about "torture" and that persons should not be tortured by inhumane treatment. These things we need to look at. We do not want to torture persons. We do not want to send a signal where persons remain on death row for a long time. But I believe that the law should be carried out and should be carried out strictly.

Therefore, I believe the right to life is important and a right to die is also important. It is my view that a person has that right. It is not stated explicitly in the Constitution, but who would say if I have the right to life? Suppose I am sick and I cannot be cured by medicine within the society, do I have the right to terminate my own life? Now these are questions which we will have to look at.

There are also other fundamental provisions which are expressed in the Constitution such as the right to freedom of religion, the right to freedom of movement and the right and protection of the disabled. These are things that are recommended in the Constitution and which we subscribe to in Barbados.

Mr. Deputy Speaker, I would also want to say too that it is my view that the movement of people across the Caribbean is important. We need to get this correct. From time immemorial people have been moving throughout the Caribbean. There have been marriages between Barbadians and non-Barbadians especially in the Caribbean. We have cases where persons of Barbadian descent living abroad marry persons outside of Barbados and we have problems in terms of those persons being treated equally. The Constitution Review Commission has recommended and rightly so, that men and women should be treated equally under the Constitution. This is especially relevant as it relates, Mr. Deputy Speaker, to citizenship. As it presently stands, there is clear discrimination of treatment between men and women.

For example, if a Barbadian man marries a non-Barbadian woman, that spouse is entitled to citizenship. On the other hand, if a Barbadian woman marries a non-Barbadian man, that spouse is only entitled to permanent residence. Again, we look at the treatment of children. If a child is born in wedlock outside of Barbados to a Barbadian man, that child is entitled to citizenship by descent. That is what it is. If however that child is born out of wedlock to the same Barbadian man, that child is not entitled to citizenship by descent.

Now, Mr. Deputy Speaker, on face value it seems as if the Constitution only recognizes legitimate children as if they were conferred citizenship by descent. The question must be asked: is this provision making the effect of the Status of Children Reform Act negative? We have to look at

that. We have to look at that quite carefully to see if it comes in conflict with the Act on the status of children.
2.25 p.m.

Again, Mr. Deputy Speaker, if a child is born in wedlock outside of Barbados to a Barbadian woman, that child is not entitled to citizenship by descent. This is a clear discrimination with respect to how the Constitution treats women. There has been a call for gender bias to be removed from the Constitution in which we need to treat persons equally and we want it removed.

We want to ensure that both men and women are treated equally, especially those persons that marry non-Barbadian men and woman. If a Barbadian man marries a Vincentian, the offspring is treated differently than if a Barbadian woman marries a non-Barbadian man. We have to look at this type of treatment. It must be clear and I believe the recommendation of the Commission must be applauded.

It is also important to note, Mr. Deputy Speaker, that persons serving abroad in the diplomatic service, if you serve abroad in Toronto, New York or Brussels and your child was born in Canada, that child does not automatically become a citizen by birth. He gets the citizenship by descent because the officer served abroad. The child is neither Barbadian by birth nor is he a Canadian even if he was born in Canada, so there is a problem here. I am glad that the Commission has recognised that as soon as this Act is passed, children born outside of Barbados to diplomats, a Barbadian woman or a Barbadian man, that child from now on becomes a Barbadian by birth, and that is important.

There are also other provisions within the Constitution which I would want to speak to. For example, there is much debate as to retention of the Senate. My view, and I want to reiterate this, is not necessarily the view of my Cabinet colleagues or the views of the Government. My view is that the Senate should be retained. I believe the Senate is one of those institutions that has been in existence for a number of years that has provided a number of occasions for review. Legislation has also been introduced to some effect within the Senate.

One of the things I believe we need to look at is the composition of the Senate. The Constitution Commission also looked at the recommendation as stated here:-

"Twelve Senators should be appointed by the President, acting in accordance with the advice of the Prime Minister."

At present, there are two Senators appointed by the Governor-General on the advice of the Leader of the Opposition. The Commission has recommended four. They

are also recommending other Senators to be drawn from political parties who have contested the election but failed to gain a seat in Parliament. Now, I believe this is a good provision.

One of the things that has plagued us over time is this composition. I feel strongly that the Prime Minister or the Leader of the Opposition should not appoint persons who have faced the polls and who failed to win a seat. Those rejects should remain rejects. I do not see why you have to put them into Parliament. You should put young persons from the communities, people who are doing community service and want to represent the community.

I also believe there is a need to implement a system where some persons who are involved in the local community can be represented in the Senate. This is where you could have a system where local authorities can be represented in the Senate. I strongly believe that the President or Governor-General should only be allowed to appoint two Senators in their own right. That is important. This is only in keeping with tradition.

The other provision which I would want to speak to, and many persons have spoken on this, is the widening of Parliament. I believe that Parliament has served its purpose and continues to serve us well through our democratic system and that the right to vote is important. This is part of our Constitution. In every case citizens should be encouraged to vote. I see no reason why not. Although it is not mandatory in the Constitution, it is my feeling that everyone should be allowed to vote and should retain that right within the Constitution.

The widening of Parliament is important. We need to widen the scope of Parliament so that Ministers of the Crown should be able to move – and I think the Commission did recognise this as well – from the Lower House to the Upper House where they can pilot a Bill and further explain the Bill to Senators.

There should also be committees in place to widen the scope. I believe these committees should be able to draw from experiences from outside. There is no reason why in a system of democracy we should not be able to hear from persons outside of Parliament.

Let us suppose you have in a society persons representing the Church but they are not members of a House of Parliament and we are discussing a Bill in Parliament, why is it that the head of a religious organisation could not come into Parliament and give his views? I see no reason why he should not. He is not a parliamentarian so a section should be set aside for non-parliamentarians to give their views within Parliament. These are some of the things that should be done.

There is also the question of serving on committees. For a long time this House has stated that a committee forum should be encouraged. We have not implemented it and I would like to see that the committee forum be implemented.

Mr. Deputy Speaker, I want to look at the power of the Prime Minister. That is why I must say that I am supportive of the views that are expressed by the Commissioner who submitted a minority report, Mr. Maurice King. That is found in Appendix 1 of the Report. He suggested that in our society the Prime Minister presides over and is the chief executive of the Government. He has been elected by the people to govern and look after their interests. He also advises and makes recommendations as to who will be the President or Governor-General.

It is my submission, Mr. Deputy Speaker, that the Prime Minister's power should be retained, that we should not have a weak Prime Minister. We do not want a Prime Minister who does not have any clout and power. A Prime Minister should have the power because he is elected by the people. If you are saying that the people have that right to elect every five years or however often, then the power of the Prime Minister should be entrenched. The Prime Minister should have the power to remove the judges and the power to remove the Head of State, if he so desires, through a parliamentary process but if... Parliament has that power, and Parliament can also under the provisions of Parliament recommend the dismissal of a Prime Minister, parliamentary power is important. We represent the people. The people have their voice through us parliamentarians and therefore parliamentarians should be the ones not only to select, elect or appoint the Governor-General but the people should have the right to appoint their judges. People should have the right to appoint the Public Service Commission. People should have the right to appoint the Director of Public Prosecutions, the Auditor General. All these are in keeping with the powers of Parliament.

2.35 p.m.

I believe that to vest powers in the Governor-General or the Head of State at this time which he does not now have would be really going in the wrong direction. I think that at present our Governor-General exists in a ceremonial position. The position has served us well and therefore I do not see the need to extend the powers of the President or of the Governor-General at this time. In fact, only this morning one of my constituents was asking me how can you have a system where you have two leaders in a country. Do you really need the Head of State at all? In the American system the Head of State is the President. There is one leader. One of my constituents was asking the question whether we really want a head of state or do we want a presidential system where you have checks and balances that will be introduced from time to time. These are questions that people ask.

It is my view that there is need for a Head of State and I will now look at whether the Head of State should be representing the Queen or the Head of State should represent the people. It is the view of many in Barbados that the Head of State should remain the Queen or that the Head of State should be Barbadian but representing the Queen. Those are some of the views out there. There are other views that the Head of State should be a President representing Barbadians. It is my view that your Head of State should be Barbadian and that we should be looking after our own destiny. The time has come when Barbadians should say that they have arrived at a position where the Head of State is Barbadian, where the Head of State represents Barbadians and that no foreign entity should be able to control our destiny.

However, it is important for the majority of people to have a say in this question. I believe that persons out there are divided as to the monarchy or republican form of government. I believe the only way to settle the question may be through the participation of the people and therefore we need to hear their views through, and many have called for, a referendum. I do not think we are opposed to hearing the views expressed by the majority of people out there. I am sure that this is the one question that Barbadians are really up against or for. So we have to look at it very carefully. Are you a part of that group that wants to retain the monarchy as head of state?

There are some people in Barbados who are more royalist than the Queen and who will not be ashamed to tell you that they are royalists. There are some of us who believe that the monarchy has served its purpose and that adopting a republican form of government would not in any way make us less a Barbadian or make us not worthy. I think we must send a signal to Barbadians that adopting a republican system of government will not infringe the rights of Barbadians. We have looked after our destiny for a number of years and we will continue to do so even when we become a republican...

Aside.

Hon. G. A. CLARKE: Mr. Deputy Speaker, the other thing that I want to look at is the distribution of land. I fundamentally believe that all beach land should be Crown lands. I believe that 5.10.7 speaks to this:

“Ensure that the beaches and public areas are accessible to all and do not become the exclusive preserve of any one sector of the community.”

At present, we have public beaches but it is my submission that the Crown should be given right of refusal of all lands on the beach side right now. Whenever these lands are being sold the Crown should be given the right to refuse. We need to know how and where our lands are going.

This does not in any way impact on investments because the present Government is encouraging investment

into our country and we are now looking at long leases. I see no reason why you cannot give a foreign company 50 or 75-year leases, depending upon the type of investment in Barbados. I like the system that exists in some parts of the world where the site of beachland does not contain a single building. That will be the ideal situation but we have inherited a system where from time immemorial people were building on the seaside. That could continue but I am saying that persons selling the land on the seaside should give Government the right to refuse if you so desire and that Government should know when these lands are being sold. It is a fact that sometimes lands are sold on the beach side and because of the nature of the Companies Act people abroad buy lands. I do not know but we should make it abundantly clear that persons should give Government the right of refusal.

This would not stop investment. We have a number of persons who have invested in our country from time to time. We will encourage foreign investment but through long leases. The only question is, how much land can a foreigner own? I think this question has come to me on numerous occasions. We have to look at this and be able to say to foreign companies that we will give you access to land. We want to encourage access to land because we are part of a global world. If you give that long lease I believe that this will go a long way in helping investment.

We have a number of persons from time to time who are knocking on our doors and bringing large sums of money into our country. There are a number of persons who want to put up hotels, who want to put up guesthouses, a number of foreigners with lots of money we want to encourage. The Government should put the land as equity and allow the foreign company, or the local company for that matter, to invest but the land and the rights of the land should remain with the Government.

2.45 p.m.

Mr. DEPUTY SPEAKER: The Honourable Member has one more minute.

Hon. G. A. CLARKE: Mr. Deputy Speaker, in the minute left to me I want to say that I support the recommendations of the Commission to a large extent. I am indeed heartened by the number of visits that were made throughout Barbados, the various consultations that were made and the Reports that were gathered. I believe it was a trying time to gather the information and also to present the report on time. Therefore, I would like to say that I would like to support most of the provisions as they relate to citizenship, as they relate to the fundamental rights of persons and as they relate to the changes in the Senate.

Mr. Deputy Speaker, I am obliged to you.

Mr. D. T. GILL: Mr. Deputy Speaker, I rise to make my contribution to this debate here this afternoon which looks at the Constitution Review. First of all, let me congratulate the Chairman of this Constitution Review Commission, the Honourable Member for Christ Church West and the other Commissioners for their indefatigable approach to the workload which was involved in bringing this document in the clear and accurate way in which it has been compiled. Mr. Deputy Speaker, it took them from Barbados through Europe, through North America and they must be complimented for the hard work.

Sir, I am indeed very pleased to be part of this Assembly this afternoon, and at the turn of a new century, to be able to debate and review the Report of the Constitution Review Commission. When the fathers of the Constitution sat to pen their thoughts to put together the Constitution as we know it, I was just about getting ready to go from primary to secondary school and that is a long time ago, relatively speaking – some 36 or so years ago.

Sir, I see this review today as being a point of inflection in the upward mobility of the country, seen from a graphical illustration, future spectrographic as opposed to a watershed as which some persons prefer to refer to the entire debate. One cannot approach it in a superficial manner because a Constitution is a weighty document, it is very verbose and heavy and if you are not so inclined it would be difficult reading and I make no apology for that statement. Sir, I liken it unto an extremely dry wine but nonetheless it has infinitesimal spiritual benefit to the body politic.

Sir, not being a student of law, I am forced and bound to approach this debate much differently from those persons of legal persuasion from both the Front and the Backbench. I would advise any novice to the law, anyone who has not studied the law to select a section of the Constitution, the one that interests him or her most and study it. If you have been in the civil service for a long time and you want to speak about Services Commissions well, then study that. If you want to study the separation of powers and the judiciary, well then, study that but, Sir, to pretend to be able to do it in one fell swoop is being foolhardy.

Sir, the Honourable Member for St. Lucy, in no uncertain terms, indicated why two or three months ago they took the position that they were not ready. Sir, from his submission here this morning, I am of the opinion that the Honourable Member for St. Lucy is still not ready.

Mr. Deputy Speaker, the Constitution is a dynamic entity. Sir, it is one which can expire – I suppose that we are looking at those parts which have become obsolete with time

– it can be replaced, it can be regenerated and at this point in time there can be nothing more healthy for the country than for people to be conducting this exercise which brings each and every Barbadian into considering and giving his or her views. That is to say that at the end of the debate, before the document has been finalised and comes back here, those who did not have an opportunity to make an input should now feel so inclined, having been given the opportunity to listen and to watch exactly what obtains in the Chamber.

Sir, as people become more culturally plural and their way of thinking becomes a lot more liberal and politically liberal, the law will have to change accordingly. We have seen, Sir, on television on many occasions how much people get involved with rights and the same thing is beginning to take shape right here in Barbados. Years ago people would think twice before they would come and demonstrate in front of a school as to their children's curriculum and as to what their children should be taught and the conditions under which the children should study, which shows a different way of thinking.

If I may quote from the text 'Commonwealth Caribbean Public Law', the author notes:

"Today it is submitted that the law has changed dramatically in favour of the individual..."

Sir, he was commenting on litigation between the individual and on a matter of general public interest, showing that the line between the public and the private interest is often unclear and blurred.

Sir, he went on to say:

"the lesson for the law at the close of the 20th century has to be that it cannot only concern itself with means and exclude ends if it seeks to lay claims to justice. Ends now are more than just economic quests and the struggle for individual liberty, important as these are."

Sir, it is against that backdrop that I would like to make reference to that section dealing with the rights and freedoms of our citizens.

Sir, it is not uncommon for a child in this century to look its parents or its teacher in the face and remind them of his or her rights. Similarly, it is not usual for young couples in wedlock for one to suddenly remind the other of his or her rights. It is not so unusual for an employee to shake his finger in the face of his boss in an admonishing way reminding him or her of his or her basic rights.

Sir, you know it is very common to show how Barbadians make mention of their rights at all times and in

all places including, Sir, the rum shop. You may get two men, where sobriety is the least component of the day and where the language may not be too straight, and one will tell the other "I know my constitutional rights".
2.55 p.m.

Sir, I do not know which rights they may be referring to but they know that there are certain basic rights to which they are entitled, whether, Sir, they are speaking about that captured in the spirit of the French Declaration of the Rights of Man and the Citizen in 1789, which states that a community which did not provide for security of rights was a community which had no Constitution; and, Sir, yet another author, De Merieux, opines, "Moreover the formulation of rights and freedoms can be such as to make them implicate the greater part of the general law and constitutional law other than that specifically related to fundamental rights."

Sir, that makes section 7 of this document even more appealing, that is why I said at the beginning that one can choose a section, rather than viewing it as an esoteric document, and study it. It is this section 7, Sir, which brings a good mix between legislative, executive and the judicial, and at the same time speaks to the rights of the individual citizen.

It is true that every facet of life cannot be represented in these rights. About a month or so ago, this Gallery was opened to people with physical and mental disabilities and there was a lot of talk at that point in time about the rights of much persons, but those rights are very well represented in this section of the Laws of Barbados which deals with the rights of the disabled.

Sir, it would be ideal if, at this point in time, we are able to represent those areas of new technology, medical and scientific, which will bring some goals and directives to the policies as stated clearly in our Constitution. These conventions, Sir, which form part of our Constitution are, as one writer refers to it, the oil which lubricates the Constitution. These set a very good signal for the way in which a modern society could be thinking or expected to move.

Sir, I therefore would say that we should not become too smug or complacent, that our basic rights are well covered in the Conventions as outlined, Sir, in the International Convention on Economic, Social and Cultural rights which is a United Nations' document. This document here was ratified in the month after Barbados became Independent, that is to say in November 1966. We became Independent in November 1966 and this document, the International Convention was accepted, ratified, in December 1966, the following month.

Therefore, Sir, things which prevailed, at that point in time, are not necessarily the things which are of greatest interest at this point in time. Sir, the contretemps of the day was such, that it was communist versus non-communist, and as you perused this document you would see that great mention has been made, areas of life, which would not be enjoyed in a communist regime, and it refers to equal rights of men and women, democratic society, remuneration, fair wages, safe and healthy working conditions, rest, leisure, reasonable limitation of working hours, protection of one's economic and social rights, the right of trade unions to establish National Federations, something, Sir, we would have done long before. It speaks to the family and fundamental group unit, working mothers and paid leave or leave. These are things for which this Barbados Labour Party can pat itself on its back, in more instances than not, as being the trail blazers of legislation introduced into this very House of Assembly.

Sir, things like food importing and exporting, primary, secondary education and higher education. In other words, Sir, these are things which have become our natural way of life and we either expect them or we ask for them without reservation.

Mr. Deputy Speaker, today we have lots of other features which we have to face. Sir, if you have been watching the international news you would have seen that both in America and England right now – and this has serious implications for the next 25 or 50 years of the coming century – scientists have now been able to map the complete genetic makeup of man, or some would prefer to say humankind. Sir, this has serious implications.

There are frontiers like this and other frontiers which have already opened up that legislators will have to take into account so as to protect their country and their citizens.

At that time, Sir, things like longer life expectancy, dumping of nuclear waste, the internet, the way of doing business and cyberspace. Only the countries that have the intelligence, the super powers, were privy to such technology, but today they are far flung and far-spread.

Proliferation of modern diseases. If we come locally, Sir, the amount of traffic that is on our highways and byways, these are happenings which must, I think, be taken care of or reference must be made and the Constitution should speak to them. Not expansively, but one should be able to extrapolate from the Constitution, Sir, to other enabling statute laws.

I am pleased, Sir, to see that mention has been made of the environment in the Review document and I would like to see more than just mention, but the Conventions to which we

are signatory, Conventions and Protocols. Like the Basle Convention and the Montreal Protocols.

I would speak to the Honourable Member for St. James North to find out if, being the substantive Minister for the Environment – and I must hasten to add, Sir, that he has been a fairly good part-time teacher.

3.05 p.m.

Sir, it is not just enough to speak about the access to beaches but we should go further. We should look at the reefs, at the ocean, at the Caribbean Sea, at the water which we have grown so accustomed to, just being part of our lifestyle, and I think it was George Washington who referred to the salubrious atmosphere. Anything, Sir, which would interfere or damage or kill off any of these facilities which we have grown or been granted to accept as there without any reason, must be protected because if that goose that has laid the golden egg is ever killed, then our whole economic and cultural way of life would be finished once and for all.

Mr. Deputy Speaker, the Honourable Member for St. George North in his presentation spoke to the right to life and in our Constitution, much has been said about the death penalty. It has been discussed at length in Barbados from time to time and I will not dodge the position, I am one, Sir, for the death penalty. So long as you have exhausted your appeals and you have gone and have run the full gamut, then, Sir, you belong to the State and to God, as the Reverend on my right hand just said.

Sir, we have gone even further. To show you how forward thinking our statute laws are, Barbados is one of the few Caribbean Islands that has made itself clear in speaking to the right to life, about the right of the unborn in the Act which deals with the medical termination of pregnancy.

Sir, I said earlier on, that with science and medical technology being so advanced as to prolong life, people are living longer, not necessarily happier and there are all sorts of advances, be they nutritional or otherwise to support a longer life. We have run into yet another issue and that is the issue that, as one lives longer, then one is more susceptible to other diseases, be they brain or body. It does seem conflicting that as you improve in one area you go back in the other area but that is part of life.

Sir, it may happen quite soon that people will want to request or have a desire – and this is where I come in on the point which the Honourable Member for St. George North moved over rather quickly – Sir, that this is the position one may take that, well here it is, I think I have no useful purpose, I have made my full contribution. Through what the legal language states, through the system of advance directives where a power of attorney can represent that person at their request to terminate his or her life – that is

something completely different, Sir, from suicide – mention could be made of this in our Constitution but once that is done, Sir, we must have the enabling legislation as other jurisdictions do like parts of Europe, Holland and parts of North America. These are issues which a growing and a maturing society will ask as medical science and technology continue to improve and to proliferate.

Sir, therefore, the exercise which we are going through this afternoon will become rather commonplace as the citizens, from time to time, continue to review periodically new enactments, cultural changes, scientific changes and economic changes. The Honourable Member for St. Lucy had started a very good point but he collapsed when he started to speak about world trade because he was substituting like and unlike. That is where he fell down but if he had continued in that vein of speaking about like with like, then he would have scored some fairly valid points, not too often, in here this afternoon.

Sir, this exercise would afford people the opportunity, as I said earlier on, to strip the Constitution of this enigma in which it is shrouded. There is nothing esoteric about it and the public must take part in these exercises. The public must not sit and see it as the business of the legislators and the Q. C.'s and the legal luminaries.

I heard a social commentator quite recently say in a call-in programme, he was a former legislator, that people like myself who are not trained in the law cannot speak for him. I would like to ask the humble citizen out there to get involved even if it is no more than to give a view about the monarchy or republican state.

Sir, what we are doing here this afternoon is nothing new. This occupied the thoughts of the great social contractors like Jean Jacques Rousseau in "Du Contrat Social" where at times he was at war with himself whether he was speaking about basic rights or whether he was speaking, Sir, about ethics.

Three centuries ago what we are doing occupied those great writers and those great thinkers' thoughts. So any student of political science would find this exercise a very interesting exercise and see that it is not reserved for the legal luminaries. Thomas Hobbes in his dissertation the "Leviathan" also spoke about basic human rights and freedoms and giving up one's human rights and freedoms and being made to feel naked and unworthy.

Sir, these exercises as I said, are nothing new. Even if you go to the Bible, the very first five books of the Bible occupy themselves with rights and laws and what have you. Even in Leviticus, even with the negativistic language, the

lawyers refer to it, where you say, "you shall not". So I am saying anyone who reads the Bible and knows the Bible inside out should not feel sidelined and should get involved and should come out and make their feelings known.

Mr. DEPUTY SPEAKER: The Honourable Member has two more minutes.

Mr. D. T. GILL: Sir, I want to move on to something which is very topical, the Senate. I heard the Honourable Member for St. George North speak about rejects and putting rejects in the Senate. I was in the Senate, Mr. Deputy Speaker, and I was rejected and I make no bones about it.

The Honourable Member for St. Michael South, who is not in the Chamber, was rejected and he was in the Senate and today he is in the Cabinet. Sir, the Honourable Member for Christ Church East, he did not face the polls, he was in the Senate and he was accepted.
3.15 p.m.

Sir, I am going to make it quite clear that, yes, some changes are absolutely necessary but I will not abandon it and I will tell you why. When the Honourable Member for St. Michael South and I were in the Senate, we were able to put a case for the constituencies and we were referred to as the caretakers at parliamentary level but the people in the constituencies referred to us as, one being the representative and the other the representer, if you listen to their language clearly.

The Honourable Minister of Tourism and I made cases for those constituencies at the very local level. Things like drainage, poor housing and roads. We made our representation at parliamentary caucus. We made our representations in the Other Place and those people were so fortunate they then had representation in this Chamber. They had two representatives. They had two for one.

Therefore, that has taught me something in that maybe we could have the Senate as a Chamber for local matters. We do not want to go back and rehash and look at the old system of local Government, that would have had its good points and its bad points but maybe we could look to see if we could come up with a hybrid form which could serve the constituencies a bit better because ...

Mr. DEPUTY SPEAKER: Honourable Member, your time is up.

Mr. D. T. GILL: ... I am coming home now, Sir ... a Minister who is widely travelled and occupied in other areas would not have that amount of time to spend at the very local level unless well organised.

Sir, with respect to the referendum which is another issue which is all over the island. We cannot get away from it. I lived in the province Montreal where they had a referendum twice a year every year. I went back there last year and they were still talking about referendums and they are still not able to get what they want. That popularity which the *Parti Québécois* had about separation is no longer as fervent as maybe it was some 15 or 20 years ago.

Sir, I would say that if the people are calling for a referendum, give them the referendum but I personally feel and I personally know how that referendum would go. If it does not go that way, then it tells us that we have misunderstood the young people. It is those 14 and 16-year olds today, who in another 36 years will be 50 years old for whom we must speak and who should come out – the 18 and the 19 and the 20-year olds – and show us exactly what they want.

Sir, I am most obliged for your indulgence this afternoon because as the debate continues, I am sure that Barbadians would become a lot more steeped and a lot clearer on exactly what this Constitution Review is about because it is not only about the monarchy, it is not only about bi-cameralism and it is not only about a republic.

I thank you, Sir.

Mr. M. Z. WILLIAMS: Mr. Deputy Speaker, I too would like to voice my feelings in this debate in this Chamber but first I would like to say a special thank you to the constituents of St. Michael North West who gave me the privilege to be here in this Parliament at this time for what I consider to be a very historic debate in the interest of the development of Barbados in the years to come.

I do believe that what we are discussing here today will not have much appeal for most of us in this Honourable Chamber because we are preparing what is known in Barbados as 'the road' for a better Barbados where the younger generation will benefit out of what we are discussing here today and what the final decision for a better Barbados is likely to be.

I would also like to compliment the Constitution Review Commission for the work which was done, having realized that what was reported by the Constitution Review Commission was the voices of people heard nightly at the various venues across Barbados and was not by the voice of the Honourable Member for Christ Church West. We have heard on the radios and on the call-in programmes the projections as if the Honourable Member for Christ Church West is responsible for what we are debating here today. The Honourable Member was only the Chairman reporting from what was delivered at many of those meetings which were

held not only in Barbados but which were held in Toronto, the United States of America (USA) and wherever Barbadians wanted to have the right to voice their opinions.

Sam Cooke said a change must come. We know for a fact that Barbadians resent change. Barbadians have this notion about them that change will not work. Sir, as far back as 1639, 361 years ago, we had a situation with the settlement of Parliament in this country. Thirteen years later, we moved from that phase to the signing of the Articles of Agreement in 1652, and Barbados has moved on. If you look at the situation 361 years later – we came into independence in 1966 – the issue is that Barbados has always decided for the betterment of Barbados. There will be debates after debates. There will be arguments after arguments. There will be disagreements but whenever it boils down Barbados has chosen a path that is better for its people and subsequent Governments have proven this.

What we must consider before this Parliament today is a better Barbados in the sense of the things that we believe in and the things that other people will share with us. We should not be moved by certain talks coming from the Other Side because I have picked up a document which comes out of a speech made at the Barbados Community College (BCC) – and I believe it is a document of Parliament – by a former Prime Minister of this country and the document said in part:

“... I envision a society which maintains its loyalty and sovereignty to the motherland of Barbados...”

Sir, this gives you an idea how they are likely to be thinking in terms of a better Barbados. This speech was made by a former Prime Minister of Barbados, Lloyd Erskine Sandiford. This is a document as he addressed the Barbados Community College (BCC) in 1990 stating at the time that they have a loyalty to the motherland of Barbados and in so indicating it gives you a clear picture that there should be problems and turmoil coming from voices in other places.

Mr. Deputy Speaker, when I look at the situation here, one is made to believe that the Constitution of Barbados is a strait-jacket and that it cannot be changed. Since 1966, the Constitution has been changed seven different times. I am saying that it is not a strait-jacket. It can be changed and it can be changed bearing in mind the feelings and the beliefs of the people.

If it is necessary for the Constitution to be changed now, it is not that it is being changed by the Constitution Review Commission. The Cox Commission made certain recommendations. The Constitution Review Commission accepted the voices of the people and on January 20, 1999,

the voices of the people spoke as a result of what was offered to them in relation to a better Barbados.

In part it says the repatriation of the Constitution so that it is a provision and an enactment of the people and the Parliament of Barbados. This is a very serious statement, a statement in the sense that since 1966 we still do not have a Constitution in theory because legally the Constitution is sitting as we would say in the motherland and it can be repealed at any time. What we need at this time is for this Barbados of ours to make decisive decisions without having to look over our backs and to believe that the decisions that we are making must be subject to correction by someone at another end although we are independent.
3.25 p.m.

Mr. Deputy Speaker, there is a myth in this country and I have heard it coming from several misleading voices in relation to black people of Barbados. I use that word “black” for example. Black people have progressed in this country and will continue to progress regardless of the voices that you hear from other places.

When you look at the land bank in this country as compared to many years ago and you look at the present land bank, when you look at the present mobility of black people in this country and the homes that are owned by black people in this country, Barbados has progressed and will continue to progress to a better Barbados. Being a republic state, Mr. Deputy Speaker, regardless of what one thinks, we are capable of handling our affairs to the envy of many countries. Dominica is a republic. Trinidad and Tobago is a republic. There are many other countries that are republics. But Barbados through the years has been able to have what we consider to be stabilized Governments led by leaders who are capable of taking Barbados much further afield. I think, Sir, that Sam Cooke said that a change must come. A change must come and a change must come for the betterment of Barbados.

Sir, I have met with several of my constituents of St. Michael North West who are at the crossroads of whether Barbados should become a republic or not. They have this feeling that when a country becomes a republic it is a warmonger. It looks for war. It is involved in problems. Sir, that is not necessarily so. That is not normally so, Mr. Deputy Speaker. There are several countries that are republics over the world that do not have any civil strife or any external problems. I think that because of our stable way of Government we can move on to a better Barbados in years to come.

Mr. Deputy Speaker, as I continue in this debate, one of the things that I have done in this Chamber is to stress the feeling of some. I also have the right to give my personal

feeling in this debate and this does not necessarily mean that my personal feeling is the feeling of my constituents of Barbados. I have a gut feeling and this comes about when I study the political life of Barbados and look at what has happened to my country Barbados in terms of moving ahead.

I personally believe the Senate does not serve a purpose. As far as I am concerned, the Central Government and this Honourable Chamber through the years have been making the decisions that have moved this country to a better Barbados. If a Bill leaves here and goes down to the Senate and the Senate refuses to acknowledge the Bill, it goes up to the Governor-General and the decision can be made at that end. The Senate in my opinion, Sir, does not serve this country. This is my personal feeling and I am going to give you the reason why I feel this way.

When you look at the progress and development of rural and urban Barbados which this Government has started, I see a situation of removing some of the dead weight, polarization and political affiliations in order to deal with the situation for the development. I say this clearly, Mr. Deputy Speaker, and both Parties must understand this. We have to have some sort of political alliance. Until you accept that there must be a political alliance in the political system of Barbados, then you are not involved in politics. There must be an alliance at both ends.

I would like to see Community Councils as far as urban and rural Barbados are concerned. They will assist and decentralize a lot of the work that Central Government is faced with at this present moment. Regarding the idea that Ministers are faced with so much of a burden within their Ministries, the point of the matter is that within certain Departments in their Ministries they are not getting the support from the various officers within those Ministries.

Mr. Deputy Speaker, I said that I am voicing my personal opinion because I have watched the system of Government in this country for a very long time. I have seen Ministers of Government and politicians fall at the hands of civil servants and individuals. I think that, if we introduce a system of Central Government and Community Councils governed by the respective Ministries, we will see a lot more work being done. We will see the situation where the Minister responsible can overlook because he has a body of people much different from a statutory board that we have now. We have a situation in this country at this moment, Mr. Deputy Speaker, where statutory boards are not functioning in the manner that they should be functioning and this has existed in both Parties. Both Parties are guilty of it. I believe that there are individuals across this country who are willing to serve this country at the community council level because they want betterment for the community. They do not care whether it is their Government or their Opposition. They

want to be involved to give their district the street light that is necessary, the hard court that is necessary, the scholarship that is necessary for that young person, everything that is necessary from the point of view of not thinking that they have to have what we consider to be political polarisation, having a situation of an element of godfather politics involved.

3.35 p.m.

Mr. Deputy Speaker, a change must come. I say it must come and the people of Barbados said on January 20th that it must come. Let us talk about referendum, because there are people who love what they consider to be political entertainment, moving from spot A to spot B to use situations not truly related to the call. The call of education at this moment for the average Barbadian is to know exactly where he or she is going and what is intended. It is not a call for referendum. It is just to make available to every single person in Barbados who can read – the schoolchildren, those at community level, those who in truth and in fact will be sitting in the shops across Barbados – this Constitution Review Commission which can tell you exactly, if it is well read, the direction that Barbados should go, not the mischief of a referendum, not the mischief of somebody saying that there should be a referendum.

It is all here. It tells you the position and how the people feel about the power of the Prime Minister. It was not the Honourable Member for Christ Church West who said it. It tells you what they feel about the Judiciary of Barbados. It was not the Honourable Member for Christ Church West. It tells you how they feel about the political life of Barbados in terms of the Senate, in terms of Parliament, and this is the document, not a referendum. As I said, in 1966, if one looks back, people believed that Barbados could not go it alone as an independent country, that it would have gone under. We can look back today and see that because of the systems of government that we put in place in this country we can now move on to become a republic and a very strong republic in the sense of our political ability, in the sense of the people who are capable of moving it ahead, not a referendum.

We have the talent in this country at present, those who are coming out of the schools across Barbados in another couple of years and those Barbadians who are at universities across several countries who are capable of coming back to this country to give back what they have taken from it.

Change must come. It was said in 1966 that it could not work, now you are hearing voices in the year 2000 telling you, Mr. Deputy Speaker, that a republic cannot work. That is not so. You have not tried it. How can you say your shoes are burning if you do not put them on? How can you say that the egg does not taste good when you have not eaten a piece of the egg? You have to feel the pinch of the shoe to

understand the comfort that you have to make for that shoe to fit.

I will continue in this debate and I will tell my constituency of St. Michael North West that they must understand clearly that in this country of ours we should be a proud people. People have this feeling that in 1966 it was Errol Barrow. It was the work of the Almighty in 1961 when Errol Barrow won to move this country forward. We saw it happen. If in the year 2000 God has seen it fit to give the Right Honourable Member for St. Peter the right to move this country into a republican country, I am saying the voice of the people is the voice of God. It is politically motivated and when anyone says this Government is taking people down the road that they do not want to go, that is not so. It is all here. Night after night those people who went out to those schools are the ones who talked about a better Barbados.

I think it is political mischief for people to tell people that black people are not progressive in this country. It is not true. The most land in this country if you put it altogether is owned by this colour. The biggest houses that are now built in Barbados are built by this colour. Most of the cars are owned by this colour. We are moving on. The most educated people in this country happen to be this colour. Let us stop destroying our own. Let us stop the fight that we have to make believe that black people are in the minority, that black people do not own anything, that black people do not exist. We need to become a very proud bunch of people.

We need to understand that we have moved from the year 1639 to a point in 1966 then up to a point in 2000 to move on. We must mobilise ourselves and stop dividing and destroying ourselves and look back and see what we were and what we can become. We can become a very powerful nation, not with ammunition, not with guns, as some people are trying to project that because there is crime in this country Barbados is going down the wrong road. Crime is all over the world. If you watch the television networks you would see that crime takes place in any developing country. We do not want cannon. We do not want tanks. We do not want missiles. There is no need for us to have those things. Our people of Barbados are people with brains and are capable of sitting around tables and capable of sitting in rum shops and capable of sitting in conference rooms and debating and solving our problems.

Do not get the belief that being a republic we are going to go backwards. Mr. Deputy Speaker, one of the important things that I was highlighting was this unicameral and bicameral system of government and I was saying and will continue to say that we can do so much in those little districts of Barbados by looking for talented people there and giving them the right to function and you can see that has started to happen.

Mr. Deputy Speaker, when you look at the Community Independence Committees and at what they are doing, that is the direction. When you look at the work of the Community Independence Committees, it shows you clearly that within the communities of Barbados there are people capable of making a substantial contribution to the betterment of Barbados.

I could be one of those people who could go into the legal aspects from a layman's point of view but what we must understand is that when you are discussing the Constitution of Barbados there is going to be a lot of debate from a legal aspect. It is a lawyers' thing. The Constitution of Barbados is a lawyers' thing. Lawyers must discuss it. It is what they want to discuss because this is the direction. The layman in this sense must deliver to his people to make it a people's thing so that eventually, through the lawyer, the layman and the people, it becomes one total statement.

In closing, I would like to say the time has come for the repatriation of the Constitution of Barbados to Barbados. I am going to give a perfect idea of what I am saying. For years in this country, and I am certain the Honourable Member for St. Thomas will agree with me on this, this country was paying copyright money to Britain and never knew who sat in the copyright offices of England. Money was going from here and the various places. We have seen a development in this country now where we have set up a body of people to administer our copyright in terms of our music industry. That is a step in the right direction. We did not know who was the president of the Performing Rights Society in England but our money was going up there. That is what we call the repatriation of our music industry.

If the musicians in Barbados can do it, if they can go down the road of bringing what is rightfully theirs to their country I believe that this Honourable Chamber has a right to give back to Barbados what is rightfully theirs. A change must come. Thank you.

Hon. R. C. EASTMOND: Mr. Deputy Speaker, it is with a sense of profound thanks that I rise on this occasion, this occasion being the first occasion on which I have been speaking from the Floor of this Honourable House since some severe illness last year. Of course, I want to thank the Almighty and all those persons in Barbados who offered support, prayers and good wishes as indeed I thank all Members on both Sides of this Honourable House.

Mr. Deputy Speaker, in considering the proposals for constitutional change as recommended by the Commission that considered Barbados' Constitution it is quite clear to me that the Commissioners as they considered what our present Constitution is and what they would want, wanted to provide a framework for excellent governance, a system by which we

should regulate the affairs of the country and a system too by which we should enable particular persons and groups to reach fulfilment, a system by which people would be empowered to take part in the parliamentary process.
3.45 p.m.

Forgive me, Mr. Deputy Speaker, if I should start by saying that I must take exception to remarks made by the Honourable Member for St. Lucy who, in clear reference to paragraph 4(d) of page 95, protested that the proposal at paragraph 4(d) on page 95 is a proposal that could open the floodgates for the inundation of this country by aliens coming in large numbers. What Mr. Deputy Speaker, is paragraph 4(d)? It says that:

“A child under the age of 18 years, neither of whose parents is a citizen of Barbados, who is adopted by a citizen of Barbados shall, on application, be registered as a citizen of Barbados.”

The Honourable Member for St. Lucy found it difficult to support this. Mr. Deputy Speaker, you have to bear in mind that where a minor comes from abroad to be adopted in Barbados there are really two sets of procedures. There is the procedure in the country where the minor originates and there is the local procedure. Every civilised country that I know of, Mr. Deputy Speaker, always leans in favour of the welfare principle and no country abroad is going to expose children willy-nilly to a foreign place except a process is followed by which the welfare of the child is taken as the paramount consideration. I would imagine, Mr. Deputy Speaker, that if a Barbadian wanted to adopt a child from overseas, then according to normal law the country from which the child is coming would rather make sure that the child's interests are properly pursued or rather, I think, Mr. Deputy Speaker, if there is a feeling that a child's rights would be abused they make the child a ward of the court and prevent it from coming to Barbados.

Similarly, Mr. Deputy Speaker, in the context of Chapter 212 in the Laws of Barbados, the Adoption Act, the procedure for adopting a child here is so detailed, well thought out and drawn out in the interest of preventing the abuse of the child's rights that only after a whole host of safeguards are met, including evaluation by the Child Care Board, including placing the child for a minimum of not less than three years with the adoptive parents – all these things are pursued. In any case, Mr. Deputy Speaker, the Honourable Member for St. Lucy seems to be projecting that we would be sure to have an influx of citizens and aliens from abroad.

Mr. Deputy Speaker, that matter did not escape the notice of the worthy Commissioners who considered this matter.

Mr. Deputy Speaker, in that context the Commissioners were of the opinion that Barbados should not permit the floodgates to be opened where all and sundry could rush in here to the prejudice of our country putting a burden on our resources. It says clearly here at page 31, paragraph 6.35 that:

“Conversely, the law should also make clear that persons who misuse marriage for the sole purpose of evading immigration laws should have no right to citizenship in Barbados. Marriages of convenience – that is, marriages entered into solely or primarily for the purpose of foreign spouses immigrating to Barbados, in many cases with sizable families of minor children who would become entitled to benefit from the range of social services, including free education, free medical services, welfare and child care services – can only bring social problems to the country.”

That puts an answer to the concerns of the Honourable Member for St. Lucy.

Permit me, Mr. Deputy Speaker, to look somewhat at other provisions as regards citizenship. As you well know, Mr. Deputy Speaker, the substantive law is contained in Chapter 186 of the Laws of Barbados as far as citizenship is concerned.

My colleague, the Honourable Member for St. George North made some interesting, pointed and sensible observations. The Honourable Member for St. George North said that at present where a Barbadian man can go abroad and bring a non-Barbadian woman in as his wife or where a Barbadian man can stay here and bring in a woman from abroad and make her his lawful wedded wife, that at the point where she gets married to him, subject to filling out forms, she becomes a citizen based on the fact that she married a Barbadian man. But what situation pertains to the Barbadian woman who may want to marry her loved one from abroad? In the year 2000, Mr. Deputy Speaker, the discrimination is in favour of the Barbadian man and against the Barbadian female who is effectively prevented from conferring citizenship on a person she loves and a person that she intends to marry and live with hereafter. That cannot be fair.

Of course, taken to its highest that discrimination also affects children. We can say, based on current constitutional and legal provisions that children of a married Barbadian male are given preference in law over the children of a Barbadian female born outside of Barbados. I concur wholeheartedly, Mr. Deputy Speaker, with the sentiments echoed by the Honourable Member for St. George North that that type of discrimination in a modern era has to be dealt with.

If you check, Mr. Deputy Speaker, the Report of the Commissioners between pages 26 and 29 of this document, the Commissioners have made bold that such discrimination must end and that the consequential law as will be contained in Acts of Parliament, flowing on the enabling provisions of the Constitution, should reflect the reality of the modern world where we cannot be permitted to continue practising sexist discrimination.

Mr. Deputy Speaker, I welcome all of the provisions between pages 26 and 29 of this document but perhaps, Mr. Deputy Speaker, you will permit me to cite paragraph 6.25 of page 29 and page 30. It says here:

“Under sections 3(1), 3(3) and 3(6) of the Constitution, the non-national spouse of a Barbadian male is entitled to citizenship of Barbados on application; not so the non-national spouse of a Barbadian born female. The latter is merely entitled to permanent residence granted under the provision of the Immigration Act. We were assured by the Immigration authorities that they anticipate no difficulties arising from the abolition of this unequal treatment of the sexes so long as the appropriate checks and balances are instituted to prevent persons from acquiring citizenship by virtue of marriages of convenience.”

That accords with principle, with that which is conscionable and properly enacted, will modernise the law and reaffirm what particular Members of this Barbados Labour Party have been urging from as far back as 1975. For 25 years, Mr. Deputy Speaker, I seem to recall that there was a Commission established to look at gender inequalities way back and, Mr. Deputy Speaker, for 25 years we have had the unfortunate, untenable position by which a Barbadian male can confer full citizenship and all that flows from it on a female from outside Barbados but a Barbadian female [cannot do the same for a male from outside].

The Honourable Member for St. George North was correct and I am in wholehearted agreement with those noble sentiments.

Mr. Deputy Speaker, if you took a look at the considerations and the manner in which the Constitution looked at the Upper House, it is clear that the Commissioners do not want to urge on Government a situation where we go towards the unicameral system. The Commissioners have opined that a Senate of 21 Members should continue but with an increased representation for the minority party or for the Opposition.

Without, Mr. Deputy Speaker, going beyond what they have proposed in respect of the retention of the Senate, I am not going to lean in favour of a unicameral Chamber with nominated members because the same objection that you can

make to having nominated members in the Senate you can make to having nominated members sitting in the same Chamber as elected members.

What I would say, however, Mr. Deputy Speaker, is that if we want true representative Government and we make provisions for the fact that a second Chamber can impose a brake on a rash Lower House, if you want to make provision for the fact that a second Chamber can cause the Lower House to re-think a particular measure, if indeed, we want a situation to obtain where there are those who have real ability but suffered the misfortune of not being elected or opted not to go through an election, then if we argue that there is still a place for such, I wonder Mr. Deputy Speaker, if, as I support the call to increase Opposition representation in the Upper House, if we can still have a situation where the Head of State is going to nominate Members.
3.55 p.m.

Hon. R. C. EASTMOND: Historically, Heads of State, where they could nominate members to the Lords or to the Upper House, have tended to select people to represent specified interests. In small Barbados with so many varying interests, so many different and varied interests, even if the Head of State were given 7, 9, 11 to reflect a particular interest, I daresay, Mr. Deputy Speaker, there are those interests which are still going to be left out. So, I would not urge my colleagues to go for a second Chamber made up beyond Government appointees and Opposition appointees. I am not in support of a system of choice by the Head of State.

The argument, Mr. Deputy Speaker, is that the Head of State should serve as a unifying symbol of authority in our democracy, and that to select certain interests above others is going to lead to the argument that there are those interests in the community that have a voice, that have feelings and concerns who are denied representation.

So let us have, if you are going to have one, an Upper House made up of members chosen by the Government and by the Opposition, and I am for the Opposition having more.

I seem to recall, Mr. Deputy Speaker, that years ago, the Cox Commission had recommended that the Opposition of the day, and that the Opposition for all time, indeed, should have more say in the Senate. I seem to recall that the Democratic Labour party opted then not to increase its representation in the Other Place.

Mr. Deputy Speaker, there comes a time when there are those interests in a polity, there are those interests in a jurisdiction which, despite having a sterling role to play, are not given the type of recognition and the type of honour that

befits them. I am referring you, Mr. Deputy Speaker, to page 66 'The Magistracy'.

Mr. Deputy Speaker, I have so far done my utmost, in limited time, to refer to the Report. The Report takes into account the plight of the magistrates. Mr. Deputy Speaker, a magistrate working hard, and all in Barbados work hard, would have to encounter and deal with so many different scenes, scenarios and cases, that I go in support of the Commissioners with their expressed view that magistrates should be considered to be full members of the judiciary system. In citing a decided case out of Jamaica called *Hinds vs. The Queen* – it is a case that every first year constitutional law student has to do – it first became known when it said that a system of Government based on the Westminster model assumed the separation of powers. The best thing about the judgement, in *Hinds vs. The Queen*, is that it says quite clearly that a system of Government based on Westminster always presupposes and deals with the separation of powers.

Things said by the way, in *Hinds vs. Clarke*, laid down, if you could call it laid down, in a Jamaican case going to the Privy Council, that magistrates being civil servants are not part of the judiciary. Mr. Deputy Speaker, it is true that a Privy Council decision coming out of Jamaica is not binding on Barbados, but it is very, very persuasive. I would want to urge that we set in train precisely what the Commissioners have foreseen and are recommending that these junior judicial officers be promoted to the stage of full Members of Judiciary, given security of tenure in situations where they have had to act and act. They should be given, subject to good behaviour and competence, a measure of security. They should also have terms of service which would incline them away from temptation, and they should be allowed, Mr. Deputy Speaker, to have systems in place for them, notwithstanding their junior status, that obtain for the judges.

At this point, Mr. Deputy Speaker, I wonder which magistrate anywhere in Barbados can continue to serve from 9.00 a.m. to 4.00 p.m. writing notes in long hand non-stop, when we are into a culture where other judicial officers will soon be having systems in place to ease that stress off them. I make bold, Mr. Deputy Speaker, to support the Commissioners in terms of their recommendations in respect of *The Magistracy* at page 66 contained in paragraph 11.29 – 11.34, and I have no difficulty with what the Commissioners have recommended on that.

Mr. Deputy Speaker, everybody knows that the Constitution of Barbados is the supreme law of Barbados. In Chapter 1 of the Constitution it says:

"This Constitution is the supreme Law of Barbados and subject to the provisions of this Constitution, if any other law is inconsistent with this Constitution, this

Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void".

Mr. Deputy Speaker, it invites you to wonder why this supreme law clause has been enacted. In my respectful submission, Mr. Deputy Speaker, that provision is bolstered heavily by section 49 of this Constitution.

Section 49 is that section that makes certain provisions so entrenched as to defy defeat in Parliament by simple majority. I think that Barbadians are so aware of that, that Barbadians might very well be assuming that all of the Constitution should be subject to the provisions of section 49, making all of the provisions difficult to change.

In England, and I believe also in New Zealand, the Constitution is subject to change by a majority vote, the slenderest of majorities, no special two-thirds majority, no special three-fourths. In the case of England it is not even written in any document that you call the Constitution.

In respect of this there are specific organs of Government, Mr. Deputy Speaker, that are well entrenched. If I must voice one concern with the excellent work of the Commissioners, I would say that checking the Report in its entirety, at no point do I see them, even as they urge change, saying which changes they would want entrenched and which should be left to be dealt with by the simple majority vote process. I think that is the only thing as far as their work is concerned with which this humble servant has reservation. 4.05 p.m

Sir, let us look at one very important order of state and I come now to the monarchy. On this, my friend, the Honourable Member for Christ Church East wondered and lamented whence cometh this monarchical power.

The modern monarchy of Great Britain, Mr. Deputy Speaker, was established by the Act of Settlement of England 1700-1701. The Act of Settlement of England 1700-1701 laid down that the Protestant heirs of the Electress Sophia, her descendants, should ascend to the British throne by a process of succession.

Asides.

Hon. R. C. EASTMOND: ...the monarch cannot be a Catholic. When they checked the Electress Sophia, she had her nexus with Denmark.

The modern monarchy of Britain has a nexus with Denmark with whom Barbados has had but little concourse and from the time when Barbados was settled, Barbados

received the common law and some stiff legislation coming out of England that reinforced the position that we were a subject people and we were under the obedience of a foreign power.

What are the arguments against monarchy? The ancient Romans had two Kings, Romulus and Remus that they tolerated, despite the fact that Romulus and Remus were supposed to have noble blood. But there came a King called Lucius Tarquinius Superbus who practised royal altruism to a point when he was a dictator and the ancient Romans said that enough is enough. No man or woman through blood is going to arrogate to him or her that power over us. We are going republican, meaning, Mr. Deputy Speaker, that policy that reflects that people are acting on behalf of the people.

Prof. McIntosh, Mr. Deputy Speaker, in an interesting article in *The Parliamentarian* of October 1998, suggested in a very simple term that a republic is a form of political rule in which the people as a whole are conceived of as the true constituent power. So in McIntosh's view a republic is really a reflection of the constituent power of the people. A republic has always been argued to be the final consummation of the supremacy and sovereignty of the people. Mr. Deputy Speaker, it has always been, the Republic of the United States of America, German Republic, French Republic.

Within Barbados some people seem to feel that automatically a republic is a dictatorship. Some people also feel that a republic means that you rob yourself and rid yourself of foreign assistance in matters of defence and trade and such like. Some people even feel that once you have a republic, you take the country to the worst forms of dictatorship of the left and of the right and that a republic usurps the power of the people.

Mr. Deputy Speaker, I want to say that as regards this, it is definitely emerging the broad issue – even though some months ago it seemed quite clear that Barbadians were decided – on which the call for the referendum now seems to have started in the people a desire for them to make manifest their sovereignty by requiring the Government to do homage and obedience to them. If we, Mr. Deputy Speaker, get our power from the people we have to listen to them. Only recently, 82 people were surveyed, 41 said, “go republic”, 41 said, “go monarchy”.

Mr. Deputy Speaker, some people seem to feel that once you go republic, inevitably economic woes come to you but I can assure Barbadians that a republic is just a system of Government that does not stand for any person of special blood standing above the other people. It does not automatically mean a dictatorship and it does not automatically mean that you stand on the edge and outside of the community of nations. In the context of Caribbean

affairs, Mr. Deputy Speaker, there are republics in the Caribbean which, despite not accepting the British monarch as titular ceremonial Head of State still acknowledge the monarch in her role as Head of the Commonwealth.

Mr. Deputy Speaker, so you can actually have a situation where you have a republic formerly a colony under Great Britain being a member of the Commonwealth whose only rule by convention, if you want to call it convention or rule, is that you accept the Queen – India is a good example – as the Head of the Commonwealth.

I would say, Mr. Deputy Speaker, that in the context of what we do in Barbados, the Queen is represented here by a representative but constitutionally, the representative is but a representative and the Queen is still very much Head of State.

Mr. Deputy Speaker, I shall shortly be dealing with specific recommendations in the report before I wind up but even in Britain, large numbers of people have reservations about continuing with the monarchy.

Asides.

Hon. R. C. EASTMOND: More than 40 percent. Mr. Deputy Speaker, the monarch's main role in Great Britain is ceremonial. She is titular Head of State who reigns but does not rule but whose norms might stay with us. She just has power.

I recall that when Britain was considering abolishing the death penalty in the 1960's, the role of the monarch then was to sign it into law – yes, the death penalty is abolished, except for treason – thereby setting a legal imperative standard among the British judiciary that they would observe the law by not enforcing the death penalty for murder.

That norm has lingered on in Britain in a situation where British Judges who in their roles of Members of the House of Lords cannot impose the death penalty for murder, in their roles as Members of [the Judicial Committee of] the Privy Council should examine the Laws of the States which they are applying for the hearing of appeals. Mr. Deputy Speaker, that standard has so persisted as to send signals down here that perhaps where you have a foreign type legal culture still, either touching us with its tentacles or still shooting off norms that govern us, certain undesirable acts could happen.

Barbadians must not think that our current relationship with Great Britain will automatically mean that Britain will offer us financial aid and defence. Britain is not duty bound to do these things for Barbados. In any event if the people of Montserrat who are a Colony could speak, they will tell you

that though owned by the British, they have not been satisfied by how Britain has been treating them in their hour of need and in their hour of great grief, a grief that lingers and persists and a grief they could well do without, but a grief which has been eased somewhat by the Government of Barbados through our housing help for them and through other Caribbean Governments.

I did mention the question of sovereignty. I have heard about the concept of parliamentary sovereignty meaning that one party – but usually in England – cannot buy another one. I have heard of the concept of people sovereignty. I vote in favour of people sovereignty but sovereignty is by no means irrelevant.

Mr. Deputy Speaker, so Barbados is now operating in a world, where there are some institutions from abroad loosely and opportunistically coming together who want to exercise and exert sovereign power over us, when they themselves have no legal status so to do. The news of this view has been shocking where a band of nations, sovereign though they might be as individual nations, have come together opportunistically and are enacting for us as though they have authority to speak for us.

But in any political culture where you have Governments well entrenched in the local situation and in parts elsewhere, there are those who will feel, Mr. Deputy Speaker, that they are free to look down on us and dictate for us.

Mr. DEPUTY SPEAKER: The Honourable Member has two more minutes.

Hon. R. C. EASTMOND: In conclusion, Mr. Deputy Speaker, I want to say two things, one in respect of page 16 which states quite clearly:

“The patriation of the Barbados Constitution is both an emotional and a legal issue. In relation to the first issue, the people of Barbados in their submissions to us made clear their deep feeling that our Supreme Law has to be, in every sense of the word, indigenous and autonomous.”

We therefore as a matter of urgency must patriate the Constitution. Of interest the said Commissioners in their adherence to the democratic way of life have not said that this document is so cast in stone as to be inflexible the way some people feel, for the Commissioners said that they would want to pursue further consultation. Page 9 paragraph 9,

“...it will still be necessary to consult further on the draft final text and in particular to obtain the views of the members of the Public Service and the Judiciary...”
4.15 p.m.

It seems to me that in recent times some Barbadians have been saying that they have not been sufficiently consulted. I am submitting that if they want consultation, we should allow them to be consulted and we should not insult their intelligence and their sovereignty by frustrating them.

If indeed it is consultation that they want in view of the fact that many of them are maintaining that not all of the country has been involved in the process, and since the Commissioners themselves seem to contemplate further consultation, then I urge in the spirit of democracy and considering the fact that from my own submission the people are sovereign, then I urge respectfully, as I thank you, Mr. Deputy Speaker, for your patience and forbearance, that there is a case for further consultation especially in respect of those provisions entrenched by section 49 of the Barbados Independence Order.

Mr. DEPUTY SPEAKER: Please, could you please wind up.

Hon. R. C. EASTMOND: I am deeply thankful and appreciative to you, Mr. Deputy Speaker, long may the traditions of this Parliament last and may we some day achieve that perfect freedom from bondage and that true independence of spirit and of nationhood.

I thank you.

Hon. D. A. C. SIMMONS: I beg to move that further consideration of this Resolution be postponed.

Hon. R. C. EASTMOND: I beg to second that.

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

PRIVATE MEMBERS' NOTICES

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, I beg to give notice of a Resolution to note Protocol III for the implementation of a social partnership 1998-2000.

FIRST READING OF BILLS

On the motion of Hon. D. A. C. SIMMONS, seconded by Hon. Miss B. A. MILLER, the following Bill was read a first time:

The Community Legal Services (Amendment) Bill, 2000.

ADJOURNMENT

Hon. D. A. C. SIMMONS: Mr. Deputy Speaker, that concludes Government Business for the day and I beg to move that this House do now adjourn until July 04, 2000 at 11.00 a.m.

Hon. R. C. EASTMOND: I beg to second that.

The question was put and resolved in the affirmative without division and Mr. DEPUTY SPEAKER adjourned the House accordingly.
4.25 p.m.