

THE House of Assembly Debates

(OFFICIAL REPORT)

SECOND SESSION 1999 - 2004

HOUSE OF ASSEMBLY

Wednesday, May 31, 2000.

HOUSE OF ASSEMBLY Pursuant to the adjournment, the House of Assembly met at 11:40 a.m.

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. Mr. L. R. TULL, Q.C., M.A. 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.), LEC (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. H. F. LASHLEY, (Minister of Social Transformation) Hon. R. St.C. TOPPIN, LL.B., (Minister of Commerce, Consumer Affairs and Business Development) Mr. D. St.E. KELLMAN Hon. Miss H. E. THOMPSON, LL.B. Hon. Miss M. A. MOTTLEY, LL.B. (Minister of Education, Youth Affairs and Culture) Mr. M. Z. WILLIAMS Mr. T. A. PRESCOD B.A., Rev. J. J. S. ATHERLEY, B.A., B.Sc. (Parliamentary Secretary, the Attorney-General and Minister of Home Affairs) Mr. D. T. GILL, B.Sc. Hon. N. A. LYNCH, B.Sc., B.B.A. (Minister of Tourism and International Transport) Hon. A. P. WOOD, J.P., B.Sc., M. Sc, M.Phil (Minister of Agriculture and Rural Development) Hon. R. R. FARLEY, B.Sc. (Minister of Industry and International Business)

Prayers were led by His Honour J. M. EDGHILL, Deputy Speaker.

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

MINUTES

Hon. D. A. C. SIMMONS: Mr. Deputy Speaker, Minutes of yesterday's proceedings are obviously not yet ready and I move that the Minutes be deferred to the next sitting of this House.

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

Mr. SPEAKER: If that is the will of the House, those Minutes are deferred until the next sitting of this House.

ORDER OF THE DAY SUSPENSION OF STANDING ORDERS

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

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

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

GOVERNMENT BUSINESS

Mr. SPEAKER: Government Business is now the order of the day.

Order No. 1.

RESOLUTION TO NOTE THE REPORT OF THE CONSTITUTION REVIEW COMMISSION

Hon. D. A. C. SIMMONS : Mr. Deputy Speaker, this matter, Item No. 1, to move the passing to note the Report of the Constitution Review Commission and the Proposals and Recommendations therein, stands in the name of the Right Honourable Prime Minister. However, Mr. Deputy Speaker, as all of us are aware, and I trust all of Barbados is aware, the Report of the Constitution Commission was a Report whose preparation was chaired by the Honourable Member for Christ Church West.

The Resolution before the House requires us to discuss and debate the recommendations of that report. I have the authority of the Prime Minister and the Cabinet to say that the Cabinet has taken no position on those recommendations. In accordance with the recommendation of the Commission, itself, that this matter should be debated in Parliament, the Government determined that it would be appropriate that as a contribution to public education to have the debate on those recommendations carried out in this Chamber. Since the Honourable Member for Christ Church West was the Chairman of the Review Commission we also thought that, probably, he should set the tone for this debate by explaining to the House and the public of Barbados, to whom this debate is televised, those recommendations and the reasons leading to those recommendations.

The Honourable Leader of the Opposition is in agreement, Sir, that the Honourable Member for Christ Church West should be the first speaker for the Government on this matter, and I am grateful to the Leader of the Opposition for his ready agreement to that proposal.

I wish to say, secondly, that the Government has taken off the whip on this matter. Many of the recommendations, Sir, can be accepted by individual Members. The recommendations are of a nature where Members may have personal views, and we feel at this stage, in the absence of any consensus on the part of the Government on the recommendations, that members should be allowed to speak freely. This was a Commission's Report where all of the political parties in Barbados were represented on the membership of the Commission and we, on our side, are not treating the Report of the Review Commission in a partisan way at all, Sir.

Having made the points that the Honourable Member for Christ Church West would lead the debate, and secondly that the whip be dropped and that Members are entitled and, indeed, encouraged to speak freely about the fundamental and supreme law of Barbados, I am pleased to asked for the House's indulgence for the Honourable Member for Christ Church West to make the first speech on this matter, Sir.

I am obliged to you, Sir.

Hon. Sir HENRY FORDE : Mr. Deputy Speaker, Sir, I am much indebted to the Honourable Members of this House, on both sides of the House, who have invited me to lead off this debate. It must be a unique honour, in that there are new Parliaments in the world where an Honourable Member sits as Chairman of a Commission and then is required, not only to report to His Excellency the Governor-General or to the Head of State, but then within the House, itself, to be responsible for commencing the debate on the motion which seeks to take note of those proposals.

I am deeply conscious of the responsibility, therefore, to approach this task by explaining, as adequately as I can, the reasons why Commissioners felt obliged to answer their warrant in the manner that is represented in the Report of the Constitution Review Commission and at the same time, possibly, to express from time to time some of my own views on some of those recommendations.

Mr. Deputy Speaker, Sir, before I do so, I would like to suggest to the Honourable Members of this House and to the country that this is probably one of the most important debates that will take place at the end of one century and at the beginning of another century and that it has tremendous significance for the manner in which we will be governed for years to come.

The final years of the twentieth century have offered new challenges for promoting and protecting democracy. This is true, not only of our region and of Barbados, but is true globally. There are many more Governments now who are committed to democratic rule. The end of the Cold War has witnessed a surge in the number of democracies, both those who are trying the democratic system for the first time and those who have reformed their systems in order to recognise that democracy is a necessity for proper standard governance for the protection of the people. Although democracy is still not practised universally, it is true to say that a wave of democratisation has taken over.

In April of 1999, Mr. Deputy Speaker, the United Nations Committee on Human Rights adopted a

Resolution proclaiming that all individuals have a right to democracy.

11:50 a.m.

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Continuation of Hon. Sir HENRY FORDE:

I think this is the first time in the history of a world organisation that the right to democracy has been pronounced almost as a fundamental right.

The Resolution received the support of some 51 members and it was opposed by none, although there were abstentions. Those of us who have practised and witnessed democracy and all Barbadians who have had the privilege of living during the last 60 years or so under democratic rule, would hope that on the next occasion that the United Nations Human Rights Committee meets, we will find that there are more nations and countries in support.

Despite this wave, Mr. Deputy Speaker, democracies still remain fragile. There are many challenges to democratic rule. Globalization itself is such a challenge. Nationalism is a challenge. The lack of respect for the rights of minorities, the absence of popular participation on a wide basis, voter apathy particularly in the developed, so-called, democratic countries like the United States of America, Russia, the United Kingdom even, the growing gap between democratic institutions which raises challenges and concerns about the relevance of democracy itself.

Sir, I am pleased as a Barbadian to say that the lesson of Barbados is instructive and it is one which many countries of the world can learn. Here democratization has been an ongoing process particularly since the popular movement in the 1930s, and Barbadians have learnt the art of governing themselves in a fair manner. We have achieved a high quality of democracy after years of experiments, learning, struggles ...

Asides.

Hon. Sir HENRY FORDE: ... yes, struggles, and the holding of elections, but we must remember that there is no instant democracy nor is there any final state of democracy nor is there any one form of democracy. There are however, certain accepted values that provide a basis for all democracies. I speak of respect for human rights, fair and free elections, a free press and the existence and proper functioning of political parties. I stress that, Sir, because too often, particularly the public and parties themselves fail to recognise the critical and crucial role which political parties play in sustaining democracy, unbiased public opinion, transparent and proper management of public affairs and particularly public finances and the absence of corruption, not only in the public sector but in the private sector as well.

Mr. Deputy Speaker, the role of a constitution is to protect these values. The Constitution should enshrine these values and maintain a proper balance between the organs of state which manage the people's affairs, the powers of those chosen to guide those affairs and a balance which at the same time protects the rights of the people. And that is why we say that the Constitution is important to set out the

main rules which guide the functioning of democracy.

Mr. Deputy Speaker, it cannot set out all the rules but it must set out at least the main rules which guide the functioning of democracy. The stability of any democracy depends substantially on the character and strength of the democratic institutions and also on the democratic processes.

It is necessary therefore, not only to have a Constitution that speaks to the values which I have mentioned earlier in this debate, but one that is capable of refining on a timely basis, those core values, one that is capable of reshaping the forms and provisions to meet the new challenges which would lift our country to a higher level, and will at the same time ensure that authoritarian power is never entrenched within constitutional rules.

Mr. Deputy Speaker, that is why I was happy to accept the invitation of His Excellency and the Government along with my colleagues on the Commission to chair a Commission whose terms of reference required us to examine and enquire into the Barbados Constitution and other related law, and after examination to report in writing giving our opinions, making recommendations and providing for consideration any amendments, reforms or changes which are desirable and necessary for promoting the peace, order and good government of Barbados; and in particular - which will assist us in maintaining democratic institutions - ensuring that parliamentary and multiparty democracy is given constitutional protection such as is desirable and necessary. This will ensure that we eliminate gender discrimination, strengthen the accountability of parliamentary representatives and encourage a wider and deeper participation by citizens in the democratic governance of our country.

I make bold to say, Mr. Deputy Speaker, Sir, that I believe that the Commission has done its job well and I wish to take the opportunity to congratulate, certainly on behalf of this House and both sides of the House, the Government and the Opposition, and to thank the Commissioners - not myself, I am not speaking as a Commissioner - for a job that was well done.

Asides.

Hon. Sir HENRY FORDE: We do not expect that every recommendation will meet with the approval of every Member of the Parliament, either this House or the Upper House or indeed with every Barbadian.

Indeed, one of the outstanding factors that we noted was that presentations allowed many different views to be expressed. I have no doubt that, even within this House on this side of the House, there will be different views expressed but I wish to place on record very early, thanks to the public of Barbados.

Mr. Deputy Speaker, it is necessary to travel down memory lane today when thinking of this Constitution. We are a new democracy and yet a tried democracy. The Constitution which we are seeking to change is one that we have had only since November 30, 1966. It came into force from that date.

12 Noon

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Continuation of Hon. Sir. HENRY FORDE:

Its provisions came into force from that date. That is not a long time in the history of a nation. I believe that those who have had to work that Constitution have worked it well and have to a large extent respected the broad principles which underpin the core values of which I spoke earlier.

I had the good fortune to be an "Under 40" in 1966 and to have been part of a movement that made some contribution to the debate of the draft Constitution. I wish to remind Honourable Members that in those days there were three main political parties in this House. The Democratic Labour Party (DLP), which took the major responsibility for the constitutional document which was taken to England for final settlement among the parties, was the party in government. The Barbados National Party led by the then Honourable Member for the City of Bridgetown, the grandfather of the Honourable Member for St. Michael North East, the late Mr. E. D. Mottley, was the official Opposition and then there was the real opposition, the Barbados Labour Party (BLP), whose parliamentary party in those days, was led by the then Honourable Member for St. George - I think he was the senior member for St. George - the father of the current Honourable Member for the City.

Those were the people - we have to recall history sometimes in this House - who had primary responsibility together with the late Right Excellent Dr. Errol Barrow, the then Honourable Member for St. John, in carrying the debate at Lancaster House in relation to the form of the Constitution which we now have.

Mr. Deputy Speaker, it is instructive when we look back through that Report - if I could put my hands on the Report - to see what has happened because there are in this House now three Honourable Members who attended the Constitutional Conference in London in June to July 1966. The Honourable Member for Christ Church South - my colleague, he is not in his seat now - was then a Senator but he was a delegate representing the Barbados Labour Party (BLP). I speak of Sir Harold St. John. I played a lowly role, Sir. I, along with the late Honourable Member for St. Thomas, the Right Honourable J. M. G. M. "Tom" Adams, were the two advisors to the Barbados Labour Party (BLP). As I have said, that delegation was led by the father of the Honourable Member for the City of Bridgetown, the late Mr. Freddie Miller, who served as the Member for St. George for 18 years up to November 1966.

There was one other Honourable Member in this House who himself was not a delegate or an advisor to a delegation but who played an important role in the defence of the freedom of the Press and in keeping the people of Barbados informed of the day to day results of that conference. I speak of the Honourable Member for St. Thomas who was then completing his studies in London but who rendered outstanding service in the proceedings. As I have said, he was one of the people reporting. In those days he reported for the Daily News newspaper which has subsequently become the Nation Newspaper.

There is only one other former Member of the House who attended that conference and is alive today and I speak of Mr. Philip Greaves. All of the others have passed to the great beyond and therefore those of us who are left feel a special responsibility indeed to ensure that the same broad and non-partisan principles which guided us then would be the same principles that we bring to this exercise. Each one of us fought strenuously for our point of view but with the objective of achieving for Barbados a good Constitution and the maximum consensus that was achievable in those circumstances.

Mr. Deputy Speaker, there were unfinished issues. As was expected there were areas in which the political parties could not all come together and you will forgive me if I quote from the report and the statement of the then Secretary of State for the Colonies, the late Right Honourable Fred Lee in which he said at page 6 of that report:

“We have examined the draft Constitution produced by the Government of Barbados and I am happy to say that, on much of it, all parties represented round this table have reached agreement. This will be recorded in the report of the Conference where the main features of the Constitution will be described. There are certain matters on which, unfortunately, it was not possible for the Government and the two Opposition Parties to agree, and I appreciate the importance of some of them to the parties in Barbados. They are all matters on which it is understandable that there might be differences of view between the various groups in a democratic society framing a constitution for independence. These disagreements will also have to be set out and recorded in the Conference report.”

He went on to say,

“The Legislature of Barbados in requesting me to call this conference proposed that as a result of it Barbados should proceed to separate independence in 1966. On this question of separate independence for Barbados I have as you all know had separate discussions with all the parties represented round this table. I understand that, although some of the Barbadian representatives would have preferred their country to seek independence in an association with their neighbours in the Caribbean, all parties are agreed that for the time being this aim is not attainable and therefore they concur in the proposal that Barbados should proceed to separate independence.”

12:10 p.m.

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Continuation of Hon. SIR HENRY FORDE:

Mr. Deputy Speaker, Sir, the Constitution which we have was the best that could be achieved in the context of the political disagreements of the day. There have always been some outstanding questions and differences between the political parties. I should also like to say, Sir, that I think that we can lay to rest for historical purposes the disagreement on the question of whether or not there were persons in two political parties not forming the Government who objected to independence. The historical evidence at the time is absolutely clear that all of the political parties favoured independence and the argument was simply over whether we should seek to have a West Indian nation even if we had only an East Caribbean nation, or whether Barbados should go on to independence alone. But the question of Barbados becoming independent whether within or outside a wider West Indian nation was never an issue between the parties.

I believe that Barbadians will say that the Constitution which was fashioned has worked reasonably well. The 1966 Constitution remained intact until it was amended by the Barbados Constitution (Amendment) Act of 1974.

Mr. Deputy Speaker, Sir, I would consider the 1974 debate as a debate that was even more raucous and divisive than the debate that preceded the forming of the 1966 Constitution. Unfortunately, that debate came in a different political context and I believe that in retrospect had a different approach been taken to the issues they may not have been as wide a division as witnessed at the end of the 1974 period. Some very harsh words were spoken as Hansard will show, Sir, about persons. I had the honour of being a Member of the House then and I do not wish to recall various incidents. I believe that Members came very close to exchanging blows, so deep were the feelings that ran in this House at that time.

Fortunately, Sir, we have since passed those times. Although there have been other amendments to the Constitution since 1974, none have been of the same substance and introduced in the same manner, and none have caused the same disagreements. The Constitution was amended again in 1980. That was a very slight amendment to accommodate a treaty agreement related to the payment of expatriates pensions between ourselves and the United Kingdom. It was amended in 1981.

Let me speak a bit about the 1981 amendments. The 1981 amendments came about as a result of the Labour Party winning the Government in 1976 and seeking to put into effect some of the outstanding issues left from the 1966 conference as well as the answers to some of the divisive factors that had been introduced in the 1974 debate. The Labour Party committed itself in its 1976 Manifesto to set up a commission to review the Constitution and to make recommendations. That was headed by Sir Mencea Cox and it has come to be referred to as the Cox Commission. That Report was presented in 1979 and laid in this House. Fortunately, Sir, only a few of its recommendations have been implemented. That is why I refer to the 1981 amendment but it was a significant amendment. It dealt with the Electoral and Boundaries Commission. One of the divisive issues that had never been settled at Lancaster House was whether the Minister should have the direct control for the day to day functioning of the electoral process in Barbados and the management of the election as a whole.

The Labour Party took the view that we needed an independent commission. The Barbados Labour Party, the Government of the day, took the view that we had not had any scandals and there was nothing wrong with the Minister having the ultimate control. But we think that is settled now, Sir. Both political parties respect the amendment made in 1981.

The next amendment, Sir, was in 1989 and those were brought by the Democratic Labour Party to strengthen the amendments that had been made in 1981. So that the wheel has come full circle. The Democratic Labor Party had acknowledged the validity of the argument for such an electoral body and we have been well served by the Electoral and Boundaries Commission. I believe that Barbados is today a model for the holding of fair and free elections.

So that fundamental underpinning of democracy is practised here and taken unfortunately, Mr. Deputy Speaker, by some as though it is a given. We achieve something in the order of 64 per cent voter turn-out which is higher than the United States. It is very seldom that the United States get over 49 per cent. It is higher than the United Kingdom. That is why Barbadians feel so proud and want to teach people a lesson in constitutional propriety and democracy. We do so not from any boasting position but from the practice, experience and performance in that field.

I believe that the politicians of the post war years, starting in particular with the late Right Excellent

Sir Grantley Adams who fought so hard for the right to vote, can take kudos for establishing those values which are now accepted on both sides of the House.

Sir, then we had the 1990 amendments. Those were not controversial either. Those came about in order to deal with the issue of a separate Court of Appeal and some other minor changes that were necessary. Then we had the 1992 amendments and those were technical rather than substantial and I will not delay the House on them but will principally deal with the fact that we have abolished the distinction between felonies and misdemeanours. There was talk about arrestable offences and it was necessary to make consequential changes in the Constitution.

Finally, Mr. Deputy Speaker, there were the 1995 amendments which came about as a result of the famous case “King vs. Attorney-General” concerning the 8 per cent salary cut case. The purpose of that amendment was to establish that in future the salaries of public servants could not be altered to their disadvantage. Now although that may sound as a new proposal, within the old Constitution there was such a provision protecting the Judges, Auditor General and Director of Public Prosecutions. Therefore, what we have now done is to give similar protection to public servants. Despite its recent nature, I consider and I think the Commission considers that provision should remain and that is one of our recommendations.

12:20 p.m.

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Continuation of Hon. Sir HENRY FORDE:

Mr. Speaker, I have given a quick review of what has happened to the Constitution since it was promulgated in 1966. In retrospect, I can say that only one of the amendments to the Constitution has excited division. I am happy to say that the Constitution Review Commission, when we took evidence, found that the spirit in Barbados had changed significantly from what it was in 1974, from what it was in 1966 and even from what it was in 1979 when the Cox Commission reported. People have now become more conscious of the importance of their basic freedoms. They are more knowledgeable about their rights and about the functioning of the Constitution, not as knowledgeable as we can be or we would like to see, and they yearn for the opportunity to be educated about its provisions and for the provisions to be kept up to date. I believe that we have approached this exercise in a more rational state of mind and a less partisan guise. We have had full cooperation from all three political parties which came before the Commission and made their separate presentations. We have had the presence before us of the political leader of the Democratic Labour Party and the political leader of the National Democratic Party and we have had the opportunity to talk with a former Prime Minister, the Right Honourable Member for St. Michael South. We have had the opportunity to talk both with current and past Ministers of Government, both current and past civil servants on all levels who have given us freely of their experience and I believe therefore this document which is presented to the House for its consideration is one that has been done after the widest possible consultation. If the views of other persons are not represented here, it is not for want of opportunity offered to them to put those views forward.

The Government made the necessary funds, through this Parliament, available for the widest possible

consultation. We held public hearings in Barbados and overseas among Barbadian nationals in New York, Boston, Montreal, Ottawa, London, and in Birmingham, England. I was pleased that there were 98 persons speaking at the overseas public hearings.

We have had some 265 submissions made to the Commission and, if I may so, the Commissioners were deeply impressed, not only by the submissions in general, both written and oral but particularly by the role played by the young school children of Barbados in giving their views. We had a special session at Sherbourne for the schools and I think members may be surprised to hear some of the views. We got the verbatim report of the majority of those young people, particularly on issues such as capital punishment. Those of us who went there believing that the young people were not in favour of capital punishment received a bit of a jolt. We had to be arguing like the devil's advocate on the other side at times. We were much indebted to see the young people of Barbados, representing some 33 of the 35 secondary schools, that those young people made their views very clear. They realised where they wanted their country to go. They recognised that they had a contribution to make and therefore when I hear some of the negative things said about the young I believe that we do not always take into account that the majority of our young people are as thinking and are as rational and as foresighted as those of us of former generations have been.

Mr. Deputy Speaker, I believe that we have tried our best here to represent the views of the majority of all persons who came before us. Of necessity, a report cannot do more in many instances than give conclusions and some of the arguments. There is a wealth of historical information available out of those proceedings, both the verbatim record, the information collected, the reports of the consultants who rendered outstanding service, reports and historical records from the experience of other countries, which are here. One of our recommendations is that the Government must as soon as possible collect those records and keep them safely for the public of Barbados not only for research but as part of the history of this country.

One of the other recommendations that I would like to share with the public is our recommendation that the study of the Constitution should be included in the school curriculum as part of a course in civics. We would like to see updated copies of the Constitution made readily available at reasonable cost on an ongoing basis.

One of the first things that we did was to have the Constitution updated with the changes and made it available at a small cost to people, and we ran out of copies. We believe that both the Government Information Service and the public media should routinely seek to inform the public of the provisions of the Constitution and how the Constitution impacts on the daily lives of our citizens. We believe that there is a role for the tertiary institutions, in particular the Cave Hill Campus of the UWI and the Barbados Community College, to play in teaching this subject and in using modern technology for bringing the subject daily within our homes.

12:30 p.m.

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Continuation of Hon. Sir HENRY FORDE:

I hope to see the Press play that role. Mr. Deputy Speaker, so deeply conscious is this Government of the role which the Press has to play that although the Press did not publish the Report when it was issued in 1998, the Government spent \$64 000 in ensuring that the Report was published in full. I am told that some 88 000 copies were distributed through the newspapers.

Asides.

Hon. Sir HENRY FORDE: My friend, the Honourable Member for St. Lucy wants to credit the Opposition and I will give credit wherever credit is due. Sir, let me say that this is the recommendation that we would have expected the Press would have taken up from the beginning. I do not believe there is anybody in Barbados today who can claim that they have not had an opportunity of reading the Report of the Constitution Review Commission.

In addition, we have published, I am told over ten thousand copies of the pamphlet, "The Barbados Constitution Facts and Questions". This is a document of the Commission but the hard work for it was done by a Member of the Upper House, Senator Mrs. V. E. Newton, who did an excellent job in helping to bring before the public the outstanding provisions and the questions which are necessary. I wish to commend the work that she and the other consultants who are named in the Report have done to help us in this regard.

Sir, there are several recommendations. I wish to, in the time available to me, otherwise I could talk for the next three days, but I do not want to do that, I want in the time available to deal with some of the fundamental recommendations on this Constitution.

Mr. Deputy Speaker, our Constitution, although it originated from a draft which the Democratic Labour Party placed before the House of Assembly. Although it originated from that and the outline draft had been discussed within our own Parliament, our Constitution, this document here, the Barbados Independence Order 1966 as amended, is not a document of this House or of the Barbadian Parliament. This is a document made as a result of the Barbados Independence Act, passed by the Parliament of the United Kingdom, to which was attached an Order in Council made by Her Majesty in Her Privy Council in England.

Mr. Deputy Speaker, it is still possible for the British Parliament to revoke the Constitution of Barbados. In strict jurisprudence that is still possible. Whilst it may not happen - knowing that it would not be the first time that Barbadians have had to take up arms against the British Crown - whilst it may not happen, yet I believe that national pride, sentiment and feeling requires that the Constitution of Barbados should be wholly implemented by our people. It is an inherent right of the sovereignty of Barbados that we should enact our own Constitution in the manner in which we want to. That is an inherent right, Sir. I believe that is why Commissioners were persuaded by the unanimous view expressed by the public of Barbados. We were persuaded, as the Cox Commission was persuaded, that the Order in Council should be replaced by a statute enacted by the people of Barbados in the people's Parliament and in the language which the people would approve. That is what is called patriation of the Constitution.

Asides.

Hon. Sir HENRY FORDE: Patriation of the Constitution is a very necessary matter. Canada did it in 1982. Australia did it in 1986 and no matter how much sentiment some other people may be feeling for the past association with the British and United Kingdom, the pride of this country demands that the Constitution comes home, right here, and this Parliament must take the opportunity to do that. I would hate to leave this Parliament without seeing that accomplished.

Asides.

Hon. Sir HENRY FORDE: Sir, one of the other matters to which we paid attention was the preamble. Mr. Deputy Speaker, a preamble is not generally considered essential in a Constitution but its role is to underscore the sense of national identity, to express the basic tenets, value and principles of the State and also to carry a nexus or link between periods of history. Some took the view that we should not have looked at the preamble but we interpreted our terms of reference as enabling us to examine all of the provisions of the Constitution including the preamble. In doing this, we sought the assistance of the public and had a competition, a very well subscribed competition, in which we then had a team, to whom we are grateful, who selected the best five of the submissions made to us. It was from those five that we ourselves have tried to fashion a preamble for the reformed Constitution of Barbados. That is set out at paragraph eight on pages 18 and 19 of the Report. I am not going to go through the preamble. Just let me say this, however, Sir, that no preamble, no matter how worthy, will satisfy every person. I think that we tried. I do not expect that this preamble may be accepted in its present form verbatim but I believe that it does contain the core values, the basic tenets, the principles that we would like to see enshrined in the preamble. It does make an effort to establish the historical link that is necessary and it has avoided one or two defects which are listed at paragraph 3.2 of our Report that appeared in the former preamble.

Let me hasten to say that none of the Commissioners had in mind, in any way to undermine the role which the drafter of the former preamble had performed. This was not approached in a partisan manner and I want to set at rest the minds of some people who have made these submissions for whatever reasons since then.

Sir, another important aspect that is vital for us is that the Constitution is the most important law in Barbados. It is the supreme law. All laws must be tested against the Constitution. Formerly, we subscribed to the view that Parliament was supreme and since we have had a written Constitution the legal position is that Parliament is only supreme within the context of the restrictions placed on Parliament within the Constitution. The doctrine of supremacy of Parliament has been amended so any law passed by Parliament can be tested to see whether that law accords with the fundamental law. We have to remind people daily of that. That test is done within the law courts of Barbados. Whatever laws we pass in here can come under the scrutiny of the courts of law to ensure that they accord with all the provisions of the Constitution but in particular with the fundamental rights provisions.

12:40 p.m.

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Continuation of Hon. Sir HENRY FORDE:

The Commission has recommended that that section in the Constitution should be strengthened, and that we should try to assist those persons who want to challenge provisions of the laws of Barbados and who have not got the resources to do so.

We do have, Mr. Deputy Speaker, some existing provisions, but our recommendation is to strengthen that to give the citizens a real locus standi, so that the citizens at large can feel that they can challenge a law passed by their Parliament if, bone fide, they believe that it affects them, and to allow classes of persons, organisations, NAOS and associations to have a standing in this respect as well.

Mr. Deputy Speaker, the next recommendation that I would like to speak on is something that is new for Barbados. There are some Constitutions that carry what is called Fundamental Principles and Responsibilities and Directive Principles of Government. You will see this particularly in the Irish Constitution, in the Constitution of Austria, in the Constitution of the unified Germany, in the Constitution of India. And these are broad principles which the State should strive to achieve. These principles are declared not to be enforceable or justiciable by the courts and because of that some people believe that they are mere pious hoaxes, and they are merely vote catching devices.

The Commission felt that it was appropriate in our context to use these precedents, because we believe that democratic countries like our own must place emphasis on and enshrine the fundamental rights of the citizens. But we must equally remind the citizens and the political directorate of the duties that rest on them as well. We believe that democracy could benefit from a direct emphasis on those duties by giving them recognition in a reformed Constitution, and that is why we have sought to state some of our responsibilities to our citizens.

We have recommended that the reformed Constitution should emphasise that it is a duty and responsibility of every person in Barbados to do the following:

Obey the law and abide by the Constitution and respect the ideals which is enshrines and the institutions which it establishes;

Exercise that person's fundamental rights the manner which respect the rights of others.

Cooperate with the lawful agencies of law and order. Respect the National Flag, the National Anthem, the National Pledge and all National Emblems.

Register for electoral and other lawful purposes. Defend the country and render national service whenever necessary.

Value and preserve the rich heritage of our Barbadian culture.

Create and maintain a clean and healthy environment and have compassion for living creatures.

Participate in the economic, political and social life of our country.

Strive towards excellence in all spheres of individual activity, so that the Nation constantly rises to higher levels of endeavour and achievement.

Promote harmony and a spirit of unity among all the people transcending religious, sectoral or racial diversities and abstain from practices derogatory to the dignity of the human person.

Mr. Deputy Speaker, I feel very proud of these recommendations under this Head and I do hope that Honourable Members, and the Government of the day, when we have finally come to a conclusion, would see the wisdom of adopting them. Time would not allow me to go show how they have been interpreted in other countries.

Likewise, we have stated some of the objectives of the State. Mr. Deputy Speaker, I want to focus on only one aspect of that, as other Members would wish to speak, Sir.

Recently we have had a good deal of discussion in our country about ensuring access to beaches of Barbados. The Commissioners took note of that, Sir, and the submissions made to us. The reformed Constitution of Barbados, if this recommendation is accepted by Parliament, will be the first constitution in the world, any part of the world, to have a constitutional provision stating as the duty and responsibility of the Government to ensure that the beaches are accessible to all and do not become the exclusive preserve of any one sector of the community.

Asides.

Hon. Sir HENRY FORDE: And, Sir, I am sure that would meet with the approval of all sides.

Mr. Deputy Speaker, Sir, we have also placed into this category, the necessity to protect the economic and social rights of the people, including the right to work; the right to health; to education; to public assistance in cases of extreme need. We have also placed in the responsibilities of the State, the responsibility to safeguard the basic needs and economic interest of the weaker sections of our community. I commend this section to the House and Honourable Members, and hope that it will be seriously considered by the people, and that the final Report and Bill would have provisions along this line.

The next important Chapter that I would like to advert to is that on citizenship. I am not going to be long on this, Sir. It is a very technical subject to deal with and we had the tremendous assistance of former Chief Immigration Officers and their staff and people knowledgeable in this field.

We are seeking to redress provisions in our Constitution that are discriminatory. Our present Constitution discriminates against persons on the basis of gender in relation to citizenship matters. So that we find at times that, for instance, children born outside of Barbados to a Barbadian mother who is married to a non-Barbadian do not achieve citizenship. If, however, the child was born out of wedlock to a Barbadian mother the child would be a citizen of Barbados. That is one of the areas of discrimination. We have tried to correct that and it occurs in other parts as well, Sir. So we want to remove gender discrimination from all the provisions and amend the Constitution to reflect this. We have tried to recognise that Barbadians travel the world over and acquire other citizenships, they are dual nationals. This is one principle that I have heard the late Right Excellent Errol Barrow at the

London Conference insisting on that he would do nothing to prevent dual citizenship. He said that he was sure that when the first man lands on the moon he would find a Barbadian there, and that if life was possible on the sun that a Barbadian would also be there. I think that is a trait of Barbadians and I believe that we should all subscribe to the view of dual citizenship.

Sir, in trying to seek to correct the anomaly which exists in our Constitution, we have to be conscious of the dangers as well. We realised that marriages of convenience, I am sure that the Right Honourable Member for St. Thomas will speak more on this, sham marriages have become a danger in our country and a nuisance, and therefore in amending the Constitution we also have to put in provisions in our laws that will not confer automatic citizenship on a person who enters into a sham marriage.

12:50 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Sir HENRY FORDE:

There are several precedents for this for those persons who may not completely understand the recommendation. I ask them to read the report but also to recognise that Canada and the United States of America, two of the democracies, have very strict provisions on this as our own Caribbean neighbour Antigua and Barbuda.

Mr. Deputy Speaker, I move onto the fundamental rights provisions, if I can speak until about 1:15 p.m. I will get to the place I really want to end this morning's session, Sir.

The Fundamental Rights Provisions or the Bill of Rights: Sir, Barbados on Independence thought it right to enshrine in our Constitution number of fundamental freedoms which had to be protected. They are not absolute freedoms. There are restrictions sometimes. We have had to provide restrictions on freedom because one's freedom can only be properly maintained if it respects the freedom of another person. Very often we have to say this to our citizens. There are times that you have to place some restrictions so that freedom is never absolute, but we took the Universal Declaration of Human Rights and well as the Covenant on Civil and Political Rights and the European Covenant to guide us in the 1966 Conference.

Sir, I will give the House the benefit of my experience. Chapter III of the Constitution took a considerable amount of the time of the Conference. We went into the late night and early morning in dealing with that Chapter to get it as right as we possibly could. In particular, I remember the outstanding work of our Professor Sir Roy Marshall, Professor Keith Patchett, the Honourable Philip Greaves, the late Right Honourable Tom Adams, the late Sir Erskine Ward, the late Sir "Jack" Dear, the Honourable Member for Christ Church South, myself and various people from the Colonial office, how hard we worked together in order to make sure that the fundamental rights provisions did not omit any safeguard that was necessary.

That is not to say that they were perfect, and they are not perfect, as we have pointed out in the report of the Constitution Review Commission. What we have sought to do in our recommendations, Sir, is to correct some of the mistakes that have been made in those provisions.

For instance, we are seeking now to enshrine gender rights. The clause dealing with discrimination does not mention discrimination on the basis of sex and we are recommending a change in that, Sir. It is significant as well that we omitted to mention, within the Constitution although it is in our other legislation, the right to vote.

The right to vote is such a fundamental right that we have recommended that the right to vote be now enshrined in the Constitution itself and we have sought as well to widen the mechanisms for protection. I know the Honourable Member for St. Joseph is very interested in this subject. We have sought in our recommendations to show how we can widen the mechanisms for protection, because it is no point having the right if you have not got the means or the ways of enforcing that right and we have sought in our recommendations to deal with the enforcement of the right and to ensure that right.

I want to just make three comments under this section, Sir. The first is the one that relates to the Ombudsman. The Ombudsman Act came out of the Cox Commission. The Ombudsman, once his task is carried out within the confines of the law, has a very important role to perform in strengthening fundamental rights and seeing that the fundamental rights of citizens are enforced.

The Commissioners believe, Sir, that it would be appropriate to raise the profile of the institution and enhance its authority and prestige by giving it constitutional status and we have made that recommendation.

Asides.

Hon. Sir HENRY FORDE: We have made that recommendation very seriously, Sir, because other countries that have adopted the institution of Parliamentary Commissioner or Ombudsman have found that they have performed outstandingly and maybe our experience is too recent for us to fully appreciate the role which such an institution can play. I believe that Members of the House in considering the matter must take a long term view. We are passionate about something that is going to last us for a very long time and we must see ourselves as the makers of history in this regard. That is one of the reasons why I seriously suggest that we use the experience we have had, put it together with the experience of others, look to where we want to go to the future and use the mechanisms that are easily available.

Mr. Deputy Speaker, one of the blocks that people adverted to on the Fundamental Rights Provisions relates to the existing law clause. Let me explain that very simply, Sir. Any written law passed before 30th November 1966 was kept in full force by section 26 of our Constitution even if that Act was contrary to the basic rights or fundamental rights of people.

The reason for that is that it was represented at the Conference that there are so many laws that had to be examined. We are now some 33 to 34 years on in Independence and those laws still remain. I believe, Sir, that the time has come to repeal the existing law clause and that was the view of the majority of the Commissioners, although one of our members felt that the administration should be given a second chance of three to six years to allow a phasing out of that provision.

It is a massive task, but in Belize where there is no such provision, it has been done and as the laws

have come up they have been challenged and dealt with in that manner. Probably the time has come for us therefore to deal with it on that basis.

The other provision, Sir, is the torture provision which is Chapter III 15(1). This report did not deal with the burning issue of capital punishment, Sir, but I should draw to the attention of Members, the recommendation at section 3:3 and since the report has been written, those of us who have had the task of putting into draft legislation that report, have done so against the background as not to affect existing punishments. So that I wish the House to be conscious of the fact that the draft Bill, the third version of the Bill has used a form of words to preserve existing punishments. And that the recommendation at section 7.33 was not interpreted by the Commissioners as a recommendation to abolish capital punishment without further discussion of that matter.

Sir, I wanted to make that clear. I did not want the debate to go ahead on the assumption that the Commissioners had gone deeply into this question to have given a final recommendation on the issue of capital punishment.

Sir, that brings me on the Head of State and I think I can deal with that issue before we break for lunch.

1:00 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Sir HENRY FORDE:

Sir, this chapter of the Head of State has excited the most public discussion since the Report was published. This has been the chapter in which people have asked: why do we wish to change from having Her Majesty the Queen of England as our Head of State? They said it has worked well, leave it and because we have recommended the change, other persons have said why do we want to become a Republic? What is there to be gained from being a Republic?

Mr. Deputy Speaker, let me say that the change which we have recommended does not in any way undermine the parliamentary form of government which we have. It does not undermine the independence of the judiciary. It does not undermine the core values of which I spoke earlier. It does not undermine the basic and fundamental freedoms in our Constitution, but it does emphasise the fact that for younger Barbadians in particular and for a lot of the older ones too who have savoured our independence, we are now confident of ourselves and emotionally strong enough to recognise, from our history and from the way in which we have managed ourselves to have become a model in the world, that the Head of State of Barbados should be a Barbadian.

My son – he is now 12 - he was just over 10 at the time when he heard the discussion, asked me whether Her Majesty carried a Barbados passport and I said no, she did not. He said “Is she a citizen of Barbados?” I said, “No, she is not.” He said: “Well how then can she be the Head of State of Barbados?” That is the question. I am going to put it in simple terms. I could not understand it, as one of the people who helped and assisted at the formation of the Constitution, that when the first breach with Britain came there would have been the sentimentality and the fear and the concern. I do not know

of any self-respecting nation who would say that their Head of State must not be a citizen of their country. If you tell the United States of America (USA) today that their President can be chosen from England or from Barbados, you would believe it is a different world. If today you were to suggest to Britain that, instead of going by the hereditary principle within the Commonwealth, they should have a principle of rotation and that the Queen of England or the King of England should be chosen from a Commonwealth country, you would not hear the end of that.

We must understand that we are proud and firm craftsmen of our fate and of our destiny. The case for a change is supported very strongly by the points made at paragraph 41 and following of our Constitution Report. We do this without any disrespect at all to Her Majesty the Queen.

Sir, if I may quickly give the arguments for change, since there are still some people who are not convinced that there is a need for a change from our monarchical system of government, some who contend that in reforming we must be careful not to fix anything unless we could find that the provisions are broken, and those who argued for retention of the monarchy said that it is an unseen and benign hand which has guided colonies and member state of the Commonwealth through the decades. In relation to independent countries, they said it has presided over their destiny without intervention in the internal or external affairs, that the Crown has a reserve role and that the Crown can act as a final check on political excesses by using her power to advise on the timing or the propriety of the request by the Government for dissolution of Parliament, that those powers vested in Her Majesty are the essential bulwarks of the citizens freedom under the law.

Sir, for those of us like the Commissioners, this was a unanimous recommendation and it was the unanimous view of the political parties as well, and there were probably only two or three people who appeared before us who made a case for retention of the monarchy. As a matter of fact, there was one Barbadian who said that Barbados should have its own monarch and that he was the ideal person to be appointed as the first king. Sir, he said that although he was of a Caucasian feature his bride to be was of mixed race and that he was the ideal person to become the first king of Barbados. He wants the kingship, Sir.

Asides.

Hon. Sir HENRY FORDE: Sir, the arguments in favour of the change are that the Commissioners felt that the office of Head of State should be obtained on merit and not by birthright, that although the Queen of England is much respected and is Head of the Commonwealth, she is not a citizen of any other country than Britain, and that it is right that the Head of State of Barbados should be a citizen by birth or descent, who lives in the country, has first allegiance to the country and reflects and understand the values we hold as a people.

The Commissioners also felt that the monarchy even in Britain is seen as sustaining certain notions of snobbishness and a social hierarchy that is not part of Barbados. That is the reality.

Sir, I have not got the time but I will commend to Members to read the recently published book 'Constitutional Reform', by Robert Blackburn and Raymond Plant - "The Labour Government's Constitutional Reform Agenda" which was written by well-recognised political scientists dealing with the whole issue of monarchy. Sir, even within Britain itself there is a call for reform of the monarchy

so that I say there is a growing fervour for change and that the recommendations of the Commission are independent.

There are some who have asked for a referendum on this issue. The Cox's 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 this is the situation. Instead, we are suggesting that we maintain a parliamentary system of government in which the Head of State will be a President or a ceremonial President although not exclusively a ceremonial President. That is exactly what our recommendation is.

We did not go for an elected President as there is in the United States of America (USA), Guyana or elsewhere, a President elected directly by the people.

1:10 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Sir HENRY FORDE:

But we have recommended instead that the election be by both Houses of Parliament and that in the first instance the Leader of the Opposition and the Prime Minister should try jointly to agree on the person. There is no difficulty about that on a non-partisan basis. It is only in the unlikely event that there is a disagreement then the House and Senate as a unicameral body will be called on to vote. I am conscious of the statement that in the long run if the Government has the majority of Members in the House it will be a Government matter. I do not believe that it will ever come to that, Sir, because of the fact that it is not usual when you add the Senate together for the Government to be predominating in that way. I believe that we have shown common sense in the manner in which we have approached this task.

Mr. Deputy Speaker, I have not got time to go through the other recommendations under this head, but I commend them to the Honourable House. I hope to be shorter on the resumption in relation to the other provisions that are in this Report, Sir.

SUSPENSION

HON. D. A. C. SIMMONS: Mr. Deputy Speaker, the Honourable Member has not finished his presentation and I move that this House be now suspended until 2:15 p.m. today for lunch after which the Honourable Member can resume and conclude his speech.

HON. R. N. GREENIDGE: 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 and Mr. DEPUTY SPEAKER suspended the House accordingly.

1:13 p.m.

RESUMPTION

Mr. DEPUTY SPEAKER: This House is in session. This session is resumed. The Honourable Member for Christ Church West.

Hon. Sir HENRY FORDE: Mr. Deputy Speaker, before the House was suspended, I was about to complete my submissions on the Head of State. There are two other matters to which I should advert under Head of State and I think that the record of the House should reflect the fact that since independence we have been well served by the six Governors-General that have occupied that high office. Of these, five have been natives of Barbados and I believe that their outstanding performance is a strong argument supporting the recommendations of the Commission for having as the Head of State of Barbados a native of Barbados and a citizen of Barbados. That was a very forceful argument placed before the Commission by those who gave evidence before us and by the political parties themselves.

The second point that I wish to make under this Head is that the Commission took note of the impeachment proceedings which were being carried on under the republican system of Government in the United States. We also in making recommendations in relation to the Office of President have provided for his immunity whilst in office, because we see how easy it can be for affairs of state to be brought to a halt or to be adversely affected by frivolous proceedings either of a civil or criminal nature whilst the President remains in office. Those events were timely in helping us to formulate our recommendations to the House and to the Governor-General.

The next major Head on which I would like to address this House relates to the role and function of Parliament. Let me remind Honourable Members that the Constitutional Conference of 1966 showed no division between the political parties in having a bicameral Parliament. That is why the present Constitution reflects this House of Assembly and the Senate together with Her Majesty as being the arms of Parliament and the bodies who make the laws of this country.

We had submissions before us particularly from one strong and vocal Member of this House that maybe we should restructure the whole parliamentary system in such a way as to reflect a unicameral Parliament which was wider numerically and possibly cast its net as well to accommodate wider vested interests. Attractive as that idea was, unfortunately it did not meet favour with the mass of representations made to us whether orally or in writing or indeed with our own concept of the historical development of parliamentary institutions in Barbados.

The Commission felt that there is a continuing role for a second chamber to play and, having regard to the size and history of the country, such a chamber could be an effective method of involving people in participation in parliamentary life. It satisfied one of our terms of reference for wider participation in the governance of the country as a whole.

Mr. Deputy Speaker, there had always been an outstanding question in relation to the Senate. That question came over from the disagreement between the two main political parties at the Lancaster House Conference. It is reported in a report of the Barbados Constitutional Conference 1966 at page 4:

“The Opposition Parties consider that the Senate should be so composed that the Government will be unable to secure an amendment of an entrenched provision of the Constitution without the support of at least part of the Opposition.”

They also proposed that a Senator nominated by the Governor-General to represent special interests should be obliged to vacate his seat if he accepted the writ of a political party. The view of the Government of Barbados was that to accept the Opposition’s proposal for the composition of the Senate might mean that the Opposition Senators will exert an influence on important issues out of proportion to the representation of the Opposition in the House of Assembly. This was not acceptable to the Government. In the absence of agreement, the Chairman ruled that since the provisions of the draft Constitution reflected the position of the existing Constitution they should remain, and pointed out that it was open to any Government after Independence to amend the relevant provisions if they so wished.

2:25 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Sir HENRY FORDE:

Both Opposition parties asked that their objection to the draft on this point should be recorded.

Mr. Deputy Speaker, experience has shown us that it is virtually impracticable for the main Opposition party in the Senate to be adequately serviced by only two Senators. Those who have had to carry the task have carried it manfully.

Let me say that if you have to monitor the work of several Ministries and truly represent your political party’s views and the country as a whole as an Opposition Senator, it is a very difficult task to be performed by two in the Senate.

Aside.

Hon. Sir HENRY FORDE: The Honourable Member for St. Lucy said we have two but the reality is that the selection of the Senate is not in the same way as election in the House.

Aside.

Hon. Sir HENRY FORDE: The Honourable Prime Minister sotto voce wants to know whether two unelected members are better than two elected members. I will not be diverted by that comment, Sir.

I think a case can be made out and in fact has been made out by all of the political parties who appeared before us, as well as the public, for increasing the number of Opposition Senators in the Senate and for allowing the number of Senators in the Senate to reflect more accurately what has happened in an election.

Where there are three political parties, for instance, it is possible under the recommendations made by the Commission for the third political party to have some representation in the Senate. There has been a

recommendation to maintain the representation of special interests although reducing those to three.

Now, Sir, the other role of the Senate which came in for much discussion in the public domain was the feeling that the Senate is starved of powers in relation to money resolutions. Now, Sir, the constitutional theory which we accepted from Westminster contended that money matters should be matters essentially for the people's representatives elected directly by the people. That is the case. That is reflected, as can be heard from the voice of the Honourable Member for the City in the aphorism, "No taxation without representation."

Mr. Deputy Speaker, the reality is that any Bill which places a levy or charge by way of tax on the public has to have the approval in the Senate as well. There is taxation through the Senate because it is considered part of the whole process. The Senate does participate to a limited extent in Bills dealing with the imposition of taxation and of taxes. The exception of money resolutions is the sole exception.

It was felt by the majority of persons who appeared before us that if we are to widen participation, the country can benefit from money resolutions going before the Senate for debate although not in such a way as to frustrate the Government having enough supplies in order to run the country. That is an area, I am sure, we will hear persons who have held the Ministry of Finance speak on.

I can say, speaking for myself, that I see no damage done to the power of the people over taxation by allowing the Senate to express their views on resolutions before those resolutions come in a final appropriation bill.

I am asked by an Honourable Member what was the argument for the Senate. I have already said we felt it came within that term of our terms of reference which enabled a larger number of people to participate directly and indirectly in the governance of the country. Now there is not only one way in which a citizen can participate in Government.

It was a mistake to assume that you can only participate by direct election. There are many other forms of participation and it does not harm democracy. It does not harm the parliamentary institution. In fact, it strengthens it. The more people we can have who have a say in how the country is governed the better, provided, of course, the ultimate power resides in the people through the people's representatives. I think that is one of the reasons for the continuation of the Senate and the other is historical.

Mr. Deputy Speaker, I am an unrepentant believer that one has to take the best of one's history and use it as a continuity. I believe we have always had two Chambers in Barbados, most of the over 300 years that we have been here as a country. Although the Legislative Council, as it first was, did not reflect adequately the composition, particularly the racial composition of the country as a whole, yet in time it has come to be a significant institution whether called under the name of Legislative Council or Senate. That was the feeling of most of the people who came before us and that there was no danger in keeping to the party system.

Now, it is true that there are in some of our smaller Caribbean neighbours unicameral legislatures which are composed of elected members and nominated members, given the size of their Chambers. We did not feel that a strong case was made before us for the abolition of the two Chamber system in

Barbados.

Now, Sir, under the Parliament of Barbados, one of the other significant recommendations we made relates to the role of parliamentary committees. There is no doubt, Mr. Deputy Speaker, that parliamentary committees have not functioned adequately - or at all, I am being told - within our parliamentary system.

There is obviously a tremendous role which the committee system can play. Experience overseas in the United Kingdom, in India, in Australia, in New Zealand, in other countries has shown us that parliamentary committees can be watchdogs of the public's interest. They can also help to improve the legislative system and legislative measures. There is no reason why we should not make resources available to parliamentary committees to achieve that objective. It arises as a matter because, in our view, the most important committee is the Public Accounts Committee. We feel that the Public Accounts Committee, in particular, can be made to function even more efficiently than at present.

I think the Right Honourable Member for St. Peter says it is not a constitutional matter. There are several matters on which we have made recommendations that do not directly call for constitutional provision within the Constitution itself but they are related to the Constitution and sufficiently close thereto that we have had to make recommendations on them.

2:35 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Sir HENRY FORDE:

In this case, the recommendation which we make is for providing sufficient funds to enable the committee system to function adequately.

The other area of concern related to the electoral system and one of the questions which we were asked is whether the first past the post system should be maintained. There is a majority report that it should be. However, I should draw Honourable Members' attention to the minority report expressed by the late Mr. Wendell McClean in which he felt that we needed a provision to allow at least part of the Senate to reflect a proportional system of representation.

I do not believe that any one country would be unanimous on the issue of whether there should be an electoral system of just winner take all, first past the post, or proportional representation. The case for proportional representation is that the vote of each individual is given greater equality and greater weight and the appropriate weight in a proportional representation system than it is in a single member, first past the post system.

Certainly, when I came out of law school, having sat at the feet of Professor Wade, I would have preached that doctrine as possible but let me say that one has to be deeply conscious of the size of the community in which we are operating and there have been governments that have had less percentage of the votes than those who might be in the minority but there has always been a balance. We have not suffered from the difficulties that confront proportional representation in countries such as Italy, in

particular, constant changes of government and weakness in the exercise of power. Nor have we suffered from the difficulties confronting New Zealand who have been experimenting with the system and are now no doubt looking at it to see whether they have not erred on the question having regard to the size of New Zealand and the confusion that has come from forming a government on a proportional representation basis. We heard all of the arguments, and within our own region the example of our sister country, Guyana, also is one that does not give us a precedent and we would have hoped that they can deal with the special problems that are in Guyana. I know that they have had the benefit of our Report and they have had the benefit of the expertise of one of our Commissioners, the Honourable Mr. Maurice King, and to a lesser extent of myself when we formed the Committee that looked at the Herdmanston Accord. I do hope that our recommendation on this will find favour with the House and with the country at large.

Mr. Deputy Speaker, the other major recommendation which we thought should be in the Constitution relates to a parliamentary integrity commission. That has been a very sore subject within our own Party. I am seeing in the newspapers that it was first raised by the third political party in this country but people forget when in the 1976 Manifesto of the Barbados Labour Party the establishment of a Parliamentary Integrity Commission was called for and I think it was a view that was expressed on the public platform by the present Opposition Party as well during the debate of the 1966 Constitution.

It is felt that such a Commission - in fact, legislation has come and has been passed by this House, not by the Senate, to establish such a Commission; the legislation met an untimely death in the Senate where it was sent to a committee back in the early 80s and never got out of the committee stage - Mr. Deputy Speaker, the Commissioners genuinely felt that we can improve our system of government and can improve the confidence that we should have in our politicians in particular by the establishment of such a commission.

I would be less than candid if I did not say that several persons who came before us showed a growing lack of faith and confidence in politicians and the political process. In some of them there is almost a cynicism. Speaking for myself, I do not believe that it is well founded. I believe that Barbados has been well served by politicians, particularly in the period since we have widened representation of the people by its politicians. The country must reflect on the fact that between the period of the 1940s and the 1990s the achievement of Barbados has been at a tremendous rate when power has been devolved directly to the people's representatives and to a wider section of people rather than as it was before.

Sometimes we politicians do not take the credit for what we have done in the Barbados that is here today and particularly in the last 50 years. I want to emphasise that the evidence before us showed that the cost of Government has not been a heavy cost if you look at the pay. If you look at the conditions of service of those people who serve Parliament, although politicians when we are vying for power give people the impression that we are the raiders of the Treasury, the truth is that it is not so. The cost of civil governance is a minor proportion of the GDP, the Gross Domestic Product of the country of this Parliament, of the Senate, and this should be emphasised.

There is that impression and it is necessary therefore in the interests of the country to give the facts and correct the impression and wherever possible to put the politician beyond suspicion. The feeling of the majority of the people who came before us was that an integrity commission could assist in this

regard.

One of the controversial measures that came before us is crossing the Floor. That came in the context particularly of persons who have moved from one political party to another. The recommendation [of those who came before us] was that if you cross the Floor you should be called on to resign your seat and try again. The Commission rejected that recommendation and I think rightly so. I do not believe that any party has suffered more from people crossing the Floor than the Barbados Labour Party has suffered. Certainly, Sir, when I was Leader of the Opposition I have seen the reverse because of the crossing the Floor and a new party coming into being.

Sir, the electorate has a way of putting those things right. I believe the Commission had its head on when we recommended to leave that matter open.

One of the other controversial submissions made to us was the right of recall, that the electorate in any constituency should have a right to recall its elected member. It was modified by Commissioner McClean by saying not within the first year or not within the last year of a session but you can recall them in between.

There was a pretty strong vocal minority urging the right of recall.

2:45 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Sir HENRY FORDE:

The Commissioners examined very carefully the precedents that exist within the Commonwealth and outside of the Commonwealth particularly in United States and Canada for this right of recall. The evidence showed to us that it was not widespread, it was a very limited provision in a couple of states in the United States and even in a couple of provinces in Canada where this had been legislated; very seldom was it used and in one province it was declared unconstitutional. There was not a case laid out adequately for us for the right of recall. Hence, that was rejected.

Mr. Deputy Speaker, the other new recommendation which appears in our Report relates to a procedure which is called 'People's Initiatives', some form of popular initiative which provides the electorate with an opportunity of a direct method of access to the legislative process. In short, that at the time of a general election, it is possible for a certain number of people to put forward a proposition which is accepted, is brought before Parliament by the incoming administration of the day and is voted on without the whips being on - a free vote. We were persuaded that this allows for wider and deeper participation of citizens in the democratic process and in the precedents which we saw we came to the conclusion that it had worked satisfactorily and it would be a boost, in our view, to democracy to introduce such a procedure in Barbados.

Mr. Deputy Speaker, the area of local government - the Commission took detailed evidence on this subject both from some of the past practitioners who had served under the local government system and we had research done for us including research by a former Local Government Commissioner, I think it

was the last local Government Commissioner, as well as by a historian and others and we came to the view that to reintroduce local government was not necessary in the form in which it had functioned in Barbados. I would wish at some stage that the paper of the consultants and the research work be made available to Members because the conclusion was that it added to the cost of Government without necessarily increasing the efficiency of Government. I know we have in this House someone who has tremendous experience in this field and may think differently but what we felt needed to be done is that the present statutory enterprises and corporations should be widened, that a wider number of people should participate in those exercises, that school boards for instance should be encouraged in every school, that health committees should be there in which the wider public could participate, that the community centres should be manned by citizens of their own community, that there should be an increase of citizens advice bureaux. We felt that those were ways of involving people in the day to day Government and in the actual participation in their communities without carrying the burden of spending a lot of money on local government.

Mr. Deputy Speaker, I move on to political parties because the parliamentary system depends very strongly on the existence of at least two strong political parties, if not more. We came to the conclusion that political parties are facing a myriad of problems today. They are facing the problems of financing and funding, they are facing the problems of decline in leadership in memberships, they are facing the problems in the relationship between Opposition parties and parties in Government. The nature of political parties is such that until we reach the stage of maturity we will be antagonistic on almost every area of public life. The Commission felt that we should do everything in our power to strengthen the political parties which bare a bulwark of democracy and particularly in ensuring that within their own framework, they cater to a wider number of people, include more women in the administration of the party, in the high offices of the party, in ministerial office as well and in ensuring that the parties are properly funded.

Mr. Deputy Speaker, this debate would not allow me to go into that subject in any detail. Let me say, speaking for myself, that I have a tremendous concern about the popular view that the public at large through legitimate and transparent processes should not help fund the political parties.

I have grave concerns about the problems in democracy including the United States of the funding of political parties where corporate and other persons can exercise undue influence in their own self-interest by helping to finance the political parties particularly at times of election and expect a payback day. If the public is so anxious to have civil governance conducted at a high level; then for the extra cost of helping to fund the political parties, as happens in Canada and is happening increasingly in the United Kingdom and as will happen increasingly in the United States, the public must face reality because it is a small price to pay for the maintenance of a higher quality of civil governance.

Hence, you will see that we recommend that the political parties should be recognised. There is legislation in the United Kingdom and elsewhere and it is a matter that we believe the political parties should get together on and come with appropriate legislation dealing with the registering of political parties.

Mr. Deputy Speaker, we have come a long way in Barbados in providing some funding but it is a difficult task. I had the privilege of leading a party that was decimated after an election with very few of us, resources almost down to rock bottom and having to build it back, not in the interest of giving the

individuals power but in the interest of maintaining the democratic system.

Therefore, I can speak from the perspective not of an academic but a practitioner and I know how difficult it is to be in an Opposition party carrying out the rightful role without adequate financial resources when sometimes you cannot even pay the maid who is helping you. Yet we are expected to maintain and carry democracy on our shoulders and bear the brunt of criticism whenever anything is wrong in the public domain. I believe that I must take this opportunity speaking in my own right to emphasis to the public of Barbados that they must become more rational in this area. Read wider and get rid of the view that is so easily spread abroad that it is the politicians who are making a lot of money and costing the country. I believe that if any of us were in here paid as executives are paid in small companies, the country would not have been overpaying us. I believe that we produce more, along with the civil service, by running the Government of the country than some of the people that I see are paid otherwise. I am not putting a case for an increase in parliamentary salaries but I am putting a case for an increase in funding of the political parties that form the bulwark of Government and that have made a tremendous contribution to the development of Barbados and to the widening of the social and economic benefits that have flowed to Barbados. Sir, I am glad about that recommendation.

Mr. Deputy Speaker, I move to the Executive. The main concern expressed by the majority of people who came before the Commission to offer their view on the topic of the executive was in relation to the perception that the present Constitution concentrates excessive power in the hands of the holder of the office of Prime Minister. Sir, I have never had the privilege although I did have the opportunity to become Prime Minister, an opportunity that never ...

Asides.

Hon. Sir HENRY FORDE: My friend, the Honourable Member for St. Lucy does not recall it. I hate myself sometimes to recall that I lost the opportunity but I am humble enough to realise that that is a matter that resides in the hands of the people.

2:55 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Sir HENRY FORDE:

In my view, Sir, we looked at this matter, not with looking at any particular Prime Minister, but looking at the whole area of the distribution of power in the Constitution, and we made certain recommendations, recommendations which may not meet with acceptance by every Member in this House. But I believe that those recommendations on page 58 are worth being considered seriously, Sir.

There is one recommendation that I believe most Members of the House may accept, and that relates to the tenure of the office of Prime Minister. If a Government comes into the House and a vote of no confidence is passed on the Prime Minister, then we believe that once that vote of no confidence has been passed, that the power under section 66(2) (A Dissolution) where the Prime Minister can remain in office, that should not be allowed.

In those instances there should be an opportunity for the President or the Governor-General, as the case maybe, looking to see whether there is an alternative. No doubt they will look to the majority, whom the majority supports, and if not, within seven days or the appropriate time the House should be dissolved and an election called.

Mr. Deputy Speaker, I believe that the experience that we have had led us to believe that there is need for some modification in this regard in the constitutional provisions that exist, I believe in section 66, and we have made that appropriate recommendation. We feel that, in those circumstances, a Prime Minister should not be able to dissolve the House automatically.

Sir, the Report is replete with many cases where we have recommended that there should be a reduction, I think that is too strong a word, in some of the powers which are possessed by the Prime Minister, that he should share some of that power. For instance, there are some areas where the Governor General must act on the advice of the Prime Minister; some areas where he acts on the advice of the recommendation of the Prime Minister after the Prime Minister has consulted with the Leader of the Opposition or various other parties; there are some instances where he acts on his own, the Governor-General, after he himself has consulted with the Prime Minister. These relate, principally, to appointments to the Services Commissions. They relate to the transfer and movement of officers in the foreign and other services; they relate to the removal of Ministers of Government; the appointment of Members of the Senate; the dissolution of Parliament; the appointment of a Governor-General's Deputy. The provisions vary but these are some of the subjects covered. The main thrust of the Report is that wherever it is possible without undermining the effective elective power that we should examine, seriously, the need for a sharing of power once it did no fundamental harm to weakening the system of Government in Barbados. Hence, some of the recommendations that we have made under the Executive.

There is one other recommendation that I must advert to, that I am sure once again this House will not find the unanimity on, but I believe that the experience in some Commonwealth countries, particularly Trinidad and Tobago where it exists, has shown that it has contributed to the better running of the Parliament and the better running of the House. That is what is called ministerial cross-overs.

In Trinidad and Tobago, it is possible for a Minister of Government who is in the House to go and speak in the Senate on a matter on which the Senate may ask him to speak or a subject coming within his portfolio. Likewise there is also a provision for a Minister in the Senate to do the same. The danger of such a provision is pointed out in the Report. The danger is that because some of our constitutional provisions are entrenched, particularly those relating to basic human rights, the role of the independence of the judiciary et cetera, if a Minister can leave his seat in either House and go in the other House and, not only speak but vote, then that can upset the constitutional balance, particularly, in relation to entrenched clauses. Although we have recommended that the cross over should be allowed, we said that it should not be allowed in such a way that the Minister can vote on the measure in either House. I believe that is worth consideration. I do not think that it should be rejected out of hand. I think that this is one for the role of the Attorney General. The Attorney General, in many respects is a special Minister, in that he is the advisor in the Parliament as a whole and he can only exercise that properly, in my view, if the Parliament, the House below and Senate above, can come to him and he can come to them as circumstances develop.

Mr. Deputy Speaker, Sir, I am going to deal very quickly with three other matters, since the recommendations are there. The Judicature. We came to the conclusion, Mr. Deputy Speaker, Sir, that from the evidence before us and the submissions by experts, plus the evidence that we heard from the public, the current constitutional provisions governing the Judicature are largely adequate to meet the evolving needs of a democratic State of Barbados. Barbados has been fortunate in that we have had, to my knowledge and to the Commission's knowledge, no instance of our judicial officers, whether at the level of the Judges or at the level of the Magistrates, in corruption, scandal or anything of the sort. Yes, there have been complaints about delays in judgements. There are those sort of complaints and they can be dealt with in our view, not necessarily by amending the Constitution but by amending the Supreme Court of Judicature Act, as they have done in Canada and elsewhere.

The major representation made to us on the Judiciary related to the manner in which Judges are appointed. And this brings before us, again, the position of the 1974 Amendments. Prior to 1974, the Chief Justice was appointed by the Governor-General, I believe on the recommendation of the Prime Minister after consultation with the Leader of the Opposition. All other Judges were appointed by the Governor-General on the recommendation of the Judicial and Legal Service Commission. That position was revised by the 1974 Amendments [when the same system was applied to the other judges as to the Chief Justice].

In the Commission's view, the public at large still believe that we should revert to that system. I know that politicians would say that this is weakening the office. Why do you not have trust in the politician? But it, in our view, does no harm to political office. One of the other alternatives we have suggested is that the area of the selection of the Judiciary is an area in which the selection should be based on, as wide as possible, non-partisan considerations.

3:05 p.m.

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Continuation of Hon. Sir HENRY FORDE:

We have been fortunate in Barbados in that persons have gone to the Bench who have served in both political parties and there has been no difficulty about that. But wherever possible the independence of the judiciary is one that we would all wish to maintain and to buttress, particularly since they play such an important part in the maintenance of our Constitution and in the maintenance of law and order in our country.

I cannot in this debate go over all of the recommendations under this Head. I just want to talk on the Magistracy ...

Asides.

Hon. Sir HENRY FORDE: Yes. We feel that the Magistracy performs the bulk of the judicial work in the country and it performs it at a level that is nearer to the man in the street, the public at large. Therefore, it needs the appropriate constitutional recognition, protection and status and although the Commission was not able to go into particular details, we believe that our recommendation under this

Head is helpful and that there is need for further study as to how we can effect the objectives set out in this Commission and under this Head primarily.

The Judicial Committee of the Privy Council. Mr. Deputy Speaker, let me say without hesitation, all persons who came before us as far as I know, I cannot remember a dissenting voice if there was one, there may be one or two, but those who came before us recommended that we should abolish appeals to the Privy Council.

Asides.

Hon. Sir HENRY FORDE: They believe that the Nation Barbados does not have to look outside of itself or the Caribbean in order to have judges who are not conversant with our systems and our cultures to be the ultimate arbitrators between our citizens and everyone else.

Sir, I have always believed that. In fact the first Committee in the Caribbean that was set up back in the 1960s, I think both myself and Mr. Norman Hill who was a Jamaican Lawyer, we appeared before it and helped with its work and its research, the Wooding Commission. Since 1960 this has been so. The Labour Party in the London Conference was deeply conscious of the need to have our own Court of Appeal.

One of the best experiences that we had in the federal exercise was the Federal Court of Appeal. I do not subscribe to those doubters who believe that justice could only be pure and dispensed if it is dispensed by an Englishman sitting in the Privy Council. I have appeared before the Privy Council. I do not believe, in fact I say that they are no brighter, no smarter, no more honest than our people here in the Caribbean.

Asides.

Hon. Sir HENRY FORDE: I strongly hope that the recommendation will be accepted. In fact the public at large says that if Barbados cannot get a Caribbean Court of Justice functioning within - the people said two years - we should rely on our own Court of Appeal. That is the confidence which 'the man in the street' has in his judiciary in this country. We do not believe that we have to look outside of our shores for that.

Mr. Deputy Speaker, the Public Service. There have been several recommendations that have been made on the Public Service. The main area of concern again related to the need to eliminate political influence and interference in the public service relating to matters of appointment, removal and discipline of officers.

Sir, we heard a lot of evidence in camera on some of these matters and representations were made to us. There is the perception that as long as we have the 1974 Amendments Ministers and politicians will be pressurised by their supporters to bring them in through the non established staff route.

Asides.

Hon. Sir HENRY FORDE: That is the position. Sir, I was happy to see this House take the

decision to minimise the number of unestablished staff posts and to establish staff so that in the future that danger will be minimised. I believe as well that some of the recommendations made in Chapter 12 of our Report ought to be followed. I certainly strongly recommend that the Fire Service, the Police Service and the Prisons Service should come under one Commission just as there is in Trinidad & Tobago, the Protective Services Commission.

We also recommended as Cox did before us that the Teaching Service Commission should be promulgated and activated and we also have recommended some changes in the manner of appointing the Public Service Commissioners and in the manner of appointing the other Commissions, so that it would be non-partisan as far as we possibly could approach, the appointments of people in these posts.

Mr. Deputy Speaker, I have gone on longer than I expected I would have spoken. No doubt, I will get an opportunity, if the House so feels, to respond from time to time to be able to clarify some of our recommendations but I do not want to minimise treatment of the chapter on Finance, Sir. Some of the recommendations which we have made under this Chapter, have already been implemented by amendments to the Financial Administration and Audit Act, Chapter 5. In fact we were told while we were hearing evidence that the Ministry was already giving consideration to some of these matters which have been brought to our attention.

I still believe that more can be done in the recommendations which we set out at pages 85 and 86 to strengthen the Auditor General in his role and his independence so that he is truly independent, to ensure that the Auditor General's reports come to Parliament, to ensure that if he is short of resources in order to carry out his task in relation to the audit of the funds of the country or in relation to ensuring that we get value-for-money audits, he should be able to make representation and come before this Parliament or a Committee of this Parliament, which would be able to examine his recommendations and decide whether or not he should be provided with additional funds.

We also saw a strong case being made for a wider control by the Auditor General in auditing Statutory Boards. Most legislation provides for that but we believe that more can be done in this regard and our specific recommendations are contained in paragraphs 13.19 to 13.33 of this Report.

Mr. Deputy Speaker, from any such exercise there will be the need for transitory provisions. We adverted to those and we have urged that if our recommendations are accepted a special task force be set up to analyse existing statutory provisions to ensure that they are brought into conformity with the Reformed Constitution and in particular with the fundamental right provisions therein.

We have said that provision should be made for succession to the prerogatives which now vest in the Crown. There are no proper analyses of those prerogatives but there are important prerogatives and we believe that Barbados will be perhaps the first country coming out of the Westminster form of Government to have done such a study, although I have noticed in England that now they are thinking of a written Constitution, a lot of their academic writers are paying attention to these prerogative powers. Nobody seems to know how wide and expansive they are within the system and nobody has really analysed their usefulness in recent years.

3:15 p.m.

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Continuation of Hon. Sir HENRY FORDE:

We also believe that we will have to ensure succession to the assets and the rights which will now be vested in the State of Barbados. I saw some criticisms being made of our recommendations to go to a republican form of government which say that we will be called a Republic of Barbados. There is no such suggestion.

The draft reformed Constitution which is available for members to see is not a final draft and it has not been finally settled by those of us who are willing to continue as a committee to work on it. It merely said that Barbados is a democratic state. I think that is what the provision is. We are called Barbados. There is no provision to alter that. We do know that we need legislation to ensure succession to the assets which are now vested in the Crown.

Mr. Deputy Speaker, I believe that the attitude shown by the public, the attitude and cooperation which came from the three political parties and the anxiety of members of the public to ensure that democracy is well-preserved in Barbados impacted tremendously on the Commissioners and influenced us in the manner in which we approached our task.

I believe that this Report contains valuable suggestions. They call for serious consideration. They are capable of being refined. They are capable of being improved. I do not think that anyone will doubt the good faith which inspired those of us on whom the honour was conferred to undertake this assignment.

Sir, in trying to explain our recommendations to the House, I am deeply conscious of my own imperfections and the imperfections of the commissioners. I am also convinced that members have a golden opportunity to build further on the foundation that has been laid by those who formed our Constitution and to carry on a legacy that is worth preserving.

Hon. Miss B. A. MILLER: Mr. Deputy Speaker, in my view this is an historic debate and I consider myself privileged to be among those who will participate in it. I am aware that the time is limited for us who would speak beyond him whom presented it and led off the debate and that all of us cannot speak to every issue and every aspect covered by the Report of the Constitution Review Commission and I intend to address just a few of those matters. I want to be economical with my time ...

Mr. DEPUTY SPEAKER: You have 40 minutes.

Hon. Miss B. A. MILLER: Thank you, Mr. Deputy Speaker, I wish to add my thanks and appreciation to the members of the Constitution Review Commission who have done this great work for us and to those who have in every way and any way been able to help to produce this document.

Mr. Deputy Speaker, if you count a generation as 28 years, then it is true to say that more than a generation has passed since Barbados became independent in 1966. Indeed, I had a poignant moment earlier this morning, there are some who might describe it as a seminal moment. In 1966, the Honourable Member for St. Thomas, the Attorney General and myself were still law students in

London and at the time of the Independence Conference, he was reporting - as we have heard from the Honourable Member for Christ Church West - to the Daily News and I would find myself loitering around Lancaster House from time to time. This morning he said to me, "You know for many years since 1966, I have been collecting documents and digging around in my study. I found something which is really your property." So 34 years later the Honourable Member for St. Thomas is handing to me the Report of the Barbados Constitutional Conference 1966. It was given to him by my late father for passing on to me, and I am now receiving it from his hand for the first time. I am pleased to see it and I will treasure it. It said, "From Freddie Miller to Billie Miller", in his handwriting. This I will add to my papers.

Mr. Deputy Speaker, as I have said, more than a generation has passed since Barbados became independent in 1966. During those 34 years, the world as we knew it has changed dramatically and very rapidly through a succession of political administrations. The new economic order which we now call globalisation which has succeeded the cold war period of the 20th Century, I think, is emerging as the way forward in the 21st Century. The new technologies - communications generally speaking but particularly telecommunications - I think it is fair to say has accelerated the process.

Here in Barbados, I believe passionately that EduTech 2000 is going to help to tool and to re-tool Barbadians in preparation for a new era and indeed a new century and some will say a new millennium. At the same time of this globalisation and this modernisation, some called it postmodern, we are living at a time when humans - and we have this in common with chimpanzees, we are the only species who destroy each other gratuitously - after 2000 years of Christianity continue to kill each other in the most barbaric and primitive fashion and this is going on all over the planet, happily not so in our little part of the world.

Mr. Deputy Speaker, Barbados has chosen in my judgement a constructive and productive view for its future rather than a destructive one. We have a very fine reputation everywhere in the world. Despite our small cries for good governance, adherence to human rights and the rule of law, it is said that we have one of the best if not the best small participatory parliamentary democracy in the world. Indeed, Prime Minister Arthur is a leading voice in the international community at this time making the case for special and differential treatment for small states such as ours and he is doing this with great clarity, great cogency and commitment. Our democracy is thought of as one of the most stable in the world and it is that that is helping to bring good business to Barbados in all of the major productive sectors of our economy.

Mr. Deputy Speaker, I believe that the time is right for us to take a final step toward what I call full independence. It is time for us to be putting the final nail in the coffin of slavery and colonialism. I think it is past time for Barbados to become a republican state within the Commonwealth and the world.

3:25 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Miss B. A. MILLER:

Now I come to the word "republic". In the Oxford Dictionary, it is defined as: "Any state in which

supreme power is held by the people or their elected representatives as opposed to by a monarch.” Also, it is defined as “A period during which the state has such a Constitution” and also defined as “Any community of people with equality among its members”.

Mr. Deputy Speaker, the most recent generation of Barbadians in my experience have the greatest possible difficulty with the concept of Barbados being independent within the Commonwealth with a person other than a Barbadian as its Head of State. They cannot conceive of it. You cannot carry on a proper conversation with that generation about this matter.

During the last 24 years and particularly during the past five or six years, I have lost count of the number of times that I have had to go to Government House to be sworn in. Whenever, according to our Constitution, the Prime Minister is out of this jurisdiction and I am acting for him or whoever is acting for him, we have to go to Government House to be sworn in. It is a long oath and I know it virtually by heart. I have great difficulty every time that I have to be saying these words and I swear allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law.

All I am saying, Mr. Deputy Speaker, is that I wish to come to a place and a time when I will swear allegiance only to my God and my country Barbados. That is what I am saying. Now, Sir, this does not imply any disrespect to Her Majesty The Queen, far from it. Indeed, I am supporting the concept of Barbados as a Republic within the Commonwealth.

In the Commonwealth, there are 54 countries of which 32 are republics. I am proposing that Barbados, therefore, will be joining the majority and not the minority. Fifteen countries like Barbados are independent within the Commonwealth today. Of those 15, nine are in the Caribbean. So the majority of countries like Barbados who are independent within the Commonwealth are here in the Caribbean. Those countries have Governors-General who are representatives of the Queen who is still our Head of State. In the Commonwealth, it is little known but there are still seven monarchies.

Now I would like, Mr. Deputy Speaker, to go to the Resolution which we are debating and I wish to say, using the words of the Resolution and I wish to support the Honourable Member for Christ Church West on this: “We must patriate our Constitution so as to ensure that it draws its authority and validity exclusively from an Act of Parliament of Barbados.” I want to say also in the words of the Resolution “We must de-link Barbados from the British Crown.” Even in Britain, there are some who are having a lot of difficulty with the concept of a monarchy in the 21st century. Yes, Mr. Deputy Speaker, I believe that we must formulate a structure for the executive authority of Barbados that is best suited to protect the independence and authority of Parliament and the fundamental rights and freedoms of its citizens.

In this connection, I am not and I repeat not, Mr. Deputy Speaker, supportive of any proposal to derogate from the powers and authority of the Prime Minister and the Cabinet. I believe that if anything we need to look and see how best we can enhance that power and authority vested in the Prime Minister and the Cabinet of Barbados.

I do not think that many people or not enough people are properly aware of the residual powers residing even now and attaching to the post of Governor-General in Barbados. But I have to say that I am not in favour - the whip is off and I can speak to it as I see it - of any augmentation of the power of a non-executive President of a Republic of Barbados. Executive authority should reside in a Prime

Minister and a Cabinet.

Concerning the composition and structure of our parliamentary institution, I am strongly of the view that Barbados should cease to have a bicameral legislature and, in other words, a legislature with two houses and that there should be one Chamber, namely, the House of Assembly. Now I know there are going to be a lot of differences of opinions about this, but this is my view.

I have sat in the Senate and I have sat in the House of Assembly. The Senate in my judgment has never fulfilled its function as a watchdog institution if that indeed is what it was supposed to be. I have not seen it happen in the 34 years since Independence. It has very obvious imbalances in its composition which guarantee by definition that the Government's position will always prevail. Although legislation can originate in the Senate, I think that you can count on less than one hand the occasions over the past 34 years in which that has happened. It only has the power to delay and in my judgment that is costly and in the end, of the few occasions when it has happened, it has been to little or no avail. I consider the Senate to be an expensive duplication.

The Members of the House of Assembly are the people's elected Members. I remember, Mr. Deputy Speaker, a few years ago making this case to someone who said to me, "I do not like the idea that somebody who is not elected would be able to sit in the same Chamber with me." I said, "Well, how can you say that?" We have a position in Barbados now where those of us in here who are the people's elected Members are to be judged and second guessed by the people in the other Chamber who are not at all the people's elected Members and not elected by anybody at all. They are nominated. The Members of the House of Assembly who are the elected Members in my judgment are the people who govern.

I am not thinking of the Senate in terms of the actual physical cost in dollar terms, but I think that in terms of time and the process the Senate is an expensive luxury which we cannot afford in the new century. I will go on when I come to speak about the way in which I would like to see the Committee System working in our Parliament in a new century and in a new era to fortify this point.

The Senate is a poor imitation of the House of Lords. Before it we used to have something called the Legislative Council in Barbados. In 1941, there was a newspaper called "The Observer" and this is how it described the Second Chamber, the Legislative Council, in 1941: "A Second Chamber nominated wholly by the Crown and drawn exclusively from a single class of the population which arrogates to itself the function of destroying every measure designed to improve the lot of working class people or to admit them to political enfranchisement."

3:35 p.m.

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Continuation of Hon. Miss B. A. MILLER:

In 1964, we brought into being a Senate in Barbados, a poor imitation of the House of Lords which even the British now want to get rid of. We have to be very careful that we do not find ourselves genuflecting to a monarchical system when those who were the inventors of it are rejecting it.

In my judgment, Mr. Deputy Speaker, Sir, we need to craft and tailor a legislature to our needs of today and our needs of the immediate future as we see them. The main function of a Parliament is to do two things: to pass laws and to levy taxes. That is one of the reasons why the Senate cannot deal with money Bills. No taxation without representation. Those are the two major functions of a Parliament to legislate laws and levy taxes. Even if the Senate is supposed to have persuasive influence, in my judgment, it counts for very little because at the end of the day it remains a nominated Chamber and cannot by definition be independent. Even those who are called independent Senators among them cannot bring and have not over the past 28 to 40 years brought that independent view.

On this question of the inconvenience of Ministers of the Senate not being able to lead legislation falling into their portfolio in the House of Assembly, they need to be in this Chamber. It is more than inconvenient. I think it is really at a point where it frustrates the policy of a Government, whoever is the Government. When matters come to this House where the Minister into whose portfolio that matter falls is sitting in the Senate it means that some other Minister on the Front Bench here has to lead Government Business on that matter and vice versa in the Senate.

In Trinidad and Tobago, where they have a bicameral set-up like ours still, they have found a very clumsy and inelegant compromise which I do not support, where the Minister will come from the Senate to lead on the Bill or Resolution or whatever and vice versa the Member of the House will go to the Senate to lead. I have to say that I am in full agreement with the minority view put forward by Mr. Maurice King in the Constitution Review Commission Report at page 114 of the Report under Parliament. You will see where he says:

“ I do not support the recommendation that a Minister who is a member of the House of Assembly and a Minister who is a Senator when required may attend any sitting of the Senate or the House of Assembly and take part in debates.”

He goes on to make the point that I have made:

“The House of Assembly is a body of the elected representatives of the people. The Senate is not. It is a nominated chamber. They are both independent parts of the Legislature, and tend to bring different perspectives to debate on the issues before them.”

He goes on and on making his point.

I will not be able to support any proposal that a Minister will leave one House and come to the Other House. In the modern way of doing business I cannot see that it will do anything to enhance the work of a modern Parliament.

In a unicameral Parliament it is my opinion that we might still have to entertain a few nominated members and I say that for this reason. The polls will not always throw up to a Prime Minister all of the skills that a Prime Minister will need to compose a Cabinet. Do not let us beat about the bush. We have to be sensible about this. As in the private sector, the public sector must be looking to bring skills for the task. There are some who would suggest, and I am talking about a tiny minority, that maybe the composition of a unicameral chamber might include not only the constituency representation that we

see today but that the old division of Barbados into three regions might also be able to bring a regional perspective to the party. I am open on that, Sir. My mind is open on that as long as it is within the one Chamber.

I believe that Ministers must sit in the legislature and must speak to their portfolio issues and other matters from that one House. The separation of the executive from the legislature, we have to be very careful about. Such a separation can be a recipe for irresponsible government, the pervasive influence of special interests - and they are very strong in small communities such as ours - and corruption. You have to guard against those things.

In Barbados we value very highly the relationship between the Member of Parliament and the constituent. We always prefer to increase the number of constituencies rather than the size of the constituency because of this relationship. It may seem small to people. There are some constituencies in other countries in the world where the whole of Barbados would only be a little corner of a constituency. It does not work that way for us. We do not have local government and I am one who would never want to see local government, certainly not in the guise of my childhood, come back to Barbados. There are some, I know, who have very fond memories of it. My memory is not a fond one and I do not believe that that would do anything to enhance the governance of Barbados in a new century and a new era.

We have done a great deal and I believe that we must continue to do what we can to enhance the constituency service that a Member of Parliament gives to his or her constituents. We see that now through successive administrations we have constituency offices, parliamentary assistants, computers and so on so that we as Members of Parliament are better able to service our constituents and I think that this is a good thing but I think that the days of the double Chamber, bicameral legislature in Barbados should very rapidly come to an end.

In looking at the composition and the structure of the legislature I am a very strong believer in the committee system. You know, the work of Members of Parliament is very much underestimated and underrated. We work at the level of our constituency. This is a daily job, 365 days of the year if your constituents would allow it. We work, those of us who are Ministers, in a full time job, running a Ministry then we work when we come to this House in the Parliament. Let me say something about our Parliament.

This Parliament is a very busy Parliament and becoming even busier. In 1998, we had 32 sittings over 44 days. In 1999, we had 22 sittings over 33 days. In 1997, we had 25 sittings over 36 days. Properly speaking, our Parliament meets once a week on Tuesday and there are 52 weeks in the year. You will see - you have to deduct from the times when we are not in session because of vacation. We get a week or two at Christmas, a week or two at Easter and then in the summer we get a break as well.

But, Mr. Deputy Speaker, as I see it, there is going to be and already is indeed a lot more work that has to be done in this Parliament. The Attorney General can speak to the quantity of legislation which is choking up this Chamber and which is in the pipeline to come to this Parliament.

3:45 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Miss. B.A. MILLER:

Indeed, I would say over the past 30 years if you look at the amount of legislation coming through this House and you compare it to what comes through other Houses in this Caribbean, I think you will have a better fix on how much work we do at the level of the Parliament itself. There are countries in the Caribbean where Parliament meets two or three times a year.

Asides.

Hon. Miss. B.A. MILLER: I would not want to call names in that connection. This legislation coming down to the House, Mr. Deputy Speaker, I think that we can have more consultation, we can have more comments, not only from the social partnership but from professional bodies, from non-governmental organisations and other interested parties. I think we must get to the place very quickly now where we have to stop giving lip service only to the concept of a participatory democracy. I would like to think that in the early 21st century our democracy can become more participatory. I believe that the improvement of a proper committee system or the perhaps the putting in place for the first time of a proper committee system is the way for us to go in this respect. In recent years we have been more and more, from time to time using the Select Committee and it has worked wonderfully well. We did it with land review, we did it with the Insurance Act and I think, but I am not sure, that we may have done it with the Companies Act. We set up a Select Committee with Members on both sides of the House and they go into it in great detail, they can summon evidence from technical people or otherwise, they can commission papers, they can commission research. It takes the unnecessary confrontation out of debate in here. What happened at the end of the Select Committee process you would give it a finite time; you say you are going to give a Select Committee three months, four months, six months, whatever, and at the end of that process the legislation that came to the House was so well-informed that it excited very little amendment and very little debate.

I have complained and quarrelled in this House for all the years I have been in it, Sir, that the important sectors of our economy are not represented by Standing Committees in the House. A Bill comes to the House, the person who introduces it can speak for an unlimited time but beyond that you can only speak for half an hour and that is happening even in this debate. In modern governance you cannot do all the people's business in that framework. However, you would change the Standing Orders of the House, it still will be a finite time and only the Members of the House will be able to have input. Mind you, before important legislation comes down from the Attorney General's Chambers sometimes they invite comment from the professional bodies and the private sector and so on and so forth.

I am talking about a more institutionalised arrangement. Imagine tourism is the major productive sector in our economy and we do not have a Standing Committee on tourism in this House. When I was a child the only Standing Committee there had was a committee on sugar and that was when sugar was king. Tourism is king today but we do not have any committee dealing with it.

I am hoping, even within the present system, to put in place, Mr. Deputy Speaker, Sir, - and I would wish to have the support of Honourable Members and yourself, Sir, - a Standing Committee on Foreign

Affairs and Foreign Trade, particularly at a time when globalisation and trade liberalisation are finding their feet as systems in the world, at a time when we are negotiating double taxation agreements, bilateral investment treaties, free trade areas and so. All wisdom does not reside in the Government or even the Opposition. I conceive of parliamentary committees, standing committees where the legislation would come down from the Attorney General's Chambers and these committees would have, not Ministers because it has to come back to Ministers in the end, would have Members of both Houses sitting on them. They would co-opt Members and people from the private sector would sit on them. You are beyond lip service now, this is real participatory democracy where they can summon evidence, commission papers to be written and, of course, research. The Report of the Constitution Review Commission is suggesting, the proper resources would have to put at the disposal of the Standing Committees. You would have to have research officers, you would have to have Clerks in this House who would be servicing these committees. I would like to think, Mr. Deputy Speaker, that what is now the Senate Chamber would become the Committees Chamber and that in any given week of the year in this House one or other of the Standing Committees would be meeting, the Standing Committee on Agriculture, the Standing Committee on Tourism, the Standing Committee on Financial Services, again, like the select committee. You would hardly have need for a select committee then. The work is there to be done. By the time the legislation comes through that process, you would have had all of the consultation and all of the inputs. All of the unnecessary confrontation, as I see it, would be out of it. By the time you get here you have a better piece of legislation without the humbug of unnecessary amendment on the Floor of the House and unnecessary debate on the Floor of the House. That is how I see Parliament working.

Mr. Deputy Speaker, Sir, that tells me that even backbenchers may well find that the job of a Parliamentarian in the early 21st century will become a full time job in much the same way that the work of the Frontbenchers, who are Ministers of Government is a full time job.

As the system works now, we have at our disposal Parliamentary Questions, Private Members Business and the Adjournment. Speaking on the Adjournment, Sir, I do not know how many Honourable Members in here are aware that you can get up and speak on the Adjournment and speak on anything.

Asides.

Hon. Miss. B. A. MILLER: You can do that and even using these vehicles in our present system, it is not enough to allow Parliamentarians to address issues of the day, to address important legislation that is coming through this House. We have to face the fact that that is the way that we are going.

I would like to see as an institution of our Parliament, I would like to see the committee system well put in place. We do not need necessarily a Constitution to do it but it is something that I would see entrenched in the Constitution. I consider it to be so important.

I know that time is slipping away from me, Mr. Deputy Speaker, but there are one or two other points that I want to make in this connection.

Sir, the televising of debates. We are talking here about a participatory parliamentary democracy. I have been asking for years and I wish to use this debate as another opportunity to ask. Can it really be

so difficult to have a dedicated channel on our television? I am not seeking to curtail in anyway people's access to the one channel that we now have which allows them to see their soap operas and the various programmes. I am asking for a dedicated channel. In fact, in my judgement, Mr. Deputy Speaker, what we want is a public broadcast system in Barbados with a channel dedicated to the Government's business so that debates in Parliament would be all televised and if you did not want to watch them or a particular part of them, you would just look at another channel. The cricket, all of Government information, all of those things would come on a public broadcast system which would allow people to be better educated about the issues because Parliamentarians through the committee system would be better informed of the issues and by definition would be able to impart some education to people.

Sir, on the matter of recall I would just like to speak to a particular issue. I do not know that this issue was at all dealt with by the Constitution Review Commission, it certainly was not adverted to in their Report. When the National Democratic Party splintered off from the Democratic Labour Party the Barbados Labour Party was then the official Opposition in this Parliament.

3:55 p.m.

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Continuation of Hon. Miss B. A. MILLER:

The Honourable Member for St. George South and myself were the Opposition Senators in the Senate. They splintered off and had an Opposition group in Parliament with one more in number than we had. In other words, they had one more than the "three blind mice". And we woke up one morning to understand that the NDP had become the official Opposition without any reference to the people.

Now, Mr. Deputy Speaker, I had a lot problems with that.

Asides.

Hon. Miss B. A. MILLER: No, no, I took a constitutional position in the Senate that I was not going to resign my Seat. When somebody turned to me and said that you through the eddoes now and I said, "not me". And as much as I respected the Governor-General and, I believe that it was mutual, I said to him you are going to have to revoke my appointment and I want the historical record to show it because I so disapproved of it. And we have to think of these things.

Asides.

Hon. Miss B. A. MILLER: Honourable Members may murmur, Mr. Deputy Speaker, Sir, but I grew up in a Barbados with a multi-party democracy. One of the things which concerned me greatly as a student in London when the Independence debate was going on was that the then Government, the now Opposition, behaved as though we only had a two party democracy in Barbados. In fact, this present Constitution of ours behaves as though there is only a two party democracy in Barbados. That was not

the Barbados in which I grew up. I grew up in a Barbados with many parties. Some without Leaders, Leaders without parties, all kinds of parties.

Asides.

Hon. Miss B. A. MILLER: I believe that in a new century you may well see that again. I believe that all of that is the essence and the stuff of good and strong democracy. I am only throwing this out because all we are doing here is debating the Commission's Report. But I think that is something you have to look at. One or two persons crossing the Floor is one thing, but a group of persons crossing the Floor to frustrate the will of the people is something else. The people did not vote in 1986 for the NDP to be the official Opposition, they voted for the Barbados Labour Party to be the official Opposition. And I think that we have to think very carefully about how we would deal with that in a new Constitution.

My final point has to do with the Caribbean Court of Appeal. I remember, Sir, as the Honourable Member for Christ Church West made the point, when we had a Federal Court of Appeal. It was a itinerant Court of Appeal and it worked perfectly well. It did not break us, it worked perfectly well, and it was one of the institutions of the Federation which we were fools to have dismantled. We were fools to have dismantled it. It was a terrible mistake.

We allowed the University to continue. We allowed the University to continue and look at where it is today. The West Indian Shipping Company, it died a few years ago, and again we were fools to let that happen. But that survived the Federation, but for the wrong reasons we dismantled the Federal Court of Appeal.

I am an unrepentant believer in a Caribbean Court of Appeal. I would defy any British Judge to give me a better judgement or a better ruling than a Caribbean Judge, and that was thirty something years ago. I am hearing a lot of puny arguments today about Judges can't be objective about this and Judges cannot be that. But there are many in our midst in the Caribbean, Mr. Deputy Speaker, Sir, who are fighting the concept. Barbados as a country is standing four square behind it and we are fortunate, again I want the Member for Christ Church West to hear this well, we are fortunate that our present Constitution is not one which will force us to amend it in order to admit our Caribbean Court of Justice.

Asides.

Hon. Miss B. A. MILLER: I well remember it.

But there are many countries in the Caribbean where they have this difficulty, willing and wanting to be part of a Caribbean Court of Justice but requiring a constitutional change. In some of those countries, there is a majority of one or two, and they are not prepared to risk a referendum or an election based on that.

Asides.

Hon. Miss B. A. MILLER: Mr. Deputy Speaker, Sir, I have tried to touch on four or five subjects here, difficult to treat in such a short space of time, but the overwhelming part of my contribution, Sir,

speaks to two major issues. That Barbados should become a Republic, and the time is long past for that, and that this Chamber, for the better working of a stable participatory parliamentary democracy, this Parliament should become a unicameral rather than a bicameral Parliament.

I hope that occasion will allow, in the future, other opportunities for me to speak to other aspects of this Constitution Review Commission's Report which ranges over a very wide spectrum of issues. In the time that has been allotted to me, Sir, and I am very grateful to our Honour, that is my contribution for this time.

I am very much obliged to you, Sir.

Mr. D. J. H. THOMPSON: Mr. Deputy Speaker, the Opposition views this debate as the first step in a process, as I understand it, to bring to the attention of the public of Barbados the content, through the involvement of both political parties, of the Report of the Constitution Commission and to seek to generate some discussion and public commentary on the content of the Report.

My presentation therefore, at this stage, is going to focus on a couple of the issues that we feel should be included in the Report and also to express some personal opinions since as with the Government, on this side, the whip, short though it is, has been removed, but there will be a great diversity of viewpoints, which as I understand it, is the purpose of the debate of this type.

The Honourable Member for Christ Church West was Chairman of the Commission, and in the Report it quite clearly said, and I quote from page 11:

"Many of our citizens feel that the Constitution contains certain undesirable, anti-democratic provisions. We were told that there is too much centralization of government and too great a concentration of power in the hands of the Prime Minister; too little accountability, both by public officials and parliamentarians; a pressing need to shore up the citizens' basic rights, to strengthen the independence of the judiciary and to isolate the public service from political interference."

Those comments, as I understand it, are based not exclusively on the findings of this Commission, but I think I read somewhere in the Report that it is also taking into account previous submissions that were made to the Cox Commission, which in itself was not as broadly based and did not necessarily have the representation of all the political parties. But I think that comment is very instructive because I believe that it is the way the large number of Barbadians do feel about the Constitution of Barbados.

4:05 p.m.

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Continuation of Mr. D. J. H. THOMPSON:

But beyond that, that is the way many Constitutional scholars as well as persons interested in reform reflect and comment on the Constitutions which are modelled on the Westminster system. So it is not exclusive to Barbados for those kinds of comments to find a common cause with commentators in other West Indian Islands which have similar Constitutions and other Commonwealth countries which have

adopted similar processes of Government.

That is not, of course, to say that our Constitutions have not served us and have not been able in their own way to deliver to some sections of the society, the kinds of benefits that they would have looked forward to at the time of our independence and that is not to say that it has not, in many cases, attracted greater responsibility and patriotism from many other citizens.

I think that Members would anticipate that the Democratic Labour Party as an institution would be naturally conservative on the issue of constitutional change, for the simple reason that people identify the 1966 Constitution and Independence with the Democratic Labour Party.

But my own view is that as individual parliamentarians beyond the perspectives of our parties, we have learnt a lot from this experience that we can contribute to the process of reform, focussing on those aspects of the existing Constitution that are desirable but also pointing to new directions that we think should be taken.

It is said in this era that the drum beats are sounding for constitutional reform and I recall myself that in 1995 the Democratic Labour Party's Annual Conference took a decision that we should abolish our monarchical system of Government and replace it by the republican system of Government. Beyond that, there is an increasingly strong belief that radical change is needed to meet the challenges of this century and therefore no Constitution should be rigidly set in the stone of a past age.

The third important point is that every time that we have undertaken any small piece of constitutional reform in Barbados whether it was the famous 8 per cent pay cut, a piece of legislation, whether it was the one that related to the Electoral and Boundaries Commission, whether it was the legislation that related to qualification for election to the House, on each of those occasions, Attorneys General promised comprehensive reform would follow.

I have been in this House long enough to have heard that and therefore I believe that at some point, we have to take a closer look and now, no doubt, is an appropriate point.

History will tell us that there is no perfect or permanent form of Government and we would have heard even during the course of this debate, different perspectives from Parliamentarians old enough in one case to be grandfather at least. I should say grandparent because I did not want to easily identify the individual or both ...

Asides.

Mr. D. J. H. THOMPSON: ... old enough to be grandparents, talking about changes that they themselves would not have foreseen at a time when they would have been engaged in previous constitutional debates.

Dogmatic and prescriptive conclusions from individuals or from reformers of any single political party are simply inappropriate. It is not just for Government or for constitutional experts or for lawyers to ram down the throats of the public what their views are about constitutional reform, or to impose ideas as to how we should be governed or how we could even improve the system of governance.

And that is why we supported the work of the Commission because we felt that it was vital for some entity to go out there and try to solicit the views, not only of the constitutional experts but the views of the layman, the views of the radicals in our society, the views of people who have conservative outlooks, including those who wish to retain every aspect of our constitutional arrangements as they are and appointed Mr. Maurice King, Q.C., as the party's representative.

The views that he has expressed again are not the Democratic Labour Party's views even though he was our representative. That is because we felt that he should bring to the discussion, not the constraints of the Party's either institutional memory or the wit of the Party in the extra parliamentary sense, but he should have a chance to exercise a discretion to agree with and build consensus on issues with other members of the Commission and also to feel free to interact with members of the public when the Commission went out to do its work, without feeling that any views that he expressed had to be taken as views of the political party to which he belonged.

The point is that the views which he did express both in his minority report and in the content of the Constitutional Review report itself were of a high quality of intellect and research. That is my view and they are views on which we generally agree.

Mr. Deputy Speaker, I want to thank him and I also want to thank all of the Commissioners. It is a credit to Barbados' development that we did not have to reach into the retired judiciary or the academic community to appoint a chairman of the Commission. A sitting Member of Parliament who has very strident political views from time to time and can be very partisan when he wants to be, even though he tells you he is not, was appointed Chairman and discharged those obligations much to the satisfaction of the Commissioners and, I think, of the country on a whole.

The only constraint you have in that regard is that because you are so much part of the system, you tend to be slightly more conservative and reticent to push down the barriers and to make very radical recommendations which at the end of the day may only open up and divide the society more.

There has to be however, an underlying philosophy and purpose to any change. The Government would have set out for us the terms of reference which were delivered to the Commissioners. At our level, our theme is quite simple and that is that people must have a greater opportunity to participate in decisions which effect them. Without this, they become alienated from the Government and they have no incentive to explore political issues in depth or to take an active part in the political process.

I think, Mr. Deputy Speaker, that we often underestimate the intelligence and the common sense of the electorate. This is all the more so alarming where a strong Government can, at the end of the day, be elected by a minority. That is not the case in this Parliament now, but we have had Governments in Barbados with relatively strong numbers which had been elected by a minority of the people and who could then rule for five years without the watchdog of an independent Parliament. In that regard, I think everyone would accept that our Parliament is very much a slave or servant of the executive. This has been part of the system that we have practised in which apart from the Opposition, backbenchers do not take up their roles and responsibilities as seriously as they should to scrutinise and probe and very often to be critical of the Government and to make Parliament and the executive more accountable to the system.

So what Lord Hailsham called an “elective dictatorship” at the end of the day becomes a threat to a stable and healthy democracy. It does not promote social cohesion, nor does it promote a recognition that citizenship involves obligation as well as rights.

4:15 p.m.

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Continuation of Mr. D. J. H. THOMPSON:

Mr. Deputy Speaker, the question therefore would have to be asked, why is constitutional reform supportable at this time? I believe that we need to ensure that our society develops in a way that meets the needs of the people to whom power belongs and for whose benefit power is exercised. Only in this way can we secure the vibrant framework needed for the stability and the advancement of our society.

Mr. Deputy Speaker, in countries like Barbados - and some people would even argue in the world as a whole - there is a broadly prevailing consensus on macro economic policy. President Clinton alleges that it is that broad consensus that has broken the cycle of the boom-and-bust in the American economy. The Labour Government in England said the same thing.

In Barbados, we had a transition from one Government to another in 1994 with very little disruption in the cycle of economic growth because there is a consensus on the need for all of us to avoid a devaluation of the Barbados dollar, to pursue low inflation policies and to ensure that we focus on the reduction of employment. And economists tell us that this gives us a good prospect of avoiding this boom-and-bust which has been so much a part of our economic history. That deals with the consensus that we have been able to build on economic issues but at the same time our societies are plagued by many great challenges.

Selwyn Ryan has written a book on the Westminster model recently called ‘Winner Takes All’ and he sums up the challenges of Caribbean societies in this way, and I quote.

“Given what we know about the dramatic manner in which the changes taking place in the global economy are impacting on the small fragile economies of the region, what we are likely to see in the extended short run is a progressive loss of jobs in the manufacturing, agricultural, and some parts of the service sector, a persistent leakage of capital, a decline in the quality of social services offered the citizenry, growing alienation among the youth, a growing coarseness in the social order, a dramatic decline in the number of persons who are members of or participate meaningfully in trade unions or mass political parties, increased political cynicism and a sustained disaffection with the process of voting as a result of the inability of political parties to convince supporters that it makes much difference whether they support party A, B, or C.”

Our institutions are also under stress. The judicial system throughout the region is being questioned. Old authority figures are disappearing in communities. These far-reaching challenges cannot be met simply by changing or altering our forms of government. At the same time, they cannot be met without changing the forms of government and altering the institutional arrangements in some way.

By identifying what needs to be changed, we can lessen much of the prevailing apathy and cynicism about politics in Barbados. Accountability, responsiveness, effectiveness and social justice are all vital to a healthy society. But all these important principles are firmly underpinned if people are enabled to share more in the workings of Government. This is the focus of our presentation.

An open society involves both improvement of communications by Government and greater freedom of information available to all citizens. They need to have access to the facts so that they can participate in Government in an informed way, which is critical. Above all, an open society means that people have a proper opportunity to have their voices heard at a national and local level on issues which affect their lives.

In a democracy, politicians have to seek - and that is where our checks and balances come into play - to improve the lot of people because they have the salutary discipline of needing their votes and if they do not meet the wishes of the people, they can be sent packing. Therefore, the opportunity for participation by the people in Government must be real.

A general election is not enough to achieve a deep debate of the issues. Complex issues are usually compressed at election time into strident sound-bites and issues are coloured by prejudice and lack of factual information. The people deserve a better chance to think, to test arguments and to analyse them. In any event, general elections are often a little more than a vote of confidence on the work of the last Government.

Mr. Deputy Speaker, should an occasion like a general election as an example of the need for constitutional reform be the sole opportunity that the people of Barbados have a chance to decide how they are to be governed - and that is one of the first questions - then I think it is critical and vital in an assessment of the Constitution of Barbados and the arrangements that we have to facilitate the involvement of the people in their own Government.

Why should they not have a greater voice on specific issues? Why should they have to swallow Manifestoes whole so that a Government with a strong majority not knowing whether the people agree with every aspect of their Manifesto can simply push through every single initiative without going back to them and finding out whether it was that specific aspect of the Manifesto which they supported or did not support? Why should they not have a voice on important decisions that are taken between elections because of course there are intervening events between the publication of a Manifesto and the end of a 5-year mandate in which the public should again have an opportunity to have some say?

Mr. Deputy Speaker, I think this is the first important consideration on the question of constitutional reform that we need to address. We must continue the great but incomplete advancement in our democracy which came with universal franchise. We are still talking in the year 2000 as if the grant of the full franchise and the lowering of the voting age to 18 is some major achievement in terms of our democracy when in fact all of us know that all that that means is that citizens have a chance once every five years to say how they feel about Government initiatives. I think we need to be constantly drawing in more of the talents of our people which would lead to better Government.

At the same time, though, even the views of the majority need to be curtailed by sound checks and

balances. In that sense, it is important to understand that the power of the people cannot be granted without some minimum restraint because we also have an obligation to protect minorities in our society. Simply because the vast majority agrees with a particular position, we still have a responsibility and a duty to protect minority groups in the society who may not necessarily agree with that position but whose rights may be infringed in the event that we take that kind of direction.

Mr. Deputy Speaker, in the context of what I am going to say in relation to the fundamental rights and freedoms of Barbadians, I think it is important just to comment on the role of Government. We, on This Side, do not feel - and I believe that it is a view shared on the Other Side - that Government can ever withdraw too far in a modern society. Capitalism cannot be allowed to be red in both tooth and claw. A limited but nonetheless vigorous interventionism is needed by Government to protect individuals. There is clearly a necessary role for Government in providing the strong social background against which individuals can pursue their legitimate activities. Not just law and order but education, health, the protection and the improvement of the environment, employment policies, provisions for the unemployed, the disadvantaged and the deprived, are all roles of the modern state. This, we believe firmly. They cannot be simply discharged managerially.

4:25 p.m.

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Continuation of Mr. D. J. H. THOMPSON:

That is why the form of Government that we have is so critical. In performing those tasks, Government had to make value judgments and choices between competing interests as to the relevant importance of individual issues. In doing so, it must subject itself to the lawful and legitimate criticism of citizens, to the accountability of Parliament and as much as possible to all of the tests, checks and balances that our governmental structure can put in place to ensure that Government is acting in the interests of the people.

The Report which we are debating sets out the piece-meal reforms that have occurred previously and in between these sporadic opportunities Governments with large majorities can do largely as they will and assert confidently that they are meeting the wishes of the people. Yet, very often and I think the Honourable Member for Christ Church West made this point, Governments are being driven not so much by what was in their Manifesto originally but by what the media says or what an individual pressure group says, a major financier of the Party in the last elections says or continuing financier of the political party says or by skilful lobbying. So that very often we have this sterile idea promulgated particularly by a very strong government that once elected they have a mandate from the people for whatever they want to do as long as it falls within the terms of their Manifesto. We are saying that this only reinforces the impression that people have too little a say in the decisions which affect them.

Far from bringing greater equality, change and the general growth of economic prosperity, this has merely brought an increasing gulf between the people and governments and also a gulf in terms of inequality in the society. But, Mr. Deputy Speaker, for the people to have an effective say in what is happening in relation to their government, two things are going to be vital. Again, there have to be principles that we have to commit ourselves to as part of the process of governing Barbados. First, they

must have access to information and decisions that concern them. That is the first and most important point. But secondly, they must also have channels for communication and an opportunity for their voices to be heard.

Mr. Deputy Speaker, one strong argument is for the increased involvement of the people and the steadily growing education awareness and sophistication of the electorate. I have a photograph at home that every now and again I look at. The Honourable Member produced a document today from 1960. The photograph that I have at home is a very old photograph of the late Sir Grantley Adams addressing a meeting somewhere in Barbados. Obviously, it was in the 1950's or very early in the 1960's and people are staring at this figure on a political platform in absolute awe. It is not necessarily always because of their love and reverence for the individual himself, even though Members on that side may say so. But what is most important is that the educational gap between him and them in those days was so significant. Older people can tell you about the Errol Barrow of the 1960's striding around Barbados telling people that he was one of the first economists in this country. The average man hearing that he had sat at the feet of Harold Laski and had seen Harold Wilson or whoever was almost absolute awe because these men were speaking of experiences they had that the average citizen did not have.

What separates the average voter in Barbados in the year 2000 from the average politician? All of us travel on aeroplanes together and go to the United States and London together. All of us get up every morning and can choose between CNN International, BBC World Report, and Channel 7 Miami. Yes, CBC too but I think even the limitations that CBC has in terms of its content and so on at this stage still take people a thousand steps further than the voter in the 1950's and 1960's. So that instant access to information tells you that a lot of what we are talking about as politicians are experiences that the average citizen may have almost every day. All that we are doing is putting in context what they already know and seeking to explain to them why it is happening. Therefore, that changes the relationship between the governed and those who govern in a very significant way. That is why if we continue to accept the same forms of governance that would have governed people in the 1960's who did not have access to information and the levels of education and sophistication that our electorate presently has, then our electorate will move miles ahead of those who are supposed to be governing them. I think that this is the real challenge of those who are involved in constitutional reform.

Since the franchise was widened in Barbados, voters have for the most part become much better educated and informed. They are not going out to public meetings to receive the kind of education and enlightenment that was the case in the 1950's, 1960's and 1970's. We have to understand that and change our relationship in that way.

Travel, radio and television, telecommunications and opportunities for leisure for the average citizen have now all enhanced people's horizons and choices and they have transformed their lives. Access to information on the super highway is further transforming the type of society in which our people live. But for all of that, the way in which they are governed has not changed significantly from 1966 and before when the franchise was extended. That is what the challenge of constitutional reform is all about to change the relationship for the benefit of the people.

If we were not even convinced about anything that I have said in here today, one of the most convincing aspects of that indifference and apathy and that changing relationship is the low percentage turnout which is being registered to elect governments in Barbados and also throughout the Caribbean

and the world. We have a powerful Central Government largely uncontrolled by the legislature which permeates all areas of life and which increasingly knowledgeable people have a very limited opportunity to influence in between elections. It is, therefore, not surprising that there is a move towards constitutional change.

4:35 p.m.

Wednesday, May 31, 2000

Continuation of Mr. D. J. H. THOMPSON:

This debate should examine what sort of Constitution we have, where power lies, whether it is adequately controlled in our system and whether the people should have a more effective say in the decisions taken in their name.

Mr. Deputy Speaker, I assume as do, I believe, all members of this Chamber, that it is generally agreed that we need constitutional reform, not because of the results of the 1999 election, because I do not ascribe to that election in terms of the issues that were debated in that election the issue of constitutional reform. Since none of us are completely sure about the mandates that we get from the electorate even though we pretend we are, I want from the outset to recommend to the Government that we are doubly sure by having a referendum on the key issues that flow from this exercise and before a new Barbados Constitution is promulgated.

I would go as far as - I am talking about a referendum for the new Constitution - to say that apart from people's initiatives, I feel that the Honourable Member for Christ Church West should, perhaps, have spent a little time explaining to us why the Commissioners did not think that referenda or referendums, different people use different words ...

Aside.

Mr. D. J. H. THOMPSON: They say Latin is dead too. I do not think that referendums would be used more widely in Barbados because they can provide a direct contribution by the electors in our democracy for questions of vital, national or moral significance to be decided by the whole of the electorate.

There is a constant danger that we are underestimating the ability of the electorate to debate and determine issues of importance to all of our lives. Therefore, the sound bite arguments which the media encourages us as politicians to engage in, that is why I commend the Leader of the House for asking that this debate be televised. That is why we supported the request for it to be televised so as to avoid the continuance of that approach, the instinct of politicians for being very confusing publicly; in other words, outside of the House of Assembly when they are espousing aspects of their portfolio and not giving straight answers to questions, the failure to debate an issue through, all of these are symptomatic of the tendency of Governments to underestimate the intelligence of the people.

Mr. Deputy Speaker, we believe the time has come for Barbados to therefore establish a more permanent framework for using referendums. The best way to do this would be by legislation, laying

down the procedures governing the initiation and the conduct of referendums in Barbados.

Parliament clearly has a large role to play in Government but there are issues that cross party lines, or which divide society as a whole, or which are fundamental to our future where the voice of the people should be directly expressed. In other words, we cannot assume that on every issue because we are the elected representatives of the people we know exactly how the people feel on those critical issues.

Therefore, we should accept that referendums do play a role and that a general election campaign is no substitute for a very clear-cut question being put to the electorate for resolution. The standard of debate in what are essentially policy deprived election campaigns would have been too poor and diffuse to enable people to probe individual issues in depth.

No one can be certain what issues, if any, influence the electorate in their final choice. In any event, some issues which played no part in an election campaign arise during the course of the life of a Parliament. These momentous issues deserve the full and informed involvement of all our people.

They should no longer be limited to the occasional opportunity to cast their vote for a representative member of Parliament. People are educated enough, mature enough and affected enough by the decisions of Government to be granted a larger part of the Barbadian democracy. A referendum should no longer be the exception to get a political party out of trouble. It should become an accepted way of taking the views of the people on issues which shape their lives and those of their children. I hope in the response the Honourable Member for Christ Church West might be able to tell us what the views of people were on the issue of the use of the referendum.

Mr. Deputy Speaker, we have carried out our own consultations in preparation for this debate. For example, we conducted sessions with over 1 200 students at 11 secondary schools before this debate. I will deal with a couple of their concerns because I heard the Honourable Member for Christ Church West talk about the way young people looked at the issue of constitutional reform.

He spoke about their views on the death penalty. He is quite right that they do take some very strong, almost reactionary views on the death penalty, views that it should be applied not only to people found guilty of murder but rapists and child molesters. They also felt that castration should be introduced as a form of punishment. We were quite alarmed ourselves but it just goes to show that not on every issue do you expect young people to take more libertarian perspectives but they may, in fact, feel very strongly about some of these issues.

In our discussions with them at all of those schools we visited, many of them concluded that they are unsure of what this reform is all about but they do recognise that what we are doing now will have the greatest impact on their generation and generations that follow their generation. Because of that, there was a lot of concern about what they called political gimmickry and rushed decisions.

They felt also that no single change should be seen in isolation but rather against the background of the existing Constitution, the society and the wishes of our people.

They asked whether the Senate as our second Chamber is any real protection to us against oppressive Governments. They should have heard the Honourable Member for the City on that this evening.

They asked whether we needed local government. Some asked what was local government, or what is local government. They asked what should our constitutional relationship be with CARICOM and the WTO, two issues that we have not dealt with in this debate so far, one of which I want to deal with, but two issues which, obviously, troubled them and are of great significance.

They asked whether we needed to have constitutional protection for the basic economic rights of the deprived and disadvantaged in our society. How should our people have their say in all of these decisions, they asked.

They also asked whether a vote once every five years is enough. Should there be more referendums on key issues? They asked what difference does it make whether we are part of the monarchy or a republic. Some of them believe that if we change our system of Government that Barbados stands to lose millions of dollars in foreign loans because they still see a connection.

We found that there were still some students in Barbados that had not yet understood the extent to which our system of Government works, how we finance our operations as a country, what obligations we have. These are things that parliamentarians and other prominent decision makers in the society have to deal with.

I thought it was an excellent opportunity for us to hear their views so that we could help explain to them and even take some of this information and use it in this debate, so it was extremely interesting.

They asked what about the implementation of the death penalty and its extension to rapists and child molesters. 4:45 p.m.

Wednesday, May 31, 2000

Continuation of Mr. D. J. H. THOMPSON:

They asked why is the Government not stopping foreigners from buying up all of our best land and getting our best jobs. They expressed concerns about that - what space will be left for us when we leave school? They asked whether proportional representation would be fairer. Some asked why marijuana cannot be legalised since it is part of a religious ceremony. There was a lot of debate on that. They asked about ZR vans and whether the playing of dub music was not part of the concept of freedom of speech.

It was an interesting exercise that we held with them and this is just a sample of some of the interesting matters being debated by them. They talked about how the ZR vans get them to school early and on time and we had to explain that sometimes one has to balance the rights of commuters. This is in a real sense what law making and policy making is all about - balance in responsibilities, the rights of individuals and all of the competing fundamental rights and freedoms which we have as citizens in this country.

The golden thread that pulled all of those views together and each of the individual issues that they raised with us is the need to educate, consult, involve and respect the wishes of the people. That was a

critical point, that in a sense they felt that not enough is being done whether it is at this level of parliamentarians - and they certainly do not have a great regard for us and have internalised much of the criticism that their parents heap upon us as Members of Parliament who flit into constituencies once every five years and then have no regard for their responsibilities - and all of the traditional criticisms.

I think that it is truly important in terms of these recommendations for much smaller groups of individuals to start to discuss and understand how our constitutional arrangements work. The touchstone of any sound Constitution and good government is whether it truly serves and protects the people. Many of those persons we spoke to were unsure about that aspect.

The aim of my contribution is to stimulate thought about how our Constitution needs to develop to meet the challenges of the next century. The Honourable Member for Christ Church West will be happy to know that we do not have any broad dispute on the preamble; the Supreme Law clause, Citizenship - there may be specific aspects of it that we feel concerned about. We talk of the broad issues - Head of State and Judiciary; Parliamentary Committee System; Electoral System; Integrity Commission, the financing of political parties, the Executive and powers of the Prime Minister, Finance and the Public Service.

Most of the recommendations are not pushing at the outer limits of creativity but that often happens when one is trying not to create sharp divisions and to create the kind of problems that may stymie the effort at constitutional reform, and no doubt all the more so when a government has a 26 to 2 majority and has to be cognisant that the value of the two in such a debate is extremely significant because the two may represent a large section of the society.

Mr. Deputy Speaker, these are all, in my view - except for some of the specifics that we are going to raise in this debate and later on - quite mundane recommendations. Many of them are sensible recommendations. Our concern is about the emphasis of the constitutional reform and in that regard I will deal with a few issues.

I agree fundamentally that the Senate, the Upper House of Barbados, is a very wobbly institution. It is wobbly against the force of strong government. It is wobbly, in my view, in terms of its authenticity or its relevance in our society and regrettably or unfortunately I remain committed to a position I took over 20 years ago. I remember participating in a debate with the then Senator Hutson Linton and in those days I vehemently opposed the existence of the Senate and I still feel strongly. The Honourable Member for St. James South was in that debate then and a very strident and articulate debater, along with many others. We did take a strong position against the Senate and it remains and nothing has changed my view about the existence of the Senate. The powers it has are limited and its lack of electoral legitimacy makes it afraid of exercising those powers to the full. I firmly support an elected unicameral legislature which now brings me to the role of this Honourable House where we are participating in this debate.

The point that the Honourable Member for the City really needed to make, and I understood all the other things she was saying, but the point we need to make, those people who have found the Senate to be irrelevant as a structure, is that when it most matters we are a unicameral legislature. In other words, for the purposes of the major thing that we have to do in terms of accountability and so on, it is this House that at the end of the day undertakes not only the brunt of the work but also is the most active in

protecting the rights and liberties of citizens in this country. That needs to be made quite clear. It has always been, both at the level of the views that have been espoused here and otherwise, in the vanguard.

How this House performs its role, how it is elected are matters that are very important in terms of constitutional reform. The reform of this House should be the starting point of constitutional reform because it affects all other changes. Concerns about the independence and the effectiveness of the House should matter greatly to all of us. So does its reputation which is crucially and sadly very low at present. It is not healthy that it should be largely a rubber stamp on the decisions of the Executive. Again, I say this is extremely unhealthy and it is worrying. I remember as a young parliamentarian in 1987 very often when you took positions that did not fall squarely within what was perceived as the Government's agenda people felt that you were stepping outside of the four corners of party policy.

I remember once making remarks about my view of the civil service and receiving sharp rebuke. A report on unemployment or an employment strategy report which I criticised not even in the House but at a meeting of the St. Mark's Old Scholars in St. Philip was sharply rebuked.

Where you have a small Opposition I think Members of the Backbench in particular need to reclaim that right to scrutinise Government and to make sure that this House is a place where the Executive is truly made accountable if not at the end of the day we will be wasting time. That is part of the problem.

Nor is it satisfactory that legislation should often be poorly digested and very often badly thought out. I have sat on almost four administrations so I am not speaking exclusively about recent legislation or legislation 15 years ago because we have seen all kinds of legislation come here, sometimes rushed very quickly and never proclaimed, rushed for public relations or propaganda purposes, never implemented, and the point is that it is vital that Parliament is able to digest measures which are brought before the House and that we are able to reject those which are badly thought out and have them brought back on another occasion. We have to fight against such practices.

This House should be robust and searching and we should conduct the House in such a way as recognises that Government is accounting to the nation on important issues. Parliamentary Questions must be answered and you cannot say that a House is accountable if Parliamentary Questions can stay on an Order Paper for five years or more.

Private Members' Business must be facilitated more and more which gives members on the Backbench an opportunity to have their views expressed on issues that affect them.

4:55 p.m.

Wednesday, May 31, 2000

Continuation of Mr. D. J. H. THOMPSON:

The Government must give up time to have those issues debated so that backbenchers and Members of the Opposition do not feel as if they are encroaching or confusing the Government by putting matters on the agenda that concern them. The House should be careful to facilitate Private Members Business and the answering of Questions because these are all critical to accountability and are all critical to

making this House more relevant and to improving its standing. Back benchers should play a greater role overall in the conduct of the proceedings of the House. Debates should be broadcast, research facilities should be provided and public awareness of the activities of this House should be increased. These are all vital. There are matters that we have been talking about for three decades and yet have not been able to make the kind of advances, which, as I have said, would increase the respectability which the people of Barbados feel for this Chamber.

Mr. Deputy Speaker, for the most part we give little hint that the procedures and the work of this House could be improved. Our attitude tends to reflect the insulation or the perceived insulation of Members of Parliament from outside views. Therefore, we must not wrap ourselves in complacent self-importance, hiding under the procedures, the dignity and the privileges of this Parliament. We must make this Parliament more relevant to what is happening to the people of Barbados. I am sure that there will be wide agreement that we can do much to improve the way that we legislate in Barbados.

The establishment of a Select Committee to consider how practice and procedure can be modernised is extremely necessary. Even the most fundamental issue of all, the way in which we should elect Members of Parliament has not sparked much interest. Yet this is the single key constitutional issue which needs to be resolved to give full legitimacy to our democratic Government. The ability of a strong Government to rail road its proposals through with the backing of a large majority often representing less than half of the electorate strikes at the heart of representative Government.

On the second question, Mr. Deputy Speaker, of accountability. In the years between the two World Wars we all know that the courts would have been reluctant to intervene in what essentially looked like policy issues and therefore, the growing powers of Government were met by the courts sleeping and not taking action. Fortunately, we passed the Administrative Justice Act in Barbados which cast aside old fashioned procedural shackles and ensured that Ministers and administrators should act fairly, sometimes seeking out representations and views from people potentially affected by decisions and always taking them into account when they were made. The making into law of the ultra vires rule and all of the other important requirements when Ministers and officials are exercising a discretion have been a boon to accountability in Barbados.

Mr. Deputy Speaker, what is necessary now in terms of our constitutional arrangements is to ensure that public officers are made more aware of their obligations in that regard. That brings me to the important point of the role of the Auditor General. The Honourable Member for Christ Church West spoke about this but I think it is very important to recognise that the responsibilities of the Auditor General in Barbados need to be widened considerably. We have a situation in Barbados today where outside of those reports which are laid in Parliament by statutory corporations and also by Government departments which are required to lay those reports, Mr. Deputy Speaker, we have private companies in which Government is the major shareholder or the only shareholder and the Auditor General has absolutely no control, no oversight, over the accounts of those corporations.

Asides.

Mr. D. J. H. THOMPSON: The point that needs to be made is on pages 82 and 83 of the Report and it is that the Auditor General should have control over entities in which Government is the principal

shareholder. It goes on

“The public interest requires that all these bodies operate in such a way as to provide adequate value for money and also conduct their affairs to minimise and, if possible, eradicate every opportunity for corruption.”

The point that I want to make is that Government has more money being invested by private companies which it owns, which do not report to Parliament, than is being spent and undertaken in new investments and budget which would come to the House via the Estimates. When you think of the raft of companies - the two sugar companies in Barbados, BAMC and BACT - the Gems of Barbados, the five companies that were spun off the former Barbados Tourism Investment Corporation, the Golf Course, the Needhams Point Development, and there is a company called CRL which replaced the BDB; and I can think of so many other companies which Government owns which are not brought under the scrutiny of this Parliament for which the Auditor General has no scrutiny whatsoever of their accounts and their financial statements and so on.

We had a debate in here already in which the Government did pledge at the time when Government was introducing new legislation to provide for private companies to receive guarantees from the Government of Barbados - I think it was in respect of the Gems Project - that we agreed in principle that those companies would be required to file their financial statements in Parliament and that the Auditor General would have greater scrutiny over them. I agree wholeheartedly with that position. I think it is vital and it is something that cannot even wait for constitutional reform but has to be in advance of that reform.

We also had a recent development in Barbados where the Auditor General issued a statement via the Government Information Service or so it was alleged. I think it was extremely unfortunate and we have to make sure that offices like the Auditor General's Department stand above and apart from the Government because they have very important independent and impartial roles to play. I hope that we will not see an occurrence like that again.

The third point that is of great significance and the Honourable Member for Christ Church West should review it, is the question of local government. My own view is that the jury is still out on this. People may be surprised to hear somebody from the Democratic Labour Party say so. I do not believe in the re-introduction of formal local government in the way that it existed in the 1940s' and 1950's in Barbados. Let us get that out of the way. But I do believe that there is a vital role for the strengthening of what is local Government without a capital 'L' and a capital 'G', where people have the chance to be involved and to participate in their own community:

5:05 p.m.

Wednesday, May 31, 2000

Continuation of Mr. D. J. H. THOMPSON:

Stronger community organisations and councils which could deal with many of the grievances, lessen the perception of remoteness and avoid a new and tried and unpredictable extra layer of Government

should be in place. So I think that we have to commit ourselves to community councils in every constituency, and even more than one community council where necessary; and these community councils must be given some resources to do some of the basic work that needs to be done in Barbados. Not one Youth Commissioner, but a Council of people who can independently and impartially determine which football club should get gear, footballs, where cricket teams should be assisted and sponsored, because there is a large gap in terms of the provision of those things, particularly to sporting activity in which the average man in Barbados and young person is involved. That is one way.

Even in relation to bringing Advisory Committees on matters which the Honourable Member for Christ Church West mentioned - health issues in the constituency, advice on roads, priorities in terms of fixing tenantry roads, a whole range of things; developing an extra curricular programme for children - and when the Ministry of Education comes to getting it, assuming that it will happen, some kind of system be put in place for schools transportation. You cannot do those kinds of things without the involvement of communities. It is precisely because you are trying to go outside of those structures, although they do not exist now, that we are not meeting the kind of success.

The work of the National Assistance Board, the Welfare Department and all of these agencies could be complemented by a formal structure of community councils. And by removing community councils what we have done is throw out the baby and the bath water for the simple reason that we have also lost those people in the community whom others looked up to because it takes twice the effort now for a man, even if he is a teacher, to be respected in a community because of the way in which social relations have changed. So you help legitimise his community work by giving him a role sitting on a Council and giving advice and working for the development of his community.

It does not have to come from Government. This is an ideal project for the NGO community in Barbados to design; it is an ideal project which falls outside of the ambit even of a Ministry; it can be done by the NGO community and the resources can be made available. A fair system as well for funding the activities of these community councils is vital, because I firmly believe that non-governmental organisations are going to have to be the saviour of the social decay that is taking place in Barbados. We are going through that cycle and the only way we are going to arrest it is to build more communities, using people who have the tools and the resources, and the international institutions and Governments are going to have to find the resources to give to these community councils and community workers so that they can undertake the tasks that are vital to our peace and also our prosperity.

The other important point is the question of economic rights. The Honourable Member for Christ Church West spoke about the fundamental rights and freedoms, but I believe that there is an old saying, that to offer political rights or safeguards against intervention by the State to men who are half naked, illiterate, under fed or diseased, is to mock their condition. I am not saying that those conditions apply in Barbados, but draw the analogy that it is still vital for us to understand that the only way that men and women are going to be able to enjoy their fundamental rights and freedoms and the incidents of their citizenship in Barbados is if we also incorporate certain minimum economic rights which should be theirs.

For most people in the world poverty and social deprivation are of much more concern to them than arbitrary arrest by a policeman, the unlawful acquisition of land by a Government, a knock at the door

in the night or an unfair trial by a judge. Their principal concerns are a lot different from the issues that are often identified under the Fundamental Rights and Freedoms provisions. Yet even the most passionate protagonists and the people who argue most for human rights shrink from suggesting economic and social charters and we have to ask: why?

(1) Is it because lawyers and philosophers rather than economists and bankers are the people who drive the struggle for human rights? It is the lawyers who talk about human rights, it is not bankers; it is philosophers who talk about it and academics, but economists and bankers are concerned by and large about other things.

(2) Is it because it is often too daunting to grapple with these overwhelming economic and social needs?

(3) Is it because it is thought that the triumph of capitalism will work to ensure that living standards become high everywhere?

In a sense on all three counts, we suffer because we have not been able to ensure basic economic rights.

No Government is committed to reform if none of its proposals seeks to entrench the right to even basic economic and social rights in Barbados. Whatever the reason, constitutional reformers are cautious when the debate moves to economic rights. They can tell you. Some could shy away from creating economic and social rights on what they say are philosophical grounds. They believe that freedom requires the grant of negative or more limited rights and that the positive economic and social rights are not really rights at all. Rights therefore have become rules of minimum interference, rules where the State is not allowed in circumstances to encroach upon the ability of the citizen to do basic things in the society. The argument goes that moral and legal duties prohibit acts which cause intentional or foreseeable harm, and this view regards freedom as the potential right to do as you please within a legal framework designed to facilitate the operation of a free market.

I would like to know, very much, why the Honourable Members of the Commission did not also look to see the extent to which the free market has moral relevance and what is the moral relevance that we attach to that free market and what economic rights we are going to give citizens in Barbados to protect them from deprivation and protect them from other economic misfortune.

Mr. Deputy Speaker, no doubt some take comfort from the view that the disadvantaged can benefit through the trickle down effect, maybe that over time, the people at the bottom will get some of the crumbs from the table and that therefore you do not have to guarantee them economic rights to ensure their upward mobility and security in the society.

But can this view be tenable in a civilised country with a relatively mature economy? There are surely some positive rights, which most people agree on, and there are some that we agree on in this House over time. We have long accepted as a society the right of people to have sufficient food to avoid starvation, the right to education, welfare, medical care and to a basic pension. Should it not be the duty of the Barbadian State to provide sustenance to the destitute as an entrenched constitutional safeguard for the hungry and the homeless? Are these not positive rights? If so, and there clearly are,

then we have to recognise that in a modern civilised society people have entitlements as well as freedom.

5:15 p.m.

Wednesday, May 31, 2000

Continuation of Mr. D. J. H. THOMPSON:

Mr. Deputy Speaker, I think that is extremely important. President Franklin Roosevelt as far back as 1941 spoke about these economic rights in his State of the Union Address in which he said:

“We have come to a clear realization of the fact that true individual freedom cannot exist without security and independence. ‘Necessitous men are not free men.’ People who are out of a job are the stuff of which dictatorships are made. In our days these economic truths have become accepted as self-evident.”

Then he identified these four truths:

Labour is not a commodity.

Freedom of expression and association are essential to sustain progress.

Poverty anywhere creates a danger to prosperity everywhere.

The war against want needs to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort.”

Then, the ILO came along and established some of these basic economic rights which we should have as citizens, and so does the Social Charter of CARICOM.

Their tasks remain that they should seek to support policies which achieve full employment and raise standards of living, to develop policies on hours and conditions of work which will bring a minimum living wage, to promote a just share of the fruits of progress to all. The right to collective bargaining, social security measures, comprehensive medical care, child welfare and maternity protection, proper nutrition, housing and facilities for recreation and culture are all within that mandate.

I believe that the Barbados Constitution can go even beyond what the Honourable Member calls the non-justiciable provisions because although I hear the Government talking about access to beaches, we also have to make the point that what is proposed by the report is not to make that a right that will be enforceable, but really to establish it as a guideline, a standard to which Governments should aspire.

We have to determine whether that is all we want to do. There is a cost involved. But are we going to bite the bullet and say that we are going to take the consequential steps to ensure, either access to beaches or the acquisition of the land which Barbadians by and large associate with and as the beach, the land on which there is sand, as distinct from the areas between the high and low water marks and so

on?

So too, is the quality of education and vocational opportunity and there are 173 countries in the world which have accepted that these economic rights are critical and special. Social and economic rights address the concrete issues of people's lives - how to feed your children, how to acquire secure shelter, to get health care when you are sick, the necessary education. Including these rights in the Constitution means that they must be considered at all levels of decision-making at all sectors of society. It does not suggest that the problems of poverty and homelessness will be solved overnight or even in one generation, but it does ensure that the values and priorities are in place to make local and national solutions possible.

Widespread social and economic rights are included in the South African Constitution. We all know that they may not occur in our generation but it was vital to establish the kind of society which spoke to these widespread economic and social rights. They may not have an immediate difference in the society, but they are like stars by which to navigate and plot the society's course. Some apparently say that they lessen Government's freedom of action but they undoubtedly entrench the priorities of the people because these are some of the basic priorities of citizens in Barbados. To entrench these constitutionally is to see society where there is a concern for other members. And is this too unrealistic? Rather, it reminds us that freedoms are nothing, all of the rights and freedoms we have in our Constitution are nothing if there is not an opportunity by citizens to exercise them.

Mr. Deputy Speaker, the South African approach is to give people these rights but they do not have the right to redress in the courts. That is one option. This would ensure that the Government had to test its economic and social measures against the criteria laid down in the various treaties to which the Government has become a party.

But there is also a view that you can go a step further and that you can make judges and the courts responsible for actually enforcing those rights, as you develop your economic and social system to a high degree. One essential value of human rights is that they prevent the weakest in the society from going to the wall. Unless we protect economic and social rights, cries of freedom and liberty ring hollow.

In fact, I will go as far as to say what about the right of vendors in Barbados, public service vehicle owners and others to work rather than to stay at home or to, not that it is an obvious alternative but to, be involved in some kind of criminal activity. And why can we not expand the rights that we offer citizens in our country to ensure that they have a fair opportunity to be involved in self-employment where the Government cannot provide full employment?

We talked about access to beaches already. But what about the rights of Barbadians in respect to ownership of land and greater control of economic resources? These are all economic rights that Constitutions elsewhere in the world have spoken to.

There is a reason why the 1966 Constitution did not speak to it and that is because that was an accommodation of interests, just as the extension of the franchise was an accommodation of interests where the governing elite felt they had to do it to survive. But we are now in the year 2000 and we are still talking about economic enfranchisement and economic opportunity and ownership of wealth and

access to beaches and many of these issues which very much need to be included in the provisions of our Constitution.

The final point I want to make relates to Barbados' relationship to CARICOM and the Single Market and Economy and the very general aspects of global governance. These issues are going to attack traditional notions of sovereignty and in the report the Commissioners were not asked to deal with these issues but I feel, nevertheless, that the Commissioners should have dealt with them because these are going to be very critical.

A free trade area has in a sense been relatively to establish by the removal of national barriers. But the establishment of a genuine single market within CARICOM is far more difficult. It requires changes in political consciousness and, more fundamentally, changes in the national political environment.

Enlargement of CARICOM, freeing up of movement of labour and social changes, the reform of the industrial, agricultural and services policy, the completion of the single market and the protection of our environment can all be cogently said to be more important than national constitutional change, because in a sense they override even the constitutional changes that are being recommended for this Constitution in the report of the Commissioners.

Sir, the competitiveness of CARICOM is key for all of our countries and all of our jobs in a fiercely competitive global marketplace. The world markets are a remorseless discipline.

For example, Mr. Deputy Speaker, we cannot as some seem to think simply 'talk away' issues like the single currency within CARICOM. And there are going to be others! To achieve the aim of a single currency, for example, we will all have to agree to accept a clear and demanding economic discipline. It will significantly tie the hands of Ministers of Finance despite the sovereignty of our Parliaments to whom they report.

Member states may have to set out to achieve what are called convergence criteria which will require them to follow similar policies in relation to interest rates and inflation rates, as well as stable exchange rates, public sector borrowing requirements and so on.

Therefore, the loss of this ability to adjust your exchange rates unilaterally means that loss of flexibility which would prevent those countries in CARICOM, which have used that tool, from adapting their economies to outside events which affect each of them differently. With high unemployment in parts of CARICOM, inadequate mobility of labour and some inflexible labour structures in the rest of the region, regional unemployment and wealth variations may become greater.

5:25 p.m.

Wednesday, May 31, 2000

Continuation of Mr. D. J. H. THOMPSON:

These do have implications for a country like Barbados and in a real sense they have constitutional

implications for a country like Barbados because they will reduce the discretion which Ministers of Finance and sovereign Governments are going to have over these matters which under their Constitution they previously exercised.

Our constitutional debate needs to reflect the realities of CARICOM and world economic development. It would be a momentous change requiring a further sharing of sovereignty with our partners in CARICOM. Another reason why I support a referendum is because I believe the people need to be able to speak on issues such as this, not the issues of being involved in CARICOM, not first principles, I am talking about issues that affect the relationship of Barbados as a country to CARICOM and the extent to which we are going to surrender aspects of our sovereignty to be involved in a regional single market.

It would be no use joining without the emphatic support of the people so that we can clearly be satisfied that we are there for the long haul. It is one of the most important decisions that we have ever faced. In short, if one believes that CARICOM is good for the whole Caribbean and that a strong CARICOM is in our national interest, then it means that we have to agree to some constitutional changes in Barbados which are going to facilitate that.

I think the Commissioners should have been asked to examine the extent to which Barbados as a country should allow those kinds of changes to be made and what would be the extent of those changes to give effect to the full panoply of measures introduced by the CARICOM Heads and some yet to be introduced.

There has to be a constitutional framework which takes into account the need to push power down - at the level of CARICOM - to the lowest levels wherever possible and to involve the people as real participants. No one wants a CARICOM which piles layers of bureaucracy on top of each other and on top of our existing bureaucracy where ultimately we are back to the same constitutional issues which affects us domestically. We must involve the people of Barbados in this process, otherwise CARICOM institutions, just like those at home, may wither and perish.

Mr. Deputy Speaker, some men look at Constitutions with sanctimonious reverence and deem them to be like the Ark of the Covenant - not to be touched. They ascribe to the men of preceding ages greater wisdom and sagacity than the men who associated with them when they were in the process of introducing the Constitution and sometimes we even ascribe to them superhuman ability such that we feel that we should not make any changes which may fly in the face of those superhuman abilities. Very often, we feel that what they did is beyond amendment and change. I do not think so.

Some people may ask in a cynical way, why there is a constitutional matter because most people would see a number of immediate issues far more important to their everyday lives. The economy, job creation, education, the environment, health care, provision for old age, all of these would come high on their list of immediate and cogent concerns.

By contrast, Constitutions are abstract and very esoteric. They deal in detached and legal language within the framework of government. True it is that it grants individual rights, but it is rare that these seem to impinge obviously and immediately on people's lives. It is not until sometimes something happens that people start to talk about their constitutional rights.

Our laws, our economic development and the cauldron of political activity that we are involved in, will work properly only if constitutional boundaries are in place, well-recognised and respected. It is only if citizens have a proper opportunity to participate in Government at all levels that their needs can be recognised and met. The shape of Government both centrally and at the community level, crucially affects the vibrancy and the vitality of our society.

The slow, long move toward universal franchise reflected far less, as I have said already, the principle of equality, the principle of giving everybody the right to vote than the wide recognition of the governing class, that it was in their self interest to share power to maintain societal stability. Therefore, what we need to do is to take the extension of the franchise much further than the opportunity to vote once every five years and to give people a much greater say in decisions.

Our constitutional development has more to it than a principal commitment to fundamental human rights because the starting point of any change must be a consideration - and principally - of the role of Parliament. All of these reforms still do not ensure that people are consulted on important national issues which arise between elections. That is why we have recommended the use of a referendum. A referendum is not a constitutional pariah. It has immense advantages that it enables a campaign to focus in depth on one issue.

None of the choices for our country is as momentous as the extent to which we should deepen our relationship with CARICOM. No consideration on human rights should overlook the critical importance of economic and social freedoms. It is a fallacy to suggest that legal and political freedoms are all that a civilised society needs. It is our citizens, as time and again, I stress that our philosophy addresses. That is what our presentation here today is about.

Constitutional reform is a grandiose phrase but it has a fiercely practical purpose because all forms of Government must evolve to meet the changing needs of society. Their framework is the background for Government aiming to enhance prosperity, educational, economic and social opportunities. Mr. Deputy Speaker, such an opportunity must include the right of people to participate more in their Government.

We can be bleak about our society. We can talk about declining educational standards on the one hand, unemployment among women, the fragile nature of family life and about the alienation of an underclass. A society which is fair to all of its citizens can be achieved only by a vibrant and a powerful democracy and sustained by basic human rights enforceable in a civilised judicial system.

I have spent 13 years in this Parliament talking about the next century and although there are those who questioned whether the millennium started on January 1, 2000 or will start in January 2001, the point is in a real sense we already know that we are in the next century. We will only succeed if the Government belongs to our people and the people are given the opportunity of much fuller and direct participation. Our people should be allowed far beyond the barricades of the old political order.

Thank you.

Hon. Dr. R. L. CHELTENHAM: Mr. Deputy Speaker, I welcome this opportunity to participate in

this debate. I regard it as an important debate not because at the end of it this Parliament will be making any decisions with regard to the elements of a reformed Constitution but because we are involved in the process of commencing discussion and public commentary on what should be the feature of the reformed Constitution which we seek.

Since our independence in 1966, our Constitution has remained intact and notwithstanding the changes which the Honourable Member for Christ Church West referred to in his opening presentation, there have been modest changes. So it was right that after one-third of a century, we should have had a broad-based and high-powered Commission trying to reflect on the experiences and the lessons of the last 33 years more with a view to seeing what additions and modifications ought to be made to our Constitution.

5:35 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Dr. R. L. CHELTENHAM:

I want to support fully the proposal to patriate the Constitution of Barbados. It is high time that our Constitution be a home-grown product. It should be seen as a plan, as it were, that springs from Barbadian soil. The Independence Constitution of 1966 is really the result of an Order of Council made pursuant to an Act of the U.K. Parliament. In the same way as Canada and Australia which used to be called the Old Dominions, almost 100 years after their independence patriated their Constitution, it is about time that we in Barbados patriate our Constitution and make sure that it be seen as a Constitution that springs from our soil which reflects the Barbadianness of our people. So I support that and I do not think that on that issue there is likely to be too much divide.

I support too, Sir, the place in our Constitution for a preamble and I particularly welcome the new provision which is referred to as a statement of responsibilities.

The provisions therein are non-justiciable but I think that they reflect the ideals and the norms of the society. To that extent, they are very much to be welcomed. That all Barbadians should have access to the beach is a highly desirable norm and, even though a breach of it will not lead to any court action, I think that to the extent that it is there it will guide policy makers and influence those too who may be inclined to disregard it. So to that extent, all of those provisions as set out in that new chapter as proposed are very much to be welcomed.

I want to turn, if I may, to the continuation of the Barbadianness of the Constitution which is, as I understand it, one of the goals either implicit or explicit of the responsibilities which the Commissioners had which is highly consistent with the mature sense of nationalism which our people now possess. That almost demands that our Head of State should be a native Barbadian and not Queen Elizabeth. In saying that, we are not at all reflecting on the fact that the monarchical system has worked well in this country. But I think that the time has come when our local Head of State should be a native Barbadian.

I support the proposal that he or she should be selected by the Electoral College consisting of the

Members of Parliament and that his or her term of duty should run for seven years. I feel, too that as the non-elected and dignified Head of State in the Constitution, he or she ought not to be given any more power than the Governor-General currently possesses. I think that it would be wrong and inconsistent with the democracy which we have that a non-elected President should have any enlarged powers. So I fully support the proposals of the Commission in that regard.

I want to turn now, Sir, to the question of the Bill of Rights. I think that it is an important part of our Constitution reflected at Chapter 3 of the present Constitution. The first thing is that the language needs to be simplified. This is a chapter that sets out the rights and freedoms which we enjoy but it is written in such way that the average person may not appreciate what is set out therein. I think that if the Constitution is to become more meaningful and if more Barbadians are to be familiar with it, the first responsibility is really to simplify the language of the Constitution and in particular the Bill of Rights.

The second thing is that the rights should be expressed not in negative language, as it were, but in a positive form. For example, section 13(1) of the Constitution says:

“No person shall be deprived of his personal liberty

save as may be authorized by law in any of the following cases ...”

It goes on to identify those cases but the European Convention from which we have borrowed very heavily in relation to our Bill of Rights deals with this same provision in a positive form saying that all persons are entitled to liberty and security and so on. The reason why it is important that the formulation be in positive form is not because many of the important Conventions on Human Rights put it that way, but because in a very few months, by October, the European Convention on Human Rights will be made part of the domestic law of the United Kingdom. The more we harmonize with that Convention from which we have borrowed so heavily, the more we are likely to have a large number of precedents coming out of the United Kingdom which will help us in the interpretation of our own Bill of Rights.

Sir, I think that it is important as has been suggested by the Commissioners that we harmonize as much as possible with the language of the major Bill of Rights, as it were, in the world and those from which we have drawn our inspiration.

The third point I wish to make relating to the Bill of Rights has to do with the fact that it has been viewed as really an abstraction, inaccessible to a large number of people and really remote. That has not only to do with the complexity of the language, but it has to do too with one matter which was not addressed unfortunately by the Commissioners and that is the proviso containing section 24 in the Constitution. It says in effect that, even if there is a constitutional violation of which you can legitimately complain, once there are other remedies in private law that you could have pursued you cannot and should not bring it under a constitutional case. That means that, even if the judge is satisfied that there has been a violation, he has a discretion to say that perhaps you have come to the wrong forum. You should have used a private law remedy instead of the Constitution.

Now in Trinidad and Tobago, there was never any such provision. In their Independence Constitution, they avoided that and in the republican Constitution they continued that avoidance. There

are many other newly independent countries which have come to independence since 1947 particularly in the 1960's that did not reflect our provision in their Bill of Rights.

5:45 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Dr. R. L. CHELTENHAM:

There are some objections that can be made to it, that it prevents the Constitution from being seen as accessible, in addition to that, it interferes with the right of a plaintiff to determine which law to use in seeking to safeguard his right. I think that, even though the Constitution Review Commission has not dealt with that particular matter, it is a particular provision that should be deleted as we move forward.

I want to deal quickly with the existing law provision and I think there is now no divide even though Commissioner Norma Forde did express the view that we should have the existing law provision continue for another few years after the reformed Constitution has come into being. This existing law provision says that if there is a written law enforced prior to the coming into being of the 1966 Constitution, even though it collides with the Fundamental Rights provision it is exempt from attack. That, really, in effect collides with the statement that says that the Constitution is the supreme law of Barbados and any law that collides with the Constitution to that extent is null and void. That has only partial meaning if you have a large body of laws that are exempt from the text of the supreme law. I am glad to see that the Commissioners have agreed in the majority. I think there is only one departure, that of Commissioner Forde, not the Chairman, that that too should go and that in a reformed constitution all the written Laws of Barbados pre-Independence or post-Independence need to conform to the supreme law provision or be struck down. I think that that is a very important recommendation and that that too, should serve to make the Constitution more user friendly, more accessible. It will give the impression, certainly, that it has far more meaning to the average citizen.

Section 13(2) of the Constitution says that if you are viewed as a suspect by the police before they commence interrogation of you they have a duty to inform you of your right to counsel. What happens if after informing you of your right to counsel you have no means to secure counsel? Is it then not a meaningless provision? It seems to me that if we are to give full expression to section 13(2) we really need to provide a constitutional responsibility on the State to provide legal aid in a narrow group of cases. That has nothing to do with the normal legal aid provision.

I am suggesting that in relation to a narrow list of cases, the most serious cases, an accused person should have the right to counsel at the expense of the State. That should be a constitutional right which a suspected person has in relation to very serious offences. If you do not do that in effect 13(2) is empty and cannot readily in many instances be given effect. What is the use, I ask, of telling a man before you start to interrogate him, a suspect, that he has the right to counsel in a serious case when he has no means of securing the services of counsel?

This constitutional right to legal aid in limited circumstances, the most serious offences, would serve as a complement to 13(2) and give it meaning and practical effect.

There is another proposal and in this particular one I am fully supportive of the Commission. It has to do with the fact that thus far in Barbados you can only bring a motion for a violation of a constitutional right if it is the State or an agency of the State with coercive power that has violated that right. It is easy to understand that in Barbados, BARTEL with its monopoly exercises coercive power and so does the Light and Power. To the extent that they too exercise coercive power they too can violate the constitutional right of citizens but no case can be brought against them for violation of rights whether it be discrimination or otherwise under the Bill of Rights because, as presently set out, it must be the State or one of the coercive powers of the State that has violated that right.

The Commission has sensibly, in my view, recommended that we do as the Indians and many other countries have done and recognise that institutions in the private sector, for example - I am not saying all of them - discriminate against individuals and in many other ways can violate their constitutional rights.

I do not want, Mr. Deputy Speaker, to spend too much time on the Bill of Rights but I think that we need to get it right and in particular we need to strengthen the access of our fellow citizens to redress under the Bill of Rights.

The Commission is suggesting that legal aid should be provided for breaches of the Bill of Rights. I think that at present there are some circumstances in which that is not put in a secure footing as yet but at present you can get some legal aid for constitutional cases of that nature. I am not sure that that goes far enough. Not everything can be put in a constitution, a point which the Honourable Leader of the Opposition seemed to have forgotten. He wants us to put it in the Constitution the implications of the information technology revolution, the impact of the single market and economy, the development of CARICOM; but not everything can be put into a Constitution. I think that that point has got to be made.

A lot of the issues mentioned by the Leader of the Opposition must properly be addressed by the policies and the programmes of political parties and of the Government of the day. Not every issue that is part of the life of Barbadians can be addressed in the Constitution.

I think that the Bar Association itself must make sure that a few of our lawyers and senior lawyers too - I regret the fact that I think I am perhaps the only Queen's Counsel, senior counsel now on the Legal Aid Panel. I have never taken off my name and I still offer my services two or three times a year.

It is important that there be a group of us who will be prepared to do those cases and that that be known so as to strengthen the access of fellow Barbadians to the use of those provisions in circumstances where they think that their rights have been violated.

I turn now, Sir, to the debate about the Senate whether or not we should have a Second Chamber in Barbados. We have heard the views of my friend, the Honourable Member for the City, who has for years taken the position that the Senate should be abolished. Much as I am concerned with the role of the Senate, I do not support the outright abolition of the Senate. I think that there is a place for a Second Chamber but its role would have to be radically redefined and its composition would have to be significantly altered. Right now the Senate has no power in relation to money bills and that is as it should be.

5:55 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Dr. R. L. CHELTENHAM:

To begin with they have a much lesser role in respect of matters coming before Parliament than the House of Assembly. The Senate has tended to become a place for failed candidates, a place for the showcasing and the parading of would-be candidates, prospective candidates ...

Asides.

Hon. Dr. R. L. CHELTENHAM: Members are saying that it is a place for rising stars but some of those stars never rose, as I am reminded. I favour a Senate in which the minimum age is 45. You would have to have had a career of meritorious service, a Senate that expresses and reflects wisdom and experience across the entire range of the polity, the economy and the society.

Asides.

Hon. Dr. R. L. CHELTENHAM: Their function would not be to review legislation but to initiate debate and to offer their advice and suggestions on a whole range of issues. To the extent that they are far less busy there than we are in the House of Assembly I would suggest that the committee system starts there really seriously. Not that we in the House of Assembly do not have a serious responsibility to have a functioning committee system on tourism, on financial services and on many other areas of interest to our people but there is a limit to how far a small Parliament can really operate these large numbers of committees as has been recommended.

I am suggesting that part of that responsibility should fall on the Senate, that they should have power to summons witnesses and to have public hearings on many issues. They should have debates on the foreign affairs of Barbados, on different aspects of our economy, our society and our polity and so on. It should be peopled by persons of experience, who have given service to this country and have achieved distinction. If that is their role and responsibility, it does not matter. The heavy political affiliation which is part of the feature of the Senate now where persons think they have to go in there and just vote behind the Government whip, there is no need for that in this reformed Senate because the Senate cannot frustrate the will of the people. Once you have removed that, it does not matter how a man votes because he has no capacity to frustrate the will of the people. It would be an institution that would allow for further participation and it would offer advice and provide wisdom because of its composition in a whole wide range of issues. That would be, without spending too much time on that particular matter, part of the responsibility of a refashioned Upper House as I see it.

I accept that serious reform is needed in this Chamber. The Leader of the Opposition has made some suggestions, many of which I accept. The Honourable Member for the City has also made several suggestions and there is no big divide between them but I would urge that every week we should have a question time of the Prime Minister and of particular Ministers depending on the issues that are breaking, that should be televised and heard by the people of the country and that would make this

Parliament much more lively, much more relevant and make the Government and Ministers much more accountable. We pattern ourselves after the House of Commons in the United Kingdom and that is a standing and indispensable feature in the House of Commons but we have shied away from it here. When you ask questions, the experience is that many of the questions remain unanswered sometimes for years and that there is no time allotted for back benchers. You may get on but Government Business gets priority. We must give an enhanced role to our back benchers. We must make sure that there is question time for one hour every week and that the Government is made to answer on the issues of the day that are breaking and that the people of Barbados hear that question time. I think that they are important changes which we must make in this Parliament. I see an enlarged role for back benchers in chairing some of these committees which we are talking about because I do not see how busy Ministers of Government will have that time. They will appear and put the Government's case but I think that part of the responsibility in chairing these committees will be the responsibility of Backbenchers.

I want to deal with another matter which I regard as of some importance. The Ombudsman has been very much in the news of late.

Asides.

Hon. Dr. R. L. CHELTENHAM: The institution of the Ombudsman came into being following the recommendation of the Sir Meneca Cox Commission which reported in 1979 but for reasons which are not well known and which I will not enter into today, the institution was created with very limited powers indeed.

My experience as a Member of Parliament for 20 years and more and as a lawyer convinces me that there is a real need for an Ombudsman with enlarged powers. As our services become more centralised and as our bureaucracy becomes more dense many of our people complain from day to day of sharp feelings of injustice in relation to a lot of our important matters. The question of pensions, issues relating to Town and Country Planning, issues relating to Customs, issue relating to income tax, issues relating to National Insurance, issue relating to compensation following compulsory acquisition. I am totally convinced and satisfied ...

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

Hon. Dr. R. L. CHELTENHAM: Thank you, Mr. Deputy Speaker. I am making the point, Mr. Deputy Speaker, that we really need, in my judgement to make up our mind about the Ombudsman. Extended legal aid is not the answer. These are problems that need an officer clothed with power so that when once he writes to a head of a department and says this allegation has been made, I want to know what is your response, that letter cannot be thrown away and ignored. It has to be answered.

Asides.

Hon. Dr. R. L. CHELTENHAM: There is a case, in my judgment for supporting the recommendations of the Commission that the Ombudsman should be entrenched in the Constitution and that he should be given very enlarged powers in Barbados.

One further point and it has to do with the ongoing debate as to whether we should again have a

system of local government in this country. I think we are all agreed, those of us who support some form of decentralisation of services, that we cannot and should not go back to local government such as existed in the 1950s before it came to an end following the Jackson Commission Report, and that the country will not accept, I am convinced, that we can have a new form of taxation to finance local government as we have had in the past.

6:05 p.m.

Wednesday, May 31, 2000

Continuation of Dr. R. L. CHELTENHAM:

We need to give the people at the local level an opportunity to serve and to manage some of their own affairs in relation to lights, sanitation, tenantry roads, the organisation of recreational facilities and a wide range of other issues. I am not sure that I or any of us with respect have the answer to the precise structure of that decentralisation. I consider it to be a proper matter for the task force and that would be my suggestion and recommendation in relation to that.

There are, Mr. Deputy Speaker, many other matters on which I would like to comment, but you have indicated that my time has run out. I just wish to say once again, in conclusion, that it is my very great pleasure to be afforded the opportunity, Sir, to participate in this debate.

Hon. M.A. MOTTLEY: I am, indeed, also honoured to be able to participate in this debate, noting the submission of the Constitution Review Commission. May I say from the outset that I believe the highest praise should go the Chairman and Members of the Commission for what is clearly a very comprehensive piece of work resulting after much consultation, not only within the shores of this country, but indeed with Barbadians throughout the diaspora.

I think, Sir, that the debate today has stretched across a number of issues but given the limitation of time as an ordinary speaker in this debate to 30 minutes, I would limit myself to a number of issues, giving that time does not allow me to go into as many as I would otherwise like to.

Sir, when the debate pertaining to the sovereignty of Barbados took place in this Honourable Chamber in January of 1966, I would have been less than three months old at the time, and in a very real sense as the youngest Member of this Parliament, I think that I can appropriately describe myself as a child of Independence from the perspective that all that I know, effectively, has been under an Independent Barbados. And that, perhaps, Mr. Deputy Speaker, explains why it may be for myself and other members of my generation, difficult to understand why we should be in the year 2000 and still discussing the merits or demerits of whether the person who is accorded the privilege of being our Head of State should in fact not be a citizen of this land.

For many of us it is almost inconceivable that this should be a debate occupying the minds of the majority of the last 30 - 40 years of our democracy. And, indeed, I would like to suggest that one of the things that we find very clearly in respect of the entire Barbados Constitution at the time - and while we recognise that it was as a result of persons agreeing to an accommodation - that our time had come, that the wording and intent of much of the Constitution reflected in very many ways a lack of

confidence in aspects of our own as well as in some clear instances against members of this society.

What do I mean by that, Mr. Deputy Speaker? As I indicated in respect of the Head of State, there is absolutely no reason, without disrespecting the Queen as the Head of the United Kingdom, to believe that a person who is not rooted in the culture, morals and history of this country by reason of birth and by reason of their living should be the person to whom all of us should accord the highest respect as that person embodying the collective will of the people in respect of the governance of this country.

I believe, Mr. Deputy Speaker, that this is a matter that should be dealt with as a matter of urgency. I also believe that for us to feel that a person from Barbados could not be the Head of State of this country, would be to reflect, and I want to use my words carefully, an inappropriate lack of confidence in ourselves as a people and in our history.

I further believe, Mr. Deputy Speaker, that that is perhaps, part of the same reasoning that has us still debating whether we should abolish appeals to the Privy Council and accept that there should be a final Caribbean Court of Appeal to resolve issues that arise out of the ordinary day-to-day affairs of the people of this region, whether they be in criminal or civil matters. And it is therefore for me, perhaps, a little more difficult to understand how particularly in other Caribbean territories there is such a vociferous support for the retention of the Privy Council over the establishment of a Caribbean Court of Appeal; for to accept that denies the very capacity of our people to rise above and be able to order their affairs or to act in a manner of fairness and transparency in recognising all the best precepts of the administration of justice. I therefore feel that the collective capacity of the region must rise to the realisation that for us to believe a Court that sits in London to be better than one that is made of persons - who not only have been trained in the law, but whose understanding of our society and morals far outweighs that of anyone who has never, perhaps, even visited these islands within the Caribbean - once again, reflects a hesitancy to accept that there is no greater group of persons one over the other. And it, perhaps, reflects a hesitancy to accept an understanding that no human being possesses or no human class or race of people possesses any set of wisdom that is greater than any other set. For we should recognise that even though that we have not had the responsibility of governing our own affairs for as long as within recent times, it is not the length of time that we had that capacity to be in charge of our own affairs, but it is indeed the attitude and the collective wisdom and training that we bring to the exercise in ensuring that justice is done.

But it does not only stop there. Unfortunately, while our Constitution spoke to many good things, and indeed had regulated much of an orderly Barbados over the last 35 years or so, we still have glaring thoughts of discrimination which, mercifully, this Constitutional Review Commission has pointed out to us for immediate correction.

I speak, Sir, of the right of Barbadian women who chose to marry persons of non-Barbadian heritage. It cannot be fair that in the year 2000 a Barbadian woman who chooses to exercise her right to marry a man who is not a Barbadian citizen and who then proceeds to have children, should be in the unfortunate position of not neither her husband nor her children benefiting from the rights of Barbadian citizenship in the same way that a non-Barbadian woman marrying a Barbadian man today benefits.

6:15 p.m.

Tuesday, May 31, 2000

Continuation of Hon. Miss M. A. MOTTLEY:

We in this Honourable Chamber have spoken about this certainly since I have been in Parliament over the last nine years and before but it still remains as a glaring omission. To the extent that it remains as a glaring omission, it means that there are persons growing in numbers every year who continue to be disadvantaged in a very real way from the economic and other rights of citizenship that we afford as a country.

I hope that the process of being able to implement many of these recommendations will be dealt with swiftly. But I urge this Honourable Chamber, if at all it looks as though there is going to be any delay in the implementation of many of these recommendations, that this matter is of such grave importance to the day to day lives of hundreds and thousands of Barbadian women that it should be dealt with on its own merits. In a society that practises the precepts of democracy and in a society that prides itself for being known across the globe as one that does so, that this omission should continue is an indictment on all of us.

I want to say, therefore, Sir, that there is no doubt in my mind that the Constitution as drafted then for 1966 and with its subsequent amendments, while serving us good for the majority of what we have to do as a society, has had omissions and has also had doubts perhaps as to who we are as a people.

We live in a world today, Sir, where the values and the lifestyles of all appear to be influenced through the pervasive use of technology, the capacity for persons to travel in an open society, one such as ours whose primary industry is based on tourism, where we have access to information flows from all across the globe and where in a very real sense the values of our people are being more and more influenced not necessarily only by the traditional modes of education and family and community, but indeed from the media overseas who have no relationship to this society. Some have chosen to call it the process of globalization. Some refer to it as a consumer society, but I believe, Sir, that the one clear thing is this that those values which are being spread in the process of the sharing of information across the globe and the movement of people across the globe, threaten the very capacity of many societies across the world to maintain their cultural distinctiveness and to maintain their cultural roots as a society.

It gets worse when we recognise that if the society stands to lose its focus on its traditional cultural values and moorings, then the individual becomes less and less rooted in respect of his or her own position in relationship to the society in which he or she lives. And this is all the more critical because we have also experienced in Barbados the fact that there are young persons who sometimes feel alienated from this society, who sometimes feel as though they are in exile in their own country, not because anyone has sought to make them feel that way, but largely because they pursue a sense of values that bears no relationship to the society within which they live.

I make these points, Sir, to reinforce the need for us to be able to identify standards that reinforce our Barbadianness, standards that reflect from the Barbadian Head of State, standards that speak to our

being charged with our own affairs whether it is in the administration of justice or the governance of our country, standards within the Constitution that clearly set out what our rights and responsibilities are as a people.

I believe, Mr. Deputy Speaker, that the only way that we can fight off the negative consequences of globalization and the negative media influences that we face on a daily basis, is to be able to cushion and reinforce the cultural values and mores in this society. In any event, the Constitution cannot be seen as a staid document, but must be a dynamic entity which must continually reflect that the rules which it seeks to embody must also reflect those cultural moorings and cultural values. To that extent while the members of the Constitution Review Commission have done a very good job in general, there are one or two difficulties that I have particularly with the declaratory rights under the fundamental rights and responsibilities of citizens and the state.

I believe that the state has a fundamental right to promote the cultural values and the mores of the society, particularly given that many of the negative effects of globalization and indeed of the media society can only be fought off by the reinforcement of individual values in a person.

Many of them are the traditional individual values that we have come to recognise and respect as a society, be it in thrift, be it in sacrifice, be it in commitment, be it in discipline, they are things that in themselves speak to the building of the character of this nation and of the people who have helped to build this nation. I believe that if we are to recognise that we are to maintain our cultural distinctiveness and our sovereignty this should be one of the precepts which our fundamental rights and responsibilities speak to, in respect to the fundamental responsibility of the state.

I go further. I also believe, Mr. Deputy Speaker, that if we speak of a citizen having a responsibility to participate in the economic political and social life in Barbados that the state, particularly given the history of this country, has a responsibility to promote the economic interests and rights of all its citizens and to give them a fair opportunity to participate within the economy.

There is absolutely no doubt, Mr. Deputy Speaker, that much of what informed those who fought for the establishment of modern Barbados in the post 1930's related to the alleviation of poverty. They did not use that jargon then perhaps but they spoke to issues of ensuring access to rights of the large majority of Barbadians who were then without access to political rights, to basic social rights, the right to free secondary education, to rights pertaining to public health. A whole host of rights they were without. In a very real way we have come full circle in recognising that our responsibility still lies in seeking to obliterate poverty from our landscape, but understanding perhaps more fully that the process of doing so must depend on making each Barbadian citizen as independent and as autonomous as they can be within the context of them respecting their responsibilities of citizenship in a modern Barbados.

For many of them, the only way to be able to do this is through the process of education and through the process of participation in the economic landscape of this country. We therefore must seek to ensure that we see that as one of those norms which we as a Government will aspire to and that we recognise that it is a principle that cannot in fact deter us from the fight first undertaken by those who sought to establish modern Barbados on the basis of rights for all in the post 1937 era.

I also want to say therefore in that context that when we became independent, to a large extent our

generation, my generation was told very much of our rights. We had a right to do this, we had a right to free education, we had a right to free health care once we were suffering from certain things such as chronic diseases, we could get free pharmaceuticals. We had a right to a whole host of things including a right to a subsidised bus service.

6:25 p.m.

Wednesday, May 31, 2000

Continuation of Hon. Miss M. A. MOTTLEY:

But nowhere in our education as citizens of this country whether within the formal structures of schools or within the non-formal education process, within the community groups, within the media of the country or within the organizations in the country were we reminded as a generation that we have responsibilities to the State.

I therefore welcome the fact that this Constitution Review Commission has deemed it important enough to place at the beginning of our Constitution that we have responsibilities, that we have a responsibility to our country, that we have a responsibility to cooperate with lawful agencies in the maintenance of law and order, that we have a responsibility to participate in the economic, social and political life of this country, that we have a responsibility to value and to preserve the rich Barbadian cultural heritage, that we have a responsibility to render national service when necessary and that we have a responsibility to strive toward excellence in the building of the national effort.

I believe that these words as should be found in any amended Constitution of Barbados cannot remain as but words on a piece of paper but must be reflected in all that we do, whether it is through formal education, non-formal education or informal education - because the two are different - in respect of reinforcing that message to the citizens of this country.

We cannot go to any other country and benefit from the rights that we benefit from in this country. Worse still, we sit daily and see citizens across the globe in other countries not even coming close to benefitting from those rights or benefitting from the quality of life that we benefit from in this country.

But like in building a house, if one does not maintain it, if one does not seek to paint it regularly and if one does not seek to do things around it regularly, the house itself will eventually start to crumble. A society, like a house, is not bound by the determinate age of a man. It goes on across generations and therefore unless we seek to preserve the society as a whole, then as sure as that house will fall, the society will itself will implode.

I venture to say that in any event in respect of this and other parts of this constitutional reform, these rules will only mean something to those who pick up the book to look at it and unless we are prepared to commit ourselves to the enforcement of these rules in the building of the type of society that we would wish to build for ourselves, we will, in fact, not benefit from this exercise.

I want to suggest therefore that my generation must understand that liberty is not licence, that, yes, we have inherited the freedom to do a number of things and the rights to a number of things but, as sure as

night follows day, unless we accept the responsibility to also do a number of things, then those things which we have inherited will be devalued by the time we pass it on to the next generation and a time may well come when they would have expired before reaching a future generation of Barbadians.

I want also to speak to the issue of our democracy. There is no doubt in any of our minds that the process of democracy cannot be limited only to an election periodically held. There is also no doubt in my mind that the process of governance in this country cannot be restricted to a Parliament that does not find ways to ensure that it bridges the gap between itself and the Government.

It is a crying shame that as we stand here, mercifully being broadcast to the rest of the country, that we stand in a Chamber, and I know that you your Honour cannot see the Gallery, but I perhaps have eyes behind my head which allow me to see it and to that extent it is a crying shame that I can count not even five people in the Gallery watching us today. Some may argue that that may be because the debate is being broadcast but all of us who people this Chamber know full well that it makes no difference whether it is being broadcast or not.

I want to suggest to this Honourable Chamber that we have to confront the challenge of bridging the gap between ourselves as those responsible for the governance of the country and those who are being governed because if we fail to do so, then we would soon recognise that we would be contributing to the irrelevance of the very institution that we need to preserve democracy and to preserve the rule of law in this country.

For too long, we have been speaking about the broadcasting of debates and so on and if we are not prepared to put it on television, then at the very least there must be a commitment to bring CBC's O.B. van in here ...

Asides.

Hon. Miss M. A. MOTTLEY: Well, to get one for CBC and to ensure that there is radio broadcast of these debates on a continual basis.

People now define issues not by reason of what we say or pass as legislation in Parliament but define it as what they set as their agenda item through the newspapers or indeed through the call-in programmes. No wonder then it is so difficult to speak to people about the critical importance of the Single Market and Economy, or to speak to people of why it is that in relative terms what we are seeking to do to maintain law and order in this country has to be seen in the context of what the rest of the world is going through or - when we speak to other issues that are critical but unsexy and would not make the front page of the Nation or the Advocate or be the subject of a call-in programme - recognising that we have a responsibility and it is not simply for us to feel comfortable because we have been like this for all the years. So behind are we, that we should not only be talking about broadcast but that there should be the capacity through the Internet to be able to speak to Barbadians wherever they are found anywhere on this globe.

The concept of the diaspora has been removed in very large measure because of the capacity of technology to remove size and time as critical factors in communication with people. Barbadian citizens who may not be currently residing in Barbados have a right to know on a real time basis if

possible, how they can participate in the investment, the defence or in any other way in the affairs of this country.

I believe that this Parliament would be shirking its responsibility if it is not seen as one of the very things to shore up not only the precepts of democracy but also the capacity for us to provide a better living for our people across the country by ensuring that we pull on a greater resource of people than simply those involved in living here.

Equally, Mr. Deputy Speaker, I believe that we can be more focused in how we use our parliamentary sessions. Right now, legislation comes through Cabinet and then down to Parliament. Very often Backbenchers and Members of the Opposition in particular have very little time to do research so as to be able to speak knowledgeably unless the Government deliberately gives them an opportunity by leaving a matter on the Order Paper which we have tried to do during the course of the last six years. I believe that there can be a better structure to the functioning of Parliament by our ordering parliamentary terms so that our business is not so much dictated by the pace of a public servant but that it is better ordered so that we come to Parliament knowing what legislation we are going to do.

I believe that in other parts of the Commonwealth, the business of Parliament is so ordered and that persons therefore can go about planning their business more effectively while at the same time being able to do their research and to ensure wider participation of other sectors within the economy to contribute to the debates which would come before this Chamber. As I have said, as a Government, we tried to do that but in the absence of a formal parliamentary term in that sense it becomes more difficult to be able to do so because Government's business still has to go on very often.

Equally, I feel strongly that there must be a thorough review of Parliament. I, like the Honourable Member for the City of Bridgetown and the Honourable Leader of the Opposition and unlike the Honourable Members for Christ Church West and St. Joseph, do not believe that our system of governance is aided by the existence of a Second Chamber as we have at the moment.

I do not believe, Mr. Deputy Speaker, that we should be seeking to do the people's business other than by modes which reflect the strictest accountability.

6:35 p.m.

Wednesday, May 31, 2000

Continuation of HON. Miss M. A. MOTTLEY:

They have a responsibility to be accountable to the electorate of this country.

I feel very strongly, Mr. Deputy Speaker, that we can only seek to do the fundamental things that constitute Government if we are accountable to the people. Those who have no responsibility or accountability to the electorate do not feel the same sense of responsibility in taking decisions in respect of the work that they do in the governance of the country.

Equally, the Senate now other than being a delaying body really does not add to the governance of the

country other than by way of offering their opinion on things. But we can find other mechanisms for persons to offer their opinion without necessarily being part of the structures of Government. At the end of the day as has been said by the Leader of the Opposition when it comes to the fundamental things that Governments rely on, they are not part of the process and in particular we refer to the capacity to tax and raise money.

I am grateful, Mr. Deputy Speaker, although I did not realize the time flew that quickly. I want to speak very quickly to the issue of how I believe the reform of Parliament should take place. People vote in Barbados today for a variety of reasons. Some vote because they want a good constituency in the sense that they believe persons should take care of their local interest. Others vote because they believe that persons are required to deal with matters of national importance and that they should constitute part of the process of governance of this country. Also, others vote because they feel that we have so many international obligations that they should be part of that process too. What happens very often is that we get therefore an obfuscation in terms of what we really want.

I believe, Sir, that there is a case for a division of Parliament into constituency Members of Parliament, regional Members of Parliament and national Members of Parliament so that when a person goes to vote, they vote for their constituency Member of Parliament, their regional and their national.

If we believe that three tiers are too much, then we can have constituency and national. But there are some persons who will not come to the task of constituency representation easily but who should be in a Parliament of this country and who might otherwise be prepared to serve.

There are others, I believe, who recognize as was the case that this matter was advanced not just by our thinking and discussions. I remind us, of course, this is my view and not the Party's view. The Jenkins Commission reflecting on the reform of Parliament in England also recognized the importance of having not only constituency MPs but regional MPs because there are divergent interests sometimes in respect of the governance of the country. If we therefore have one person to be the jack of all trades to all, then very often what we benefit from will be obfuscated because people have different motivations and people have different skills at the end of the day, and you can almost end up with a mixed match.

I am sorry, Sir, that I do not have time to speak specifically on the Parliamentary Integrity Commission. Suffice it to say, Mr. Deputy Speaker, that as a young person I have felt almost aggrieved that I live in a society where it is believed that all politicians are corrupt or evil. I believe, Sir, that we have to recognize that we are responsible for our own governance and we must stop peeping underneath ourselves. I believe, Sir, that we must recognize that we have the ability to ensure that the very best and honourable precepts of transparency and accountability can govern our affairs. I recognize in the same way that we have good and bad lawyers, good and bad doctors, good and bad men and women, there are good and bad politicians.

I will not subscribe, Sir, to a Parliamentary Integrity Commission without recognizing and being fair in saying to the public of Barbados that in the same way you will want a Parliamentary Integrity Commission, there must be a Commission of Integrity for anybody dealing with public funds in any way whatsoever. This refers to public servants back to those sitting on statutory boards.

What the public may not know, Mr. Deputy Speaker, is more than half or perhaps as much as three-quarters of the contracts or anything else that are given out by Government are not even given out or seen by Ministers. In fact, that is governed and ordered by public servants.

If we recognize that we want politicians to be accountable, I have no difficulty with that. The very motivation that causes us to do that must be the same motivation to recognize that anyone who has responsibility for public funds or the governance of public affairs must equally be prepared to be accountable to the public in respect of a declaration of interest before, during and after their tenure for that.

Mr. Deputy Speaker, I would not wish to incur your wrath. Therefore, I would like to thank you for the opportunity to participate in this debate and to hope that I will have another opportunity at sometime to address some of the more fundamental issues in this very comprehensive Report.

I thank you, Sir.

Hon. D. A. C. SIMMONS: Mr. Deputy Speaker, I beg to move that further consideration of this Resolution be deferred sine die.

Hon. Miss B. A. MILLER: I second that, Sir.

The question that this Resolution be deferred sine die was put and resolved in the affirmative without division.

ADJOURNMENT

Hon. D. A. C. SIMMONS: Mr. Deputy Speaker, I beg to move that this Honourable House do now adjourn until June 13, 2000 at 1100 a.m. I just wish to say on the Adjournment, Sir, that the concerns of Honourable Members about the broadcast or telecast of parliamentary debates have not been lost by me since I have assumed responsibility for broadcasting. There is, in fact, a committee that I set up which is actively considering this matter. They have given me an oral report already which indicates that technically there should not be a great difficulty in facilitating such telecast. Tomorrow there should be on the Order Paper of Cabinet a Paper for the Director of Communications and the Chief Information Officer to go on a study tour to Florida next week to see the operation of public broadcasting systems at work and on their return to make certain recommendations. I am reasonably confident, Sir, that provided the necessary finance is made available this matter will become a reality sooner rather than later.

With those words, Sir, and hopeful expectations, I am pleased to move the Adjournment until June 13, 2000.

Hon. R. N. GREENIDGE: I beg to second that, Sir.

The question that the House do now adjourn until Tuesday, June 13, 2000 at 11:00 in the morning was put and resolved in the affirmative without division and Mr. DEPUTY SPEAKER adjourned the

House accordingly.

6:45 p.m.