THE

SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1986 – 91

SENATE

Wednesday, January 24, 1990

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, January 24, 1990, at 11.10 a.m.

PRESENT

His Honour Senator Sir Frank L. WALCOTT, K.A., O.B.E., LL.D., (President)
His Honour Senator M. deL. JORDAN, (Deputy President)
Senator the Honourable L. V. H. LEWIS (Minister of State in the Prime Minister's Office); (Leader of the Senate)
Senator the Honourable Sir James TUDOR, K.C.G.M.
Senator A. MORRISON
Senator N. W. BOXILL
Senator D. A. COMISSIONG
Senator Mrs. V. C. FRASER, B.S.S., J.P., M.C.F.A.
Senator Mrs. G. L. EASTMOND
Senator A. J. N. PHILLIPS
Senator T. A. PRESCOD
Senator the Reverend Canon I. McK. JONES
Senator L. A. WARD, G.C.M.
Senator Mrs. P. Y. FORDE
Senator J. S. GODDARD
Senator Dr. L. L. SHOREY
Senator the Honourable Dr. C. D. CLARKE (Minister of State in the Ministry of Finance and Economic Affairs)
Senator A. W. A. McClean and
Senator Miss V. P. BRATHWAITE.

Prayers were led by SENATOR the Rev. Canon I. McK. Jones.

Mr. PRESIDENT: The Senate is in session.

ANNOUNCEMENTS BY HIS HONOUR THE PRESIDENT

Mr. PRESIDENT: I have an announcement to make. It is a Message from the Acting Governor-General which reads as follows:

"Mr. President, I have the honour to inform you that His Excellency the Governor-General, Sir Hugh Springer, GCMG, GCVO, KA, CBE has been granted an extension of sick leave from the 4th January, 1990, to the 7th February, 1990.

In accordance with the provision of section 29 (1) (b) of the Constitution I have been appointed to perform the functions of the office of Governor-General during the period of Sir Hugh's absence.

I shall be grateful if you would convey this information to the Honourable Senate when next it meets.

I have the honour to be

Your faithfully,
Acting Governor-General."

PRESENTATION OF PAPERS

SENATOR THE HON. L. V. H. LEWIS: Mr. President, I am commanded to lay the following documents:

The Report of the Electoral and Boundaries Commission.

The Electoral and Boundaries Commission Review of Boundaries Order, 1990.

The Duties, Taxes and Other Payments Exemption (No. 5) Order, 1989.

The Duties, Taxes and Other Payments Exemption (No. 6) Order, 1989.

The Annual Report of the Community Legal Services Commission for the years 1987-88 and 1988-89.

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

SENATOR THE HON. L. V. H. LEWIS: Mr. President, when the Order Paper for today's sitting was circulated, there appeared no Public Business.

SUSPENSION OF STANDING ORDERS

SENATOR THE HON. L. V. H. LEWIS: However I wish to move the Suspension of Standing Orders Nos. 45 (1) and 45 (2) to enable us to deal with 2 items of business, one of which was mentioned in the letter from the Clerk of Parliament to Members of the Senate notifying today's meeting. The two matters relate to a Bill to amend the Income Tax Act and a Bill to amend the Companies Act.

The question that Standing Orders 45 (1) and 45 (2) be suspended for the day's sitting was put to the Senate and was agreed to.

INTRODUCTION OF BILLS

SENATOR THE HON. L. V. H. LEWIS: Mr. President, I crave your indulgence, Sir, to give notice of the following Bills:

A Bill to empower the Registrar of Titles to issue new title deeds to property where such title deeds have been destroyed by disaster.

A Bill to amend the Community Legal Services Act.

A Bill to amend the Dental Registration Act.

A Bill to amend the Profession, Trade and Business Registration Act.

A Bill to amend the Income Tax Act.

And: A Bill to amend the Companies Act.

On the motion of SENATOR THE HON. L. V. H. LEWIS, the following Bills were read a first time:

A Bill to empower the Registrar of Titles to issue new title deeds to property where such title deeds have been destroyed by disaster.

A Bill to amend the Community Legal Services Act.

A Bill to amend the Dental Registration Act.

A Bill to amend the Profession, Trade and Business Registration Act.

A Bill to amend the Income Tax Act.

And: A Bill to amend the Companies Act.

PUBLIC BUSINESS

Order No. 1 – COMPANIES (AMENDMENT) ACT, 1990

SENATOR THE HON. L. V. H. LEWIS: Mr. President, the Bill before us seeks to amend the Companies Act in order to extend the period during which companies registered under the former Act may register under the present Companies Act.

This Bill seeks to extend the period for such registration from 12 months and 6 years in the case of local companies and 2 years and 6 years in the case of external companies.

In addition the Bill seeks to validate the business activities of these companies which have taken place since the coming into effect of the new Act, some of which transactions may have taken place outside of the time period during which they were permitted to continue business.

It is felt, Mr. President that this facilitation is necessary in order that there may be no disturbing of the business of companies registered in Barbados and in the case of the external companies, these are an important adjunct to the business sector; hence the Amendments which are before us.

Many of the companies who have been caught by the provisions of this Act have made application for these extensions and Certificates of Continuance have been granted, in some cases, after the expiration date for such registration.

The Registrar of Corporate Affairs and Intellectual Property has advised that there are some 136 external companies and 2 563 companies which have continued under the Companies Act. Of those 136, 83 were in fact registered after the expiry date and in the case of local companies 169 were continued after the relevant expiry date. The purpose of this Bill, of course, is to facilitate those companies.

11.20 a.m.

I beg to move that the Bill be read a second time.

The question that the Bill be read a second time was put to the Senate and agreed to.

On the motion of SENATOR THE HON. L. V. H. LEWIS, Mr. PRESIDENT left the Chair and the Senate resolved itself into Committee on the Bill, Senator M. deL. JORDAN in the Chair.

COMMITTEE

Clauses 1, 2, 3, and 4 were called and passed.

On the motion of SENATOR THE HON. L. V. H. LEWIS, Mr. DEPUTY PRESIDENT reported the passing of one Bill in Committee, and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. L. V. H. LEWIS, the Bill was read a third time and passed.

INCOME TAX (AMENDMENT) BILL, 1990

Order No. 2 was called – To move the second reading of a Bill to amend the Income Tax Act.

SENATOR THE HON. DR. C. D. CLARKE: Mr. President, the Minister of Finance at the presentation of the Budgetary Proposals and Financial Statements on April 26th introduced certain measures which now require an amendment to the Income Tax Act. At that time the Minister indicated and I quote from the Budgetary Proposals and Financial Statements which is a document of this Chamber: "The time is now right for a comprehensive review of the tax system with particular reference to the fairness and equity."

This amendment does not seek to achieve that objective. But I would like to report to this Chamber that plans are afoot to give effect to that recommendation. The specific amendments to the Act here might be broken down into two major categories. One gives effect or confers benefits and the other part seeks to close some loopholes that exist within the existing Bill and which arose out of the concessions granted.

In the first place Section 14 of the Act will be amended to confer benefits so that exporters of sugar other than in bulk may be able to benefit. The second benefit is the loss carried forward and this period has now been increased from five years to 9 years.

Under contributions made to the Tourism Development Corporation, the provisions indicated that if a company made a contribution of 3% of pre-tax profits they would be able to claim an allowance of 150% of the actual amount contributed. Apparently, this was interpreted that you had to contribute 3% no more or no less in order to benefit. This was not really the intent and to remove what appears to be an anomaly it sets out to clarify this to mean "up to and not more than 3%", that is, a company may contribute 1% of pre-tax profit or up to 2 1/2% but not more than 3%.

A further concession granted which this Act seeks to address is the reporting of corporations. Some corporations because of the date on which the financial year ended had problems in meeting the filing date of March 15th in the following year for assessment for their corporate Income Taxes. This amendment seeks to grant an extension to them provided that by March 15th they pay up to 80% of what the estimated taxes will be.

Now the closing of loopholes. When allowances were granted for all persons earning $15,000 or less to be exempted from Personal Income Taxes, it was not envisaged at that time that trusts, estates, and non-residents would seek to benefit from the provision. That was not the intent at all. However, as the measures were introduced at that time in the Other Place, attorneys and accountants have been arguing that in the eyes of the law that trusts and estates are considered individuals and as such should be entitled to the exemptions.
11.30 a.m.

This amendment seeks too to close that loophole.

With those comments, Sir, I move that this Bill be read a second time.

SENATOR A. W. A. McCLEAN: Mr. President, this Bill which arises out of provisions in the 1989 Budget presumably should have been before us before now, because I think Government has committed itself to deal with all such provisions in a rather more timely fashion. If it had been more timely it would have afforded us a much earlier chance to comment on certain pertinent matters arising out of the Budget, but nonetheless we must take the opportunities such as they arise, even though they may be a bit late.

I should like first of all to comment on one of the amendments pertaining to the carry forward of tax losses. You will recall that in 1988 Government introduced a measure reducing the period of carry forward and the 1989 Budget indicated that they were reversing themselves in relation to that and extending the carry forward even beyond the original period to nine years.

The first point which we must make about that is that Government, in introducing any type of legislation, should give rather careful consideration to it and to all its consequences so as to avoid the necessity for this "to-and-froing". This business of reducing a measure in one year and reversing it in the next year cannot inspire confidence in the business community, or indeed among anyone. We must be able to presume that any measure introduced by

Government would have been carefully thought out and would stand as a matter of policy until such time as it is overtaken by new circumstances. We should not be caught up in a situation where there are no new circumstances but Government is called upon to reverse itself in the space of one year. That is entirely unfortunate.

What is also to be noted about this revision is that it does not remove the most damaging aspect of the 1988 measure. That 1988 measure did not only restrict the time for the carry forward, but it also imposed a restriction on the quantum of tax losses that can be applied in any given year for purposes of reducing the tax liability of the corporation. Time was when the full amount of tax losses or any amount necessary to reduce the tax liability, say to zero, could have been applied in a particular year. Now the restriction is that the amount that can be applied can only be such as would reduce the tax liability by 50%.

As far as Government is concerned, this measure only gives rise to a timing difference in terms of how the company would acquire those benefits, assuming that the company does not lose them by having to go beyond the nine year period. Ruling out the possibility, therefore, that the company will lose the benefit permanently by having to go beyond the nine year period for carry forward, the provision that the application of losses can only reduce the tax liability in any subsequent year by 50% of what it would have been otherwise, that provision makes only for a timing difference, that is, a difference as to the years in which the company would be allowed to apply those losses, and therefore a difference in the amounts of tax relief the company will get from year to year with respect to those losses.

It is not a big thing for Government; it would more or less increase the present value of the projected tax recoveries from the company on the part of Government, and in that sense it would be a bit of a cost to the firm also. But that is not the predominant consideration. If it was a cost which the firm can easily carry, there would be no problem. But it is entirely possible that this method of restricting the application of tax losses could render certain businesses non-viable and persons who are carefully planning and projecting the income and expenditure for certain projects might decide against them by virtue of the way in which they would have to apply tax losses which most businesses incur early in their lives when they start up. Others who are not so careful and who plunge headlong into the matter could find themselves faced with cash flow problems, with solvency problems and might find that they have to give up along the way.

I see no advantage to the country of preventing companies from applying the tax losses if necessary up to the amount that would reduce their tax liability in a particular year to zero. All that would mean is that in some subsequent year the tax losses will probably be used up rather more quickly and they have to pay people tax then. From the point of view of Government that matter should be seen as essentially trivial, but from the point of view of the original company concerned it can make a difference between success and failure.

My recommendation to Government is that although we do not like to see these reversals from year to year, next time around they should carry through another reversal and go back to the pre-1988 situations where companies had no restrictions on the quantum of the losses which they carry forward, the only restriction being that they would not apply more than would be necessary to reduce their tax liability to zero. If they do that, I would suggest that that would lead to substantial enhancement in the investment climate in Barbados.

Right now one of the main problems with the Barbadian economy is the low level of investment in many sectors of the economy, including the tourism sector which is our leading sector, and indeed also the manufacturing sector and the agricultural sector. One of our main problems has to do with investment. In areas like tourism that problem is critical, because in the good years of expansion in tourism which we have experienced in the last three or four years, it could only continue if capacity grows and makes it possible for us to accommodate ever increasing numbers of visitors. We have gone through, as I said, a period of about three years of expansion in tourism and no major expansion in the tourism plant.
11.40 a.m.

This is a new experience for Barbados. In the past whenever you had that type of upturn in tourism, almost invariably there was a stimulus to investment within the sector. That stimulus came but it was killed off in 1988 when measures such as the one that is now partially reversed were introduced; it was killed off in 1988 when the surcharge on incomes corporate and personal were introduced; it was killed off because of the conflicting signals sent by the present administration, conflicting not with what the present administration, which begins with the present Prime Minister, has been doing all along, but conflicting in relation to what was done under the Barrow administration a year earlier; conflicting signals indicating that whereas Government was elected in the context where it had expressed confidence in the private sector and had committed itself to the introduction of policies which would enhance the capability of the private sector to contribute more effectively to the economic life of this country, we came in 1988 and we heard that we could not really place that level of reliance in the private sector; we heard that the reliance which was placed in the private sector in 1986 was substantially misplaced.

When you get that type of thing, you are fundamentally undermining confidence among investors; you are creating a climate of uncertainty because really they

cannot be assured that when they sit down and implement certain plans which have a long gestation period which is going to commit them to funds with a recovery period of ten to fifteen years that the rug would not be pulled from under them half way through or even before that. I submit that that is the principal reason why there has not been a sufficient level of investment in Barbados in recent times, that is the principal reason why foreign investment is virtually nil in recent times. And so I would want once again to indicate that although it is not at all good to constantly be reversing yourself and although it was highly unfortunate the last set of reversals that we had in 1988–89, it may be that the present administration must examine all of its policies so far with a view to a comprehensive reversal thereof and return to enlightened policy which would conduce to the development of this country, because for as bad as reversal is, what is even worse is the persistence of bad and damaging policies. So in a sense I am not castigating Government for reversing itself to this extent on this measure. I am referring more to the circumstances which gave rise to the need for this reversal and I am exhorting them to recognise that there are other aspects of the policies which were introduced by the present administration since 1988 which are even more damaging than the one which they now seek to reverse, and they should pay careful attention to the elimination of such policies and to replacing them by policies which are entirely more beneficial.

Now beyond that it is entirely desirable to revise legislation to close loopholes if those loopholes are indeed loopholes. There can be circumstances in which what is ostensibly a loophole on closer examination can be an entirely appropriate arrangement which is more of less in the nature of an incentive to certain types of activities. I am not saying necessarily that the loopholes identified in this thing are of that order. I cannot say that because I did not get a full exposition of what Government perceive to be the loopholes that they are closing and why they are closing them. And so I exhort the Honourable Dr. Clarke in his closing statement to tell us a bit more about these loopholes because he just indicated that they were closing loopholes but he did not elaborate thereon.

With those observations I think that once again we recognize that this is a Bill arising out of the Budget and we only need to comment thereon.

SENATOR J. S. GODDARD: Mr. President, there is only one aspect of this Bill I wish to comment on and that has really been covered very extensively by Senator McClean. And that is the losses that may be carried forward for tax purposes. I believe that the Government meant well, but I believe it was a case of misplaced emphasis in that the amount that could be carried forward was reduced by 50 per cent, and at the same time the period was extended. I think it was previously five years up to nine years. Given a choice I would much prefer to see that period reduced again but allow the full amount to be carried forward. Because as Senator McClean said, it is only a timing difference as far as Government is concerned in collection of revenue, but it may make a very significant difference to a company in carrying forward its losses and ensuring its survival.

We are at a stage where we are trying to encourage and stimulate economic activity. We are trying to encourage more small businesses, and quite rightly so. We are trying to encourage more small businesses to incorporate, increase their capital base and to expand, and all this is as it should be. But it is not unusual for most new businesses to lose money in their first two or three years, and those losses can be quite substantial; they have development costs to write off. At the very time that they are looking to restore the capital which has been eroded through operating losses, they find that they cannot from a tax point of view derive the maximum benefit like carrying forward losses that have been previously incurred and offsetting them against profits which they are starting to earn in year three or year four or year five. I would ask that the matter be looked at again and I really do believe it is in the interest of all businesses, especially small businesses and the newer companies, that they be allowed to carry forward the full amount of losses even if the period within which those losses are available has to be reduced again. Thank you, Sir.

SENATOR THE HON. C. D. CLARKE: Mr. President, I believe Senator McClean indicated that because of the uncertainty within the business community, this has led to the low level of investment. I believe it is not uncommon knowledge that in the manufacturing sector there has been and still is excess capacity and as long as excess capacity exists within any given sector of the economy, then investment will not take place. What is really needed is an expansion of the markets. One must sell and find markets to utilize in the first instance the existing capacity. I don't think a case has been made for a shortage of capacity either in the hotel industry. Notwithstanding that I believe quite recently I read somewhere that one of the major hotels would be launching a fairly large expansion programme. So it is not accurate to indicate that it was because of the loss of confidence or because of the uncertainty in the business climate that investment has not been taking place, but rather the inability to find new markets for the markets which have been lost, given the level of capacity which exists in agriculture, the excess capacity which exists in manufacturing and to some extent in the tourism industry.

On the question of losses carried forward, I have listened carefully to what has been said on this matter.
11.50 a.m.

Businesses are established to make profits. The track record for going into business is to expect sustained losses

within the first three to five years. This is given as one of the occupational hazards if you go into business.

Taxes are not likely on losses. They are likely on profits. Too often companies are established with too little capital. They are under-capitalized and they expect that when they eventually start to make profits that Government should forego the hope of raising any revenues at all.

Now, if we were to compare this with an individual who also makes an investment himself – in his education, he goes out and at the end of the period there is some time that elapses before he actually finds a job, but from day one he goes into the workforce. During this period of furthering his education he is actually disinvesting. He might have been living off of any savings he might have had. His family might have been supporting him. He might even have borrowed money to further his education. He is disinvesting during this period. But on day one he goes into the workforce and he gets a job he begins to pay Income Taxes at this point.

Now, the question can be asked are those individuals to carry the business sector throughout? That is the question that we have to wrestle with. I indicated at the introduction of this measure (and I will quote again from the Minister of Finance when he introduced the Budgetary Proposals) that the time was right for a comprehensive review of the tax system with particular reference to the fairness and equity. And I indicated when I introduced this measure that this is a stop gap measure and was not intended to replace this, that we were really looking at this and, hopefully, in the near future, we would be able to have some kind of constraint.

With those comments I move that this Bill be read a second time.

The question that the Bill be read a second time was put to the Senate and agreed to.

On motion of SENATOR THE HON. DR. C. D. CLARKE, the Senate went into a Committee on the Bill, SENATOR JORDAN in the Chair.

Clauses 1 – 12 inclusive were called and passed.

On motion of SENATOR THE HON. DR. C. D. CLARKE, Mr. CHAIRMAN reported to His Honour the PRESIDENT the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. DR. C. D. CLARKE the Bill was read a third time and passed.
12.00 noon.

PRIVATE MEMBERS' BUSINESS

Order No. 2 – To move the passing of a Resolution requesting Government to take steps to give effect to the Recommendation of the Constitution Review Commission that the Senate be authorised to deal with Money Resolutions.

SENATOR DR. L. L. SHOREY: Mr. President, this matter has been outstanding for a long time and I think that one needs to express very great concern that a matter of this importance has received less than the attention that it deserves. According to the Order Paper, notice of this Resolution was given on February 11, 1987, nearly 3 years ago. The first opportunity to speak on his motion was provided to Senator Jones something more than a year later on March 9, 1988. And now some nearly 2 years later, 1 year and 9 months or thereabouts, we are having an opportunity to continue debate on that motion.

Mr. President, one of the problems of this long and, I would say, inordinate delay in opportunity to debate a motion is that Members of this Honourable Chamber do not readily remember what was said on previous occasions. It is in fact like starting all over again, except that those who have already spoken can no longer speak. So that the opportunity for a serious discussion is severely damaged.

Unfortunately, this is not the first occasion on which this sort of thing has happened. One can remember, for example, similar deficiencies with respect to opportunities for discussing Resolutions put forward by Senator Blackman who is today absent and by Senator Wickham in whose case, the matter was a very important one having to do with Barbados' foreign policy.

I think, Sir, that these points need to be made because Members of this Honourable Chamber do, I think, take their responsibilities seriously. I think it is fair to say that their opportunity to do this with efficiency is seriously impaired in situations such as those in which we now find ourselves.

The Resolutions ask that the recommendation of the Constitution Review Commission be accepted and implemented to the effect that the Senate be authorized to deal with money Resolutions. To me this is a logical, and I would add, a necessary provision, if the Senate is to make the total contribution of which it is capable.

I should like therefore to set out very briefly some of the arguments which appear to me to be cogent. The Senate, as part of the Parliament of Barbados is given the opportunity to debate the Estimates. The Estimates constitute Government's projections for expenditure during the coming year and indicate how Government proposes to allocate such monies as it raises and the ways in which, generally, it proposes to raise the funds needed to do the country's business. On those occasions, that is, during the

debate on the Estimates, the Senate like the Other Place has the opportunity to draw Government's attention to likely problem areas, to question proposed allocations and so on, and in doing this to make suggestions which hopefully the Government of the day, whichever that may be, will take into account.

In addition, Mr. President, the Senate is from time to time asked to approve Government's proposals to make loans, again for the furthering of the country's business. When doing so there is some measure of opportunity for Members of this Honourable Chamber to comment on and react to the way in which the nation's business appears to be carried on with respect to the areas for which the loan is being approved.

Further the Senate is required to consider and hopefully give its support to Resolutions for supplements to the Estimates, the situations in which the projections, the money previously allocated proves to be insufficient to carry out the functions for which it was originally assigned. These, Sir, constitute the kinds of ways in which the Senate gets an opportunity to comment on the running of the country particularly with respect to its finances.

What the Senate does not get a chance to do is to deal with money Resolutions. This I think is the critical matter. It is the crux of the issue. It is the *raison d'etre* for this particular Resolution. As part of the Parliament of this country, it seems to me both logical and legitimate that this Chamber should have a chance to comment regularly on the way in which the monies which it is asked to approve in general are spent.

So that we can look in some detail at the ongoing functioning of this very important aspect of our country.
12.10 p.m.

In the connection of this whole debate on this Resolution, I think one needs also to pay some attention to a critically important function of the Senate which I do not think we should overlook in that it provides what could be called a chance for a second opinion and for a re-examination of Government at policy and action. The value of a second opinion I think is pretty well recognized and I do not know if one needs to put up an argument in defense of this. One needs only to turn to some of the learned professions to recognize the importance of having a second opinion on a matter.

In the Senate, one of the functions is in fact to provide that second opinion, the review of a possible decision, or a proposed decision by the Government of the day. It is an opportunity for Government to benefit from additional insights from consideration of aspects or the presentation of points of view that may not have been noted or expressed in the Other Place or that perhaps need to be reemphasized and strengthened. Sir, the purpose of both Houses of our Parliament is to help improve the quality of the Government of our country and to make available to those who actually have the responsibility of implementing policy the wider insights, experience, perceptions, et cetera of those who by the nature of things are not the day to day decision makers who do not constitute members of the ruling party. But the value of those insights can hardly be over-estimated. They are significant elements in what we are very pleased and proud to call indeed the democratic way of life.

In this Honourable Chamber itself, Sir, there have been a considerable number of occasions in which during the debate on several issues insights have been shared which it is clear had been overlooked and not drawn to Government's attention. Such instances constitute I think ample evidence of the importance of the second opinion on which I have been laying fairly considerable emphasis during the last few minutes.

In summary, Mr. President, I believe that in the interest of our country, in the interest of more effective contribution of this Honourable Chamber to the running of our country, in the interest of giving this body an opportunity to examine matters – that is money Resolutions which do not now come to it, in the interest of all of that I believe there is a very strong case indeed to be made for having accepted the recommendation of the Constitution Review Commission that the Senate should be authorised to deal with money Resolutions.

Sir, I strongly urge favourable consideration of this Resolution to this Chamber and I trust that Government and other Members as well will find it possible to support it.

SENATOR J. S. GODDARD: Mr. President, I would also like to express my concern over the delay between 1987 and today, the beginning of 1990, since the time this Resolution was introduced and now being finally debated.

Within the Commonwealth, Sir, Upper Houses generally have delaying over all legislation. This power is very restricted to money Bills within one month in our own case in Barbados. Also, within the Commonwealth, Upper Houses normally are free to initiate any legislation except money Bills. I think those two points need to be highlighted.

In my research, Sir, I came across a speech made by the Lord Chancellor at the Conference of Commonwealth Speakers and Presiding Officers. This speech was made in the Senate Chamber in Ottawa, Canada on September 9, 1969. I would like to make this a document of the House. I would just like to quote from his closing part of his speech, Sir. I now quote:

"If I may sum up, every large western democracy has found it essential to have a second Chamber. The

House of Commons accept more than 90% of the Amendments by the House of Lords as being obvious improvements. There is hardly anyone in our Parliament a mere handful who would abolish the House of Lords. If we are to have a House of Lords, we have a choice between election and nomination. I do not believe that the House of Commons would ever agree to an elected second Chamber and I think they are right because of the obvious danger of a growing rivalry between the two."

His final comments if I may continue:

"I have spoken to you in my dual capacity which I believe to be unique as a Presiding Officer and as a Minister of the Crown and my belief is that in the modern world an Upper Chamber can justify itself only as a partner and a complement to the elected House. It must not compete with the elected House nor seek to overthrow the authority that the elected House enjoys by the very fact of its election. It can however make a contribution of the utmost value in relieving the elected House of much that it is not equipped or has not the time to do. This means a firm understanding between the Houses as to respective functions of each House and a continuing dialogue between them upon the details of their division of work. The essence of the matter is not competition and antagonism between the Houses nor even a system of checks and balances but partnership and co-operation in the interest of Parliament as a whole."

12.20 p.m.

I think that was a very profound statement made by the Lord Chancellor on that occasion and I am wondering how we could apply that to our situation, but before doing so I would like to indicate the amount of money Resolutions over the last three years. In 1986–87 the total approved expenditure, Current and Capital, was in round figures $850 million. In that year money Resolutions amounted to $65 million or 7.6% of approved expenditure in total. In the following year the total Current and Capital Expenditure that was approved was $1 008 000 000. In that year money Resolutions totalled $100 million or 10% of the total expenditure previously approved. In the most recent year, 1988–89, the total Current and Capital Expenditure originally approved was $1 072 000 000. The money Resolutions amounted to $156 million or 14.5% of the original amount of approved expenditure. I am taking these figures from the Approved Estimates which I am sure is a document of the House. The point I am making is that the money Resolutions over three years have risen from 7.6% to 10% to 14.5% of the total amount of expenditure originally approved.

Sir, in our country the way this Honourable Chamber is appointed the Government, regardless of which party is in power in the Other Place by the process of democratic election, has an assured majority, 12 out of the 21 seats. It seems to me therefore that the public would be better served if this Chamber, which is not competing with the Other Place, had the opportunity to review and analyse and comment on money Resolutions. I think it would be in the interest of the people and it will be in the interest of Parliament.

It is in the spirit of partnership and co-operation that was referred to in the Lord Chancellor's speech and in the interest of Parliament as a whole and of the people of this country that I support, and ask other Members to support, this Resolution.

I thank you, Sir.

SENATOR T. A. PRESCOD: Mr. President, there is also another precedent in the early 20th century in relation to this matter, but first of all, let me look at the aspect of delay. The delay in my view was very important. It has enabled us to observe the functions of the Members of this Chamber, and as has been indicated, in making reference to the figures, there is some concern about the passing of these Bills.

If one should strip the argument as nude as it can be and remove that facade, one is likely to recognise that there is a latent intention behind this Resolution. It might not be right for me to work here as a prophet and say what that intention is. But I believe as I go on in this short presentation you will discover what I am talking about.

In the early 20th century during the rule of the Liberal Government in Britain Lloyd George had great trouble with financial Bills coming before the House of Lords. They worked as encumbrances against the people's representatives. The House of Lords in some way had some close relationship with the Senate of Barbados in terms of its composition and its function. The Liberal Government at that time felt it was necessary for the people's representatives to carry on their function without facing obstacles to block the passing of financial matters, and as a result they took the matter back to the electorate in order that they could have a mandate to execute the type of policy they felt was right. That policy was, in 1909, that the House of Lords should not have the power to serve as an encumbrance against any wish in the area of finance that the people's representatives brought to the House then. As a result the Bill was brought to the House of Commons in 1911; I think it was passed in 1912 and the power was stripped from the House of Lords.

The main purpose of this is because no autocratic group of people who in some cases demonstrate that they have an interest outside the interest of the working class people of this society should be given authority where they can abuse the privilege in stopping a Government from

spending money on social activities and so on. I believe if it were possible for us to express the intentions of the Members of this Honourable Chamber, we are likely to get the impression that they have a similar intention to obstruct the Government from passing financial matters which are to the benefit of the people of Barbados. I believe that no Government should allow any group of people, outside those whom the people selected to carry on their business, to carry on this function.

I made reference to that colonial precedent because I know what type of minds I am talking to. I recognise that they were highlighting other areas in the Commonwealth for other colonial precedents in order to justify their position. So I wanted just to make that short presentation to let them know that that precedent is not universally accepted, that there are other views as well. I believe that the view which I expressed has greater bearing on what type of decision we should make here today, and as a Member of this Chamber I firmly stand on the position that I will not support this Resolution. I am hoping that my position will be extended to all the other Members of the Government and to all those people in this Chamber, whether they belong to this party or to another party, or who represent the interest of the business sector, I hope that those persons will be prepared to share a common position with me on this matter.

SENATOR L. A. WARD: Mr. President, I rise to support this Resolution. As Senator Goddard has said, Sir, the Government has the majority in this Senate and the Senate would not or should not have the power to veto any money Resolution that the Government brings before Parliament.
12.30 p.m.

However, Sir, again as Senator Goddard said, a second opinion could perhaps throw light on expenditures which are in excess of what was deemed necessary when the Estimates were debated in the Senate. It is not always the first flush of spending that can bring a country or a business or whatever in trouble; it is the additional money that is spent without due consideration. I am not saying that Government does not give due consideration. But, Sir, in various segments of the economy money could be spent that perhaps with a second look it would be better not to spend it at that particular time. I cannot see the usefulness of Members of the Senate coming in here and spending days on the Estimates and then the Estimates could be increased yearly by greater percentages as has been quoted.

I feel, Sir, that it would be a very useful purpose for this Senate to be in a position when Resolutions are passed in the Other Place to have some say in those Resolutions. It surprises me, Sir, that people can come for percentages, as Senator Goddard quoted, (I have not checked them myself) which go up to 13 and 14 per cent of the Estimates which are increasing every year, and bigger and bigger sums of money are expended. I feel that we would be in no position to block those Resolutions. But when, as I understand it, all the Resolutions are added together at the end of a year and you come before this Honourable Chamber and say this is a Resolution for the additional money that has been spent, the horse is already out of the stable, Sir. So if this Honourable Chamber is to form some useful part, it should have a say in the Resolutions. I thank you, Sir.

SENATOR A. W. A. McCLEAN: Mr. President, in rising to support this Resolution, I would like to remind Honourable Senators that there was once a time when this Chamber debated money Resolutions, and I do not think the Chamber abused its authority on those occasions to behave in a manner suggested by Senator Prescod. And I do not think that if we should be given that opportunity in the future to debate such Resolutions that we would abuse such authority in that manner. We should note that the Senate has to debate the Money Bills which are prior in a way to the money Resolution. The Money Bill is the ultimate thing, and what we have before us now is an anomalous situation where the Senate debates the Estimates and is required to approve them by the 31st March otherwise the Government is in problems; they can't spend a cent. And we facilitate Government on every occasion even if we have to spend until 10 o'clock and so on up here around the end of March. Then we are required to approve the Appropriation Bill, that is, the actual expenditure after the fact. But in between there you have money Resolutions facilitating expenditure not approved in the Estimates which will later be approved in the Appropriation Bill.

There was a time when this Honourable Parliament followed the logic of that situation and Money Resolutions were passed upwards to the Senate for debate. Somewhere around 1970 an opinion from the then Attorney General put an end to that practice. The Attorney General indicated that there is no requirement in the Constitution for the Senate to debate Money Resolutions, that there is explicit reference to the Senate dealing with Money Bills but in regard to Money Resolutions, all that is explicit is that the Minister of Finance or the Minister must table in the House of Assembly certain Resolutions dealing with these additional appropriations. That was taken as an exclusionary clause indicating that it should be dealt with at the level of the House of Assembly. I am no Attorney-at-Law but that judgment seems a bit doubtful to me, and there should be some procedure whereby it could be tested or the practice arising from that could be tested in the way that there is provision for testing the Constitution of this land, or in the alternative it can be abandoned by the Government without any need to amend any Constitution or even to examine the non-constitutionality or constitutionality of the matter. The practice obtained before and there were no problems.

It would seem to me that what now happens is highly anomalous. We have a tradition where it is accepted that the

Senate as part and parcel of Parliament, is expected and indeed required to debate and pass the annual Estimates. We are expected to debate and pass the Final Appropriation Bill or any other Appropriation Bills coming towards us, but in between there an activity occurs which leads to a divergence between what would turn up in the Appropriation and what would have been approved in the Estimates, and we have no involvement in passing that. That seems to be an anomaly to me, and I cannot see that a mere reference to where the Minister of Finance who is located in the House of Assembly, the fact that he has to introduce these Money Resolutions and so on in that Chamber can be taken as exclusionary of the involvement of the Senate. It only indicates how the procedure must be initiated; but elsewhere in the Constitution it indicates quite clearly how you deal with matters coming before Parliament. And I would presume that the framers of the Constitution had anticipated that that would follow normal procedure and indeed that is what happened when we started off with the Senate and indeed under the present Constitution. But somewhere along the line somebody detected that the words in the Constitution seemed not to make that mandatory and therefore you abandoned it.

I do not think the words in the Constitution exclude the Senate from considering money Resolutions. So the suggestion that this amendment calls for an amendment to the Constitution I do not think is well founded. The most that can be said is that the Constitution is silent on that particular matter, and that if you look at other provisions in the Constitution, the Senate debating money Resolutions would be totally consistent with the way in which the Constitution indicates that legislation should be dealt with in this Parliament. And should be totally consistent with the idea that this Senate is required to pass the Final Appropriation Bill.

Mr. PRESIDENT: You don't think it would be a good thing, Senator McClean, for them to go to the Court?

SENATOR A. W. A. McCLEAN: Well the problem with the court is having a procedure.

Mr. PRESIDENT: You would get the answer.

SENATOR A. W. A. McCLEAN: Now are you going to get it?

Mr. PRESIDENT: You are challenging that you do not think so, so you should go where you can get the answer.

SENATOR A. W. A. McCLEAN: I entirely agree that if it is felt that the matter cannot be resolved at this level without amending the Constitution, that before any such amendment is contemplated that appropriate procedures should be set in motion by whoever has *locus standi* in the matter.

12.40 p.m.

I think Government has to get the highest opinion on our Constitution and not lean on the opinions of an Attorney General in such an important constitutional matter. Take it right to the top and find out if the highest courts in this land share that particular view. But I was indicating otherwise.

I was indicating that it is entirely reasonable for a Government to look at that opinion again. The Attorney General cannot impose upon the Government and upon Parliament how they can conduct their business. He is giving an opinion and they can look at it again.

The essential point is that at the end of the day we have an anomalous situation which does not speak well for this Parliament. Either you go the way of Jamaica where the Senate has no involvement at all in money Bills, money Resolutions, Estimates and Appropriation Bills, or we go the way that we have been accustomed to prior to 1970 where the Senate was involved in all of those things.

Do not create an entirely unreasonable situation where it is presumed that the Senate has to approve the money Resolutions but it cannot approve or have any say in certain matters antecedent to that situation. It cannot be. The fact that we are required to approve the Appropriation Bill should logically imply that we are required to approve anything prior to or...

Mr. PRESIDENT: Are you challenging the validity of what the Senate is doing? I just want to get it clear.

SENATOR A. W. A. McCLEAN: Not the validity but the logical consistency.

Mr. PRESIDENT: No. No. I do not want the debate to get into sidelines and side alleys. It is the validity of what the Senate is doing. The Senate has done it before. Are you challenging the validity of what the Senate is debating? It is the second reading of the Bill and, therefore, the Senate has no right to do it?

SENATOR A. W. A. McCLEAN: No, Mr. President. I am not challenging the validity of that. I have already indicated. I do not have to repeat myself. I am not challenging the validity of that. What I am saying is, however, that there is an anomalous situation which now exists which did not exist prior to 1970.

Mr. PRESIDENT: It may be there but the Constitution has not changed.

SENATOR A. W. A. McCLEAN: The Constitution did not change in 1970 but the practice changed.

Mr. PRESIDENT: I never heard anybody in this Chamber asking for a change, therefore, if you feel there should be a change there are places to have a change unless by the constitutional method. This was brought by a change. It was not always this way that it had to be changed.

SENATOR A. W. A. McCLEAN: Yes, Mr. President. That is what I explained earlier. Under the same Constitution we had the different practices, the one we have now and the one that is being proposed by the Resolution so the Resolution is merely proposing that we revert to something which obtained before under the existing Constitution and this did not give rise to any constitutional crisis or challenge the validity of anything that was done prior to 1970.

I am submitting that if we advert to that practice things would be just as valid as they were prior to 1970 without any need to change the Constitution.

But getting beyond that, I would say that this country... And I would endorse the points made by Senator Shorey and Senator Goddard regarding the advantages of a second opinion regarding the benefits of allowing the Senate to function as a reviewing Chamber in that particular area.

We do not see, given the composition of the Senate, that it is likely that the Senate could frustrate the intentions of Government. So that any Bill which is returned from the Senate to the House of Assembly would have been returned largely because the Government had seen the wisdom of the situation.

Indeed, we know that even when Government sees the wisdom of other Members on the other side they persist with the Resolution that they want to bring, or the amendment to change course. That has happened many times within my own experience. So I think it is wrong to suggest that this Resolution is trying to set up a situation where Government can be frustrated and where all sorts of insidious things can occur. That is not true.

All it is doing is trying to set up a situation where this Chamber will be able to examine the matters pertaining to the money Resolutions and to give Government and the country the benefit of the opinion of the collective Senate where the Independent Senators, Senators on this side and Senators on that side, can give their collective opinion and Government can only benefit from having additional opinions rather than considered opinions on any particular matter whether or not it agrees with those opinions.

If they disagree, a part of the challenge is to sharpen their own positions to justify that disagreement and if they agree and they adopt it, quite clearly that is suggestive of a situation where the country ought to be better off as a result.

No harm can come by supporting the particular Resolution and I cannot see and I do not see on what basis there should be any reasonable resistance thereto and because of this I lend my support to the Resolution.

I thank you.

SENATOR J. C. W. WICKHAM: Mr. President, it is regrettable that the debate turned on the question of Government and the Opposition, them and us, because we are talking – at least I am – about the Senate in its entirety, the Senate as a second body, not as a body of people sitting at one side of a table separated by the table from each other. What is at risk is the integrity of the Senate, not the integrity of Government.

As events have unfolded all over the world during the last year, particularly during the last six months, we would all have seen how important democracy is. People, communities which we thought had foresworn the practice of democracy have all of a sudden recognized how important it is and have acted in its name.

One of the lessons of this last experience in the last months has been that democracy cannot be taken for granted. It does not come automatically to Governments especially when they are in power given the chance all Governments will remain in power forever and they will always seek to circumvent any effort to minimize or to restrict that power.

Those who are on one side today may be on the other side tomorrow and it is important that we act as if we may never be the Government. No harm can come from having what has been termed a second thought but what I prefer to call "acting in the name of the Senate as a body and in the name of democracy".
12.50 p.m.

Mr. PRESIDENT: The question is ....

SENATOR THE HON. Dr. C. D. CLARKE: Mr. President, I rise not to support the Resolution before us as I have some basic problems with it. We have spoken about, I think Senator Goddard indicated that the Supplementaries which have been coming before us have been increased in percentage of the total sums voted in the Appropriation Bill.

First of all what I want to say is that we have two attempts to vote and to debate fully all Government

expenditures. We have it at the time of the Appropriation Bill in the first instance and at the end of the period when we debate the Final Appropriation Bill.

In the initial stage we are debating over 80% of what total expenditures will be. The maximum supplementaries that we have had so far, as mentioned by Senator Goddard, was 14%. They are fully well debated up front before any expenditure takes place. We are somewhere between what Senator McClean suggested that in Jamaica you do not debate the Appropriation Bill at all. I am not quite sure I want to go the route of the knee jerk response, that is, we either have all or nothing.

I think we do have an opportunity here to review the expenditure long before it is incurred, that is, at the beginning of the year when we look at most of Government's expenditure in terms of the Appropriation Bill. I would find it difficult, regardless from which side I happen to be, to be seeking to appropriate on to myself authority without the responsibility.

They are people who have gone out, they have offered themselves to the electorate, they have been elected with a programme and they are directly accountable. What this Resolution seeks to do is that on an ongoing basis, not to mention occasions on which we have a full dress rehearsal to discuss what has happened in terms of expenditure throughout the year, we now want to say that on an ongoing basis we want to sit behind you and look over your shoulders as you authorize Government expenditures. It is not sufficient for the electorate to have the final authority to decide you have performed well, you have followed our wishes, therefore the next time you come to us we answer or we support you or we do not support you.

We are now without the responsibility, without the accountability seeking to usurp this on an ongoing basis. For these reasons I feel I cannot support the Resolution. I think that if we want authority we must accept the responsibility.

In the United States where you have the Senate, the Senate is elected and they can initiate. Even then in the Congress on money Bills, the power still vests in that Chamber.

For these reasons I cannot support the Resolution.

SENATOR THE HON. SIR JAMES TUDOR: Mr. President, I believe that you and I have wintered and summered on this particular problem for many years and I particularly recall in the last few minutes while you preside over us with your customary grace, distinction and firmness, you yourself have not always been, I do not know if you are now, an advocate of second chambers. I give away no secrets when I recall that the late Prime Minister in answering a position of yours as to the necessity to have a second chamber or not made the point to you that you needed to have it because there were always opinions in the community which could not always be reflected by the results of elections. I do not think he convinced you but I only mention that to emphasize that this is a question a lot of us in politics have lived with for quite some time.

I should like to recommend to the Senate not to pass this resolution, not on any narrow partisan or party political grounds but because in my judgment, if we passed it, we may be doing something which would ultimately lead to the destruction of the Senate, as an institution.

Let me begin first by saying that this Senate is the lineal descendant of the original Governor's Council and in that capacity its main duty is to advise the Governor-General. This advice takes the form of assisting the Other Place in the passage of legislation but basically our function is to advise the Crown. In the context of present society and present constitutional and political developments we do it in this way because this is the stage at which we have arrived.

I was a Member of the House of Assembly from 1954 until 1971 continuously and certainly when I entered the House there was no such thing at the time as an Appropriation Bill. It was discovered by the late Prime Minister and the late Mr. A. E. S. Lewis that the House of Assembly had been passing Estimates every year and appropriating money without thinking it necessary to pass an Appropriation Bill.

One year, in order to correct this anomaly, an anomaly drawn to our attention I believe by the Colonial Office that we were in breach of the fundamental Constitution of Barbados, we passed 10 Appropriation Bills validating what the House of Assembly had been doing wrong for a decade. It was then I got to understand, for the first time, that what we normally call the Estimates is no more or would be no more than the Schedule to an Appropriation Bill. So it is in this way that the old Legislative Council and now the Senate gets an opportunity to discuss any aspect of public expenditure. Because in the old days before Appropriation Bills were passed, the Legislative Council only read about the debates on the Estimates in the newspapers when they were reported. If you do not know the system you are working you cannot possibly know how to work the system.

What we have inherited is a representative system based on the old English one where persons elected to what we call the Lower House, but this is really the Other Place and the more important part of Parliament, that persons elected to that Chamber represent communities of citizens. As a matter of fact, the term House of Commons does not mean that it started to represent common or ordinary people.

1.00 p.m.

In fact, the people that it started to represent when it was established were far from ordinary or common, but it represented communities. It was a House representing interest and so it has come down to us that the constituency is the community interest represented in that Chamber. That is what gives it its preeminence. Our Chamber is a different one altogether because it has a different origin. The origin of this Chamber lies in Section 2 of the old Royal Instructions which were given to Governors as they came out to assume office. The instructions from whatever King there was at the time said that there shall be a Legislative Council and its functions are to advise His Excellency yackity yack and so on and so forth. We are really a lineal descendent of the Governor's Council.

Now I want to say something else. The granting of supplies to the Crown is a function of elected Members and we only share in some part of that responsibility because an Appropriation Bill comes to us.

Now if Honourable Senators think that they need to revise the concepts or the judgment of the Other Chamber in matters of finance, I would not deny them that pleasure or that right if it could be done in an informal way or even if it could be done by reason of using our time here from time to time to debate any public matter. But I would strongly advise the Senate not to embark on a course which eventually long after we are gone will set us in collision with the Other Chamber.

Now Senator Goddard very rightly quoted the remarks of a British Lord Chancellor. But the British Lord Chancellor is a politician. It is true that he is a Member of the House of Lords and therefore not elected but he is a Member of the Cabinet and apart from the Prime Minister the most senior and important Member of the Cabinet because in the old days he was known as the Keeper of the King's Conscience and the Keeper of the Great Seal. He has an important traditional judicial function.

Sir, if you were really to want to take seriously the point about the House of Lords, you have to admit that in Barbados if we were to establish anything of the power which the Chancellor has there would be a hue and cry from the same people who want us now to allow what we are now discussing. The Lord Chancellor is the Principal and Senior Judge in the United Kingdom. He appoints judges. Now unless you want to tell me that if we were to have that system and you were to make the Chief Justice responsible for appointing all the judges, I am sure that a lot of us would object. Yes, you see you have to understand the system you are working and you may not see the dangers of what you are asking for now. If you want to promote the continued existence of this institution, please do not go down that road. Sooner or later a clash will develop between the two Houses. Well, you may shake your head but you cannot foresee it because our power and authority is something that grows on what it feeds and it is not the function of this Chamber to be on a collision course with the House of Assembly.

If you want it, I can suggest a way in which perhaps the Senate while not necessarily debating money Bills might still be able to exercise some influence on Government policy. You would need in my judgment an amendment to the Constitution. I have spoken on this matter in another context many times before – an amendment to the Constitution which allows Ministers to vote in one House but to speak in both. In that case, if you had that amendment, a Minister of Finance at the request of the Senate could come to us at anytime when we are discussing whatever matters which impinge on finance and be questioned by Members of the Senate as a responsible part of his office. That is what I would recommend. Let Ministers come in to this Chamber and speak to us and discuss whatever we want to be discussed but vote in their House.

Three or four months ago, maybe more than that, when we had that very troublesome but at the same time very important Bill on the Tenantries Amendment, we had to use a device to get the advice and judgment of the Attorney General in a Select Committee by having him address the Members of our Select Committee before it entered its formal session, because it would have been improper to have had him in the present state of affairs join the Select Committee as a Member.

I think this is the road along which we should go that Ministers of the Crown should be able to come as a matter of courtesy at the request of this Chamber if they are needed to answer our questions on anything and to explain whatever we need to have explained. That is what I would recommend. It is very important that we understand what the constitutional system that we are working is and it is not as easy as we think. Certainly, in the present situation in which Independent Senators sit with those of us who represent political parties, they even are in the most delicate situation because they are direct appointees of the Governor General. In order for them not to appear to be taking a partisan position, they should always I think see what is the best and the least aggravating way of preserving the relationships between the two Houses.

I, therefore, cannot recommend that this Resolution be supported. I do not doubt the good intentions and good judgments of the person introducing it and those who have been supporting it. But I fear that what they want to do and how they want to do it is not in the interest of the Constitution of this Island and therefore I find that I am unable to give it support.

SUSPENSION OF SITTING

Mr. PRESIDENT: The time is now 1.00 p.m. and I am asking the Minister to proceed.

SENATOR THE HON. L. V. H. LEWIS: Mr. President, for various reasons I beg to move that this sitting be suspended until 2.00 p.m.

The question that this sitting be suspended until 2.00 p.m. was put to the Senate and agreed to.

1.10 p.m.

RESUMPTION

Mr. PRESIDENT: The Senate is resumed.

SENATOR D. A. COMISSIONG: I should just like to make a short contribution to the debate. It will take the form of a gloss on some of the arguments already presented.

Before going on to my main points, however, I need to lay the foundation for what I am going to say. I think we need to understand that our whole history, and perhaps the history of the entire civilisation in this modern period, could be perhaps legitimately seen as a development of the democratic principle, a development of the principle of elected assemblies. Certainly we in Barbados throughout our history have fought long and hard for the principle of elected governments and the moral supremacy of elected assemblies over appointed assemblies.

In earlier times this battle was largely confined to a small white planter elite, but as time went on the battle was extended to the masses of black working class people in Barbados. And so we have to recognise that in our present system of government the House of Assembly, the elected body, the elected Chamber is by far and away the more important of the two and the one with the ultimate moral and political supremacy. Once we accept that, then it makes it a lot easier to put into perspective what should be our position on this issue.

There are many people, in fact, even today in Barbados, who would even question the validity of an appointed body such as the Senate. Some people argue that the Senate represents a lingering trace of that colonial system that we experienced for so many years when appointed bodies and appointed officials played such a large part in the Government of Barbados. We have to understand that the Senate in terms of a democratic system of government is very much the junior partner.

As I understand Senator Jones' measure before the Senate today, Senator Jones is asking for an amendment of our Constitution to enlarge the powers of the Senate. He is asking for an amendment to, in a sense, change the configuration of our parliamentary system by enlarging the powers of the Senate. I can only interpret the measure in that way, because the mere fact that the measure is asking for an amendment would in itself suggest that the system we are operating now where the Senate is excluded from these taxation measures is in fact the constitutional position. We have to go on that assumption, that that is in fact the correct constitutional position, and therefore what Senator Jones is asking for is a change in the configuration of our Parliament to give the Senate wider powers.

I personally am not convinced that the type of powers that Senator Jones would want the Senate to have can be justified within the ethos that we have now, the ethos of a democratic system of government, of government by the people, for the people, of the people. The American Revolution was fought on the principle of no taxation without representation, and I am not certain that I would want to be supportive of the type of increase in power that Senator Jones has in mind for the Senate.

However, even if we assume that what Senator Jones proposes is a good thing, I wish to make the point that the measure to amend the Constitution, to change the configuration of our Parliament in order to give the Senate this extension in its power should not come from the Senate, it should come from the House of Assembly. This is the particular point I want to make. Even if it is a good thing, even assuming that this enlarging of the powers of the Senate is a good thing and would make our system of Parliament a better system, the fact is that the Senate is very much the subsidiary partner. The real power, the real authority, the real – I don't want to bring morality into it, so let me just leave it at the real power and the real authority – legitimacy resides in the Lower House. Even if this is a good measure, it should be the Lower House to take the initiative of changing the configuration of our Parliament to give greater powers to the Senate. The initiative should come from them.

This Commission appointed to review the Constitution apparently gave its report in 1979. The advice of the Attorney General which led to the Senate being denied its initial practice of dealing with these taxation measures came in 1970. The point is this. We have had two political regimes under which this type of measure could have been introduced. The Barbados Labour Party in the 1970 to 1976 period when they formed the Opposition of this country did not see it fit to in any way challenge the Attorney General's advice and the action that was based upon the Attorney General's advice in the law courts. They did not seek to challenge it on the point of its constitutionality. The Barbados Labour Party Government after 1979, even though they would have had the recommendation of the Commission appointed to review the Constitution that this type of power should be given to the Senate, did not deem it fit to introduce the type of amendment that Senator Jones is proposing here today. Indeed, neither did the Democratic

Labour Party, for that matter; so the point is neither of the two political parties that formed the Government and Opposition of this country has seen it fit to introduce this type of measure even though it was recommended by the Commission appointed to review the Constitution. I think that that is not without significance and therefore I have to take the point made by Sir James that if the Senate is seen to be flying in the face of the wishes of the Lower House, the House of Assembly, that it could have serious implications for the future existence of the Senate.
2.15 p.m.

I take this point that it could indeed put the two Houses on a collision course; so the fundamental point I want to make is that even if it is a good thing because the power really resides not with the Senate but with the House of Assembly, they should be the ones to introduce such a measure, and I rest my case there.

SENATOR THE REV. CANON I. McK. JONES: Mr. President, there are some statements that have been made that I don't quite concur with. The Resolution that I brought before this Honourable Senate is worded thus:

"To move the passing of a Resolution requesting Government to take steps to give effect to the recommendations of the Constitution Review Commission that the Senate should be authorised to deal with Money Resolutions."

That is not my statement as such; it is to give effect to the recommendations of the Constitution Review Commission that the Senate should be authorised to deal with Money Resolutions, and that is what the Commission suggested. When we realise who were on that Commission, I thought it was very correct of me to take their findings to bring this Resolution before this Senate because we had some people on that Commission of redoubtable scholarship and vast experience. We had people, three of whom were given Knighthoods after they had sat on this Commission. I would not say that is the reason why they got it, but it is just a coincidence that they got it after and not before. I am not saying that is why they got it, but the point is that we had Sir Mencea Cox who was the Chairman, a man of vast experience; we had Sir Alexander Hoyos; we had Sir Carlisle Burton; and then we had Dame Elsie Payne, and all of those people received honours. I am not saying that is because they served on the Commission; but the point is that when you add to them three eminent lawyers like Professor Carnegie, John Stanley Bruce Dear, better known as "Jack", and Ezra Alleyne, I thought that when they came up with a recommendation like this that it was worthwhile and valid because these are people of vast experience. So I thought it should be brought before this Senate. When I learnt that after the 1966 independence that the Senate at that time were able to deal with Money Resolutions and for years before this the Legislative Council which was the Upper Chamber before the Senate was established, was also allowed to deal with Money Resolutions, I thought it was only proper to seek to get the Government to allow this present Senate also to deal with Money Resolutions. I did not see anything wrong with that. I have not heard that there was any great confrontation between the Legislative Council and the Lower House or the Senate of that time and the Lower House where Money Resolutions were concerned. If it is so, that knowledge has escaped me. I have not heard anything about that. So I don't know why the Government is so afraid of listening to a second opinion. I don't see that we are a challenge to the House of Assembly, and I don't think any Members in here think that we ought to be a challenge or be in competition with the House of Assembly. They are elected Members, we are nominated Members and I don't see there should be any clash there. All we are asking is that we should be able to give our opinion on the Money Resolutions before we are asked to ratify them.

Mr. President, I feel so very embarrassed when I am brought in here year after year and you hear that $117 million have been spent over the last ten years and we are asked to ratify that and you don't know what the money is spent on or for, but we as Senate Members are asked to ratify that. To me that is ludicrous, and I can never agree with that because it makes me feel that I am an idiot. You are asking me to do something and I don't know what I am doing the thing for; to ratify something that I have not seen and that is the stance that I am opposed to. That is why I have formed this Resolution and brought it before the Senate.

I have heard it said already by many people in Barbados that the Senate is only a rubber stamp. Ought we to be surprised at that? There are 48 Members in Parliament, 27 in the Lower House and 21 at least at this moment up here; it will possibly soon be more. Anyhow, the point is that if millions of dollars can be disbursed by Government and 21 of those 48 Members can't have one word to say about those millions of dollars, are we to be surprised that a lot of people are saying that we are only rubber stamps. It is embarrassing to us. Sir, I heard Senator Tudor say, for example, that if the Senate is given this power, it will lead to the destruction of the Senate as an institution. I don't follow that at all. I think those are just words. And all the talk that Senator Tudor talked about the Lord Chancellor and the Judge and so on has nothing at all to do with this case in point.

I would like with your permission, Mr. President, to read what in my view has caused all the trouble. An interpretation in 1970 by the then Attorney General, the Honourable Frederick Smith, has prohibited this Senate from dealing with Money Resolutions. Before that time they were able to deal with them, and I would like to read Clause 54 sections (3) and (4) of the Constitution and I am

saying that the words are precise, they are verbatim, there is no kind of change in any of the words, but the interpretation is vastly different.

Now I read here in Clause 54 beginning at section (2), "A Bill other than a Money Bill may be introduced in either House but a Money Bill shall not be introduced in the Senate." And then section (3) says:

"Except on the recommendation of the Cabinet signified by a Minister, the House of Assembly shall not –

(a) proceed upon any Bill (including any amendment to a Bill) which in the opinion of the person presiding, makes provision for imposing or increasing any tax, for imposing any charge on the Consolidated Fund or any other public fund or altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to Barbados."

Now that is section (3)(a). Section (4)(a) says the same thing, that the Senate shall not proceed upon any Bill, the only difference being other than a Bill sent from the House of Assembly. In other words, the House cannot proceed upon a Bill except on the recommendation of the Cabinet signified by a Minister. The Senate cannot proceed on a Bill except it is sent from the House of Assembly. That is the only difference, and then it goes on with the same words "or any amendment to a Bill which in the opinion of the person presiding makes provision for imposing or increasing any tax, for imposing any charge on the Consolidated Fund, or any other public fund or altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to Barbados.

When we get to (3)(b) and (4)(b) I want you to listen carefully. Now (3)(b) says:

"The House of Assembly shall not –

(b) proceed upon any motion (including any amendment to a motion) the effect of which in the opinion of the person presiding is that provision shall be made for any of the purposes aforesaid."

Now that is (3)(b) relating to the House. Listen to (4)(b) relating to the Senate.

"The Senate shall not –

(b) proceed upon any motion (including any amendment to a motion) the effect of which in the opinion of the person presiding is that provision shall be made for any of the purposes aforesaid."

I am saying, Mr. President, unless I am blind, that these words are precisely and exactly the same, but when (3) (b) is interpreted for the House they have the permission to deal with all the Money Resolutions and when it is for the Senate we are prohibited from dealing with Money Resolutions. I feel it is that that made the Members of the Commission appointed to review the Constitution say they saw no good reasons for maintaining such a distinction, and they recommended that Section 54 (4)(b) should be amended to give the Senate authority to deal with Money Resolutions. That was the finding of the Commission and that is all we are asking, Sir. We are not here, as I said already, to obfuscate what is happening in the Lower House or to try to frustrate what they are doing down there. All we are asking for, Sir, is an opportunity for us who are men of a certain amount of intelligence, and some of us have a lot of experience, to make an input by giving our position and our opinion on what is happening, because we feel that that would be something good for Parliament.
2.25 p.m.

We think it will serve the country of Barbados well because then you would have an input from all of the members, the elected members and the nominated members where the finances of the country are concerned and that is why I am asking, Sir, and I respectfully submit, that Government give their most serious consideration to the implementation of this Resolution.

I thank you.

The question that the Resolution do now pass was put and resolved in the negative, the Senate dividing as follows:–

NOES: SENATOR M. deL. JORDAN, SENATOR THE HON. L. V. H. LEWIS; SENATOR THE HON. DR. C. D. CLARKE; SENATOR A. MORRISON; SENATOR MRS. G. L. EASTMOND, SENATOR N. W. BOXILL; SENATOR MRS. V. C. FRASER; SENATOR T. A. PRESCOD; SENATOR D. A. COMISSIONG; SENATOR THE HON. SIR JAMES TUDOR – 10

AYES: SENATOR A. W. A. McCLEAN; SENATOR MISS V. P. BRATHWAITE; SENATOR DR. L. L. SHOREY; SENATOR J. S. GODDARD; SENATOR MRS. P. Y. FORDE; SENATOR L. A. WARD; SENATOR THE REV. CANON I. McK. JONES; SENATOR J. C. W. WICKHAM – 8

ADJOURNMENT

SENATOR THE HON. L. V. H. LEWIS: Mr. President, I believe that concludes both public and private business for today.

I therefore move that this Senate be adjourned until Wednesday, January 31, 1990 at 11.00 a.m.

The question that the Senate be adjourned until Wednesday, January 31, 1990 at 11.00 a.m. was put to the Senate and agreed and Mr: PRESIDENT adjourned the Senate accordingly.

2.35 p.m.

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