

THE SENATE DEBATES

(OFFICIAL REPORT)

SECOND SESSION 1976 – 81

THE SENATE

Wednesday, 29th October, 1980.

The Senate met in the Senate Chamber, Public Buildings, on Wednesday the 29th October, 1980, at 11.45 a.m.

PRESENT

His Honour Senator the Honourable Sir ARNOTT CATO, M.B., Ch.B., LL.D., (President) His Honour Senator the Rev. G. ANDREW HATCH, M.A., (Deputy President); Senator the Hon. N. A. BARROW, B.A., LL.B., (Minister of Information) (Leader of the Senate); Senator O'BRIEN TROTMAN, (Parliamentary Secretary, Prime Minister's Office); Senator Sir MENCEA COX, Senator H. F. G. ROCHEFORD, B.A., Senator R. L. FIELD; Senator AARON TRUSS, Senator H. R. LINTON, LL.B.; Senator K. E. HINDS, Senator Miss O. A. LYNCH, B.A., Dip. Ed.; Senator C. I. E. DEANE; Senator K. R. HEWITT, B.Com., C.A.; Senator Mrs. E. M. LYNCH, B.A.; Senator J. D. S. MACKENZIE; Senator Miss M. I. St.C. BLACKMAN; Senator J. C. W. WICKHAM; Senator the Hon. D. G. BLACKMAN, (Minister of Labour and Community Services) and Senator R. E. BRATHWAITE.

Prayers were read by Dr. L. A. S. Crawford.

ABSENT

Senators J. CONNELL and D. H. G. HUNTE.

PRESENTATION OF PAPERS

SENATOR THE HON. N. A. BARROW: Mr. President, I have the honour to lay the following documents:

Statement showing net Customs and Excise receipts for five months ended 31st August, 1980;

Report of the Accountant General for the financial year 1979–80;

Annual Report of the Child Care Board for the period April 1979 to March 1980.

INTRODUCTION OF BILLS

SENATOR THE HON. N. A. BARROW: Mr. President, I beg to give notice of the following Bills:

A Bill to provide for the performance of certain Statutory functions by the Solicitor General of Barbados;

A Bill to make new provisions respecting civil liability contribution;

A Bill respecting the recovery of compensation for injury caused by accident, *inter alia*.

Mr. PRESIDENT: Let it be recorded in the Minutes that these Bills have been read a first time.

PUBLIC BUSINESS

SENATOR THE HON. N. A. BARROW: Mr. President, we agreed last week before the adjournment that today would be the day set aside for a debate on Senator Wickham's Resolution on the Report of the Constitutional Review Commission, and I intimated then that if there were one or two matters that ought to be proceeded with fairly quickly that I was prepared to proceed with them, but not to proceed generally with all the public business on the Order Paper. Accordingly there are a number of Bills, Orders Nos. 5 through 8 inclusive which I shall be inviting the Senate to deal with when next we meet, and the first three items which concern land acquisition are the only items of Government Business therefore which we propose to deal with today encroaching therefore on the time for the constitutional debate by as little as possible.

Senator Trotman, Sir, is going to deal with these matters and I am therefore asking leave of the Senate to defer public business until after consideration of Senator Wickham's Resolution. In short, Sir, we do not propose to proceed with the Bills on the Order Paper, but only with the three land acquisition resolutions, and we wish to take them after the debate on the Constitutional Review Commission.

Mr. PRESIDENT: Is it agreeable to the Senate that public business be deferred to a later stage and that Private Members' Business be the first order of the day?

If there is no objection, will you please call Private Members' Business.

PRIVATE MEMBERS' BUSINESS

The First Order of the Day under Private Members' Business was called — to move the passing of a resolution that this Senate considers that the Report of the Constitutional Review Commission provides the basis for expedient and rational amendment of the Constitution of Barbados.

On the 1st October, 1980, Senator J. C. W. Wickham spoke and moved that the resolution be concurred in, and further consideration of the measure was thereafter postponed.

Mr. PRESIDENT: This resolution was duly seconded and it is now before the House for debate.

SENATOR D. S. MACKENZIE: Mr. President, as we all know a country's constitution embodies basically the fundamental rules by which that country is to be governed. In our constitution unlike other constitutions or in our constitution like other constitutions which are written but unlike the British constitution which is not a written one these rules and principles by which the country is to be governed are set down in that document, and by an Act of Parliament become the supreme law of the land.

If we were to take a look at our constitution, Mr. President, we can clearly see that this is the case as in section 4(1) it states:

"Subject to the provisions of this section, the existing laws shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Barbados Independence Act, 1966, and this Order."

Senator Wickham early in his speech outlined the framework for the constitutional report when he said:

"The Report of the Constitutional Review Commission was prepared in response to an Instrument

issued by the Governor General on 30th December, 1977, and it authorised the Commissioners to examine, study and enquire into the Constitution and other related laws and matters, and after due examination and study to report in writing making such recommendations and providing for such consideration, amendments, reform and changes in the Constitution and related laws and administrative procedures as are in the opinion of the Commissioners necessary and desirable for promoting peace, order and good Government for Barbados."

He went on further to highlight six particular areas to which the Commission was to direct their attention and which are listed on pages 1 and 2 of the report. Now in relating this report, Mr. President, the first thing that I think we must all ask ourselves is the question why was it that the Governor-General should in the first place have found it necessary to set up a Commission to examine, study and enquire into the Constitution and other related laws and matters, what was the fundamental reason or reasons behind the setting up of the Commission, what prompted the decision.

I think, Mr. President, that if we were to look at the six specific areas to which the Commission's attention was directed, that this would give us the clues for the reasons for the examination of the Constitution, while on page 2 section 2(a) and 2(b) merely covering the system of Barbados National Honours and to enquire into the national table of precedence were only added in my opinion that public debate could take place on these two topics to ascertain a consensus of a public opinion on them.

I think it is true to say that it was because of what was taking place and incidentally, Mr. President, what is still taking place all around us particularly in the Caribbean but not restricted to the Caribbean in relation to the gross violations of such things as the maintenance of multi-party parliamentary democracy, the holding of free periodic elections, the maintenance of an independent judiciary, the safeguarding of basic and fundamental human rights and the rampant corruption evident in public life that it was thought both necessary and expedient that we should take a good look at our Constitution particularly in these areas to try to see if we could avoid through amendment if necessary these things from taking place in Barbados.

We need only reflect on the events in Grenada in Dominica, in Jamaica, in Guyana to cover the spectrum of constitutional violations which I have just mentioned and which have been happening all around us.

We would also remember a very real but now past threat to Barbados itself of possibly having a one Party type of Government imposed on us. It is against this background, Mr. President, that I believe that the

Governor-General must have considered it necessary to appoint this Commission which was charged to take a serious look at our Constitution to see that it did contain the necessary and effective Clauses to prevent these things from occurring in Barbados.

The main job therefore, Mr. President, was to invite public opinion and public scrutiny of our Constitution to see that it had built into it as entrenched clauses the necessary checks to ensure immunity against easy and unilateral change by any political party, especially, Mr. President, if, as it so frequently happens in our area, that a party has a two-thirds or greater majority in the elected House of Representatives.

Having established, Mr. President, what I consider to be the climate and background which precipitated the decision to set up this Commission, I would like at this point first to congratulate and thank the Chairman of the Commission, Sir Mencea Cox, and the other members of the Commission and their supporting staff for a job very well done. The Report is a most comprehensive one and touches on many areas and it would take any one Senator far too long to deal with all and comment on all of the points raised.

Generally, I personally am in agreement with most of the recommendations made in the Report, so, Mr. President, I would just restrict my remarks to only a few of the areas covered and particularly, to the ones with which I am not in entire agreement.

First of all, let me say that I am in complete agreement with the Commission's recommendations in the following broad areas. Firstly, to the retention of our present monarchical form of Government.

Secondly, I agree, Mr. President, with their recommendations concerning the office of the Governor General, both in relation to nationality, where their recommendation states that it should be stated in the Constitution that the post of Governor General should be held by a national of Barbados.

Also, in their recommendation I accept that the Chief Justice, who is the head of the Judiciary, if he were to act as Governor General that he would have a conflict of interest on occasions because he may very well as Acting Governor General be asked to sign into law a document or a Bill and then at a later stage, if the constitutionality of that Bill were questioned, would have as the head of the Judiciary then to pass judgment as to whether or not the document that he signed as Governor General was in fact a legal document and not contrary to the Constitution and so I accept their recommendations on that basis.

I also, Mr. President, accept and am in agreement with their recommendation concerning free and fair elections as was outlined on Page 27 of the Report, paragraph 69.

I also agree that the Constitution should be strengthened where it is found to be needed to be strengthened to establish it as the supreme law of Barbados because as I mentioned when I started to speak, it is clearly the intention that the Constitution shall be the supreme law of the land.

I agree also with them, Sir, in strengthening and also in clarifying the need to establish a completely independent Judiciary having authority to protect the Constitution and the constitutional rights of the people against any unscrupulous actions of a particular political directorate, should it ever occur.

Again, Sir, I agree with them with the enhanced protection of the fundamental rights and freedom of the individual. I think that is most important in every society, particular in this day and age.

Again, Sir, I agree with them on the retention of the Senate with expanded responsibilities but I would like to come back to this point later, Sir.

I completely endorse the Commission's recommendations with regard to the expansion of entrenched provisions in the Constitution to include those listed on page 31 as they have recommended and that is, the right to vote of every citizen of 18 years of age or over; the right to formation of political parties; the division of the Island into constituencies; the appointment of a Boundaries and Electoral Commission and its functions; restriction on the extension of the life of a Parliament; provision for the appointment of the Public Accounts Committee; the method of amending the Constitution. I agree in principle with those areas, Sir.

Again, in principle, I also accept the Commission's recommendations that Section 49(2) of the Constitution which contains the existing provision for the amending of the Constitution by a two-thirds majority in each House should be amended to make any amendment of the Constitution even more difficult than it is now.

The Report again says on page 31, Mr. President:—

"The Commission ultimately came to the conclusion, and SO RECOMMENDS, that section 49(2) which contains the existing provisions for amending the Constitution by a two-thirds majority in each House, should be amended to provide that:"

Then it states two paragraphs here. It says "amendment of any of the entrenched provisions of the Constitution should be required to be secured by at least a four-fifths majority of all the members of the House of Assembly." Let me stop there, Sir, because I accept that statement and I agree that that is desirable that we should increase the fraction from two-thirds to four-fifths or to change the entrenched Clauses but nonetheless, I do not agree, as suggested by the Commission, to the extension of the House of Assembly from 24 to 30 seats. I think this is unnecessary and uncalled for. I would agree with a four-fifths if the House of Assembly were increased only to say 25 seats but it goes beyond that and I do not really agree with the extension of the House.

First of all, Mr. President, let me say I have no strenuous objections to a small increase in the number of seats in the House of Assembly but I am adamant that the only rationale or criteria to justify any increase must be based exclusively on the actual mechanics required for establishing Electoral Boundaries containing as far as possible equal population density.

In other words, Mr. President, if it were found necessary because of the mechanics of boundary settings that the number of seats of the House of Assembly should be increased by as much as say, two to three, to 27, then I support the view that the majority required in the House to change the Constitution should increase from the two-thirds or which will be 18 people to something like seven-ninths which would be 21. Now, that is an odd figure but 27 is equally an odd number for the House and it could be 26. If it were 25 I would agree with the four-fifths that is required.

With regard to the second recommendation on the top of page 31, I agree wholeheartedly with the contents of this paragraph, the one that says :-

"Provided that in the case of a proposal for extending the life of a Parliament beyond the period provided for in the Constitution or a proposal for a change of the system of government to one of a One-Party State, then the passing of such proposal must be secured in the first instance in a Parliament preceding a General Election and then again in the next succeeding Parliament, by the requisite majority in each instance, before the Amending law is assented to and brought into force."

I think that gives us the kind of protection, Mr. President, that we need to see that the rules by which we are governed are not changed lightly, or easy. Mr. President, I would like to return now to the discussion in the report concerning the retention or not of the Senate and its usefulness to the country. Contrary to the rather amazing remarks which are made from time to time, by

various people concerning the Honourable Senate and Hon. Senators — I think Sir, that one politician once referred to the Honourable Senate, as the final repository for political rejects and another ex-politician also made an amazing remark recently concerning Hon. Senators and the Honourable Senate in defence of criticisms made against him and his Organisation by an Honourable Senator in this Place — but, contrary to all of these amazing remarks which one does not really take seriously, I truly consider that the function and the role of the Honourable Senate is a very, very important one Sir.

To me, the Honourable Senate has a tremendous value and a tremendous responsibility to our community in many, what I would call very important areas. First, of all, Mr. President, people seem to forget, that the Honourable Senate bears the burden of responsibility for preserving the entrenched Clauses of the Constitution by acting as a barrier against those who would change the Constitution, without popular approval and because they have the numerical strength to do so in the elected House of Parliament. By virtue of the present and it is hoped the future composition of the Honourable Senate, no ruling Party has and I hope will never have 2/3 majority representation. This means that to change an entrenched Clause of the Constitution either the Opposition, or independent Hon. Senators must side with Government Senators, in order for them to secure the necessary 2/3 majority which is required for change. This means also, Mr. President, that the Honourable Senate is, in the final analysis, the protector or custodian, on behalf of the people for such things that we all cherish as the preservation of a multi-party democracy form of Government. I do not think that any of us would like to see that changed in any way, the preservation of our present monarchical form of Government. I think that there is an overwhelming majority who still subscribe to this view and that should not be changed lightly.

The preservation of an independent Judiciary. We all recognise the importance of preservation of an independent Judiciary, with regard to their ability to rule on the constitutionality of Laws which they pass in these Honourable Houses. There are also the protector of the fundamental rights and freedoms of the individual. So, Mr. President, in short, to me the Honourable Senate is basically the custodian of the Constitution, on behalf of the citizens of this country and I think that that alone makes the Honourable Senate a very important body. But that is not all.

A second important area lies in the fact, that any Honourable Senator, but here I am thinking particularly of independent Honourable Senators, can initiate debate, or raise, initiate points of view, on matters which are of great interest, or importance to the community, but which, by their very nature would tend to prevent politically appointed Honourable Senators from raising, merely

because it would be politically dangerous for them to do so. For example, Mr. President, bearing in mind the importance that the Bridgetown Port is to the people of Barbados and the necessity that the benefits which accrue from the new technology of handling cargo by container and mechanisation should reflect a reduced cost of goods to all, I would hardly expect a politically appointed Honourable Senator to initiate discussions on say, the labour practices, or labour methods, or the payment for the Bridgetown Port Workers.

To me, Mr. President, I think that is despicable, that after spending millions of dollars to build a modern Port and to purchase very expensive equipment to handle new technology of cargo handled by container, that contrary to every expectation, absolutely no benefits are passed on to consumers of this country who purchase goods, which pass through the Port. Today, even after the new wage settlement for port workers, it still costs more to handle a ton of cargo through the Port, by container, than to handle a ton of cargo through the Port in the old method. The benefits which should have accrued to the people of this country who paid to build the Port in the first place, or who are paying to build that Port are all falling into the hands of a few because of unreasonable and restrictive labour practices. The Government is hardly Mr. President to raise matters in either Honourable House as to bring down the wrath of the Union upon them, something which they could well do without and the Honourable Opposition also is hardly likely to raise such matters as these either for the same reason and for a further reason, that top members of the Union involved are staunch Democratic Labour Party supporters. So therein, Mr. President, lies another value of having people as Honourable Members of the Honourable Senate, who lie outside of the political arena.

A third important area, Mr. President is Senator Wickham's, that given the nature of partisanship of the electoral process and the consequent polarisation, no single Honourable House, no matter how large it is can really provide the level, or range of opinion which is desirable in a democracy.

Mr. President, having made my case for showing the importance and value of the Honourable Senate, let me say, that I support the Commission in respect of two of their recommendations concerning the Honourable Senate. Firstly, I support that the Senate should be retained as is stated on page 23 at the bottom:

"The Commission recommends that the Senate should be retained and continue to have 21 Members."

I will come back to that particular point.

The second point which I support them on is that there should be an expansion of the functions of the Honourable Senate, in relation to money measures and this we find on page 33 of the Report, Section 89. I do not agree, however, with the Commission's recommendation, with regard to the Honourable Senate in two other areas. Firstly, I do not agree with him on the retention of the age of 21, as being the qualifying age for hon. members to the Honourable Senate. Page twenty-five, sub-section 64 covers their recommendations. In this instance, I am in entire agreement with Sir Carlisle's recommendation of 35 years, as being the qualifying age. I agree totally with the rationale of his arguments as outlined on page 188 of the Report. To me, Mr. President, no one at the age of 21 can possibly be expected, by any stretch of the imagination to bring to the Honourable Senate any depth of either expertise, or experience in any field of endeavour. In fact, there are few, if any professions, which a person at age 21 would have even graduated for. The retention of age 21 as being the qualifying age for the Honourable Senate, in my opinion cannot be based on rational thought, but only on what I would term as political wind-baggery.

Secondly, Sir, I do not agree with the Commission's recommendation, in respect of the composition of the Honourable Senate, or to the retention of the numerical strength of the Honourable Senate to 21. I do not think that there is anything magical about the 21. I believe, that if we wish to increase the participation of the citizens of this country into the democratic process of Government, that the place which we should consider is the Honourable Senate. I truly, Mr. President, believe that the most appropriate place and the most economical place — forgive my background, but I have to think of these things too — to encourage a wider participation for the citizens of Barbados, in the democratic process of Government which is objective Number Three, at the top of page two of the Report is by way of an expanded Honourable Senate, Mr. President, rather than by way of a more expensive and the less objective way of an expanded Honourable House of Assembly. An expanded Honourable Senate would truly and effectively widen participation in both senses of the word widen. It would widen participation, Mr. President, by having a greater number of Honourable Senators involved and it would widen participation, particularly sectoral participation, by having a greater number of Honourable Senators, particularly independent Honourable Senators.

Basically there are only two political parties in the lower House, and if we were to apply the Commission's recommendation in respect of the composition of the Senate today we would have 12 Senators reflecting the ruling party's views. Section 62 says — this is on page 24 — that we would have three Senators, again reflecting the

Opposition party's views, and in the absence of a third political party, as we know there is none at the present time, two more Opposition Senators, again merely reflecting the official Opposition party's views. That is a total of five Opposition Senators and only four Independent Senators representing other sectoral views. This would in fact be a diminution of Independent Senators. I do not quite accept that because we should be encouraging a wider participation by the citizens of Barbados in the democratic process of Government.

Now, Mr. President, to make a couple of further comments on that, I accept and I would agree to a greater number of Opposition Senators, because the burden of representing the Opposition party at present in this Senate falls on only two people, and it is not always that they can attend this Senate. I would agree to having a greater number, but I do not agree to having a greater number at the expense of a diminution of Independent Senators because you would then diminish the cross-sectoral views that this Senate would be able to put forward.

Having made those comments, all I can say, Sir, is that I sincerely hope that what I have said concerning the Senate will be given some consideration when the time comes for these things to be considered.

Another area of interest on which I would like to comment is brought up by Senator Wickham early in his speech when he said, on page 2, and I quote:

"I need hardly stress, Mr. President, in a parliamentary body that a Constitution is really much more than a law. Its purpose must necessarily go beyond the maintenance of law and order or the promotion of peace, or a reward for public service. In my view, any Constitution must lay down the guidelines for national behaviour, but it also must go further than that, it must somehow or other contrive to articulate the aspirations of people. It must try to celebrate and interpret the national character, otherwise it must always remain a dead letter."

Unfortunately for us all, Mr. President, a Constitution, as I have explained earlier, only embodies the basic fundamental rules or principles by which a country is to be governed. It is in fact nothing more than a framework of laws, a skeleton as it were for maintaining the type of society we wish to have. Unfortunately it cannot contrive to articulate the aspirations of the people. This lies, as I see it, Mr. President, entirely in the hands of the political directorate and will vary from country to country according to how the political directorate perceives or thinks that it perceives the wishes of the people. It is for the political directorate, operating within the basic framework and laws of the Constitution, to create the climate and to give the direction that they perceive it

to be for citizens to be able to articulate their aspirations and exercise and develop their talents each according to his measure.

This is the real responsibility, Mr. President, as I see it, of a Government which unfortunately rarely seems to be discerned by politicians in their mad rush and greed for power and for control of society. Let us never forget, Mr. President, that a community of people is made up of a group of individual people, first of all, all of whom are not created equal, but each possessing their own individual talents and aspirations. Since the dawn of time mankind on earth has been fighting against oppression and for liberty, freedom of thought and expression, and the right to equality of opportunity in the personal development of his God-given talents. As a result of this long, long fight over the eons of time, democracy and democratic government and entrepreneurship or free enterprise have evolved. Democracy, because it is the best known method devised by mankind for the levelling of social barriers and for ensuring the preservation of equality of opportunity for all people, and entrepreneurship or free enterprise because it works on the basis of personal reward and fulfilment for personal endeavour. This form of government and this economic system alone, Mr. President, as opposed to all other forms of government and all other forms of economic systems are mandatory for maintaining a climate for equality of opportunity and personal development, and to destroy one is to destroy the other.

To me, Mr. President, I find it heart rending in this day and age of supposed enlightenment to carelessly and thoughtlessly allow democratic government and free enterprise to be destroyed for the alternative of total subjugation of individual rights and freedoms, and a centralised economy under either too severe a socialist type of government or a communist government. The world is replete, Mr. President, with examples of the wretched misery and strife caused in countries which have gone this route, led on by the self-interest of thoughtless, power lusting politicians. These examples are there to be seen by those who have eyes to see. Again, Sir, to permit this to happen is to go full circle, back to the beginning of history and is an admission that mankind has failed completely to answer the question posed since the dawn of history, how can we combine that degree of individual initiative and freedom which is necessary for personal development and progress without that degree of social cohesion that is necessary for survival of a community?

Mr. President, like Senator Wickham I too am disappointed and distraught that our Constitution cannot contrive to articulate the aspirations of our society by embodying all of the good things which we hold to be self-evident in the best interest of society, but, Sir, we must remember that democracy unlike any other form of government ensures to all the right of self-opinion and expression.

Therefore our constitution can in fact go no further than be a supreme law and basic framework which covers the rules by which our society has decided to be governed. The rest, the climate, how we achieve it, what sort of society we decide to have, how we motivate our citizens we must leave that up to our elected representatives to do as they think best.

I truly believe, Sir, that the decision to have a Commission to go into and examine our constitution was taken none too soon, and I congratulate Senator Wickham, Mr. President, for his initiative in bringing forward his resolution to instigate debate on this most important report. The time has come to take action now, Sir, in strengthening our constitution where necessary if we are to avoid problems which are near at hand and which surround us. I should like to repeat in closing that it gave me very great pleasure to have been asked by Senator Wickham and given the honour to second his resolution.

SENATOR THE HON. D. G. BLACKMAN: Mr. President, I am indeed pleased and somewhat transported by the oratory of the Senator who just sat down. It is not my intention to be very long and I will just touch on one or two points. The whole concept of a constitution as representing a fundamental law of the land, while it has its utilitarian purposes, produces some difficulties because the doctrine of a fundamental law is a derivative of a concept in ethics that is possible to establish principles of right that are inherently or self-evidently so. The development of *a priori* ethics particularly as expounded by Emmanuel Kant the German ethical scholar gave rise to the development of many of the arguments for constitutions as representing principles in law that are basic to all other principles and from which all other laws are derived. I have some problems with this which I would not go into at this particular point in time.

Although history suggests that in some countries written constitutions have proved to be particularly useful, it would be wrong however for us to be carried away in a state of euphoria and believe that a constitution is akin to Holy Writ and that its laws are as immutable as those that can be found in the Ten Commandments. I believe that if we wanted really basic laws all we have to do is to elaborate on the Ten Commandments and there we have a set of eternal principles which I believe would be an adequate guide to an orderly society. It is however necessary in most states to spell out in a clear way certain rules which the legislative processes cannot modify with any ease.

Mr. President, these rules relate to questions of equality, the functions of the legislative organs of Government, etc., and I shall deal with the question of equality first. Let me make this other point with respect to a fundamental law that is regarded as Holy Writ. In

Barbados today we are beginning to talk of our constitution in the hushed tones of when Christians talk of God. Well it would seem to me that a constitution is nothing more than a dead letter if the only function it serves is ornamental. There are noises made regularly in this society about people's rights being violated. From time to time Senators have raised their voices in execration about some wrong relating to the violation of a human right. We believe that since our constitution sanctifies the protection of human right that these wrongs are redressable in a court of law.

In other countries where a written constitution would prove to be a useful instrument in maintaining a reasonably orderly society, whenever wrongs perpetrated by legislators or administrators are complained of, they are settled in a court of law, and the only test as to the relevance of a constitution is if we can ensure that its principles are living dynamic principles relating to day to day activities in this society, and this can only be done in cases where there are alleged violations where they are tested in a court of law.

It seems to us that the majority of Barbadians perceive a constitution as an ornament, as a fetish to be worshipped and they derive some kind of psychological or cathartic satisfaction from sitting down and contemplating the fact that we have a constitution.

Those who claim that wrongs are being persistently violated in this society do nothing about it is no surprise since the Constitution for most Barbadians is viewed as merely a necessary appurtenance of independence and that in itself does not astonish anyone because on the night that the Union Jack came down and the Barbados flag went up a prominent leader, now adorning the seats of the Opposition in the Other Place, when asked "now that you have achieved Independence, what next", declared triumphantly, "business as usual" so Independence for that individual who at the time had the responsibility for setting the standards of this society was nothing more than a cosmetic affair, a gimmick, to use a more vulgar expression.

Mr. President, this is how today some 14 years after we have achieved Independence why the Constitution is seen as nothing more than an empty appurtenance to Government. It is merely something that we should have like Independence because it makes us feel good, it makes us feel modern, and it makes us feel with it.

Senator MacKenzie raised the question of equality and maintained that the Constitution should enshrine the principles of equality. I do not believe that anyone would disagree with this particular formulation but he then went on impliedly to contradict himself when he asserted again by implication that equality is a myth because we

all have different skills and different abilities and therefore the equality.....

SENATOR J. D. S. MACKENZIE: Sir, to avoid a misunderstanding at this point, what I said was "equality of opportunity" and I did not say that the Constitution should enshrine equality. What I said was that a democratic process of Government is the one process of Government that is responsible for the self levelling effect in a community and is responsible for maintaining equality of opportunity within that community.

SENATOR THE HON. D. G. BLACKMAN: Mr. President, we have here a problem of equivocation because Senator MacKenzie repeated the error in his supposed clarification as he slipped from equality of opportunity to equality of individuals and it is precisely this point that I was going to make because the two things are not identical. When we talk of equality of opportunity we do not mean equality of persons and again Senator MacKenzie seemed, as he expressed himself, to have equated the two.

I believe, Mr. President, that our drive towards egalitarianism should seek to achieve a society of equals rather than equality of opportunity. Equality of opportunity within an equalitive framework may simply mean nothing more than those who inherited greater endowments would be in a position to make better use of opportunities so that equality of opportunity has serious problems within it as a concept because equality of opportunity if it is to lead to genuine egalitarianism must pre-suppose a society of equals operating within the framework of equal opportunity because if we have an equal, given equality of opportunity, and by equality of opportunity the logic of Senator MacKenzie's conclusion seems to suggest identity of opportunity, then it leads to entrenchment of equality rather than an elimination of it.

I see a puzzled look on the face of Senator Enid Lynch so I will restate my position, if that expression means lack of comprehension of the point I have made and it is this that where you have a situation of equality of opportunity, the same opportunity to people, some of whom are handicapped by reason of birth, it ends up with the same degree of inequality so that for equality of opportunity to be real it must pre-suppose a society of people operating as equals.

Now equality cannot mean sameness because we look in vain in this World for sameness and that is why Professor John Rawles in developing his theory of right and wrong, the theory of justice, maintains that all ethical theories and by indication all legal theories must proceed from a difference in principle. It must accept differentiation between individuals and deal with the problems of differences within the context of any theory

or any policy that is formulated to achieve equality but when we talk of a society of equals, we do not mean a society of identical persons as if they came off an assembly line built in accordance with the same specifications. We recognise that there is a difference in principle at work with all human beings.

One can adorn a Constitution that seeks to spell out these pious aspirations as much as one wants. In the last analysis it is the people within the society working harmoniously who have to achieve the objective of equality and it is the kind of Governmental Institutions that we have which would enable these goals to be achieved.

Now, can the present Legislative institutions, constituted as they are achieve the kind of equality which I was advocating is desirable, namely, a society with equals where handicaps inherited by birth, or social condition do not prevent people from achieving certain objectives, having regard to the fact of differences, some of us are precocious, others develop weight, some of us prefer the manual arts, others are more aesthetically inclined, *et cetera, et cetera*.

I believe that in our present system, if we look at the Honourable House of Assembly first, that our system of representation, inherited from Westminster provides to a large extent, for the kind of democratic environment which Senator MacKenzie desires. But, I do not believe, that in itself, the mere constitution of an Honourable House of Assembly, with periodic Elections in and of itself is a sufficient condition for the establishment of that democracy because the functioning of the Honourable House of Assembly depends upon effective representation and here, Mr. President, on the question of representation, I would take issue with Senator MacKenzie's sweeping rejection of the Constitutional Commission's proposal to increase representation in the Honourable House of Assembly. I understand that the Introducer, Senator Wickham is also against it. I did see an article making certain attributions in the local press, but I normally accept what I read, even in books, with the greatest reservation. That is why I did not identify Senator Wickham.

It is easy, Mr. President, for one from the splendid isolation of a plush air-conditioned office to dismiss the seriousness of representation in Barbados today. I believe that I am one of those would-be political representatives, who is attempting to bring to Barbadians representation of a qualitatively new dimension and it would be absurd, Mr. President, to perceive representation exclusively of making brilliant dispositions as Senator MacKenzie did, not so long ago, in these hallowed and historic rules. It would be totally wrong to see a legislator in the Other Place, or even a serious committed legislator working full-time with the Government, in this Place, to see his role

of representation as making speeches and voting in these rooms.

Representation involves being at the beck and call of one's chosen constituents twenty-four hours a day. Representation means the inability to claim the luxury of being tired when the overriding demands of one's constituents have to be met. Representation which I conceive of involves the establishment of an empathy with one's constituency which is transcendent. It is transcendent Mr. President, in that when your constituent feels pain, you feel pain, when your constituent experiences grief, when your constituent reaps the kind of representation which I am talking about, it impels the representative to shed tears, as well.

If one see these dimensions to representation, then arguments which are used exclusively for, or against, which are quantitative cannot tell the whole story. I do not for a single moment, Mr. President, believe that any mathematical equation, or any mathematical expression can register the work which is involved in looking after an elderly person who is unclean, who feels rejected and who needs to be re-integrated into the society. That task of representation which a person hewn to the new concept of representation, which I am now espousing and not only espouse, but practice as well, that new kind of representation, Mr. President, cannot be reduced to mathematical terms, cannot be reduced to numbers. It is as absurd, as when the great utilitarian Jeremy Bentham, who maintained that the object of any Government, or any act should be to achieve the greatest good for the greatest number, defining good as pleasure and pleasure as happiness, or an absence of pain and when pushed further Jeremy Bentham developed what he called a hedonic calculus, in order to measure pleasure and pain and the futility of his quest, his Sisyphean task was revealed when someone asked him, "well, tell me, what is the mathematical expression for the love pangs of a cockroach."

It is as absurd to pose that question and to ask for quantitative answers in the area of representation as to ask someone to measure the love pangs of a cockroach. These things of which I speak for many people have to be experienced, because the interaction with human beings is so foreign to many people, including some elected politicians, that it is difficult to deal with the qualitative component of representation. There are some politicians in Barbados who see representation in different terms, they see representation as making speeches in the Legislature and periodic visits to rum shops and other places of recreational activity, and once they have sated themselves with rum or some other alcoholic beverage and their constituents, they believe that their job of representation is finished. One hears it in the expression "I went around and saw the boys and everything is all right."

If Senator Wickham is talking about that kind of representation, I would be the first to say that it would constitute nothing but plundering of the public purse to increase the number of seats. I would say reduce them to 10 or 12, if this is the kind of representation that we are thinking of. But I would invite Senator Wickham when he has the time at his disposal, I know he is a busy man whose work unlike that of a politician practising the new kind of representation of which I speak, his work involves lucubration within a metaphorical ivory tower. I would invite him when he has the time to descend from his splendid isolation, he can accompany me and see the hard, dirty, heart rending work involved in the new kind of representation of which I speak, Mr. President. If it is this new kind of representation, then a case could be made for increasing the number of seats in the Legislature to 100, if it is this new kind of representation, but even so one cannot be simplistic about this business because there are certain constituents who by reason of their social configurations do not require the same degree of attention as other constituents. It is not purely a matter of numbers, it depends on the kind of people who live in the constituency.

Where you have large numbers of vulnerable groups, welfare mothers, abandoned old people, delinquent children, unemployed youth, then the task of representation is a horrendous one. If on the other hand it is an area like Belleville, Regency Park and the like, the amount of work involved in representation is different. There are some representatives, Mr. President, who when confronted with the magnitude of their work decide not to go near the constituency rather than to attempt a herculean task and do it unsuccessfully, so we cannot discuss this thing in a simplistic way as if we are just dealing with numbers of people.

I believe that it would be much easier to represent one hundred Senator Wickhams than one hundred John Smiths, and while Senator Wickham no doubt likes to think of himself as a John Smith, an ordinary Barbadian, he is a John Smith but with a difference, and it is far easier to represent one hundred John Smiths with a difference than one hundred ordinary John Smiths.

From what I said, one may make the inference that I could not honestly give a number by which it would be appropriate to increase the seats in Barbados. Such a task is beyond the ken of anyone who does not go into Barbadian communities, analyse these communities bit by bit, understand the nature of their problems and then put the whole thing together. This would be a task, Mr. President, that could be very time consuming, and politics has been described as the art of the possible, you do what is possible within the limited time available to you, and decisions by and large have had to include a degree of arbitrariness. But I would make bold to say, Mr. President, that on the realities that I have just

described, if such an investigation were made the number of six seats would indeed be a modest number. I believe that Government has had to take into consideration the factors of money, Government has a responsibility to use the taxpayers' money as wisely as possible.

Mr. President, the Leader has asked that I give way.

SUSPENSION OF SITTING

Mr. PRESIDENT: As I understand that the Senator who is addressing the House at the moment proposes to continue for some time, I think it would be appropriate for us to have a suspension at this stage.

The sitting will be suspended for 45 minutes.

On Resumption:

Mr. PRESIDENT: This sitting is resumed.

SENATOR THE HON. D. G. BLACKMAN: Mr. President, when we broke off I was attempting to make the point that the extent to which the ideals of democracy and equality which we believe should be enshrined in the Constitution of Barbados are achieved and will be determined by the institutions that have been set up to give representation or through which representation is given, and I was attempting to look at representation in the Lower House, and I took the view that there was a case for the increase in the number of seats if by representation we mean active participation in the lives of the members of the community that one represents as distinct from absentee representation which entails merely speaking in the Legislative Chamber and visiting rum shops in communities for brief periods and possibly other kinds of recreational activities.

I said at the time that my argument turned to a large extent upon important and fundamental qualitative changes in representation, and I believe that the quantitative arguments adduced for the proposal to increase representation were necessary, but not sufficient to clinch the argument.

Moving now to the quantitative argument which has been exhausted in the media and elsewhere, I merely say this: that any increase in representation through an increase in the number of seats in the House of Assembly is but one small step towards filling the vacuum in representation which was created with the abolition of Local Government. It is a fact that during the last eleven years there has been a significant quantitative reduction in representation in Barbados and it has operated to the disadvantage of communities which show signs of disintegration and fragmentation and which have been a nightmare to persons who are forced to represent communities that have had a tradition of relying on their Local Government representatives to perform certain tasks. So the constitutional proposals can be seen as a modest attempt, Mr. President, to

restore levels of representation back to a previous standard which obtained in this country.

Moving now to another institution which is responsible for achieving the desirable objectives of democracy and equality, we come to a self-examination, namely, the Senate. I find myself in complete agreement with Senator MacKenzie on many of the points he raised for the existence of a body such as the Senate. We believe, Mr. President, that in this Senate the most serious discussions on issues facing the people of Barbados take place anywhere in this country. I say this, Mr. President, in all modesty and without boasting. I believe those persons from the public who have taken the time to come into this Chamber and listen to our debates have been surprised at the quality, have been surprised at the absence of time wasting and they have been surprised at the respect that fellow Senators show to each other. I believe that at least one deliberating body in this country should function in this way, and Mr. President, there are some of us who no doubt after 1981 will take leave of you and fellow Senators and go down into the Other Place and when this happens, Mr. President, I want to assure you and fellow Senators that the banners of the Senate will be raised high and attempts will be made in order to elevate the Other Place to the standards that we have sedulously sought to maintain. But it is no accident that this situation exists in the Senate today. It is a fact that the electoral process with which we would not want to dispense cannot guarantee that every segment of our community will have input into decision-making which is the truly democratic ideal.

Business represents an important power centre in this community, and the Senate affords the country an opportunity to hear the views of business expertly and articulately put by Senator MacKenzie who made an excellent contribution to the debate today. This Resolution itself was inspired by Senator John Wickham, a man who has a deep and abiding interest in the arts, a man who is concerned with the more genteel and civilised aspects of human behaviour. This is a very important part of political life which is too often ignored. The dirt and mud of political life have been glorified, and matters relating to aesthetics, to culture and taming the baser nature of man have been regarded as topics for soft-headed individuals who try to play Jesus Christ.

Mr. President, I categorically reject this mistaken and cockeyed view of politics, and were it not for a deliberating body such as the Senate, we would not have had the opportunity to hear a student of this aspect of life put his point of view in a learned and informed manner from time to time, and I want to congratulate him for setting the high tone of this particular debate.

There is nobody I believe and certainly not the House of Assembly that can boast a rich collection of experience that is conglomerated in this august Chamber,

Mr. President. We see the wise and sagacious Sir Mencea Cox, principal author of the Constitutional Report. I want here in passing to congratulate him for a job well done. He has served in Government many years. He is a man tempered and sobered by experience both good and bad. The Senate is the richer place for him.

We have Senator Enid Lynch whose grey hairs we respect as much as the statements that she utters and I do not believe that more profound insights of the educational issues are expressed in here in Barbados than by Senator Lynch in this Chamber.

We have Senator Marjorie Blackman, often like a dog baying the moon, raising her voice, often in a cry of despair on the absence of social consciousness and the failure of the moguls to devote adequate time and resources to the policies of social development. Her ideas have often been instructive.

I do not want to deal with Senators individually but I would certainly be remiss if I did not mention you, yourself, Mr. President. I believe that you are perhaps the longest serving legislator in this business and the Senate is certainly extremely fortunate to have such an important, experienced, calm and wise individual to guide its affairs.

I believe, Mr. President, that to give you a few examples of the kind of voices that now make input into policy making is the strongest and most cogent argument that I could advance for the retention of the Senate. It seems to me that in a society whereas it has been pointed out today there is a paucity of resources when one looks at the work that has to be done. With a society such as ours it would be a crime if our system did not permit the opportunity to people who have serious contributions to make, people with a vast forehouse of knowledge to restrict participation to those who are prepared to bear the rough and tumble of effective politics.

There can be no doubt that a deliberating Chamber, such as the Senate, is an invaluable instrument in the functioning of our Government and will continue to be so within the present system because it ensures that as wide a range as possible of interests have their viewpoints represented in the process of law making. That, Mr. President, is all that I want to say in this debate.

I do not believe that it would be appropriate for me to waste time in dealing with details like the number of Senators or the number of persons who should be in the House of Assembly. I have attempted to deal with general principles. The mechanics will be worked out within the framework of competing claims for the financial resources of this country and they will be worked out when all of the relevant interest are taken into consideration.

Mr. President, once more I am grateful to you for granting us the time to give our comments on this

historical document and I want again to congratulate Senator John Wickham for the outstanding service he has rendered this body in opening up this standard of debate. Thank you.

SENATOR H. LINTON: Mr. President, I was a bit hesitant in rising to speak in this debate because since I felt it was not a contentious matter and therefore someone from the other side would have got up to give his piece. I wanted to hold back as it were a little. Nonetheless, I do not want to detain the Senate for too long. I know when I say that I hear giggles from other members of the Senate. I think when I say I am going to speak for an hour, it means three hours but today, Mr. President, I really do not intend to speak for very long. I will be extremely brief. For that matter, I have chosen three points of the Committee's Report on which I am going to concentrate my argument.

Before I go into the body or the meat of my argument, Mr. President, I would like to join Senator Blackman as indeed all other Senators who have spoken before, in not only congratulating Sir Mencea Cox and the other members of the Commission who compiled this Report and who, if I may say so, have done an excellent job, even though it is my intention to tear at least one of them apart in so far as the minority Report is concerned. That notwithstanding, the Commission as a whole has done a good job.

I want to congratulate Senator Sir Mencea Cox but I also want to take this opportunity to say how pleased I am and to offer my own personal congratulations to Senator John Wickham whose foresight it was to raise this particular matter in this particular Chamber.

I want to say, Mr. President, that even though we are perhaps at the closing stages of our lives as Honourable Senators in this particular Session, we nonetheless may be able to look back at our achievements and say, that this Senate may have been one of the greatest contributions to the affairs of this country, this particular Senate.

Now, the point which I want to — if I may turn to the matter in hand, the first matter which I want to turn to is that of course, of the question of the Honourable Senate and more particularly, the question of the age at which Hon. Senators ought to be appointed. In speaking on this Head, Mr. President, I am not even prompted by what Senator MacKenzie said about agreeing with the minority Report of Sir Carlisle Burton. I am not even prompted by the fact, that if the country were to accept Senator MacKenzie's misconceptions, I would not only have been excluded from this august Chamber since 1976, but even today, Mr. President, I would have been excluded and I am not going to be so insidious Mr. President as to say

that Senator MacKenzie's contribution on this point was a direct attempt to exclude me from this Honourable Chamber. Mr. President, I am going to be generous to him and I am going to suggest, that the fault lies in the failure to reason the matter to logical conclusion.

I do not think that he meant ill at all, he meant well. I do not think that he meant to upset any person who has not reached the age of 35 years old. I just think that he picked the document up, read Sir Carlisle Burton's minority Report on that particular point, did not read Sir Carlisle's Report on the question of proportional representation which contradicts his own Report on this point of the reducing age, neither did Senator MacKenzie read the Report of the Deputy Speaker of the Other Place, which was also a minority Report on the question of the increase of the qualifying age of Honourable Senators from 21 to 35. As a matter of fact, Senator MacKenzie never once in his speech on this point alluded to Mr. Ezra Alleyne's minority Report, on this quality.

Now, what is the real position, Mr. President, on this particular point? What are the facts? The facts are that those persons who now enjoy the age of 21 years old can be appointed Honourable Senators. The majority of the Commission are for maintaining this particular age for appointment to the Honourable Senate. Sir Carlisle Burton, however, is against that. In his opinion, the age of 35 is the only adequate age at which someone should be eligible for appointment to the Honourable Senate. Mark those words, Mr. President, "the only adequate age". He does not say that specifically but that is the only interpretation that can be put on his minority Report, that except you reach the age of 35, you are not eligible for appointment to the Honourable Senate. What is so important about the age of 35, except that you have reached half of your life time and you are beginning to count out. What is so important, Mr. President. I am near there and I am beginning to understand. What is there about it? He does not stipulate, Mr. President, 34 years 11 months he does not stipulate, 34 years, 11 months and 29 days, he stipulates 35 years, so if on the day that Honourable Senators are being appointed you are 34 years, 11 months and 29 days and the month has in 30 days, you cannot be appointed to the Honourable Senate, you are a day too young and according to Senator MacKenzie being a day too young, you do not have the experience, skill, or expertise to offer anything to this Honourable Senate because you are a day too young to offer experience, skill, or expertise. Mr. President, it does not take much thought, knowledge, or anything else to determine that that is totally illogical.

Let us examine what Sir Carlisle Burton said because what we have done so far is to pay scant

attention to it. We have just looked at what he has said superficially. Let us look at the reasons, Mr. President which he gives for increasing the age for qualifying for appointment to the Honourable Senate, from age 21 to age 35. He says Sir, that:

"In view"

The final paragraph of the minority Report at page 188 of the Commission's Report and I am reading the last sentence:

"In view of the special role of the Barbadian 'Senate',

He does not here describe what the special role is, Mr. President:

"and as a safeguard for the future", he does not here say what safeguard he is referring to, Mr. President:

"It is urged that the qualifying age for a Senator be not less than 35 years"

and he goes on and this is the crux of the matter:

"becoming a Senator should be an outstanding achievement in a career".

Let me just repeat that, Mr. President:

"becoming a Senator should be an outstanding achievement in a career".

My submission, Mr. President is that, "an outstanding achievement in a career" is more likely underdone than becoming a Senator, or O.B.E. or C.B.E.. Those sorts of.....

Mr. PRESIDENT: Do you not think that you should complete the sentence? I think that as a lawyer, you should appreciate that.

SENATOR H. R. LINTON: Except, Mr. President, I am going to submit in a minute, that the sentence is a disjointed sentence and can be taken in parts, but if you wish me to complete the sentence, I will, Mr. President. I will read it again:

"becoming a Senator should be an outstanding achievement in a career."

My submission is that that could be taken by itself. It is a disjointed sentence, Mr. President despite the fact that there is a comma there, where there could in fact, have been a full stop.

Mr. PRESIDENT: What I want you to do is finish the sentence.

SENATOR H. R. LINTON: If you wish me to, Mr. President, I will do so.

"an honour bestowed on one who can bring to the office some knowledge of affairs and can show some proof of excellence."

Of course, we are going to come back to those, knowledge and excellence because the whole subjective.... who is to say who has knowledge of affairs and who is excellent? A lot of mediocre people about this place think that they are excellent. A lot of people who do not have knowledge think in fact, that they have knowledge. We are facing the problem in this country of people spending four years at Cave Hill and coming out calling themselves economists, sociologists, psychologists and all sorts of "ists". So, before we decide about this knowledge of affairs and proof of excellence, we have to have some Body to determine who is knowledgeable and who is excellent.

A lot of mediocre people are masquerading as very intelligent and important people about this place. As soon as they go down there for two mornings and study a bit of "A" Level Economics, you call yourself economist, sociologist, psychologist, all sorts of "ists", about this place. But, I will come back to that. So far as I read this and interpreted it, Sir Carlisle Burton is saying that one can only bring to an office some knowledge of affairs and one can only show proof of excellence if one is 35 years old. It comes back to my point again. If one is 34 years, 11 months, 29 days, one cannot show knowledge of affairs, or excellence because the two things tie up together. He says that you must be 35 years and being 35 implies that you can show knowledge of affairs and proof of excellence. He is wrong, Mr. President, and he must be told that he is wrong.

He has no logic in what he says here, and Sir Carlisle Burton must be told that he is wrong, he must be told in no uncertain terms that there is no logic at all in his reason for wanting to push the qualifying age of Senators from 21 up to 35. How come it is that you are too young at 34 years, 11 months and 29 days to take part in the affairs of your country and we see at Charles McEneaney and Company, Barbados Shipping and Trading, Barbados Telephone Company, the Barbados Light and Power Company you have Managers, you have Chairmen of the Boards younger than 35 years old, Mr. President? How come you can make contributions in companies with Capital expenditure of well over \$50 million per year? They are good enough to do that, they become Managers under 35, Accountants in those companies under 35, Lawyers to those companies under 35, advisers under 35, consultants under 35, yet until you reach the magic age of 35 those same people who are Chairmen of the Boards and Directors of private companies, large conglomerates, can make their

contributions to those companies to assist the economy of this country should not be allowed to come into the Senate and say how come they can do it. They are too young all of a sudden to come into this Senate and do it, yet half of the working population of this country is under 35. There is no doubt about it.

If I had got through to the Statistical Office today and I had been able to check my facts, I would perhaps have been able to be in a position to tell you that more than 60% of the population is under 35. About 50% of the professional persons in this country, Mr. President, are under the age of 35. You have consultants in the Queen Elizabeth Hospital, you have consultants all over this country, the United Nations at the moment has various consultants down here looking into beach erosion and this sort of thing, the gentleman that is now constructing the underwater park, belonging to the Peace Corps, and who is doing it on behalf of the Parks and Beaches Commission single-handedly, except that he has the assistance of some persons whom we have employed locally, is under 35. A lot of our doctors are under 35, a lot of our nurses are under 35, our broadcasters. I doubt you would find four out of every hundred who are over 35. You go to all of these companies, you go to plantations and these people are under 35.

Now, do not talk about 15 or 20 years ago, everybody who ran this country, who ruled it from the economic point of view was under 21, was between 18 and 21 almost. They used to come straight out of school and take up positions in this country which were very senior positions, and they ran it successfully. The professionals under 35 in this country and are responsible for large budgets, large numbers of people. They gain experience, expertise and skill, but according to Sir Carlisle's argument those persons ought by no stretch of the imagination be allowed in this Senate. What a fallacy.

Before I turn to Ezra Alleyne's argument on this point, Mr. President, let me just deal with another point that is connected to it and then I will lead on to Ezra Alleyne's argument. We have a situation here where the legal age at which you will vote and the legal age for a lot of other purposes is 18 years. The age at which you are allowed to enter the Senate, or the House of Assembly for that matter, is 21 years. There is a little hiatus there. Even that, Mr. President, in my submission is wrong. My argument coincides with the argument of Ezra Alleyne. The age at which you should be eligible for appointment to the Senate or for election to the House of Assembly should be 18 years old, if you want to be consistent and logical. What we are doing is this, we are devaluing the question of the vote itself. What we are saying is that you are too ignorant at 18, you lack experience, expertise and skill — those are the words of Senator MacKenzie — to come in here and

discuss matters that concern you. In fact, even at 21 you are too young and ignorant to come into the Senate and discuss matters that concern you. Even at 22, 23, 24, 25, right up to 34 years 11 months and 29 days you are too ignorant to come into this Senate and discuss matters that concern you.

That is what we are saying, but by the same token, seeing that persons 18 years old can vote, we are saying that the vote is so cheap an affair, so unimportant a thing, that even though you are young and ignorant and lack experience, expertise and skill at 18, nonetheless you are eligible to vote, because the vote is an unimportant thing. That is what we are saying, we are devaluing the whole question of the vote. Are we not, Mr. President? It must be looked at in its proper perspective, because if you are going to argue that at 18 you are too young and ignorant to come in here and represent the things you vote for, then you must by the same token say that at 18 you are too young and ignorant to vote at all, and you must argue that you ought not be allowed to vote until you are 35.

You see, we are going right back down to the age when you could only vote when you had property. In other words, we are back pedalling, Mr. President. Can we allow that? The argument is not tricky, it is not difficult, it requires an analytical application that is probably beyond a lot of persons. You have to look at the argument properly, you cannot tell people that at 18 you can vote but you cannot come in. Let me get some support for that, let me return to Sir Carlisle Burton, because he gave two minority reports, one on the qualifying age for appointment to the Senate and one on the constitutional protection of the multi-party parliamentary democracy. Here in his latter minority report he is arguing for what is familiarly termed proportional representation, and his strongest argument in support of proportional representation demolishes his argument so far as it concerns the qualifying age for the Senate.

Paragraph 5 of his minority report on the question of constitutional protection of the multi-party parliamentary democracy reads as follows, Mr. President:

"The whole concept of democracy rests on the assumption that no group of people is wise enough to rule others without their consent."

Mr. President, I have read the whole sentence, and I will read it again.

"The whole concept of democracy rests on the assumption that no group of people is wise enough to rule others without their consent."

No group of people is wise enough to rule others without their consent, yet look what he is doing. You can vote from 18 up to 35, but Sir Carlisle is saying that only those people over 35 are wise enough to rule the others between 18 and 35 without the consent of the latter group. That is what he is saying.

He is saying that people between the ages of 18 and 35 are not wise enough to rule themselves, and what is more that they ought to be ruled by older people without their consent; and yet he begins by saying "The concept of democracy". Do you know what he is doing, Mr. President? He is abolishing the last reigns of democracy. That is what he seeks to do with that sentence. But what is worse, he goes on and he says "What this means is that those who are affected by the social institutions ought to have some voice in producing and managing them." What he must be saying is that those persons between the ages of 18 and 35 are not affected by the social institutions because he is denying them the right to have a voice in the running of them; so what he is saying is that they are not affected by them, yet we say that from age 18 they vote for these very social institutions. They vote for them, but he is denying them the right to have a voice in the running of them, so he is saying they are not affected by them. There is no logic in that at all, Mr. President.

Mr. PRESIDENT: I think you have said this quite a few times. Do you think you can go on? I think you have emphasised the point that you are making.

SENATOR H. R. LINTON: If you think I have emphasised it, I will of course go on. He goes on, Mr. President, that where there is no sense of power there is likely to be a corresponding absence of positive responsibility or an eruption of indisciplined behaviour on the part of the frustrated where there is no sense of power. So if we remove the sense of power from those between 18 and 35, all we will be left with is the eruption of indisciplined behaviour on the part of the frustrated. The whole point is that his argument for the one system defeats the argument in support of the other. I do not think we need to go any further at all on Sir Carlisle Burton's Minority Report on the qualifying age for the Senate. But if you want assistance on this matter we can easily turn to the report of Mr. Ezra Alleyne which is also a Minority Report on the matter. Mr. Alleyne's arguments relate to the qualifying age for appointment to the House of Assembly, but my submission is that it applies equally as well to the Senate, and he says he finds it difficult to support the Commission's majority finding on the age at which a person can offer himself for election to the House of Assembly. He goes on in paragraph 2 "I am particularly influenced by the fact that the Minors Act passed in 1974 reduced the age of majority from 21 years to 18 years. I am not convinced that a person who is legally entitled to exercise his full rights as an

individual should be precluded by the Constitution from offering himself to Parliament."

As I said, Mr. Alleyne's report relates to the qualifying age for Parliament, but the arguments are equally applicable to the question of appointment to the Senate. He says in the final paragraph: "In the nature of things, such a person may find it difficult to obtain such sponsorship, but I remain convinced that 18 year olds should not be deprived of this opportunity to exercise this essential democratic right."

In the same way, Mr. President, it is my submission that 18 year olds have an equally democratic right to be considered for appointment to the Senate, so that they can represent their own interests, that of their age group and things of that sort. Of course it will be up to those entrusted with the power of appointing persons to the Senate to make sure that only persons of experience, expertise and skill be appointed. But it is a mathematical fallacy, indeed it is mathematical lunacy to put a particular age limit on those who can be appointed to the Senate or elected to the House of Assembly whether they be 18, 21 or 30 years. You just cannot determine it in that way, and I would not describe it as lunacy to suggest that there is no person at all in this country of 21 years who lacks experience, expertise and skill. I would not describe it as lunacy to make that suggestion, but I will take issue here; age is not necessarily experience, and it is not correct to say that every 21 year old is bereft of experience, expertise or skill.

Now, Mr. President, let me give you an example of the fallacious reasoning that is involved in seeking to determine an age limit at which persons should be qualified to be appointed to the Senate or elected to the House. Quite recently in St. Lucia where the qualifying age for appointment to the Senate is 30 years, they had to go through the rigours of reducing the age limit so that they could accommodate a gentleman who was later to become a Minister of Education. He was 27 years old, and it was reduced to 25. That gives the lie to the argument that there is some magical age at which you can determine someone is qualified or not to enter the Senate or the House. The age had to be reduced to 25 to accommodate what appeared to be a young brilliant man in St. Lucia who became Minister of Education.

Mr. PRESIDENT: I am not sure the facts are right on that, but it is a distraction. I think that what happened was that the person in question was given a temporary appointment and accommodated in a certain way with the hope that he would attain the age under the Constitution. I do not think the other things are right. Anyway that is speaking from memory.

SENATOR H. R. LINTON: I am told by my colleague Senator Rocheford who was there recently that my facts are correct, but I will be guided by you, Mr.

President, because the point I want to make is that even where the cut off age is 30, there may be persons who are enjoying a younger age who may have experience, expertise and skill to enter the particular Chamber. That is the point I am making, so that this arbitrary way of determining an arbitrary age is neither here nor there. We should not be doing it by age at all. It is mathematical lunacy to seek to determine an issue such as that by age. Are we to assume that because a person has reached the age of 35 that he is immediately imbued with all the qualities of experience, expertise and skill? Are we to believe that all 35 year olds are suddenly intelligent, experienced, expert and skilled? That is a nonsense, Mr. President, if I may describe it as such.

I want to move on. I think I have hammered that point enough and I have made the point and those persons between 18 and 34 in the country will take up the cudgel with me.

I want to move on to the question of the increase in the number of seats in the Other Place. I do not want to hammer this point too much, Mr. President, because most members have already hammered the particular point, but I believe I will be failing in my duty if I did not speak on this particular issue.

It is important to me because until I became a candidate for General Elections some time in 1976, I was not aware really of what was involved in true representation. This is why I can agree with my colleague, Senator Blackman when he speaks about representation in its various forms and he espouses his qualitative representation.

I was not in a position before I was a candidate to know exactly what was involved in representation and I would have thought, before I became a candidate in the General Elections, that representation was a question of going into the Other Place, speaking on a Bill, voting on it and going back home and taking a rest and so long as I was of that opinion, I felt that the country was adequately represented, that 24 seats were indeed adequate.

Never, for the life of me, could I believe that representation in Barbados was such a personal thing and, therefore, Mr. President, I sympathise with those persons who have either never had an opportunity, or the inclination or what have you, to offer themselves as candidates to the people of this country who state that 24 candidates are enough and that they remain to be convinced that they should be increased from 24 seats. I sympathise with them and, of course, as you are aware, Mr. President, I am not here arguing for an increase in the number of seats because I myself am looking for a seat. It is not that at all. My argument is not a utilitarian one at all.

I am arguing from a genuine belief and from secure knowledge that no representative in this country can hopefully represent more than 4,500 people. Even that is a lot of representation to do but having said that, I do not think that is logical, indeed, Mr. President, I think it is further evidence of mathematical lunacy to decide that you have to increase the number of seats because the number of people have increased. If that was the only reason, that would not be a valid reason. I say that for this.

Now, if you are representing 2,000 families who are all working, who have proper homes, whose children have no problems and things of that sort, and you have another 2,000 families similarly placed voters added to your list, I do not think it matters one iota whether 2,000 or 4,000 of that type of voter is added on because you do not have to go around to their homes and see their personal problems. They do not come to you with their personal problems and if they have, they can usually solve them themselves or they know someone who can solve their problems for them so that you cannot really determine it by a mathematical equation.

A lot, Mr. President, depends on the type of voter, but even so, even though a lot depends on the type of voter, one cannot restrict one's argument in support of an increase in the number of representatives in the Other Place to a question of an increase in the population. One simply cannot.

I think, Mr. President, that this question must be tied up with the question of Local Government, local representation, call it what you will. I do not think that one can be looked at in isolation to the other. Whether one argues for an increase in the number of seats or if one argues against it, one can only enter into such an argument against a background of what the modern day M.P. in Barbados is required to do and with all great respect to Senator Wickham, with all great respect to his motives in introducing this debate and the increasing benefit that this Chamber and the country will derive from the introduction of this debate, he is not in a position to determine or understand the duty of a modern Member of Parliament.

Mr. President, Senator Blackman was at pains to outline those duties. He went to lengths to explain them and except one understands what the modern M.P. is called to do, one would never understand the need to increase the seats. There can be argument as to whether the seats should be increased to 5, 6, 7, 8, 9 or 10 but as to the need for the increase, I do not think really that one is in a position to argue about it except one understands fully what the M.P. does.

Mr. President, this Report itself talks about the M.P. today thinking that he represents a constituency

is simply being nostalgic. This Reports says that. In other words, it supposes that the modern M.P. cannot now represent a constituency. In truth and in fact, as the situation now stands, he is not able to represent his constituency, but, he is expected to represent it. Every man Jack in that constituency expects him to represent it but by the nature of things, he is unable to represent it.

When you have 6,000, 7,000, 8,000, 9,000 and 10,000 persons to represent, it is virtually impossible to represent them so that the argument for an increase must be tied up to Local Government. In other words, you either increase the number of seats in the House or you bring back Local Government.

Now, there are very good, lucid and cogent arguments in this document, Mr. President, against the reintroduction of Local Government as we knew it and I would be the last to see Local Government introduced as it existed prior to 1969. The Commission suggested a different, a more watered-down form of Local Government but the document itself goes on to show why a more watered-down system will not work 100% although it may work to a certain extent.

It says that the country is small and that as a result of the system of Central Government where the representative is still personally known to the electorate and things of that sort, he will always be called upon to do things that are of a Local Government nature and since, therefore, it appears that we will not be able to get away from the system where the Member of Parliament is called upon to put up street lights, pipes, repair village roads, repair houses for old aged pensioners and things of this sort, and since the number of people drawing upon his resources for matters of this nature has increased, is increasing and will continue to increase, it is incumbent upon the Government to make sure that the Member of Parliament has fewer people to represent so that he can cater to them properly, competently and adequately.

It is alright if you are not in Central Government. It is alright, as Senator Blackman said, to stay in your air-conditioned office and get into your air-conditioned car, turn up the dark painted glasses and drive home where nobody can shout at you. That is alright for you, if you are doing that, so you are travelling in the street where nobody can see you, but it is different, Mr. President, when you are a Member of Parliament, when they know your car number and the colour of your car and as you drive the street, they are hailing you — "Hey, I want to see you. We want a standpipe at so and so village. So and So's windows are dropping off. So and so has not got her house repaired since Allen struck."

That is totally different from leaving air conditioned offices, getting into an air conditioned car and driving from here to Chancery Lane, Mr. President and if you have to represent persons, then, the persons who have these problems, you cannot represent them properly, if the numbers are too great. It is my submission, that even a system of local Government, even a modified system of Government, from that which we knew prior to 1969, will not solve the problem of an MP being a roots man, as they call it and therefore, it is not simply a mathematical one. It has to be tied up with the question of representation as Senator Blackman said and you have to understand what representation today means, what it involves, the scope and extent of representation. You have to know that it goes on twenty-four hours a day, seven days a week, before you can know what an Honourable Member of Parliament is called upon to do.

Another argument is the fallacious argument that it is going to draw heavily upon the Treasury, you have to pay more MPs. This argument ought to be demolished once and for all, that MPs are overpaid, or with too many MPs, you have to pay out too much money. In all this argument about MPs' salaries and paying too much money to MPs, when you increase the seats, I have not heard anybody mention the salary of the Chairman of the Barbados Shipping and Trading, the salary of the Chairman of the Barbados Light and Power, the salary of the Chairman, or the Manager of the Telephone Company, the salary of any of the big garages which they have. The bank managers, Charles McEneaney, Courtesy Garage. I have not heard their salary at all, Mr. President. This argument must be demolished once and for all, that you pay a few cents to three, four, five, or six more extra MPs and that it is going to drain the Treasury dry. Yet, there are bank managers getting a salary of \$150,000.00 a year, car, maid, telephone, servant, travelling commodities, you name it, Mr. President, he gets it. I do not know what the Chairman of Charles McEneaney gets and I am not prepared to say even if I knew Mr. President. I am dealing with Courtesy Garage. I understand that he gets over one hundred thousand plus car, maid, telephone, the whole works, two cars, if you ask me. Yet, I hear nobody comparing this.

Yet, if you talk about increasing the seats to get proper representation for people in Gemswick, St. Philip, you hear foolishness about you are paying too many MPs. Mr. President, the argument is not only fallacious, it is not only ludicrous, it is also totally unreasonable and unfair. I do not hear anybody saying what the General Secretary of the Barbados Workers' Unions gets and I do not myself know, but I have no reason to doubt, that it is well over \$150,000.00, works included. Yet, every time... and a Jaguar Mr. President valued at over \$38,000.00, that is what the General Secretary of the Barbados Workers' Union gets, Mr. President and yet,

nobody is speaking about those. Yet, when you talk about increasing the number of seats in the Honourable House of Assembly, in the Other Place, by one, two, three, four, five, or six seats what have you? They are talking about you are paying too much money, you are giving MPs too much money.

I would like to see published, the salaries of all the top people, in all these top private places, banks, Barclays Bank, Royal Bank, Charles McEneaney, Courtesy Garage, the Telephone Company, Barbados Light and Power Company, Barbados Shipping and Trading, DaCosta's, Cave Shepherd. Let me see the salary and tell me if they pay more MPs to give poor people particularly in back villages up in St. Philip proper representation is really so hard after all. It is not. Let us have a balanced argument.

If between now and the time Senator Wickham replies he can quote some of these salaries to me, I would be grateful, Mr. President. But, I am saying that we need more representation in this country. Those old people out there and those people between 18 and 35 need proper representation, Mr. President. I have tried my best in this Place and I do not think that Senator MacKenzie meant to say, that because I am 34 years and some months, that I have been unable to make a valuable contribution in this Place. I do not think that he meant to say that at all.

But, the whole point is that I felt it necessary to defend persons like Senator Truss who would not have been here for the next three years, if Senator MacKenzie's position were unfortunately maintained. Mr. President, I thank you very much.

Mr. PRESIDENT: Senator Hewitt.

SENATOR K. R. HEWITT: Mr. President, Sir, any State which would seek to avoid anarchy must of needs provide a system from which orderly Government would unfold. The Constitution normally provides the framework for such orderly Government and normally does this, by defining and providing for the various organs which go to comprise a democratic society. In the Constitution, it is normally indicated, the relationships which would exist between those organs and the citizens and hence, Mr. President, in the Barbados Constitution, you would see that, dealing with things in the nature of the Judiciary, the Executive Public Service and what not.

The Barbados Constitution is written and it claims to be the supreme law of the land. But, normally speaking, Constitutions need not be so written, take the point of Britain, neither does a Constitution need to be supreme. It is necessary to be more or less anterior, that is, it should be the law from which other laws should flow.

Sir, the spirit of the Resolution before us is such, as to enable those of us so inclined to roam the by-ways of the Constitutional Law and to essay into dealing with comparative forms of Government and so on. I am sure that this morning, the Honourable Senator who spoke would have done such and since I deem myself not so capable, I would prefer to stick more closely to the letter of the Resolution and perhaps pass a few comments on some of the recommendations made.

At the outset, Sir, let me commend the Committee for a job well done and the way they went about doing that job. It was an important job entrusted to them, one which one knew, the results of which must effect every life in the community and consequently, they ensured that each individual was given the fullest opportunity to be heard, if he, or she so deemed.

The first area in the Report which I would say a few comments on is that which dealt with the question of monarchical system as opposed to Republican system. So-called monarchical system of Government as exists now, seems to me, to be one more of form, than of substance. I, myself do not have too strong feelings on the matter. This perhaps, Sir is due to the fact, that I am neither under 35, or over 55. Consequently, I am old enough not to seek radical change, but yet, young enough perhaps to question some of the institutions which we have grown accustomed to. As I said Sir, it would seem, that in these closing decades of this century, that we should still maintain what I construe as purely formal links, in our present system of monarchical Government. This area could be a bit sensitive and hence, I would say no more on the subject, other than comment, in passing, on the illogic as I deem it, included in the comments by the Commission, on page 17 of the Report where having indicated that I having mentioned our two neighbours with a republican form of Government, the Report went on to say, and I quote: "It may well be that this common relationship...." — and they are dealing now with the monarchy — "this common relationship with the Queen may prove the best basis for any necessary political integration that might arise out of our present effort at economic co-operation." Sir, I deem that a *non sequitur* to what preceded it, because I feel that if that illogic were carried to an extreme one may conclude that, for argument's sake, Barbados was more likely to form a political union, say, with Canada that it would form a political union with, say, Trinidad and Tobago. Of course I could not and do not accept that argument.

Sir, turning my attention to Parliament, and dealing first with the Senate, it is indeed a bit embarrassing to be commenting on the Senate in that it could very well appear that one is sort of preserving a situation or speaking from self-interest, but nevertheless commentators regard a bicameral form of Government as indicating some distrust of the popular vote, and the decision of

that vote as represented in a lower House. This more or less is echoing some of the statements made by Senator Don Blackman when he pointed out — at least this is what I gleaned from what he said — no matter what type of voting system we have, whether our system or proportional representation, whatever the type, the chances are that the result of that system would be such that certain individuals either because, No. 1, they did not contest the election, or No. 2, they lost the election, that certain individuals with something, and some considerable thing, I may say, to contribute, that such people may be excluded or prevented from having the opportunity to make a worthwhile contribution.

Sir, we need not look too far afield for examples of this. On the one hand, dealing with those distinguished people who may be prevented from being involved in the hurly burly of elections, who may have some contribution to make, and in dealing with such a person or such groups of people, you yourself spring to mind immediately, on the other hand we can look at others like some of our Senators here, Senators Connell and Barrow in particular, Sir, who would have "ran but lost" and we would feel or conclude that the politics of Barbados, or the political life in Barbados, would definitely be the poorer had not these people had the opportunity to make their substantial contributions by way of the Senate, and we need not only confine ourselves to this present Senate, but to the previous Senate or previous Senators to make that point, the point being that there are those other than the elected or those elected to the lower Chamber who do have something to contribute and therefore should be afforded the opportunity in a Chamber such as this to make that contribution.

In summary then, Sir, I support the recommendation of the Commission that the Senate be maintained, and I would express the hope that the Senate continues to be comprised of people of the highest calibre representing the various interests of the community, both political and non-political.

As far as the composition of the Senate is concerned, one thing appears quite clearly to me, and that is, that I feel that there is something wrong when an Opposition party can gain 43% of the vote, as it did in 1971, and then 46% in 1976, and be represented in the Senate by two people. I feel, Sir, that the Opposition needs increased representation. I feel that this could come about if a certain portion of the seats in the Senate were distributed more or less according to proportional representation. For argument's sake, in this current Senate of 21 it would seem to me that if, say, 17 seats were distributed between the Government and the main Opposition party according to proportional representation and the other four seats to be filled by the Governor General in his own right, and whilst filling those seats

having regard to the varying interests of the community and also the need of the Government to be able to get its business through the Senate, I feel that such a system would be somewhat superior to the one that now prevails, and indeed the one that was suggested by the Commission.

With those numbers, taking that type of arithmetic in a 21 seat Chamber and with the percentage of votes in the 1971 and 1976 elections, the Senators appointed through the Opposition would have been eight, or approximately eight, in the 1971 and 1976 years rather than the present two. As I said, it is obvious that the composition of the Senate must obviously differ from that of the lower House, if not it would be in my opinion a waste of time, but I feel that the Opposition, especially the ones we have had on the last two occasions of elections with a pretty large part of the popular vote, I feel that they need to have a stronger representation in this Body. Anybody who disagrees with that only has to think back over the past four years to see Senator Connell trying really to cope with the vast numbers of people on the other side, so to speak. Even in spite of his ability and so on, one could not help feeling that there is something somewhat unfair in that.

In turning my attention to the House of Assembly or Other Place, by way of general comment one must say that every effort must be made to ensure that Barbados remains a place where one would expect free and fair elections held within stated periods of time. In the context of that comment I would support the recommendations of the Commission vis-a-vis the setting up of a Boundaries Electoral Commission along the lines they suggested. It is my view that every effort must be made to ensure that practices or malpractices which seem to be common in other countries must be prevented from entering into our political life and not only prevented but must be seen to be such.

Now, Sir, with regard to the number of seats and as to whether the number of 24 should be increased or not, to me the strongest argument for the increase in seats would have to be the fact that Government, and when I say Government we speak generally, Government in our time is undertaking many more tasks and many more complex tasks than hitherto. That coupled with the abolition of Local Government some years ago to my mind are the two strongest arguments for an increase in the number of seats from 24. I myself find the comparison of the population in 1843 with that of 1979 as a not very persuasive argument in this regard. However, I wonder whether the Commission did not gloss over or pass over the subject of Local Government too quickly. In reading the various points I got the impression that the statement was made that its abolition had some unfortunate results, but having made that statement, the very next paragraph said "but we do not recommend the

revival of the system". I cannot remember seeing too many persuasive arguments for not reviving the system. Instead a recommendation was made to develop certain community centres and have certain councils which I think Senator Wickham described pretty adequately in his comments when he said that the first device of regional centres simply extends the area of the bureaucratic presence of essential government and the second offers little more than scope for the establishment of discussion groups.

As I said, Sir, the Commission recognised that Local Government had made some positive contribution, but yet it went on to say it did not recommend its revival. I myself feel that what was recommended would indicate or suggest that the Commission seemed not to place much emphasis on or did not see Local Government as a means whereby people in a community were encouraged to participate in the effective running of that community. We live in an age where allegiance to a particular community is becoming less and less. There was a time when one said so-and-so came from Bank Hall or from Bay Land; there was a connotation to that. These days to say that someone lives in Cave Hill really means little or nothing other than that that is where his house is. So I felt myself that some greater expansion on the arguments why the Commission felt that it could not recommend the revival of Local Government should have been given. I myself would feel that there are certain advantages to be gained from such a system were it to comprise four to six councils or so. I however am not in a position to indicate the details of such a system, the details regarding its responsibility, authority, financing and so on. However, I would hope that Sir Mencea probably would address himself to that point and perhaps satisfy me a little more.

Sir, next I turn to the subject of the Public Accounts Committee. It is indeed heartening to see that the Commission did recommend that provision be made in the Constitution for the appointment and functioning of the Public Accounts Committee. Indeed some time in 1979 there was a study group of Commonwealth Parliamentarians and that study group included the Leader of the Opposition or the previous Prime Minister. It is worthy to indicate that such a study group which considered the topic "Parliament and the Scrutiny of Public Finance" was sponsored by the CPA, and one of the conclusions arrived at among other things was that the growth in the range and size of activity of Government has so outstripped the capacity of the legislature to exercise effective control over the Executive other than in a purely legal sense that the so-called power of the purse, which is something that legislators prided themselves on, had in most cases become largely a fiction. If we want to fight into that I guess we could turn our minds back to our own debates on the Estimates, and I am sure that most would agree with me if I said that

these debates tend to be ones dealing mainly with general policy whether it be a policy on health, education, agriculture and so on rather than in any scrutiny of the details of numbers.

It is felt that a Public Accounts Committee — I am speaking generally now and not necessarily of Barbados — in conjunction with a strong Auditor General should not only report to Parliament as to whether expenditure had been made within the amounts prescribed or passed, but should also in time be able to report to Parliament that Parliament was indeed getting value for its money. In other words, that not only had \$X been spent as approved, but that there was some commensurate value with the amount spent.

I think this is very important, especially when we think about the growing involvements not only in size but in scope of Government's activity. It must be that Parliament should somehow have or be in a position to know that what was spent was more or less well spent, but my general concern here is not one of seeking to reduce public spending or being opposed to the increase in public spending but rather to ensure more effective parliamentary scrutiny and accountability for expenditure decisions.

So, Sir, as I said, I was pleased that it was recommended by the Commission that a provision be made now in the Constitution which then would set out certain functions to be performed by the Public Accounts Committee and I also was further pleased to see that provision was made for the Senators to participate on such a Committee.

Sir, as I said, the Resolution does give one ample scope to roam up and down but I will leave that to some of my other associates. Suffice to say, Sir, that I welcome the fact that the Constitution was reviewed. It is obvious that too frequent changes can only result in weakening the respect and effectiveness of the Constitution but on the other hand, if it is to remain a viable document in step with the times, it is obvious that it should be reviewed periodically and done so in the open manner giving ample scope to all and sundry to have his or her say, as in fact this Commission did.

SENATOR MRS. ENID LYNCH: Mr. President, like all the speakers who have preceded me, I would like to express appreciation and gratitude to this important Commission which sat to consider the Constitution. Of particular importance is the fact that they went about their work by involving as many persons as possible in the society and causing them to think about the Constitution instead of merely taking it for granted. I am sure that the number of persons who own a copy of the Constitution which costs only \$1.00, is comparatively small, and this brings us to the need to

constantly remind ourselves that the Constitution is a framework within which the country develops.

I wonder whether the task that was given to the Commission is really one that is possible. I see here that they should make recommendations and so on, for maintaining democratic institutions and the ensuring that multi-party parliamentary democracy is given such constitutional protection as can effectively prevent its destruction. In our experience in fairly recent times, and in many countries, Constitutions as carefully prepared as ours, have not escaped destruction and so the mere fact that we have managed to put together a Constitution which looks as if it can secure for us our freedoms and our rights, in fact, this is not the case.

The things which really preserve the Constitution and preserve our way of life are the strength of public opinion, an innate love of our country and an understanding of the essentials of a democratic way of life and since democracy has disappeared in so many countries and since there is still a constant fight for its maintenance, it seems to me that we have to give far more attention to the initiating of our young citizens into the democratic way of life.

In fact, it is one of my constant themes that our schools may not be doing as good a job as they should in giving young citizens their first experience of a democratic community in action and of the way in which the individual person can make a stand against the system or change the system. I think this kind of experience is needed and we should really realize that democracy can only survive if we do a better job of educating people for democracy. After all, in other forms of Government, they do not leave it up to chance that their citizens learn such qualities as obedience and various other qualities which suit their form of Government. We leave too much up to chance as far as democracy is concerned and that is the danger. We are therefore always in danger that the Constitution may not do for us what we should do for ourselves.

We are very fond in this part of the world of taking over institutions and Regulations and trends and while we have all the outward forms and semblances of these things, failing to interpret the spirit as well as the letter of the institutions that we have borrowed and I think that that is so even of our own House of Assembly and Senate.

The British Constitution is not a written Constitution and therefore they are certain advantages, of course, in not having a written Constitution. You cannot tear up or destroy an unwritten Constitution as you can a written one. There are certain Conventions,

certain practices within the Westminster model which gives it its special flavour and also its special influence. For example, do we sufficiently understand that implicit in the Westminster model is the demand for co-operation, wisdom and conscientious work on the part of the Opposition.

You often hear people say, what is the use of being in the Opposition because opposition cannot do anything. This is a danger because the presence of the Opposition is a most important factor in maintaining a democratic Government and so, we must try to fight this attitude that political parties are enemies. You can see the danger of this all over the Caribbean. Political Parties are not seen as people who come together and get together a document which conveniently sets out what they stand for, in order to enable the voter to cast his vote intelligently. Instead, we made parties as something which separates our people in the two rival camps and therefore, we see bloodshed, fighting, aggression and a complete misunderstanding of what the party system is for.

So, I think that it is the understandings which are necessary to prevent people from being so surprised at the fact regarded as uncomplimentary to be able to say of a party that it continued the projects which the previous party had started. That is not a weakness, that is a strength. It means that although parties may be rivals, any project which is started and which had already been financed by banks, sometimes by international aid will be continued by the incoming party. This gives the community strength and we are far better off, than a community in which even like Britain, where the Labour Party will have one policy and the policy starts nationalising and then, the Conservatives come in and sell out the shares and then the Labour Party come back in again, and they nationalise again. This means, that according to this model, there should always be a measure of understanding between the Opposition and the Government. Indeed, according to the requirements of the Constitution, there are times when the Rt. Hon. Prime Minister is required to consult the Rt. Hon. Leader of the Opposition and we would hope that this consultation will be real consultation. The point I am at is that it is possible to consult in such a way, that the consultation is not as one thinks. It is also possible to use the advice of Advisory Boards in such a way, that the Advisory Boards will not exist, or we would wish to see a certain amount of flexibility in the operation of corporate Bodies, so that they do give flexibility in arriving at decisions and things of this sort.

The point which I am stressing is that it is possible to have the democratic framework, it is possible to have the democratic institutions, the democratic laws and yet, still fail to have the breadth of life, the democratic spirit being expressed in those laws. So, we must not sit back and say, ah, my rights are enshrined, the word "enshrined" always makes me feel uncomfortable, our

rights are enshrined in the Constitution, a Constitution which will have no permanence, unless all of our freedoms are strong enough, that no dictator can hold us in subjection for long. It is the spirit of freedom, it is the democratic spirit which is going to cause our institutions to have strength and the permanence which we hope for them. That is why I was so pleased to see so many people going to take part in these discussions because I hope that it brought home to them, that there is individual responsibility for the survival of the democratic way of life. It is not going to be done merely by having a document. It is going to be done by the very strong will, clearly expressed in our daily decisions and in our way of life and of the things, the sort of decisions which we will not accept.

Closely connected with this, of course, is the need for some method, some way by which we can give to simple people, the opportunity of expressing their wishes and their opinions. The Commission of Enquiry, the various Commissions which we have had gave this opportunity, but you cannot go to commissions every day and so, we want some kind of structure. I can see here a feeling after the structure. We have not really decided it yet, what kind of structure, but there is a need for it because we want people to participate in the society. We want people to realise they should not only look to see whether they are getting their fair share of what the country produces, but whether they are making a fair contribution to the society and it is an injustice when people are in such a condition, that they are seen, or felt to be making no contribution to their society. We should make it possible for every citizen to have something to contribute to his society and I think that it is this which gives him his sense of worth.

I am sure that you heard Don Blackman telling us about representation and how exacting it is and how necessary it is to increase the number of persons who have to carry the burden of representation. But, I wonder whether the politician has not made the private citizen too dependant on the politician as such, so that he is seen as almost some kind of omnipotent person who can do all things. I think that it is a good thing, if sometimes, the Hon. Minister would say, "I do not have the power to do what you are asking" because some people feel that a politician, especially an Hon. Minister can do anything at all and it is for the politician to bring home to the citizen, that he also has to obey the Law that he has to follow the guidelines laid down for him and although he is an Hon. Minister, there are things which he cannot do, or may not do, or should not do. It is these kinds of understandings which our people need to have to make them rather more self-reliant.

We have a right to provide the services and we have a right to have built in the society, that spirit of neighbourliness, so that your next door neighbour, some-

body else in your society can tell you where the services are available for you. A politician has not got to do that. A politician has not got necessarily to tell a person where to go, if she wants her house repaired, that is the job of the Welfare Department.

We can all do a great deal in our own neighbourhoods helping simple folk around us, helping people who do not know what to do in a particular situation. I do not think it is a good thing for a politician to take over all of this and I do not think we should rely only on organisations. There is that tendency too, somebody needs help and you say there is an organisation over there they can call, and so we are losing this spirit of caring for the people who live around us. I think these are things which are all implicit in the democratic way of life. I am distressed if I go to the hospital and see too many people waiting there, because I do not think that this is expressive of the democratic way of life, that here we are keeping poor people until all hours of the night, and we should try to find a solution for this, it does not express the feel that a democracy should have, so we have constantly to be looking for this expression in daily life of the democratic spirit. It is not to be found only in the laws and the Constitution, I would call that a framework which makes it possible for us to live the sort of pattern of life which we call democratic.

In that connection, therefore, while I would not feel strongly on the question of the increase of seats where they are necessary, I incline to having a constituency rather large than too small. I would rather have a constituency too large than too small, because I feel that if the constituency is too small the politician tends to assume too many of the sorts of jobs which should be done by the ordinary caring citizen, and of course we know what pranks can go on during election year, and I feel that when the constituency is a bit on the large side the elections are likely to be fairer and better.

I was a little disappointed at the treatment of the Teaching Service Commission, that did not seem to receive much notice, they just mentioned that it had been in the Constitution, and of course like the passing of the Education Act, it was there but it might as well not have been there, and nothing was done about it. Now, only free men can rear free men, only free teachers can teach children to be citizens of a free society, and I would like to see the teaching profession having the same sort of freedom that a doctor has or a lawyer has, I do not think a teacher go around feeling that somebody has got to be looking over his shoulder all the time, and he has got to be a sort of minion of the Trade Union Movement in order to be self respecting and to do a good job, and so I incline to the Teaching Service Commission, because I feel that the number of teachers has increased so greatly with the idea of free secondary education for all, we have got a lot more children in school than before, we have

expanded the teaching service to such an extent that the teachers now need almost as much attention as the children if we are going to run a successful system, and I feel that the Teaching Service Commission would give the teachers the sort of feeling of being an independent profession and they must take up a tremendous amount of time of the Public Service Commission.

What is more, the selection of headships is a very very onerous and important one now. I have seen what happened in some of our institutions. I do not want to say that anyone person was responsible, but obviously when we do not select the Principles of schools and correctional institutions with due care you can get a catastrophe, so I feel that the selection of personnel is something that should be done for education by people who know about education, who are particularly interested in this and who know what to look for, and I think we will probably improve the selection of teachers by having a Teaching Service Commission. I would like to see teachers not being civil servants. Perhaps they themselves might prefer to be civil servants, but why I think it is a good thing to have a Teaching Service Commission in which teachers are not civil servants, if you want to make certain changes in education you can only make those changes if the community at large understands and goes along with the change. You are not likely to get any important changes within a school unless some work has been done at the same time to keep the generations together so that what is being done, what you are trying to do in school is understood by one or two other generations. In a country like ours which is developing rapidly you are going to get all the problems that we are getting with the young people now, which means that they have got separated somewhat from the adult group with whom they should be working and from whom they should be getting some sort of guidance.

So I would say that I personally would have liked to see a Teaching Service Commission and I would have liked to see a teaching body not being civil servants. I am, however, not speaking for the profession, probably most people in the profession might think differently from me, but this is what I think about the kind of contribution which teachers should be making in a free society.

I do not feel very strongly on the question of age, because you have got to make an age, you have got to state an age. There are people of 18 or 21 who are very wise, there are some people of 35 who are not very wise, but when you make this kind of regulation, in practical day to day life you make the necessary adjustments. For example, it is obvious that between 18 and 21 young people are usually concerned with their own careers, they have not got time to come and sit down here from 11.30 until sometime tonight to discuss Bills, because they are looking for jobs, they are looking for training for their vocation in life and they really have not got the time.

They are concerned with themselves and the jobs they hope to get, and very often they are in positions which make it impossible for them to get the time to go to the various meetings. As far as I can remember, we promised that we would put young people in decision making bodies, to give young people the chance to be involved in decision making, but obviously the meetings have to be held at a time when they can get off from work, or they would not be able to come. I have known several young people who were put on bodies and they could not function because they are not independent enough yet to attend the meetings at the times when they are held.

There is also the fact that the community is small, and the young person might not always feel sufficiently independent to express independent views which may not be popular with their superiors, and you can get them in all kinds of difficult situations. These are all just practical matters of which I am sure you are all aware, and although one would not stick at age, I would say that at age 18 you are old enough to die for your country, and if at 18 you are old enough to die for your country you are probably old enough to do other things beside dying, but this would work itself out, because you would not select every 18 year old or every 21 year old.

You do not select everybody who is 35 years old for the Senate or anywhere else. It certainly is an individual matter. You may get an exceptional 18 year old, an exceptionally fine 21 year old and so on, so that one does not want to make rules and regulations that are too stringent. You may elect an 18 year old, you may elect a 21 year old, but it is not "must", so you do not go around picking up every 18 and every 21 year old to put in a representative body. It is an individual matter, and I think that where the ability and wisdom exist, whether the hair is black or grey, one would use discretion in the appointments. I do not think we have to worry too much about that, and I would be quite willing to go along with whatever the very wise Commission thinks is the best arrangement.

Of the Senate we have heard much said in its praise, it is true. One of the things we are likely to get in the Senate is what I would call dispassionate appraisal. Few of us would be trying to please our constituency and so we are able to say things which are perhaps not universally accepted, and so we can challenge people and cause them to think again about some matter, and we have a certain objectivity in our presentation. I should like to point out how often I have been impressed by the presentation of the Opposition member who will give a very balanced view on many occasions, surprisingly so. He is speaking on those occasions not as a member of this party but as a concerned citizen, and I can think of a number of occasions when his contribution was very dispassionate and objective, and this is all to the good because we are not only political animals, we are fellow

citizens and we must avoid what I call this kind of dangerous polarisation which inhibits our thinking.

I notice also that there was some consideration of an Ombudsman. Now again an Ombudsman like the Constitution must not be considered as a kind of panacea; it does mean because we have an Ombudsman that the citizen will necessarily get the justice he deserves in complaining for a Government official, because there are countries where an Ombudsman has not had the effect that we would expect, where people still complain about breach of human rights and things of that sort, so obviously it is not the Ombudsman alone when we are thinking about corruption and things like that, it is the honesty of the whole society that produces an honest politician or an Ombudsman who has the necessary integrity. So again the support of the society is always necessary, and if we are going to have an Ombudsman we must have one of course who has the highest integrity and not only that he has the highest integrity, but that the community expects and believes that he has got this high integrity and that they will get justice at his hands. It is better not to have one than to have one who, in a community such as ours which is small where everybody is friendly with everybody else or related to everybody else, has a high degree of independence and integrity, and I hope that we will find enough of these in the community as not to have the embarrassment of having appointed one Ombudsman and being unable to appoint another one too soon after.

I feel that some arrangement of this sort is necessary because what causes disruptions in many of the bigger societies is the feeling on the part of the individual citizen that he is powerless against the might of the economic system and the political systems, that he is just a small individual and that he cannot fight a big operation. He looks around and he does not see how he can change the Constitution of the United States or do something about some injustice which he might have had at the hands of a multi-lateral company which is so large that even the Government does not want to offend it. In that sort of situation you are going to get protests and allegations and all kinds of things. We have some evidence of it. We must ask ourselves whether the individual citizen really feels and understands that there is a way in which he can change the system within the law, that in a small community like ours, he only needs courage to get action taken about things he does not like; and so I think we have got to avoid this feeling of helplessness on the part of the citizen, this feeling that he is lost in the system, and I think something like the Ombudsman does help in this direction.

Following the lead of my colleague, Senator MacKenzie on this question of the improvement of the

economic life of the country and the relationship with in this economic life, I feel that we are headed in directions somewhat dangerous in that the community is developing as a materialistic society, one in which people are estimated by the things they have, what make of motor car they have, how large their refrigerator happens to be and this sort of thing, and it is dangerous because our economic resources do not allow us yet to say to all our citizens that they can have a high standard of living. The best that can be promised is a pattern of simple gracious living. I think that the people who have to do with industry and commerce must see themselves as having a challenge. Why must we have a society which is divided between employers' federations and trade union workers who feel that aggression must be the order of the day?

Sir, it would seem to me that it should be possible for businessmen to see justice as so important that employees can function in an atmosphere of trust, that they know that the company that makes more profit would pass on some money to them, that what they get will truly reflect production, that they can see financial reward coming as the result of increased efforts on their part. Surely we can get a better atmosphere and get away from this nineteenth century attitude that an employer has got to exploit, that capital means exploitation, and certainly our trade unions can come forward from nineteenth century Britain where they had their roots. Trade Unionism is influenced by the fact that it was born in an atmosphere of exploitation with women pulling trolleys along the mines and nine year old children in the mines, hands being chopped off in the factory and things of that sort. We are not in that atmosphere now, and I feel that trade Unions also can do a great deal to project the trade union certainly as representing the rights of the worker, and certainly a body which sees itself as doing a job for the welfare of the workers and for the benefit of the country.

We do not need to have industrial disputes. I think that anything that can be done as the result of a strike, the benefits that can be given as a result of a strike could have been given without the strike. A strike should be unnecessary. This is very idealistic but I see this as part of the democratic process, the spirit of democracy and we have got to realize that our society is so small and our physical resources so fragile and so weak that the best that we can do for our country is to ensure that our Constitution, or Institutions or business dealings with each other reflect the fact that we place human relationships above all else.

We cannot afford material prosperity to the level that perhaps we might not like but there is one thing which we can achieve and we can achieve the sort of equality which means that we are treating each citizen

according to his needs and when we speak of equality of opportunity it really means different treatment for people according to their needs. If you give them all the same treatment, they would not be any better off because there are certain people who need a different type of treatment but we are all going to give them a chance to be happy human beings and that whatever we do, within our society we would place first of all on our human relationships.

SENATOR THE HON. N. A. BARROW: Mr. President, this is one of the brief contributions for the afternoon that will in fact be brief. I have had to be in and out through a great deal of this debate but I have heard a number of valuable parts of contributions, let me put it that way, and I am quite impressed by the high quality of the debate so far and fear, therefore, Sir, that if I should continue for too long, I might do nothing in having the debate continue with the high quality that it has had so far. If for no other reason, therefore, Sir, I shall be brief.

I have listened to a point which, perhaps, has been beaten to the ground by Senator Linton but it is an important point which, I believe, should not escape notice especially in so far as I do have a point of view on it and it is a point of view which is rather close, if not identical to Senator Linton's.

Ever so often something happens in relation to these age limits when we decide to prescribe artificial age limits for membership of Parliament that tends to show up what a nuisance it can be to go out of your way to try to prescribe for people in this particular area.

In 1960 in the United States of America it was a case of Edward Moore Kennedy, Ted Kennedy, having to cool his heels for a little bit, having somebody stand in until he became 30, at which age he could qualify to run for the Senate of the United States so he became a more competent, more expert and more skillful person overnight on that particular occasion when he went from 29 years, 364 days to 29 years, 365 days.

In the St. Lucian example, quite recently, again they suddenly caught themselves with wanting to use what in their judgment was the considerable talent of a young person and having themselves imposed a bar in terms of age, they had to wait and in a country which was already enjoying an unrivalled level of confusion at Government level, they found themselves with even greater confusion.

I believe, Sir, that it is an act of wisdom to learn from your own experience and from that of others. I believe that the experience of others in setting this kind of artificial age limit ought to tell us something and also, Sir, I believe that in our own experience we should recognise

that whether it is a matter of saying that people should be over 21 or whatever it is, we tend to choose whether as candidates for political office running for the Other Place or persons appointed to the Senate, we pretend to choose persons of reasonable maturity and I think that that happens, Sir, because the society dictates that we do.

I am not saying that the odd person chosen may not be somebody that you feel perhaps should wait a little longer, but as a general rule persons of a reasonable level of maturity are chosen to seats, whether they will be run by a political party or whether they are being nominated to Parliament and if our own experience is that, it seems to me that we would be unnecessarily be going out of our way to seek to burden ourselves with some very tight formula which could only have the effect that in certain deserving cases, persons who are entitled to make a contribution are debarred by this artificial barrier.

I am sure, Sir, that if you stopped and thought about it for a while, that within your own medical profession, you would know people who by age 30 were making their way to the top of the profession, if indeed, they were not already considered by some to be at the top. I am sure that all of us know of examples in the law where there is perhaps more publicity given to these matters where persons under the age of 30 have managed to distinguish themselves.

As a matter of fact, Sir, thinking of that aspect of it, I remember being part of a group who styled themselves the under 40's. Two of us who were on the platform nearly every night, I was certainly under 30 at that time, but I believe that we were generally regarded as having something to say and something to contribute and my vanity would not allow me to believe, that I should be caught by a rule which said that I had to be 30 before I could become an Hon. Senator, far less 35.

I believe Sir, with those who take the view that if we legislate that the age of majority is 18, it follows logically that one ought to be able to vote, one ought to be able to marry, one ought to be able to divorce, one ought to be able to contract, one ought to be able to pay the penalties for failing to perform and so on. If we determine all of this, then, how can we set about, to set another age at which one now has to meet some other qualification, a, b, or c after the age 18. All it says is that after the age of 18 comes the age of 35. I am sorry, Sir, but I believe very strongly with those who say that 18, if it is recognised as the age of majority, ought for all purposes to be the age which one considers for Hon. Members in Parliament. I must also say, Sir, that if it continues to be 21 as it has been for all these years, I am not going to lose any sleep on it. But, the minute we start talking about now setting these very distinct barriers,

that is where I have a very strong sense of opposition to the whole age of qualification. I think that that Sir, is my starting off point because it is a point which has been ventilated and I believe ventilated with a great deal of passion and for this reason, I believe that it is possible, that the very calm, reasonable aspect of it may perhaps still escape the full attention which should be given to it.

I believe that we must invite ourselves to ask what is the peculiar measure of creating these barriers and also invite ourselves to ask whether these artificial barriers are going to mean more, than the common sense practices which those who will be responsible for selecting candidates for public office and for appointing people to public office have followed all this time. I believe Sir, that one can see, that we should recognise, that there is absolutely no need to start talking about age barrier in the region of 30 and 35. Let it stay at 21 as it is, or if it is to be moved, then, it is to be moved according to some logical argument and the logical argument would seem to me, certainly to be, that the age of majority ought to be for all practical purposes considered, that would mean age 18.

There are a couple of points Sir, which I wish to pay a little attention to, in the course of this speech because I know, that the job of the Commission has not been an easy one. I do not know, that there is any better method of seeking to make proposal for alteration to a Constitution, than the method employed by the Commission, which was to spend a sufficiently long period of time in deliberation and in that course of deliberation to make themselves fully accessible to people and take note of as many point of view as evidenced themselves and I believe Sir, that if we agree with everything recommended by the Commission, or we agreed with some, all, or agreed with none of the things recommended, that there is ample evidence, that the Commission, under Senator Sir Mencea Cox has done an outstanding job of which the country must be proud.

I believe therefore, Sir, that we cannot approach any debate on the Commission and its proposals, other than in a serious manner and it is for this reason, that I am really speaking this evening because there is, in my view, a clear omission from the Report and it is the failure, I believe of the Commission to examine, if I am wrong, Sir, then, I would like it pointed out to me, before I make myself ridiculous, but neither on looking through the Report more recently, nor when I first read it, did I get the impression, that the Commission had seriously addressed itself to the question, whether we should continue to have a single High Court, or whether costs, notwithstanding, we did not need to have an Appeal Court, separate and distinct, from the Supreme Court. This, to me Sir, is an extremely important matter because we talk about rights of citizens, as we recognise that whatever Constitutions are

meant to be, they are instruments in which relationships between the Executive, the Legislative and the Judiciary are defined. There are instruments in which a certain body of fundamental law is defined. They are instruments in which some measure of the rights of the citizen is articulated and some measure of protection of these rights are enshrined and it seems to me, Sir, that operating in Barbados in 1980, or any time, let me say, in the last 10 or five years, the time has certainly arrived for the question to be grappled with, as to whether, we should not have a separate Court of Appeal.

The point Sir is because we might not have had any scandalous awards handed down by the courts, this point might have escaped the attention of the Commission, as indeed, it seemed to have escaped the attention of the public at large. But, it is basically unsound to talk about the protection which the court offers and at the same time, to continue a system in which the same judges who sit as appeal judges are the same judges who sit as judges hearing a matter in the first instance. I must say, Sir, that if this situation has not yet caused an outrage in this country, it is a testimony to the quality and integrity of the Bench which we have. But, I do not believe that any three, or four men should be asked to continue forever operating a system in which one day they wear the hat of a judge at first instance, and the next day, they look around at two other faces, three of them sitting together and operating as judges.

There is something called respect for the ruling of the Higher Court, which makes a lot of difference to what goes on in the activities of the court at first instance. There is the whole point about the separateness of the two courts which has built into it some of the basic ingredients of justice, in that it cannot be seen as an appeal for Caesar to Caesar, where one has had an action heard and then appeals, under a completely different court.

The present Judges are obviously doing an outstanding job in that they have been able to satisfy people within the system, and it is not the Judges I am dealing with, it is the system itself that is unsatisfactory. What is there tomorrow morning to prevent a situation arising where a Judge is hearing a matter, there is an appeal on a particular point taken before a Judge in Divisional Court, so two Judges are now involved in hearing this matter. Eventually the matter comes to full fruition, the judgment is handed down by the one who started the action, there is an appeal; as far as I can see, the chances of the appellant must be prejudiced because he is dealing with only two Judges who have not had anything to do with the matter before, and as long as that develops there must develop a spirit which does not put enough

distance between the appellate function and the function of the court of the first hearing.

Now, Sir, to me it is one of the important things, because I know that there is some argument that they may not be enough work for a full appeal court and therefore we should continue to work this system at least for a little longer. It seems to me, however, that where the liberty of the subject is concerned cost cannot be the only factor, and it seems to me, Sir, that it would be a far better idea to have an appeal court, even though the workload may not be quite as much as one would like, than to continue a system which as I am saying is inherently unsound. That was really the point that I was hoping, as I look through the Commission's Report, to see a very firm recommendation on, because I cannot but believe that had the Commission turned its attention to this point they would have come out with a proposal for the immediate establishment of a separate appeal court. Judges have no right exercising the function of Judges in the first instance and Judges at appeal. That has gone through the window even though the Privy Council, in the way that the Privy Council has been known from time to time to give time serving judgments, even though the Privy Council has been known in at least one case to find that there was not anything wrong with one of the Judges at an appeal being the same Judge that had heard the matter at first instance, and I would like to submit, Sir, that no matter how much the Privy Council may say so, that you and I and all of us in here know that that is wrong, but the Privy Council, as I said, has been known from time to time to give time serving judgments.

It has also been known from time to time because of its attitude of not rocking the boat, not to address its mind to issues which were what were fundamental in the particular society from which the appeal to the Privy Council first came. I am not at this stage suggesting that we throw out the Privy Council, because I would only suggest this if Caribbean countries come to their senses and establish a Caribbean Court of Appeal for the whole area, and then I would have absolutely no hesitation in suggesting it, because there is no mystique in the law that says it has to go to England and come back in order for justice to be done. Indeed, Sir, when I think of the Antigua Times' case, when the West Indian Associated States Court held an act unconstitutional and the Privy Council held that that act was perfectly *intra vires* the Constitution, I have never been so persuaded as I was then as to the relevance of social conditions and the knowledge by a court of these conditions if justice is going to be done, because we are dealing with a matter of imposing a licence fee on newspapers in Antigua, and the amount of the licence would have meant nothing in Great Britain, and would have meant nothing in any society where people would have formed a company to start a newspaper, set it up properly, and if they had to pay £10 000 in licence fees it would not really matter,

but in a society which is short on newspapers, short on venture capital for that sort of purpose, and where the starting of a newspaper may represent the one fundamental thing being done by someone in defence of his human and political rights, to impose a licence fee of \$10,000 may be simply a straightforward way of telling the man he is not to publish anything, which in itself if a denial of his fundamental rights, and it has always been my contention that the West Indian Court, knowing the conditions of Antigua was absolutely right in holding the act unconstitutional, and that the Privy Council, not knowing and not caring about West Indian conditions, was absolutely wrong.

My point, Sir, is if we are talking about protecting the liberty of the subject, what system we have in the construct of our courts is extremely important.

The other aspect of it, Sir, and Professor Carnegie's submissions in here are quite clear, they make the point. They make the point not in the way in which one would make it in here, but they make the point quite clearly, and I am going to make it in the way in which one could make it in here, Sir. If you take the example of the United States Supreme Court operating within a written Constitution, as social circumstance has altered the court has not been afraid to go back and review its decisions. That is to say, as a new case has come up in an entirely different social climate, the court in the United States has been prepared to say that whereas we previously held that separate and equal was within the powers of the Constitution, in the case of the School Board and Fergusson, they were quite prepared to say we recognise that separate and equal does not mean separate and equal, and therefore that the provision of separate and equal schools is *ultra vires* the Constitution. In the same way that the court once held that Federal income tax was *ultra vires* the Constitution in 1913 the same United States Supreme Court held that it was *intra vires* the Constitution.

What I am referring to here is the fact that any court interpreting a written constitution, recognising that the reason the things are spelt out in writing, the relationship and that the rights are protected must be prepared to look at prevailing social circumstance and to recognise what is really involved in seeking to do justice.

It is unfortunate perhaps that with the exception of a narrow line of Guyanese cases of which the most famous perhaps is one called Evelyn Vs. Chichester the courts in the West Indies have tended to take the line that they are the standard traditional common law courts, and they have not taken the opportunity to push the door in order to expand the rights of the citizen, and so the earliest cases in constitutional law decided in West Indian jurisdictions after independence reflect cases in which persons who appear to have a cause could be

denied their day in court either on the ground as in Collymore that they had no *locus standi* or as in *Pierre v. Banefo*, the ground that they had come to the court by the wrong means, and of course it is extremely interesting, Sir, that the Trinidad constitution stated as do the other constitutions that Parliament should legislate the means by which the applicant may bring his case where he believes that any of his fundamental rights are being abridged, and Parliaments did not legislate, and instead of the courts taking the bull by the horn since Parliaments did not legislate, the judges became very technical and said in *Pierre v. Banefo* that this is not the correct way to proceed, therefore the matter is not before us.

In the Guyanese case Jaundoo they tried that, but there was a minority judgment in that case which held that the matter should be entertained and ultimately in Jaundoo's case the Privy Council decided that with Parliament not having legislated it was open to the courts to hear the matter by whatever means it was brought, which seems to be the only commonsense way of looking at it, but a number of decisions had been taken before denying people their rights. I think that we tend always to look at what rights are spelt out and not to look beyond that to see how the court interprets its function as the protector of those rights, because it is only then that we begin to understand how real these rights are, because for a right that is not protected it is really doubtful whether it is a right at all.

I am referring for example to the fact that the courts have held the old common law principle that coercive remedies are not available against the Crown, and some of the most outstanding incidents of abuse of fundamental rights have come by way of actions by people acting under the authority of the Crown. What then is the position? What is really the remedy? If there is no remedy, how far can one say that there are rights? As long as the courts take this restrictive view of their role in the interpretation of a written constitution and the application of its principles, they will do nothing to broaden the rights of citizens, and I am not referring just to Barbados, because in fact there are cases with the one exception that are generally not Barbadian cases at all. I am dealing with the fact that the constitutions of the independent countries of the region with some slight modifications are the same. I must of course exclude Grenada in that I am doubtful to what extent there is a constitution, and Guyana where people tend to do their own thing; but in so far this statement would apply to them up until very recently and it certainly applies to the other independent countries in the Caribbean.

I wish, Sir, to go on a step further from here because I noticed also that in a way one looks at the work of the Constitution and there is one aspect of it that has me a little worried, and it is a tendency of people to

seek to over-entrench. Where the Commission says that in any attempt to alter the form of the society, that is to say, if you want to do away with the framework of a Democratic society and impose a one-party state that there should be a provision in the constitution of such an order as to make it virtually impossible, I must confess that I agree entirely with that, because I believe there has to be a consensus on the form of the society; we decide whether we want a society in which certain basic freedoms are held dear or whether we want a different kind of society. But there are other areas where the Commission's report suggests for example that if something is entrenched then the formula for changing it ought to be made more difficult than the formula presently existing.

As I said, Sir, where the Commission is relating to the fundamental form of the society, I agree entirely that the formula ought to be such as to make it well nigh impossible. I do not believe that we should leave the door open for those who will dictate, those who wish to tell people how to order their lives, those who are the only ones to whom God has ever spoken, God and perhaps Castro; I do not believe that the way should be open for them to tell us that the society must have a particular shape and form and that we must forever subscribe to something which is imposed on us and which we had no say in developing.

I believe, Sir, that more important than all the material things is a man's peace of mind. Material things are important and they are necessary, but I think, Sir, that when we understand the society within which we live and we subscribe to certain values and can enjoy the society for itself and because of the finer things, then we are approaching life, then we can talk about living. I believe therefore to that extent that it does not matter whether explicitly you state in a constitution that it is a fundamental right of a man to have a job.

I believe that provision in the Constitution would only help in that it might persuade the Courts that where a Union Shop exists and a man cannot get a job for that reason and for that reason only that he should not be denied a job but only in so far as it would persuade the Courts to that extent if such a provision was important but there are a number of Constitutions in which among the rights of man where you will find listed the right to education, the right to health, the right to work but I would like to submit, Sir, that nobody needs tell anybody in Barbados, particularly at this time, but I would wish to make the point regardless of what political party forms the Government. Nobody needs to tell anybody in this country that we do not recognise that it is a fundamental right of persons in this country to be educated and to receive proper health care and proper housing and so on.

We can talk as one party to another as to the efficiency with which we do it. We can talk as to whether

one's aims appear more relevant and one's scheme of things more attainable. We can talk about who has been able consistently to come up with certain kinds of fundamental ideas but whoever articulate the idea, there can be no argument in this society that it is a recognizable belief and an important tenet among all those in public life that we must create the condition in which education, health and housing are recognised to be the rights of everybody, and, so, it does not matter that this is not written specifically in our Constitution.

In a Constitution, Sir, in which the emphasis is on the statement of aims, that would, of course, be written, but what is important, Sir, is the fact that the community accepts this because that is also partly what the Constitution is about because unless the document which the Constitution makers come up with conforms with the basic tenets of the society, that document would be a dead letter. This is why I believe, Sir, we can talk about this Report and never at any point find ourselves able to reject the body of it. We can talk about omissions. We can talk about whether we agree with the argument for a particular thing but because the Commission has been prepared to listen, it has been able to come up with a Report which reflects what a number of us would be thinking because we are also receiving our instruction from the same sources.

Mr. President, I looked and wished to find a proposal and I am not going to say, Sir, that this one is not there, but it is a proposal which has to do with the Saving of Existing Law Clause. I am not sure that there is a proposal that that Clause should disappear. If so, I welcome it because the Saving of Existing Law Clause, if you would pardon my saying it, Sir, is really an iniquitous device in that the way in which the Clause is framed, if we look in the Constitution, I believe, Sir, it is Section 26.

Section 26(1) says "Nothing contained in or done under the authority of any written Law shall be held to be inconsistent with or in contravention of any provision of Sections 12 - 23 to the extent that the Law in question is a Law that was enacted or made before the 30th November, 1966, and has continued to be part of the Law of Barbados at all times since that day; Repeals or re-enacts an existing Law without alteration", obviously to make provision for consolidation, "alters an existing Law and does not thereby render that Law inconsistent with any provision of Section 12 - 23."

The point, Sir, is this. As soon as we accept the principles set out in the Constitution, we must be prepared as a matter of logic and as a matter of commitment to certain ideals to question some of the things which existed in earlier Law. Because the Constitution was not in being at the time, obviously, Sir, there would be in some of the other Law provisions which would be

anathema to the Constitution and it has always seemed to me that it was a very unwise thing to give constitutional recognition to those Laws.

Had there been a period of time within which those Laws should be reviewed and brought into conformity with the provisions of the Constitution, I could agree with the Saving of Existing Law Clause but for it to be done as a blanket thing, in my view, was like saying on the one hand, these provisions between Sections 12 – 23 represent important principles which we hold dearly in respect to fundamental rights and on the other hand we are saying but they are only held so dearly as there is no legislation already in existence nullifying any of them and I believe, Sir, that the time has certainly come for us to do away with the Saving of Existing Law Clause. I believe that the defenders of that sort of Clause would have made it appear to some people that all Law would be in question if we did not save existing Law.

But, the only law which would have been in question would have been law which was ostensibly in conflict with the Constitution and if we say that the Constitutional principles are expressed within this document and if we say, that the Constitutional principles are expressed within this document, then, why should that law not be in question? I believe Sir, that is one of the areas that I did not see a specific recommendation that..... page 13? It might be there. Yes, Sir, on page 13, thanks a lot. I am very glad to see the specific recommendation Sir, that it should be repealed and I am glad Sir, that I did not see it before, otherwise, I would not have explained how strongly I feel about it.

I was however, saying a while ago, that except for a narrow line of decisions, in fact, I can virtually remember all of them on the point of the Guyanese cases *Re Sarran*, *Re Langhorne*, even at *Chichester*, another one *Re Arthur Grant and Hermanstynne*. The point in all of those cases was an extremely important legal point, but for us it has a lot of meaning because if we are saying that a fundamental right, within our Constitution is to protect us against arbitrary action, how can we then say that a court shall not enquire into whether a Services Commission has acted properly which we will find Sir, in all the Constitutions. The Guyanese court was sufficiently adventurous to find a way around that because they recognise that it could result in unjust dismissals, if it were read and accepted on the face of it and they took their authority from a House of Lords decision in the *Anismimic* case, where the court looked at the words:

"and the decision of the Tribunal shall be final" and held, that the authority of the court shall lie to attest whether the jurisdiction exists. If it is held that the Tribunal had jurisdiction to act, then, we cannot go

beyond that and taking that same line, the Guyanese court in *Evelyn v Chichester*, where a man was denied application of the ordinary rules of natural justice, to which anybody accused of anything is entitled and was dismissed without a fair hearing. In that particular case, Chief Justice, Luckoo found that nobody had jurisdiction to dismiss a man without a fair hearing and on that technicality, he was able to do justice to the man.

But, these Clauses which tend to exclude the jurisdiction of courts are Clauses which in themselves whittle away the rights of the individual and to that extent, therefore, have to be watched by a very vigilant and bold court to ensure that people do not hide behind them and do injustice to others. I believe, that it is time perhaps, for some of the protection given to the Constitution, under the Commission to be removed because while it is not suggesting that matters of an evidently confidential nature should be dragged into the court, which is why these matters are put beyond the courts, in the first place, there should always be the clear provision, that the court may examine any matter to satisfy itself, that the Commission is acting within its jurisdiction, rather than having the citizen having to depend on the two thirds majority may not appear to us to be a lot, but I would wish to submit, that a party in power which chooses to use its two thirds majority too easily, in relation to changes in the Constitution is a party, which has not learnt the lessons of 1974.

We tend to forget that there are sanctions, other than the sanctions spelt out in ordinary law and the greatest sanction against a Government is what might happen at the polls and I believe, that we must recognise inbuilt mechanisms in a society, which tend to prevent people, from too often trying extreme action. Let me point out, that I am making that statement against the background, that we are free to select certain things and entrench them at the most serious level, but then, the rest of it, there is no need to have more than a two thirds majority. I believe that we have to be very, very firm about this.

As regards Statutory Board, the point about Statutory Board is that it represents the device to which the Government operates, in the field of commerce, generally speaking.

We know that when Local Government was abolished the Statutory Board principle was now extended to provide services which used to be provided within the system of Local Government, and the services still had to be provided even though the representation which people enjoyed was now being removed. I believe that it would be wise to leave the business of Statutory Boards and their employees to be dealt with in the same

way that the Minister of Labour will have to be bringing in legislation for a thorough reform of the industrial code. In other words, it is my view that we should never take these Boards out of the area where people shall perform to keep a job and put them into the area of the Public Service where no matter how you do not perform — but let me say no more. I believe that that is a fundamental weakness in that proposal.

This is my final point, Sir. It is not that I was speaking long, it is that I am speaking slowly. As regards the increase in seats which has been proposed, this is one of the more interesting aspects of the whole business. The Commission in its wisdom recommended 30 seats, the proposals which I understand are being considered by a Select Committee of the Other Place are proposals in respect of numbers different from 30. There has been some public comment against an increase to the number 30, and all along persons have been playing a magic game with numbers. I wonder, Sir, how many of us have stopped to think that in the original Cabinet of which Sir Mencea was a member the Labour Party which had won, I believe, 15 seats in 1951 had from among its members in the Other Place five Ministers, and therefore 10 persons from whom to choose a Speaker, a Deputy Speaker, a Chairman of Committees and still have something of a back bench. Today with 17 seats I believe there are nine, so there are probably seven members on the Front Bench and two Parliamentary Secretaries, and by the time you have chosen the other three officials of the House, I think there are about seven. We are talking about a back bench in which you manage to find seven, although the number of Ministers has been reduced by two. There are no longer 11 Ministers as there were prior to the 2nd September, 1976, there are only nine.

I am making the point, Sir, that we are in a state of crisis in relation to the operation of a parliamentary system of Government, and while the Constitution Commission might have recommended 30, and while the Select Committee is likely to come up with something less than 30 but more than 24, the numbers where you have a Cabinet where more than half of your Front Bench in the present thing on an overwhelming majority, a two-thirds majority, in other words more than one-third or at least one-third of the membership of the elected Chamber at any given time will be members of the Cabinet or Junior Ministers, we are running a peculiar version of the parliamentary system, because an important part of the parliamentary system is that your Parliament must be of a sufficient size for the operation both of a Front Bench and a Back Bench. Where this disappears we see the quality of the performance.

We do not like to think things through very often, Sir, but we clearly cannot propose formulae in which we are going to talk about doubling the size of the elected Chamber, but what has happened at the same

time is that the size of the Front Bench has doubled and the ratios have been completely disturbed, but the reason a number of these countries the Executive gets total control and Parliament itself pales into insignificance, the reason for that is usually this disturbing of the ratios, which virtually makes the Back Bench disappear, and when persons discuss the subject about justification for an increase, I would like to invite them to examine this point. The point does not just begin and end at whether in 1964 when the Boundaries Commission reported, they were right to say that the norm for a constituency at that time should have been four thousand three hundred and fifty something, it does not begin and end there, but if we use that norm on today's register of 164,000, then it would suggest a House of Assembly of between 36 or 37 persons. So it is not a matter of sticking slavishly to any norm which appeared reasonable at the time. As a matter of fact, if we go back a little further, the present Leader of the Opposition in the fifties was calling for a unit of one representative per 3,000 voters.

I think, Sir, we have to look at two things, the one point I mentioned before which is the actual size of Parliament and its capacity therefore to see the parliamentary system operate, which requires that Parliament be not simply dominated by the Executive, and we also have to look at the fact that in most countries whether it is because of elections of the local School Board, whether it is because of elections of the local Dog Catcher, whether it is because of elections of what, there is the participation by the people at several levels within the political process.

We had one other, we threw it out, and it is my submission now as it has always been that the Statutory Board for Cemeteries or the consolidation of all education matters — administrative policy is a different matter — within a single Ministry of Education or what have you, these are no substitute for persons taking part in a process that affects them dearly and intimately. It seems, Sir, that unless and until we can stimulate some level of participation on a basis where we do not choose the participators but they from among themselves are chosen by their peers, until then we are asking the parliament at the central Government level to provide for representation at an even more extensive level than had previously been the case.

I, Sir, have little interest in the numbers game, but I believe that these objective facts ought to make us all ask ourselves whether Parliament is big enough, because I believe that is the question we have to ask, as indeed it should make us ask ourselves whether we seriously want to operate a parliamentary system of Government and if so whether we can continue to look away from the implications for an increase in the size of Parliament, as indeed, Sir, we should ask ourselves whether we do not need as a matter of urgency to consider devising other

areas within which persons may participate in the general political process.

I noticed, Sir, that this was one of the questions to which the Commission addressed itself and again I am very happy about that.

In closing, let me say, Sir, that you will notice that the points I have emphasised were either the one point which was a point of omission: the Commission had not addressed itself to the point about the Court, or as in the case of the saving of existing laws clause, a point that I find myself in agreement with the Commission on, or generally there were points which I did not see eye to eye with the Commission on, but indeed this is not to obscure the large area of agreement which I share with the Commission in their proposals, nor, Sir, can I be so gauche as to sit down without thanking them for an excellent job well done, particularly in respect of articulating a system of national honours, because every country must have a way of recognising the contributions of those who do something. Those who enrich the country by their performance, the country must recognise, and even though I am one of those people that have never been too fussy on honours, I know the role of honours in a society — some will say it is because I have a reasonable expectation of never being honoured — I know what the role of honours in a society is, and one of the important things to me is that the Commission so clearly articulated a system of honours, and may I say, Sir, a system of honours which as I sense it is a system with which Barbadians tend generally to agree, even though it is not a system of honours which might sound particularly interesting to some persons; but as far as the core of our society is concerned, it seems to be a system with which the Barbadian generally agrees.

That, Sir, is my contribution and like other speakers before me I would wish to thank Senator Wickham for having brought the Resolution which has given us an opportunity to look at a matter of such fundamental importance.

SENATOR MISS A. LYNCH: Mr. President, at this late stage I wish truly to make my comments brief, but I would not like to give up my constitutional right of speaking, and therefore I propose to say just a few words.

First I would join with all the other speakers in thanking the Commission for doing an excellent job and obviously it would have occasioned some difficulties at times. We have a public which is very comfortable. The Barbadian public tends to be comfortable, tend not to speak up until something goes wrong, and therefore it would have been very difficult for the Commission to get people to come out and give their views because we do not have too many things going wrong for too many

of us too often. I am glad that in 1980 we are able to have a constitutional debate which will not bring down the heavens nor bring down the wrath of churches and all other sober bodies in this country, and that is perhaps proof of the fact that the Constitution of Barbados still works, because in 1976 the electorate was able to correct that mistake and so we do not have a two-thirds who would probably seek to do what was done in 1974.

I should like to say that I heartily agree with the provisions which call for the repeal of Section 79(a) so as to have the functions of the Director of Public Prosecutions completely free from control. Now we are fully aware of the rumours and the problems which have been occasioned by the misconception of some people as far as the powers of the Attorney General were concerned in certain matters, and we all know of the blame that was being laid on the table or at the feet of the Attorney General in a particular important case in this place, because everybody was saying that the Attorney General was not making people do certain things, which in fact the Attorney General was not empowered to do in those circumstances, because section 79(a) spells out the cases in which the Attorney General could give directions to the Director of Public Prosecutions and that applied as far as I can see to offences under the laws of Barbados relating to piracy, trading or otherwise dealing in slaves, foreign enlistment, publications calculated to interfere with the peaceful relations of Barbados with foreign states, treason, misprision of treason, treason felony or treachery, sedition or seditious meetings, official secrets, mutiny or incitement to mutiny, unlawful oaths and any offence of an enactment relating to any right or obligation of Barbados under international law.

As far as I can see those were the circumstances under which the Attorney General was able within rights to give orders to the Director of Public Prosecutions but some people for their own benefits and cheap political gains thought that this situation was otherwise so I am glad that that has been cleared up for all of us and now nobody has the authority or nobody will have the authority under the recommendation of the Commission to give any rules to the Director of Public Prosecutions, therefore, he is free. He has to accept the responsibility and the blame, of course, for doing or not doing things when people feel that they should be done.

It is also of interest that it will seem fit to state that prior approval of Parliament should be had for the purchase of property by Government and that, too, would ring a bell. That is at page 44 and that too would ring a bell because many of us remember the things that happened a few years ago and we know of the buying of important and expensive ships, of plantations which proved to be uneconomical to have and to run, etc., etc., and I am glad that these checks have also come in and we are also able to look at the reports for the financial trans-

actions from year to year, not 10 years after when perhaps the ship would have gone anyhow and things like that would have gone far wrong.

I regret as much as Senator Enid Lynch does, that the Commission saw fit to repeal the Teaching Service Commission. As a Teacher myself I am fully aware of the problems which there are for Teachers but as a practising Teacher, I would not go into this problem but I would only say with Senator Enid Lynch that I regret that the Commission has seen fit to repeal this Commission because it would have served a very important purpose and I believe many Teachers would be much better off for it and would be far more comfortable had there been such a Commission.

Mr. President, I would like to thank you and I would like to congratulate Senator Wickham on bringing this Resolution. Of course, that justifies in itself the existence of the Senate. Thank you.

SENATOR Sir MENCEA COX: Mr. President, I think I will be very brief. I have heard quite a lot said and as far as I can see, the Senate is in agreement to a large extent with the recommendations made by the Commission.

When we were sworn in by Sir Deighton Ward, the Governor-General, he told us that we had a very large task. I replied at the time to him by saying that it was my intention to suggest to the other members of the Commission that we go to every parish and inform the people of the purpose and to get their views. This I intended as a result of the many Constitutions which I have purchased and read over the years when I was in the Lower House and even at home and it was as a result of how the amendments and also the Constitutions came into force in those countries.

Southern Ireland, for example, they decided, "we the people of Ireland give to ourselves this Constitution" and so on. That was a sort of preamble, after having a referendum and after the people voted in favour of those referenda. Unfortunately, when the other Administration was in office, when it took office in its Manifesto it said that it only wanted three years after which it would return to the electorate for another election. That was never done. Instead, that Administration continued until the five years were up and immediately proceeded to bring the country to Independence but the people were not aware of the importance of that move. They were not told. Apart from the debates which took place in the House that is about all the people knew about this Independence business.

Sir, I was able to get a copy of the original Constitution which I still have. I forgot to bring it along with me but I have found that in it there was absolutely little

or no protection given to the people of this country in that Constitution having read many other Constitutions some of which I have heard and how well the people were protected, especially in the Scandinavian Constitution which provides for initiative, referendum, pricing and recall. Although I would like to say at this stage I could not have recommended that for the people of this country at this moment because they have not really taken an interest in the constitutionality in the country and therefore I am not satisfied that they would respond as is necessary if we want a stable Government.

However, Sir, at these various meetings I outlined the terms of reference and then I went on to refer to the various countries how their Constitutions operated and so on. The attendance was disappointing, especially in the very first meeting we had but to my mind it was largely due to the fact that proper advertising was not given to the meeting. In other words, I saw it in the Press the Thursday and after that I did not see it. I did not hear it on the media but perhaps I should have said before that when we left Government House and went to the office and I outlined the manner in which we approached this item and I had agreement and we agreed to go to the country.

We also agreed that we would have copies of the Constitution printed and sold at say three dollars each, so that many people would be able to purchase them, read them and come up with suggestions and so on.

The meetings, as I said before were not well attended, as far as the country was concerned, partly due to the inclemency of the weather. We had quite a lot of rain when we went to Speightstown, which was the second meeting, the rain fell right through and the largest meeting which we held was in St. John, where the school was packed to capacity and the people were outside listening and it was very encouraging because at that meeting, the point was put to the gathering, by one of the members of the Commission, on the question of monarchy versus republican and they all shouted against it. There was never a voice which supported it. If I may say, as far as we went throughout the island, you would get an odd case, you would get somebody following our meetings throughout. A very highly educated chap working with the Government would always make these suggestions, he would suggest about monarchy and republican and we never had any support to speak of. One or two people may agree. The gathering said, we want to stay where we are.

While I am saying that, I would just refer to the point made by Senator Hewitt, who made the suggestion about monarchical against the republican system. He said, that it was only a matter of form, or so. I would like to tell him, that I tried my best to find out from those who felt that we should have a

presidential system, instead of a monarchical system and I could never get from any individual any significance, or meaningful benefit to be derived from a change to republican. As a matter of fact, one person did say to me, that it would be a psychological benefit and I asked him what would the psychological benefit mean to us and he could not answer.

That is how I see it and that is how Senator Wickham who introduced this Resolution, and may I say at this stage, that I was glad he introduced it. Senator Connell introduced one, but he never carried it through. But, I was glad when Senator Wickham introduced it because I felt that it is time not only that this item should be debated, but it is time that Government should declare its hand, as far as, this item is concerned. Mr. President, I must confess to you, that I did everything that I possibly could to try to get the members of the Commission to meet the deadline which we were given, that is, December, 1979, but I gave up in November, when I realised then, that we could not have made the grade. That was largely due to the illness of Dr. Payne, Dame Payne now, who was a very valuable member of the Commission, who was never late for a meeting, or never missed a meeting, until she was taken ill and had to be away for three months. One, or two meetings had to be aborted because of persons not being able to attend. I say that because I noticed something written once which would indicate that I was glad to extend this, whatever reason, I do not know, but I can assure this Honourable Senate, that I did everything I possibly could to get the Report because knowing that, in the Other Place it may be difficult, or feeling rather, that in the Other Place, it may not be necessary, it may not help us in any way, if we, let us say are even one short, 16 have to be, as far as, the Constitution is concerned, 16 have to be on the Floor and one in the Chair. We only have 17 and that would mean, that you need all of your Honourable Members to be present to ensure, that these changes will be made.

I found, when I looked at this Constitution, as I said before, I found that we were nowhere and I had a meeting myself and I explained to the people in the market square, that it had no real functions which could be seen, if not before, in 1974, when amendments were made. It could be seen in 1971, when the Rt. Hon. Prime Minister changed the boundaries on the eve of an election, canvassing was going on and some of the boundaries were changed. Obviously, you had an idea, as to how things were swinging and he changed the boundaries. Even up to now, I am not sure, that people cannot be disfranchised overnight, by a simple majority. We discussed that and we also suggest strongly, that some part of that Franchise Act should be included in the Constitution, as is done in many other Constitutions and also we

entrenched it to ensure that the people will always have the right and be able to vote.

But, Sir, these entrenched Clauses, as I said, we need 16, on the Floor, which is two thirds and one in the Chair and that is one of the reasons why I also pressed, as much as possible because one can die, or one could be sick, or something like that and you would be perhaps out of line of getting these Clauses properly entrenched, before the next election because from what I have been hearing privately, it was the intention of the former Administration to bring about one Party system. I have absolutely no doubt, in my mind, that that would have taken place.

I go a little further, Sir, to say that I feel that if the former administration felt for one moment that the Government would have been changed in the 1974 changes we would have had a one-party system in Barbados, and let me say here and now, Sir, that some people were willing to have a one-party system, as I spoke to people left and right, and they believed that elections would still take place and so on, and I agreed with them, elections would still take place, but where is the choice? You have no choice. You see an election going on in Africa now under Nyerere, and what is the position? Some of the Ministers got dropped, and others in their places, but you have no choice as far as party is concerned. So if you have 40 seats and you put up 50 members, whenever they are elected your own people that you put up are elected, there is no choice in any one-party system, and that is one of the things that were given to us to ensure that a multi-party system exists, and I think we have done our best in trying to get that into our recommendations.

As far as the extension of the life of the House is concerned, I have discovered in Professor Dicey's Law of the Constitution that in England in 1716 there was a group called the Jacobites who apparently were to the Government at the time causing trouble, and it appeared that the election would be changed or something like that, the Government could be changed, and I read where the Prime Minister took up the matter with the King and it was agreed that they should extend the life of the House. At that time under the 1694 Act the life of Parliament was only three years, and an election was due in 1717, and in 1716 they decided to extend the life of Parliament from three years to seven years, so that meant that, let us say, if it was even a genuine party, let us say if the people wanted a change, they would never have been able to get that change at that time, they would have had to wait for seven years, and one could never tell what would happen after seven years.

I also put that to the Commission and the members agreed, and we made that recommendation on how it should be done in order to preserve and protect the democratic process which I am sure we all like.

The question of the Senate was also discussed, and it was discussed here today, and I am satisfied that the contributions made as to the life of the Senate were good, and in order, and appropriate. We had the people commenting, including the General Secretary of the Barbados Workers' Union, Mr. Frank Walcott, and he said that it should have been abolished with the coming of Independence. I should like to say, Sir, that I thought he should have been the last person to say that, because when the people in St. Peter threw him out of the House in the 1966 election he found some place like the Senate here to rest his head and to sort of, should I say, take away a little of his grief, and then as you remember he went to Washington as the first Ambassador, but he still maintained his seat in the Senate until he was elected in the 1971 election, and I thought he should be the last person to talk about getting rid of the Senate. That, to my mind, was a very clear way of handling something which was really beneficial to him at a particular time when he was out of operation.

A point was also made by the Hon. Senator Hewitt about the Senate and how it is constructed, and he suggested something like proportional representation in the Senate as compared with the number of seats held by the Government party and so, but I thought that the recommendation submitted by the Commission, and I think Senator MacKenzie has a better point than that. As a matter of fact, I am sympathetic towards the point raised by him as far as the composition of the Senate is concerned, but I would like to say at this stage as far as proportional representation is concerned — and the question of votes was raised — for me at one time I was in favour of that part of elections generally, but since then and since I have seen the operation of proportional representation as a whole, I certainly would never support any question of that type of thing, because as far as I can see, it provides for unstable Government. If we all see what was happening in France, in Italy and in all those places that have proportional representation, every now, and again the Government falls and stability of Government does not really exist where it is proportional representation, which was brought in by Thomas Hare in 1857. From then on these various places took to proportional representation, but as I said before, there is little or no stability in the Government where this happens.

Talking about the presidential setup, if I go back to that again, Mr. President, even if we had felt some time before of having a presidential setup, the existing turmoil in the various countries which are governed by Presidents, I think we should change our minds if we thought about any presidential setup. There are people in this country who believe that a presidential system would fit us much better. There are people who believe that as long as we continue with a monarchical system that we are just neo-colonialists. I think those people do not really understand the difference of the system under which we exist and the presidential system.

Our system, Mr. President, as far as I can see is an independent system, the Queen is the figurative head of the Constitution, but the Prime Minister is the boss. The Prime Minister is the boss in any case, and if you even have a President and it is not an Executive President, the Prime Minister remains the boss and maybe if there is an Executive President the Prime Minister remains the boss because it is the Prime Minister who has to get the people to vote for the party, to vote for the President and to vote for all. It is the Prime Minister that is responsible and it is a Barbadian as you see that we have recommended, because some people felt that somebody else could be the President of Barbados if you had a presidential system or something like that, and we said "oh no, we will make a recommendation where the Governor-General or if you even get a President would have to be Barbadian under the Constitution", so that apart, there is nothing to choose so far as this presidential suggestion or desire by some people is concerned. It would make absolutely no difference except perhaps you may pay him a little more money than the Governor-General and you may treat him a little better than a Governor-General because you would say he is your man and things like that, but it would make absolutely no difference if you had a President as against a Governor-General.

As far as I am concerned, Sir, I am strongly in favour and perhaps if the Commission was against it I would have submitted a minority report, because I have absolutely nothing against the Crown. We as Barbadians as far as I know have always been under the British Crown, I see nothing that we have lost by it. I like their integrity, I like the judicial system which is to my mind better than any other in the world, and I stick to that. If I may just digress for a moment, I remember in 1958, Sir, when we had the Nottingham trouble and so I was in England soon after, and I saw where English MPs held public meetings and denounced their own people for behaving as they behaved, and more than that the Magistrates convicted everyone of them and locked them up, and further I was informed that petitions were submitted and some of our West Indians even sent those petitions, and Sir, when the appeal cases came before the judges — and I read this myself and only recently listening to the 6 o'clock news from England every day when I have the opportunity — it was reported where the Judges who convicted them said that every person who comes to this country must be able to walk with their heads up right and unmolested, and confirmed the decisions. You would not get that in other states. You would not get Ministers being jailed as you got there; you would not get a lawyer who is in a train robbery jailed like anybody else and that sort of thing.

I remember reading many years ago where a King's son was before a magistrate. As a matter of fact I think it went this way, that he and some other chap were

walking together and this chap was taken before the magistrate or judge, and while the two chaps were in court this King's son interrupted the judge, Judge Gascoyne I think it was, he immediately locked him up, and his father said he was glad to see that he had a judge so strong as to carry out the law and a son who was willing to obey it. As far as I read and have been reading for many years, I am satisfied that the administration of British justice is the best in the world. That is how I feel about it. For me, although I have not got long here, I hope that this country will continue to remain under the monarchical system. As a matter of fact I go a little further and say I do not see the sense in changing to a presidential system and at the same time being a member of the Commonwealth where the Queen is the head. Some other countries are presidential countries and yet are members of the Commonwealth which means that the Queen is the head of the Commonwealth and they are still there. I cannot see the value of that at all.

Senator Wickham raised a point. I frankly speaking do not see anything much to comment on in respect of what the Senator has said. I think that to a large extent he has supported the recommendations. He said here "I need hardly stress, Mr. President, in a Parliamentary body that a Constitution is really much more than a law. Its purpose must necessarily go beyond the maintenance of law and order or the promotion of peace or reward for public service. In my view any Constitution must lay down the ground rules of national behaviour, but it also must go further than that; it must somehow or other contrive to articulate the aspirations of people, it must try to celebrate and interpret the national character, otherwise it must always remain a dead letter.

Mr. President, as far as a Constitution is concerned, it must be regarded that it is more the framework of a country and into that framework you embody the various laws and so on which you want, and in no Constitution would you find all the laws of the country. I have here with me an American Bill of Rights and it is an exhaustive document with many cases which went before the Judges of the Supreme Court from time to time. Senator Barrow referred to a few of these cases.

We have quite a few cases in here that went before the Courts and the Supreme Court in some cases ruled those laws made by the Legislature invalid and in some cases they were valid.

In the Federal German Constitution part of it here says, and it deals with Parties: "Political Parties participate in the form of the political will of the people. They will be freely formed. Parties which by reasons of their aims or the behaviour of their adherents seek to impair or destroy the free democratic basis order or endanger the existence of the Republic of Germany are all constitutional." The Constitution just says that and

then it says "The Federal Constitution Court decides on the question of unconstitutionality." and that is where there will be found the various laws that are made to protect or to carry out the terms of the Constitution and if the Supreme Court is satisfied that the law contravenes the Constitution then it would decide that it is null and void.

I cannot see any real thing to comment on against the speeches made and the suggestions made by the various members. Senator Enid Lynch referred to the question of the Commission as far as the Teachers' Commission was concerned. That came up before us, Mr. President, and we were satisfied from the information given by the Chief Labour Officer and by the Services Commission, we were satisfied that the Teachers were well taken care of in that respect and we did not feel that it was necessary to set up a Commission to deal with the Teachers according to the advice we had.

We also, as you will see, dealt with the question of corruption and no doubt there has been, despite what Duffus says. As a matter of fact, one could always sense his motive or whatever because when he dealt with Mr. Leslie who was the Manager of the Bank and he dealt with the former Prime Minister, whom he said suffered from amnesia or some kind of thing like that, so one could see how Duffus was operating but we knew that there was corruption and we did our best to get as much information as we possibly could and we have made recommendations.

In our time, Mr. President, if you wanted to lease a plot of land you had to go to Parliament with a Resolution. I remember well, Sir, once we wanted to lease a lot of land, I mean a small piece of land at Seawell for one of these gasolene people to put up a little shop to get some gasolene to service the airplanes and we went down to the House with this little Resolution and the Premier at the time, the Late Dr. Cummings, he appealed to the House to give the Government permission in these small cases and so on to deal with them as it was just a lot of time wasting, material wasting and so on, too. It was only \$6 a year or something like that and the former Prime Minister began by saying that this was the thin edge of the wedge and he condemned it and the Premier said quickly, "okay, it is alright with me."

If you were going to buy an inch of land you had to go with a Resolution. Whatever you were going to do you had to go with it to Parliament and things like that but what happened is that when they took over they passed the law giving themselves power to buy, sell, do any kind of thing without going to the House and a lot of things were purchased and some members of the House did not know and if they did not know, the public did not know either.

That is one of the things which I felt very strongly about at the Commission and suggested that it go back to the old system that whatsoever you purchase as far as property and things of that sort were concerned, you should go down first and explain it. We had to do it. Sometimes we had to postpone to get more information to satisfy the House because we wanted to be satisfied that everything was in order and that there were no tricks or anything that we had to hide but we had to give as much information as possible but that has gone and I sincerely hope that this present Government will bring it back. Open Government, people have a right to know what you are purchasing and for how much you are purchasing it. Yes, that is what I believe in and that is what we recommended.

Mr. President, I do not know if there is anything else I should worry to say about now because the members have spoken and they have spoken at length. A point was raised by Senator Hewitt about Local Government. The Commission did not feel that it was a point on which it should recommend reinstatement of Local Government but as you see, we felt that Local Government in the form it existed before but yet we felt that it was necessary to have some sort of local authority to look after the area and I feel myself that the Government could set up some sort of Board, or something so where the constituents could meet and discuss the various questions, grievances or whatever there may be of the people in the area and try to settle them.

I met two people from St. John and they told me, that they had to come as far as, Bridgetown to pay their water rate. They just had to pay bus fare and everything only to pay water rate and I think, that places like post offices and so, which pay pensions and so should be able to take the money for water rates and so on. But, in addition to that, I also feel, that some sort of local authority should be established in these various areas.

The question of seats was raised and I know, that that question is a vex question with quite a lot of people, just as the question of salaries for parliamentarians. Now, Sir, we had a three-tiered Government sometime ago. You had a Federal Government, you had a Central Government, you had a Local Government. After some years, you only had a Central Government. That, no doubt, has thrown a great burden in particular, since the Local Government has gone out looking after Sanitation and different things like that. You have a great burden thrown on the Central Government and if I may say, I do not see where the civil servant can fit in adequately as a representative could which as you know, the Local Government used to be elected. In addition to that, Sir, the workload of the country has expanded so greatly

that again, there is a lot of work thrown on the Government Ministers and so, at present.

I acted Sir, on a few occasions and I have an insight into what the position is. I can say, that sometimes you sit from 10 o'clock to 4 o'clock, or 5 o'clock finds you there, there is so much work to be done. The Attorney General's office, which used to carry six or eight people, I understand has something like approximately 40 people. Work is so expanded, that it calls for assistance from some angle and I do think, while I am not at this stage saying exactly how many people should be added, but I think, that there is definitely room for additional seats.

You will also see, Sir, that we recommended an Electoral and Boundaries Commission and that Mr. President, we feel should take charge of the adjustment of boundaries, alteration of the boundaries and also the elections. In some countries, elections can be stopped, suspended by Electoral Commission. We did not go as far as that — Malta and some of those places, Sri Lanka and so — we did not go as far as that, but we recommended, that even at the media, that all sections should have access to the media, all parties and we also recommended that the candidates, their speeches would have to be edited, in order to protect the media, as well as, to make sure that no cheap stuff is given to the public at any time, and particularly, at elections time. We know that these things have happened, will happen and still happen.

It was a lot of work, night, as well as, the day to get that Report, the Recommendations out and in my closing remarks, I would like again to thank Senator Wickham for raising this matter. I was a bit worried I must confess, that nothing was said in the Other Place, nothing was done, nothing was done here. I was anxious to see something done and I am glad that Senator Wickham has initiated this debate.

I am also thankful to the Honourable Senators who have supported the recommendations and have spoken very favourably about its recommendations, especially Senator MacKenzie. I think that he did a first class job and I believe, that all of us Honourable Senators who heard him will agree, that he really made out a very good case in his remarks. (APPLAUSE).

Mr. PRESIDENT: Senator Wickham.

SENATOR J. C. WICKHAM: Mr. President, in my reply, I shall be far briefer, than I was in my introduction, but I want to repeat my opening remarks of my introduction, which were to the effect, that the main purpose of the Resolution in the first place, was really to give air to a matter, which obviously exercised the public mind of which tradition itself merited serious parliamentary consideration.

The tone of my introductory speech, of course, minimised my personal feelings, since the purpose of the debate, in my view, was mainly to give Honourable Senators an opportunity to express their feelings, but not to polarise the Honourable Senate into one position, or another. I think that you would agree, Mr. President, that the debate has reached a high level and that, in fact, the matter of the Constitution has been given sufficient attention and airing. There are virtually no points for me to reply to. Senator Linton had asked for a number of vital statistics and in fact, his return to the Honourable Chamber, a few minutes ago, has robbed me of an opportunity to say, that he asked a question, but did not wait for an answer.

The other point which I would like to make and this is relevant to what a Constitution means. There has been some discussion about the limits of age, whether it should be 18, 21 or 35. But, of course, there is nothing sacred about any age. Jesus was sitting among doctors and lawyers at 12. But, the choice of age, it seems to me reflects the particular character of the community, the society, which this elected person, this Honourable Senator, whoever is represented.

A few months ago, Chairman Mao of the People's Republic of China resigned and he said, that he was resigning to give younger people a chance. The average age of the Chinese Cabinet is 65. So you see, young and old are really irrelevant. What is young in one community is old in another. What is young for one particular kind of job — you know, we think, that an opening test batsman is quite able to open the West Indies Innings at 18, or 16, but we think, that he is too young to sit in any of our Honourable Chambers at a similar age.

There can be nothing sacred about it. There have been bright boys at 15, and in fact brighter at 15 than they are at 50. We have ways of deteriorating with age, so that there is really nothing sacred about it, and the Constitution itself not really being a sacred document is liable to change, and it can reflect when we have a population of geniuses, as the results of the recent Barbados Scholarship would seem to indicate, then we can always alter the age.

It remains for me, Mr. President, to thank yourself for your efforts and your concern about this matter, and to thank the Senate for the attention and care which they have given the subject. I can only express a personal hope that when this matter reaches the Other Place it will receive equal attention, care and scrutiny. Thank you very much.

The question that this House considers that the Report of the Constitution Review Commission provides the basis for expedient and rational amendment of the Constitution of Barbados was put to the Senate and agreed to.

ADJOURNMENT

SENATOR THE HON. N. A. BARROW: Mr. President, I move that this Senate now stand adjourned to this day week at 2.30 in the afternoon.

The question was put to the Senate and agreed to, and Mr. President adjourned the Senate accordingly. 6.45 p.m.