
THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2004

THE SENATE

Wednesday, August 21, 2002

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, August 21, 2002, at 11.20 a.m.

PRESENT

His Honour Senator Sir Fred GOLLOP, K.A. (President)

His Honour Senator C. L. BOLDEN, C.B.E., Q.C. (Deputy President)

Senator P. C. GODDARD, Special Envoy to the Prime Minister

Senator the Hon. G. S. H. MURRAY, B.A. (Hons.), J.P. (Minister of State, Prime Minister's Office)

Senator the Hon. J. X. WALCOTT, FRCS, (Edin.), J.P. (Minister of Health) (Leader of the Senate)

Senator T. E. BARKER, B.A. (Hons.), M.A. (Econ.) (Parliamentary Secretary, Ministry of Economic Development)

Senator Dame Patricia SYMMONDS, D.B.E., G.C.M., B.A. (Hons.) (P.G.C.E.), J.P.

Senator Mrs. P. E. RICKINSON, B.A. (Hons.), M.P.H. (Harvard), S.R.N.

Senator C. K. LAURIE, D.I.C.T.A. (S.T.), FBSTA

Senator C. LeR. TROTMAN

Senator Miss J. C. ODLE, J.P.

Senator LeR. H. McCLEAN, B.Sc. (Hons.)

Senator Mrs. V. E. NEWTON, S.C.M., B.A. (Spec. Hons.) M.A., LL.B. (Hons.) (U.W.I.), F.L.A. (Gt. Brit.), L.E.C.

Senator D. D. MARSHALL, LL.B. (Hons.), L.E.C.

Senator Sir JOHN STANLEY GODDARD, K.A., G.C.M., B.Com., F.C.A., Hon. LL.D. (U.W.I.)

Senator B. R. COLLYMORE, C.M.G.

Senator J. E. D. WILLIAMS, B.Sc., M.B.A., J.P.

Senator K. D. SYMMONDS, LL.B.

Senator D. L. HAYNES, S.C.M.

Prayers were led by Rev. Father Errington Massiah.
Mr. PRESIDENT: The Senate is in session.

PRESENTATION OF PAPERS

SENATOR THE HON. J. X. WALCOTT: Mr. President, I am commanded to lay the following documents before the Honourable the Senate:

1. Annual Report of the Barbados Investment and Development Corporation for the year 2000.
2. The Report of the Supervisor of Insurance for the years ending 31st December, 1995 to the 31st December, 1999.
3. The White Paper on Persons with Disabilities.
4. Report of the Securities Commission for the period 2nd August, 2001 to 31st March, 2002.
5. Duties, Taxes and Other Payments (Port St. Charles Development Limited) (Exemption) Order, 2002.
6. Special Development Areas (Barbados Tourism Investment Inc.) Notice, 2002.
7. Value Added Tax (Refund) (The Barbados Legion of the British Commonwealth Ex-Services League) Order, 2002.

SUSPENSION OF STANDING ORDERS

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that Standing Order No. 45(2) be

suspended for the remainder of today's Sitting in order that we may debate the Treasury Bill and Tax Certificate (Amendment) Bill, 2002, the Constitution (Amendment) Bill, 2002 and the Constitution (Amendment) (No. 2) Bill, 2002.

The question was put to the Senate and agreed to.

INTRODUCTION OF BILLS

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that the following Bills be read a first time:

1. The Treasury Bill and Tax Certificates (Amendment) Bill, 2002.
2. The Constitution (Amendment) Bill, 2002.
3. The Constitution (Amendment) (No. 2) Bill, 2002.

SENATOR THE HON. J. X. WALCOTT: I beg to give notice of the following:

A Resolution to approve the borrowing under the Special Loans Act, Cap. 105, of the sum of \$7 580 441.10 for N.S.G. Exports Limited for the purchase of vehicles and equipment for the Ministry of Public Works and Transport.

PUBLIC BUSINESS

ORDER NO. 5 – THE CONSTITUTION (AMENDMENT) BILL, 2002

SENATOR THE HON. J. X. WALCOTT: Mr. President, this Bill seeks to amend the Constitution primarily to allow the Government of Barbados to be able to carry out and enforce certain laws of Barbados in relation to crime and murder.

This is necessary in the light of the Privy Council rulings, over the past eight years, on the application for the death penalty in murder cases in this country. I repeat. The purpose of the amendment is primarily to allow the Government to be able to carry out the Laws of Barbados. It is not, as some people are saying, for us to give freedom for people to be hanged, but it is simply to allow us to enforce the Laws of this country.

Sir, it is understood that the paramount obligation of Governments is to protect its citizens and essential to this, the maintenance of the rule of the Law. At this time when we are debating these matters, and the society as a whole is concerned about the level of crime and violence throughout

our society, we have been hearing that we are too soft on the criminals, people know that no one will be hung because of these rulings of Pratt and Morgan.

Sir, not only in our country, but throughout the Caribbean there is this feeling among the populations of these islands that it is necessary for the death penalty to be enforced, and the Privy Council is stalling the process and blocking the Governments from enforcing the death penalty.

Indeed, in Barbados there are arguments for and against this because there are those who insist that it is not the deterrent to committing crime, like murder. I am sure we agree that we can win this agnosia and not reach a Resolution about the process.

As I speak, in the United Kingdom there is a call for bringing back into force, the death penalty, in light of two horrendous crimes recently over the past two weeks. Some newspapers in the United Kingdom are saying that they have done polls and more than 50 per cent of the British population are not in favour of the reintroduction of the death penalty, and there are also calls for this to be addressed by parliamentarians.

We had no polls in Barbados but I am sure that if we were to do one, there are people who believe that at this point in time, the death penalty should not be, reintroduced, but I mean the last time we had a hanging was in 1988 I believe, but certainly, we should start being active in this regard.

Sir, the amendment is not new. Every day courts are making rulings on laws which are passed by parliaments. Sometimes the courts have to point out loopholes in these laws and the parliaments subsequently have to make amendments, so that these laws may be properly enforced and this is, in fact, what is happening today.

If I may go back to February 16, 1999, during the Throne Speech His Excellency the Governor-General said at that time, and I quote:

“My Government without prejudice to the future enactment of the Constitutional amendments, recommended by the Constitutional Review Commission, will shortly seek to amend the existing Constitution to reverse the effects of the Pratt and Morgan line of cases.”

Subsequent to this, the Constitutional (Amendment) Bill, 2000 was laid in the Other Place in July, 2000. This is not going to be on its first reading for a number of reasons. Now, this Amendment Bill, 2002, is being introduced to replace that one which was laid earlier.

As I said, for a number of reasons, it was not taken any further. The Attorney-General at that time was advised to wait for the decisions of the Judicial Committee of the Privy Council, as everything throughout the region was in a state of turmoil since 1994 because of this Pratt and Morgan case. In addition, during the course of 1999, the same Judicial Committee was abdicating on legal issues dealing with the death penalty, especially on the public law doctrine of legitimate expectation, in regard to international human rights bodies.

As the Law was unsettled, the then Attorney-General thought it was prudent to await the decisions of the Privy Council before attempting to amend our Constitution at that time.

In all this, we must also note the Bahamian case of Fisher, where Lord Stein observed and I quote:

“In other countries in the Caribbean death row conditions may not meet the criterion of minimum civilised standards.”

Sir, you have a body of gentlemen in Britain making decisions on criminal matters, in this case, crime of murder in the Caribbean, on how punishment should be enacted. Can we really say that they are in a position to understand the social and economic conditions under which these crimes are committed? If I might cite some examples.

In St. Lucia a couple of years ago, there is a case where a lady was brutally murdered. She was stabbed some 28 times, I believe, in front of her young children by her husband and died at the door of the neighbour where she ran for assistance.

We had a case in Belize recently where over a land dispute, a neighbour comes home and finds a fence being erected and decides to slay the husband and wife who were erecting this fence.

We had a case in Jamaica some years ago of a husband who bludgeoned his wife to death with a hammer.

These are the sort of cases that we deal with in the region and we hear about the perpetrators of their families and the rights of these people, but we seldom hear about the rights of the victims of these crimes.

Certainly, in Barbados a couple of years ago, there was a situation where a husband basically tied his wife in the bed, threw kerosine oil on her and set her alight. Miraculously, she escaped, and she still lives today. She was one that I was involved with, not from the point of view of committing a crime, however.

Sir, this Constitution (Amendment) Bill is reflecting provisions in the previous Bill on issues raised in Pratt and Morgan:

1. Once the delay in execution of a sentence of death imposed upon a person in respect of a criminal offence of which that person has been convicted, should not be held to be inhuman or degrading punishment or treatment.
2. Nor shall the static physical conditions of the prison in which a condemned person is detained.

So we are seeking basically to mollify this aspect of the Pratt and Morgan judgment.
11.30 a.m.

Having said that, we should bear in mind that we need to improve the efficiency of our court system because no one should have to wait three, four or five years for an entire process to be carried through so we have to look at that and not just a simple amendment in saying that this is no longer inhuman.

In addition, the Bill introduces two further amendments to Sections 23 and 78 of the Constitution. Section 23 provides against discrimination with an amendment to Clause 3. This adds an exception by providing for cases arising out of agreements for the exchange of prisoners between Barbados and other countries and I would elaborate on that further.

Section 78 is based on the Lewis case of Jamaica where the Judicial Committee of the Privy Council stated that death sentences carried out before the international human rights bodies have completed their hearing on petitions before them constitute a denial of the appellant's right to due process where the countries are signatories to the Convention even if the countries have not incorporated it into their domestic legislation.

The proposed amendment seeks now to allow the Barbados Privy Council to take note of any such report if it is available within a time period prescribed by the Governor-General acting in accordance with the advice of the Privy Council, but given within a certain time frame.

I will now go back to Section 23 which deals with the exchange of prisoners. The concept of agreements which provide for the transfer of sentenced persons is not new. There are many model agreements, namely, the Council of European Convention on the Transfer of Sentenced Persons and the United Nations Agreement on the Transfer of Foreign Prisoners. These agreements have considered the difficulties encountered by foreigners detained in prison establishments abroad owing to such factors as differences

in language, culture, custom and religion and states that the aim of social resettlement of offenders could best be achieved by giving foreign prisoners the opportunity to serve their sentences within their country of nationality or residence.

Sir, there are benefits to be derived from the implementation of a policy of prisoners transfer. Such a policy could result in a reduction in the prison population and in the attendant cost. It will also facilitate the transfer of prisoners who may have special medical needs or physical impairments that might prove to be a financial burden to the State if the State would attempt to meet, with respect to those persons, the requirements as set out under the United Nations Convention on the Treatment of Prisoners.

This policy would also facilitate the transfer of prisoners considered to be of a high security risk by Barbados to their countries of origin who might be willing to integrate them into their own prison systems. The policy also provides for the repatriation of Barbadian nationals from countries whose prison conditions put their life and health at risk.

The amendment to Section 23 allows for this in that it deals with discrimination and where it would be argued that people in prisons in Barbados could be transferred to their countries of origin, for example, to Canada or the United Kingdom where they might be better off. Where there might be some sort of discrimination, this amendment seeks to annul it.

Sir, I will go now to some of the details of the amendments. Clause 2 seeks to amend Section 15 of the Constitution of Barbados. This section provides that persons are not to be subjected to torture, inhuman or degrading punishment or treatment. Over the years, based on the Judicial Committee of the Privy Council judgements, the courts in West Indian cases have been declared as being unconstitutional and in contravention of the prohibition of:

1. The imposition of execution of mandatory sentences of death;
2. Certain delays which have occurred in executing prisoners condemned to death; and
3. Prison conditions in which some of these prisoners have been held pending execution.

The Barbados Government does not accept any of these jurisprudence propositions as reasons why executions should not be carried out and thereby this amendment is now being made.

Clause 3 seeks to amend Section 23 (3) of the Constitution. Under this section a person is protected from being subjected to discrimination by any law and from being treated in a discriminatory manner by any persons acting under any written law or performing any public function.

As I said earlier, Barbados has, in recent years, entered into agreements with other countries for the exchange of prisoners. Under some of these agreements it may happen that a foreigner who is repatriated from Barbados to his country of origin may receive in the country of origin a demission in the sentence to other punishment imposed on him in Barbados. This amendment to Section 23 seeks to authorise the repatriation of persons notwithstanding this demission in the punishment.

Clause 4 deals with the proposed amendment to Section 78. This new subsection 5 would now make it clear, as far as Barbados is concerned, that an offender has a right to make written representation to the local Privy Council and to the Governor-General but is not entitled to an oral hearing before them in relation to the exercise of their prerogative of mercy function under Section 78.

In addition, provision would now be made for international covenants on civil and political rights to which Barbados has acceded. Under these treaties, prisoners on death row in Barbados can appeal to these bodies in addition to exercising their traditional legal right to appeal to the Judicial Committee of the Privy Council in England. The availabilities of these multiple rights of appeal have often made it difficult for executions to be carried out within the period that the Judicial Committee of the Privy Council has said is constitutional.

The Government, therefore, considers that there should be a time limit within which these appeals to international bodies other than the Judicial Committee of the Privy Council should be concluded. That is the purpose of this amendment.

These amendments do not apply in relation to persons on whom the sentence of death was pronounced before the coming in to operation of this Act.

Sir, having said that, I want to repeat what I said at the beginning. In seeking the amendments to the Constitution, Government is primarily interested in ensuring that the penalty for murder is carried out. This will not mean, and certainly people should not believe that with these amendments to the Constitution, that people would just be hung merrily. That would not happen.

I am a bit pessimistic in this regard as there would still be recourse to some of these international conventions that I mentioned earlier but, certainly, it is a step in the right

direction. It shows the Government's commitment to the enforcing of penalties for murder. It shows that we are prepared to make the necessary changes and certainly to send the right signal to the perpetrators of crime that this Government is serious about dealing with crime.

With these few words I beg that this Bill be now read a second time.
11.40 a.m.

SENATOR LeR. H. McCLEAN: Mr. President, the Honourable Leader of the Senate has made it quite clear what are the intentions of this Bill. He has said that it is necessary to carry out the Laws of this country and one certainly cannot object to such reasoning. I think the people of this country have long been asking that those laws be enforced with respect to the death penalty in Barbados.

Sir, I think it goes beyond one's personal feeling whether the death penalty should or should not be imposed. Personally, I am ambivalent on this matter but if we have laws on the statute book, then the Law must be carried out. If the people of this country have determined that they are comfortable with this law, then it is the responsibility of those in position to ensure that these Laws be carried out.

Mr. President, I must express some concern about a number of matters. The Honourable Leader of the Senate has made mention of a number of heinous acts of murder that are taking place in various countries across the Caribbean and in this country. Sir, these are cases where one could not argue against the imposition of the death penalty. It would be very difficult for one to defend, unless there were strong philosophical reasons for opposing it, one could certainly not object to its carrying out in these regards.

Sir, this brings us to the point of the need to have a clear distinction between capital and non-capital murder. We have heard, on a number of occasions, statements to the effect that laws would be put in place whereby we would establish those prongs of murder which, automatically, would require the death penalty and those which would not. In fact, there is one country where I understand someone could only be executed if there is an eye-witness to that murder.

Sir, if, as is done in a number of other countries, there is no question whether or not the person has committed that murder, there is no question as to the motive, persons are not mentally unsound nor provoked, then there is no excuse or reason for not imposing the death penalty.

If, on the other hand, there is a case where persons are relying only on circumstantial evidence or on a confession then, in my view, one needs to tread carefully, because in recent years we have seen a number of convicted persons for murder who are on death row in the United States, where the

modern technology relating to identification through DNA tests has proven that those persons were not involved in the commission of those crimes.

Sir, very often it happens that those convicted persons would have been persons of a lower socio-economic group who would have suffered the penalty of death because they would not have been able to retain the kind of legal expertise which would have been able to successfully argue their cases, therefore, as a result of a body of circumstantial evidence and, in some cases, persons who would have sworn they could have identified such persons when, in fact, they were unable to but because of the particular social condition that might have existed at that point in time.

Sir, in the case of the United States, a black man being charged for murdering a white person in a southern county or some other place where it might be considered to be more progressive, very often would have little or no chance and the body of evidence could very easily point in the direction of murder or to guilt. Sir, recently many of those cases have been proven to have gone in the wrong direction. This is why I am saying there are times when one needs to tread cautiously and even though persons might, out of their grief, be calling for someone to pay, very often those persons do not care who pays, as long as someone pays for the murder of a loved one or a relative.

Mr. President, if we are going to rely on confessions, there is need to have clear guidelines how those confessions are being taken. We have heard of too many cases where persons claim – and I will go no further to say that they claim – that confessions were forced out of them. There are too many cases where persons have been convicted, not only for murder, nor because of any sound policing, but merely because the police were able to get someone to confess.

Sir, whereas there is the need to get persons to pay for their crimes – someone said that they rather ten guilty men go free than one innocent man be condemned – we need to ensure that we have those regulations in place with respect to the taking of confessions. Unless there are those clear guidelines in place where we could be sure that a confession is truly a confession, I think we should be weary about convicting someone for murder merely on the grounds of a confession.

Sir, there is the issue of the prolonged length of time it takes before the convicted person could be executed. We need to examine the reasons for the lengthy delays. We have situations where lawyers use the system to stretch the period out for as long as they could. Sir, I have no fear of saying that I believe some of them do so deliberately. Sir, the perception of the people of this country is that this is one of the tactics used in getting a person, who has been charged with these kinds of crimes, free.

Sir, it is interesting that whereas the international organisations, for example, Amnesty International and the other human rights organisations, make a big fuss about countries like Barbados that would hang someone after a period of five years, yet the United States of America hangs them after 20 years. In fact, there was a case where a woman who was convicted for murder, and it was shown that her life had really been changed, yet that did not make Governor George Bush grant her a pardon. Sir, yet these human right bodies would try to dictate to little countries like ours and tell us what we must do regarding the carrying out of the death penalty, while they tread softly with what they consider to be the more powerful countries.

Sir, there is a point which one might think that is unrelated to a matter such as this, but it also extends to many other areas of our lives when we look at the way in which we are being treated by international agencies. Whether or not we believe it, the new WTO Rules and the whole approach of globalisation would mean that countries like ours would have less and less ability to govern and that governance, in small countries like ours, would be diminished considerably because Governments would not have the right to implement the laws they want to because of strictures imposed from outside of these countries. This is another example of it and it will get worse and not better.

Sir, I agree that if it requires a particular length of time for the process to be completed, and as long as it could be seen that everything necessary was being done to ensure the completion of the process, then the time which is spent cannot be considered to be cruel and inhuman.
11.50 a.m.

However, I do not agree that persons on death row should be made to endure cruel and inhumane treatment. I remember an enquiry some years ago which dealt with a jail break where one of the death-row convicts said he was sentenced to death and not to bad treatment. Perhaps his point should be taken that if a person is sentenced to death, therefore, death was the penalty that should be carried out.

Sir, we need to make sure that the rules and regulations required of a civilised society are in place if the death penalty is to be carried out in the way the people of Barbados require.

The judicial systems should also have the resources to ensure that things can be done in an expeditious manner so that persons do not have to wait for a year or two to receive a judgment because of the antiquated system which now exists. I have heard many promises about the improvement of the judicial system but it is not reflected in what is seen from day to day.

It is more than 20 years that this country was promised improved court conditions but judges and magistrates are

still required to work under these conditions. In fact, I think prisoners might enjoy better conditions at Glendairy Prisons than those which our judicial officers work under when you see the building in which they work.

We need to improve the conditions under which the court operates so that work can be done in an expeditious manner and the authorities are not accused of any delay in carrying out sentences. We must also ensure that the person representing the accused cannot use the system to get around the punishment.

The people of England are once again calling for the death penalty because of the crime of two children. Maybe the majority of people in England felt that the death penalty should be imposed but were willing to be led by the authority and it took the murder of two ten-year-old children for them to say that enough is enough and that something should be done about the situation.

We need to ensure that fear of suffering the penalty will act as a deterrent because the family of the deceased does not win anything when the death penalty is handed down since the deceased cannot be brought back to life so there is no satisfaction for the family from execution of that person. Sir, if people feel they do not have to account for their actions, they will never change. If a person steals something and there is no penalty for his action, he will continue to steal. Sir, a youngster said he stopped going on the block because he saw two men pulled guns on each other and one said he would kill the other, go to Glendairy Prisons and eat three meals per day. Sir, if there is the perception that a life can be taken and there are no adverse consequences to be suffered, persons will continue to behave in the manner we see them behaving at present.

Mr. President, as the Leader of the Senate said, this will send a strong message because, as Barbadians, we have surrendered too much of our freedom to a small group of people who have decided that they can terrorise this country because everybody seems to be afraid to deal with them. Therefore, Government should take the lead and send a clear message to the criminals of this country. I will support any message sent to the criminals of this country which says they will have to pay for the crimes they commit.

I have no difficulty in supporting this amendment but my concern relates to the case where a person is innocent but does not have the resources to prove his innocent and is found guilty. Sir, if a person is to be executed, then there must be reliable eye-witness evidence and if there is a confession, it must truly be a confession and not one signed under duress. Once all these conditions are in place, I have no difficulty in the law being carried out but we should not permit circumstances to exist where innocent persons are executed.

I thank you, Sir.
12.00 noon.

SENATOR K. D. SYMMONDS: Sir, it is a privilege to be able to contribute to this debate on a matter which is one of the most bedeviling and frustrating issues now confronting West Indian jurisprudence. Not only does it bedevil and frustrate the jurisprudential mind but it is, perhaps, true to say that this issue of the death penalty is one of the most confusing issues confronting the average citizen of the Caribbean. In this particular situation we must speak about Barbados.

Sir, the Barbadian citizen asks certain and justifiable questions. He knows that on November 30, 1966 Barbados became Independent. It is clear in his mind that he heard a former Prime Minister of this island stood up to the mighty United States, in the face of militaristic aggression, and said that the Caribbean must be respected as a zone of peace. In more recent times he has seen the current Prime Minister of Barbados stand up to the OECD, in the face of their financial greed, and defend the financial interest of all the small States on the planet.

Sir, we must ask the logical question, if we can take such bold and assertive positions in an international theatre, what makes it so difficult when the Law says that if you kill a man and you are convicted of murder, you are to be hung? What makes it so difficult to carry out the death penalty? That is the logical and understandable question that is being asked daily. In a nutshell, as the Honourable Leader of Government Business said, this debate has to be about giving purpose and meaning to the statute law of this country.

Sir, that statute law has been diluted almost beyond recognition by a series of interventions and a series of interpretations by Her Majesty's Judicial Committee sitting in England. They have not only intervened and interpreted but they have sought to revise, then re-revised and reversed themselves, time and time again, sometimes by the most slender of majorities. Sir, what used to be a situation where litigants, lawyers and judges could sit down and look with scientific certainty at what the Law pertaining to capital punishment and murder is in the region, it has now been transformed into a theatre of absolute turmoil.

Asides.

SENATOR K. D. SYMMONDS: Sir, our mission has to be, to try to give effect to the statutory law of Barbados as it stands. In so doing, I think we owe it to the Barbados public to explain some of the difficulties that we encounter along the path.

Mr. President, the point has to be made that Her Majesty's Judicial Committee of the Privy Council is essentially the United Kingdom's House of Lords. There is certain significance to that point because the House of Lords and

Her Majesty's Judicial Committee of the Privy Council are made up of the same body of judges. They sit in the Judicial Committee in an advisory capacity to Her Majesty The Queen. In the House of Lords, they don her wigs and gowns and they make final law for the United Kingdom.

Sir, that body of judges, sitting for the United Kingdom on a daily basis has to deal with the European Community's Law which has been infused into the United Kingdom because the United Kingdom has become part of the community. The European Community's Law has set a face like flint against the whole exercise of the death penalty. Therefore, when the Judicial Committee sits as our final court, the Judicial Committee sits as a court which first and foremost has developed a philosophical predisposition against capital punishment. While we in the former colonies, the independent states, who speak committedly and boldly on international issues and try to carve out our little niche while we quake and wonder what they will do next, our people have to understand that philosophical predisposition that guides the European court, guides the United Kingdom's House of Lords and, therefore, obviously, guides Her Majesty's advisors who sit on the Judicial Council of the Privy Council.

Sir, I spent sometime last night looking at the European Commission's website and I would not want to make it a document of the House as an extensive communique and I would urge Honourable Senators to familiarise themselves with it. This communication is from the Commission to the Privy Council and the European Parliament on the European Union's role in promoting human rights and democratisation in third-world countries. Sir, they made an interesting point under the rubric of activities in support of the abolition of the death penalty. I would follow it closely with your permission.

Sir, they stressed that the European Community, Article 11 of its Charter, makes a commitment to the abolition of the death penalty. It goes on to make the point that they consider it to be a fundamental requirement for countries seeking new membership to commit themselves to the abolition of the death penalty. In addition, they say that it is a high profile policy that the European Union pursues in an international human rights forum and in dialogue with all countries regardless of the nature of the European Union's relationship with those third-world countries.

Sir, the question of the abolition of the death penalty has been placed on a high pedestal in terms of priority by the European Union. We all know that we form part of a group called the African Caribbean and Pacific Countries, (ACP), which on a daily basis, in some form, have to interact with international issues and the European Union.

Sir, what was most striking about this communique is that they say that the death penalty is an area where the European Union is taking the lead and considers themselves to be responsible for taking the lead above and beyond other donor countries that are far less active. Therefore, support for the abolition of the death penalty must now be extended to include projects, intended to reduce its use. Sir, when you go into the specifics of the projects you will see that they are speaking about the areas of immigration. In recent times you would have heard the Prime Minister of England making specific reference to people from the Philippines on immigration. They also speak about environmental issues and international trade and aid.

Mr. President, once we understand the magnitude and significance of what we are dealing with, from the perspective of what I call a philosophical predisposition against capital punishment, it becomes necessary to ask ourselves an important question. Should the European Union's commitment, philosophically, to ending the death penalty, automatically become our commitment? Sir, that is really a question of our sovereignty. It is a question we have to sit down and assess carefully.

Dr. Francis Alexis in his well-noted work, "*Changing Caribbean Constitutions*", makes the point that all English speaking independent States of the Caribbean have retained the death penalty and have entrenched it in their Constitutions. The change away from that guiding philosophical commitment which has taken us since Independence to where we are now, is not one to be taken lightly.

Yet, we have on the other hand a body of judges, influenced by European law and the European communities philosophical predisposition, saying that we must reassess our situation. I think Government is sending a signal that it is not for Europe and the Europeans to determine for Barbados what the fate and future of capital punishment must be, but that is a sovereign issue to be determined by the people of Barbados.
12.10 p.m.

Sir, at the end of the day, the inescapable fact is that the unrelenting nightmare when a vicious murder takes place in the street next door, the nightmare is felt by the Barbadian family who knows the victim. It is felt, Sir, by the ladies who go to the sister of the victim because she used to do their hair. It is felt by the boys who played in the street with the son of the victim because of the fact that they went to school together.

We have to live through that reality and the Europeans do not. Therefore, Sir, it must be the Barbadian family who determines in a final analysis, after full, fine and complete consultation is conducted, what is the future of the death penalty in this country. I believe, Sir, in a nutshell that is

what the Government's position is and has been.

Sir, there is also another issue which I think we have to look at and that is the fact that there is a certain embedded hypocrisy about the angle that has been taken. These same people do not visit the threat of economic sanction, trade embargo, immigration sanction or any environmental sanction on the United States of America (USA). As has been said by Senator McClean, the USA retains the death penalty at the Federal level for military and civil offences. Sir, in at least 38 of the 50 States retain the death penalty.

Sir, the Caribbean must speak with one voice on these matters. We must be prepared to stand up and say that even if this is the route that the international arena would have us go, then we would go there only after the Caribbean people have been deeply and fully consulted on the matter.

Sir, there is another area that causes me great concern as a practitioner and that is the fact that the Judicial Committee of the Privy Council has taken upon themselves a circuitous route, to get to the point where you get around the death penalty so that a trial is taking place and at first instance in the preliminary inquiry, we are dealing with facts. Man kills a woman, whatever are the circumstances. The facts are told.

You go on to the High Court in front of a jury. The jury sits as an arbiter of the facts and a judge instructs them on how the relevant law is applied. You go to the Court of Appeal and if there is a ground for appeal, then the Court of Appeal is going to be focussing on the application of the Law to the facts. But, Sir, you get to the Privy Council and, *ex post facto*, after the fact considerations pop up, you hear that the prison cell was not sanitary and civilised. You hear that the delay was too long.

The question is asked what about the conviction on the facts. What about the fact that justice must not only be done but be seen to be done? The voiceless victim and the family of the victim are interested in how the case is disposed of, in terms of the facts, and the relevant law, not on the fact that the prison cell did not have in running water or it was too small or too dark.

Sir, I stand here in this position and I must confess I am somewhat annoyed about it because of the fact that I have been one, who from this very same position, has championed the cause of the improvement of basic amenities in the prison. I have no difficulty in saying, Sir, that while we must improve the amenities at the Prison, it cannot supercede the fact that an offence has taken place and it took place in a violation of the Laws of Barbados and that a punishment has been set down and mandated and, therefore, justice must be meted out.

The fact that I feel strongly about the conditions in the prison does not and should not be heard to supercede the fact that an offence has taken place, and justice must be done in accordance with the Law on the facts applicable to the offence. This is where I think, Sir, that with great respect, their lordships in the Judicial Committee have gone astray. I have no difficulty, Sir, because the tangential issues really do not appeal to me in that way. I have no difficulty in associating myself with these amendments which seek to bring some sense of logic, levelheadedness and balance back to the exercise of dispensing justice in matters of this nature.

Sir, I want to speak also to the question of the undue delay, because I have heard some talk about us institutionalising delay by virtue of these amendments. The case of Pratt and Morgan and the subsequent line of cases and speaking of undue delay, make it abundantly clear that we should not and should never be content to let a man convicted, languish on death row. I accept that and I embrace that argument. The case of Fisher coming out of the Bahamas again makes the point about death row conditions and I am on record in here as having championed that cause.

Sir, I want to say that just as every case must be heard and tried on its own merits, so too must every jurisdiction be tested, in accordance with the merits of the steps they have taken insofar as this institutionalised delay is concerned. I listened very carefully to Senator McClean, and he is not in his seat so I will not rant at him but the fact of the matter is, Sir, that Barbados has every reason to be proud about some of the steps we have taken within the last eight years to ensure that there is no institutionalised delay like what takes place in the USA. I heard Honourable Senators make reference in that regard and we do not have that kind of problem.

Sir, one of the first steps we took was the introduction of a system of fast tracking murder cases. The benefit in that is that murder cases were given priority in the Assizes. This is at first instance level. In fact, it was at preliminary inquiry level. It was in front of the High Court judge and jury, and also at the appellate level.

Sir, the murder cases have been bumped up the line. We know that the courts are over-clogged. We know they are over-worked. I am sure that if and when Senator Bolden comes to his feet he can attest to that, but the truth of the matter is, as a veteran practitioner at the Criminal Bar, the court system has been so manipulated, on the advice of a previous Attorney-General, and with the cooperation of the Chief Justice, which says that the murder cases have been fast-tracked and so even if you have a big civil matter that is on the list involving lots of money, a murder case comes up and goes through. That has been happening at the appellate level.

Sir, in addition to that, we have introduced a system of stenographers and stenographic machines in the court. When I was first called to the Bar that was not the case. The judge used to take a big note book and write word for word exactly what you are saying, so you could not even speak at a conversational pace. It had to be at a speed at which the judge could write down verbatim what was said. Then, you had to wait until the entire Assizes were finished, so that the book became free and can go on to a typist for the record of the trial to be made available to the lawyer in order that you could have a record of appeal.

Sir, the citizens of this country must understand what is taking place. The introduction of that technology made it possible, that within 24 hours you were in a position to have an accurate word for word, verbatim transcript of what had taken place in court. Therefore, the record of appeal was available, at three times or four times faster rate than it had been available before.

Sir, when we speak about fast-tracking systems, that is one of the ways in which we have sought to avoid the plague and blight of institutional delay. It is also true to say, Sir, that there has been an increase in the number of Assize Courts which have been operating.

Asides.

SENATOR K. D. SYMMONDS: Sir, it is important for us to recognise and to accept that we, in Barbados have not been practising a system which leads fairly to the accusation of institutional delay. I think we also have to make it abundantly clear that the Government has gone out of its way to ensure that persons accused of murder, and accused persons generally, have the benefit of – I do not want to say the rule of law because we have always had that – but the best possible practices.

Sir, we have a Legal Aid system that was exceptionally antiquated and, as you would say on the street, almost “poor hungry” in terms of the way in which it rewarded counsel at the Bar who chose to put their names on the Legal Aid list. When there was about \$500 to do a preliminary inquiry in a murder case, it could be felt and justifiably argued by many, that there would have been no attraction in that, for the average practitioner, let alone a practitioner at the very senior level, though it is true to say that most of the practitioners who are Queen’s Counsel at the Criminal Bar, have been persons blessed with a sense of social responsibility, and even if they were doing it for nothing, they still appear at the Bar to represent persons accused of murder. The monetary incentive was not there in terms of the code governing legal aid. However, the amount has been increased by this Government but you do not hear anything about that.
12.20 p.m.

It is also correct to say that the cost of representation in the United Kingdom is paid by the Government. Therefore, when a person applies *in forma pauperis* to have his appeal heard at the Judicial Committee of the Privy Council, in effect, he is saying that he has not got a cent in his pocket and he wants to save his life because they want to pop his neck down here in Barbados and to help him please. His route is paid and counsel is provided at the expense of the State but we do not hear about that.

It is also true to say that the Evidence Act of Barbados – I think it is Sections 74 to 78, I speak subject to correction on the sections – though passed in 1994 remain silent, in my view, on a fundamental issue. The Evidence Act in terms of its codification created an opportunity that when a person appears in a police station and is being interrogated that the person should have his attorney, a friend or a family member of his choosing present during the interrogation.

The reason for that is because, as Senator McClean pointed out quite accurately, persons in some capital cases are convicted purely on the confession. It has been repeatedly argued in the courts that the confessions were obtained by threat, or by the infliction of violence, or some undue force which overcomes the resistance of the man in custody and therefore he was no longer master of his own will and he puts down a confession which may not be true and even if it were true, that it was obtained by means which are improper and unconstitutional.

What the Evidence Act prescribed since 1994, but which had not been done, was that you can have the confession videotaped or recorded on audio cassette tape and that the whole process of the in-custody interrogation should be witnessed by counsel, by a friend or, by a family member.

This should significantly reduce the risk of somebody getting up and saying, look, the police beat me, the police tried to take advantage of me, I did not write this confession, it is not me, I did not do it. It is my understanding that that piece of legislation was not given effect to because of the financial cost attached to these things and that it took some time to put together. I am the happiest person in the world today since the Attorney-General of Barbados has given the commitment that there are at least three police stations in Barbados which are now equipped and there are more on the cards with immediacy and that when we hold a national consultation on crime all of these issues will be thoroughly and fully ventilated with the people of the country.

Sir, I am prepared to accept the words of the Attorney-General and I am prepared to accept that the idea whose time has long come has now in fact come and that the in-custody interrogation should no longer be an issue in terms of the way in which it is conducted. If we accept those things and can point to the clearly demarked steps taken by Government within the last eight years how the system can be improved,

then we cannot at the same time sit idly by and allow our backs to be lambasted by reckless assertions and allegations to the effect that delays are institutionalised, the system is not transparent and that people are getting unfaired in the police stations and therefore there is a high degree of risk attached to murder convictions because that is, in fact, not the case and I want to make that abundantly clear for the record. Having said that, therefore, Sir, where do we stand.

There is another issue which had been canvassed by the Judicial Committee of the Privy Council on a number of occasions...

I beg your pardon, Sir, but how many more minutes do I have?

Mr. PRESIDENT: You have three minutes, Senator.

SENATOR K. D. SYMMONDS: I may not have enough time, Sir, to develop that last point fully but I would want to say very briefly that Her Majesty's Judicial Committee of the Privy Council – and the term often confuses the average person – is separate and distinct from the Governor-General's Privy Council which exercises a local prerogative of mercy. If you get convicted and all your appeals are exhausted, you then come to the point where the Governor-General is your last stop along the route and if you say to the Governor-General, with great respect, Sir, I beg you for a chance, I am not such a bad fellow, so persons in Barbados will sit down and would hear you on a plea of clemency.

The Judicial Committee of the Privy Council has now insisted that you have a right of audience. That never used to happen before because we always understood that mercy begins where justice ends but the Judicial Committee of the Privy Council is saying "No", that you should be able to appeal and the Attorney-General has accepted that. We would now put that into the legislation.

Strictly speaking, while not appearing in person, you have a right to have your written reasons for an appeal to clemency before you and you have a right to receive the information from the Privy Council of the Governor-General as to what issues they took into consideration because it is very true that a man could sit down in a room and say: "You see that boy, I do not particularly like him, send him down the road." You should know that he applied his mind in a judicial manner and that there are certain considerations that he took into consideration and have the benefit of knowing how the Governor-General's Privy Council operated and you have a right to make your submissions to them in writing. Therefore, Sir, we have embraced what the Judicial Committee of the Privy Council has asked us to do.

I think the point has to be made clear that Barbados is not a jurisdiction which is seeking to resist the progressive steps such as they may be coming down from England but the point also has to be made that a sovereign State must be allowed to make final determination on fundamental matters of a domestic nature.

When we speak in terms of capital punishment in a small society where I know my neighbour and you know my neighbour, and you know the relationship I had with my neighbour, but my neighbour kills me, let me go to my grave knowing that justice will be done in accordance with the views of my peers who understood the relationship I had with my neighbour and not justice done in accordance with a philosophical precept somewhere in Europe which predisposes the person before they hear the facts of the situation by saying that they do not care what my neighbour did me, he is to go scotch free. That, Sir, is not in keeping with the biblical injunctions that we grew up believing in. It may be in keeping with some injunctions that the Europeans believe in.

I honestly think, Sir, that this constitutional amendment must simply be about giving effect to the statutory law of Barbados as it now stands, so I have absolutely no reservations about associating myself with the amendment.

I thank you.

SENATOR C. LeR. TROTMAN: Mr. President, I rise to suggest to you that Senator Symmonds who just sat should now go to his grave in peace knowing that the rest of us in the Senate Chamber are willing to support the Resolution before the Senate. I do not know how soon he intends to go to his grave or whether he was speaking metaphorically and therefore politically or whether he was speaking in purely physical terms but, in any case, he should rest assured that there are many of us who feel this way.
12.30 p.m.

Mr. President, I consider myself empowered by the workers in the Congress of Trade Unions and Staff Associations of Barbados (CTUSAB) and the workers in Barbados to stand and to say that I do support the instrument that is before us.

I particularly wish to say that those workers who go about their legitimate businesses and who are subjected so frequently to inhumanity and degradation, those who have to face the psychological torture which results from not knowing from what direction one expects to be abused and to be degraded, feel strongly about measures of this sort. They feel it is very important for us in this country to recognise that we have to put a marker somewhere in the sand.

Mr. President, quite naturally, we are going to be faced with a number of challenges and criticisms. I believe there are going to be several questions with which we have to deal today and throughout the foreseeable future. One of those questions is, do we, as a people, have a right to life? Is that right to life to be maintained in all circumstances?

Sir, there are persons who being very Christian and religious, believe that once a person has a right and a position in one's relationship with one's God, a person is then free forever, where that person is protected and could do as they please without there being any recall of that forgiveness which one originally had received. I do not subscribe to that kind of religion.

I am of the view that if one has been given the right to life religiously by a Creator who is kind and benevolent, then one has been given that freedom with the understanding that one is going to use it judiciously, wisely, and in the interest of upgrading oneself and maintaining that relationship with one's God. Then if one walks away from that relationship, from his embrace and from the protection which He can provide for you, similarly, Mr. President, I believe that those who are embraced by the State and who have every reason to believe they have a right to life, have that right to life only insofar as they are willing and are prepared to exercise their entitlement to life, with due respect and regard for other people who also have due regard for their right to life. When one steps away from one's entitlement to treat other persons with respect, and degrade and dehumanise others, then one must not be in the position to call upon the same country and the same laws, to protect you where you have not given due respect.

Mr. President, of course I accept the situation as described by the Leader of the Senate in his description of the neighbour who goes home and finds that a fence had been put up where there was none before, that might be something to which we have to look at differently as from a situation where we would have to look at a victim who is made to get on their knees and who is made to receive their terror in the back of their head. It seems to me these are two different levels of understanding our rights and use of our freedom.

Mr. President, I would think that when the questions before us are being examined, the answer undeniably would be: "Yes, we have a right to life. Yes, we have to understand the Privy Council", and the United Nation's Human Rights Commissions are correct in wishing to preach to the very great importance that attaches itself to human life and to the essence of the human being. There can be no reason why, as a people, we should not believe in that precept.

Sir, by the same token, we have to be able to appreciate that right which the United Nations agencies seek to confer

on the individual, does not, at the same time, confer a right on that individual to disrespect the similar right which other people have.

Therefore, to answer the second question, is the right to life maintained in all circumstances, I presume to answer that question and to say: "No". There are circumstances in which an individual who is entitled to the right to life, could surrender that entitlement by virtue of the way in which that person chooses to behave.

Mr. President, I am not referring to a crime of passion, or incidents in which persons might be overcome by the moment or by circumstance. I am referring to the individual who, by his or her behaviour, has taken such action and in such a manner as to indicate a certain kind of antisocial predatory approach and attitude towards the existence of other persons.

Mr. President, one would hear much of the inhumanity that is spoken to in Section 15(1) and about the need there is to ensure that no person shall be subjected to torture or inhuman or degrading punishment. It is quite possible that when that Law was first passed by a primarily colonial Government before Independence, it might have been passed with a certain set of concerns in mind and might have had to do with a perception of what relationships were between persons then considered to be criminal and those we might now consider.

Sir, in that regard, I would wish to say that criminals do not wear colour chains, money brackets or any signs to indicate that they come from one place or the other. We are not talking about someone who steals a loaf of bread to feed a hungry child. We are talking about a crime that is premeditated and has, at the back of it, pain and injury to someone else and, in the final analysis, how we treat such persons.

Sir, the question then is, if those persons have delays in their cases in terms of the administration of justice, does that necessarily, in itself, constitute inhumanity or degradation?

Mr. President, when one speaks of, or hears of delays within the system, is it necessarily true those delays are brought about by the State? If the delay is brought about by the State, then I believe we might have a different approach and consideration to that administration of justice than if those delays are otherwise induced.

Sir, what about delays that are brought about by the convict himself, his attorney, or the convict's non-governmental organisation supporters, all of whom might have other interests other than the interest of that convicted person? Those supporters might be interested in self-promotion and not in the final resolution of that particular case.

Therefore, though one could speak to degradation and inhumanity, is it necessarily true that in every case we speak of, that the Law, the country and the State themselves, have

brought about that delay?
12.40 p.m.

I am prepared to suggest that it is true that where the State is responsible for that delay, it constitutes a form of justice being denied.

Sir, I have a different approach from the Leader of the Senate who spoke of a fight taking place in a neighbourhood with someone who returns from overseas and finds a problem with land and attempts to right that wrong. I have a different approach to how that is addressed than I have with a situation where persons are addressing society in a manner which seems to suggest that as far as they are concerned, only they and their narrow self-interest are of any significance and importance in our society and that the bulk of society, the bulk of us men and women who go about our legitimate business day by day, that we are not to be given the same level of consideration and that for us the question of justice is not equally important.

I appreciate the arguments that would be used by agencies like Amnesty International and their various Chapters in the Caribbean and that they have concerns about whether an individual who is supposed to face the ultimate punishment is, in fact, the correct person because that can happen and one should not be cavalier about it. I believe that even though we have concerns for those situations, we cannot deny the fact that in many of the instances before us there is not that kind of difficulty which they describe.

Mr. President, I subscribe to the view that would suggest that there ought not to be mandatory death sentence as there is by the Law today for anyone who is found guilty of first degree murder. There has to be an opportunity for us to have the chance to review the circumstances and we have to be able to see whether first degree necessarily means what it says in every case.

I believe that the Government, through the Attorney-General and the officials, will need to look at that matter especially in circumstances where today we are looking at the legislation that would give empowerment to the Government to carry out the wishes of the people and apply the death penalty.

I will not get involved in the argument that seeks to say that we are pretending to be makers of individuals, that we are God when we seek to take decisions of this sort because every society has to govern itself by a body of rules and a system of governance that treats the total well-being of the person and look to the full protection of all its people.

If from time to time that body of rules and the people who administer that body of rules recognise that it may be necessary in the overall interest of all people to remove from society individuals who are no longer able to demonstrate that they are prepared to be positive contributing members of that society, then we have to find ways by which we can do so.

I believe in the first instance we should find corrective measures to help any miscreants there may be. I also believe that long-term jail sentences will have to be used for persons who have moved beyond that stage, have shown that they are confirmed criminals and even where some of those criminals become murderers, there is much to be gained from applying life imprisonment.

I do not wish to suggest to anyone that I, or the workers of Barbados, would be in favour of a regime that would compare with what took place in 1791 to 1793 when the guillotine became the order of the day instead of reason. We are concerned with reason and we recognise that the time will come when we identify individuals who do not fall into any of the brackets which we previously described and who will continue to be a threat to this society. In those circumstances, we have to remove those people from the society not because it gives anybody satisfaction, as Senator McClean says, but because we have a responsibility to ensure that "the greatest good for the greatest number" always remains the underlying motto for all of us.

Sir, as Senator Kerrie Symmonds said, Great Britain, parts of the United States of America and Europe particularly are interested in introducing their own kinds of approaches to the criminal elements within their countries. I see nothing wrong with their wanting to influence the rest of the world and suggest that what they have is better but I see everything wrong with their wanting to impose upon people, by strictures, that their system is better than any other and the only system they will tolerate. Sir, I find that as reprehensible as I find the behaviour of another leading country that wants to invade another country simply because he does not like the leader of the other country.

We cannot allow ourselves to be governed and dictated to by other people who have other interest. They may not have the death penalty but if you live in those countries, you will realise that even though they do not have the death penalty, they have systems, customs and practices that are more barbaric than this Bill, especially to people like us in this room who are not like them. Sir, we have to come to grips with the hypocrisy and address it in the manner that it has to be addressed. We have to call a spade a spade.
12.50 p.m.

Sir, I do not have any difficulty in saying that we are not Gods but we are not taking a position that is different from what it was before. We understand that there is

unpleasant work that has to be done from time to time. If we run away from work simply because it is unpleasant, or because somebody says something unpleasant about us in an article, then the system of leading and directing society will be left to miscreants and marginalised persons without a commitment towards the society which is required.

The only question left is the application of capital punishment and whether hanging still remains the best choice. The problem with hanging, as I understand it, is that it is particularly spectacular in the circumstances of Barbados. I hope that nobody misunderstands what I mean. I mean that the area where it takes place is on a hill in Barbados and people can gather around and they can see what is happening and it becomes like a holiday. This reminds me of the days in the French, United States of America and all the major great countries of high morals, that used to declare public holidays when they were going to execute people.

Sir, I believe that if there is a matter of execution of capital punishment, there must be a means by which that individual, who may not see what is happening because he may be covered by a mask, family and the public should not see that matter being reduced to becoming a spectacle. There ought to be some means by which punishment is carried out without the kind of circumstance, which they tell me that operates in our circumstances today in Barbados.

I have never seen a hanging being carried out, so I do not know the extent to which it is true. I have heard many people speak about travelling to the area around and about Station Hill to be able to enjoy the festive occasion. There cannot be any festivity or joy about this and there has to be some means of privacy. Furthermore, is hanging still the best alternative? Are there not other means by which we can, if we consider this to be proper, have that person taken out of the community, in which we all function, without going the route of hanging? Doctors will be able to tell what is the least tragic form and there ought to be another means by which we examine it.

In some jurisdictions injections or gas are used. There must be a means by which that means is examined by the powers that be and we are informed accordingly. I think that the lethal injection might be another way we can go.

Sir, though I do not govern myself by what is necessarily the popular position cited by the Chief Justice when he speaks to 80 per cent in the region demanding that we go back to this situation, I am governed by the fact that most people today live in great fear regarding where their terror is coming from, regarding what is to be done, what has been done, what can be done and what will be done in an effort to see whether we can bring some level of correction to the system.

Although I do not believe that we are going to stop crime simply because we would have brought some persons to another level of justice, I am still of the view that this is a major deterrent. There are people who do not believe that it is. Sir, in Barbados it is not even in the language. Sir, the language that is used on the streets is almost indicative of the way people feel about the society in which they live and how they must relate to one another.

Once upon a time people would not use the name of God because they felt that would be a contradiction to His orders and His commitments. Nowadays they call His name so frequently that you look around expecting Him to appear and answer them.

Asides.

SENATOR C. LeR. TROTMAN: Sir, previously, one had respect for that Station Hill area, now people do not have any respect for it. Indeed, some people look forward to going to Station Hill because they say that there is better treatment up there for some of them, than there is on the outside. Obviously, that is not something for us to be proud of.

Equally, we have to understand that it speaks to a mind-set and that mind-set is what we all have to address in our effort to make this country a place that will incrementally get better and continue to get better for all of us, so that the degradation, torture and the inhumanity that we speak about, will also be torture that we will be able to remove from our landscape and it will apply to the people who go to work. Sir, very old people and young children who have done nothing wrong but who are resting peacefully, sometimes at night or day, they also have to be protected from inhumanity, torture and degradation.

Mr. President, I have no difficulty whatsoever in supporting this particular item before the House.

SUSPENSION OF SITTING

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that this Sitting be suspended until 2.00 p.m. today.

The question that the Sitting be suspended until 2.00 p.m. today was put to the Senate and agreed to and Mr. PRESIDENT suspended the Sitting accordingly.
1.00 p.m.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, I join this debate on the amendment to the Constitution and I have to say that it baffled me for a very

long time, why the countries in the Caribbean have mostly become independent but we have failed to carry that independence to full fruition.

The amendment before the Chamber is an act of the local people, to make sure that justice is carried out in accordance with the Laws of the land, and those laws are well placed within the Constitution. I want to join with Senator Kerrie Symmonds in pointing out some of the difficulties which we are having today, based on the decisions of the Privy Council and why it is absolutely necessary that this amendment should take place at this time.

If we go back to our Criminal Law, we will find that one of the fundamental points in criminal law is that a man must be tried by his peers, that is the basis of the system. I ask the simple question, can we say the peers in the Judicial Committee of the House of Lords are the peers of the people in Barbados because peers have a particular meaning. As Senator Kerrie Symmonds has said, Barbados can be proud of its Criminal Law section. We have a Legal Aid system which started many years ago and which today caters to many crimes and many civil matters which are not catered for in a legal aided society. Anybody being tried for murder or capital punishment is always provided with legal representation by the State.

It baffles me and I think this is what has haunted the judicial authorities in the Caribbean for a long time, that you try a man on the evidence which you gather at the time of investigating the offence, and then that evidence is completely discarded, and the Judicial Committee of the Privy Council finds something else to make a determination, and that other line of thought never was presented at the trial. It makes nonsense of a trial in Barbados or in the West Indies, if the members of the Judicial Committee of the Privy Council can overlook the factual matters of the case and come to a decision by something else and that is the point.

Sir, I believe that the doings of the Judicial Committee of the Privy Council, send a very strong signal to the Caribbean that we have been too long in putting into place our own final Court of Justice. I think that is the signal they are sending to you. As long as we persist in trying to use the Judicial Committee of the Privy Council in these matters, we are going to get decisions of this nature that have completely pushed the criminal matters out of sync, as far as we are concerned.

Nearly every Commonwealth country that has become independent has set up its own final Court of Appeal and the Caribbean people, because we fail to get together, because we fail to pay for what we want, are still hanging onto this final Court of Appeal and then we must abide by the

tantrums of those who make deliverance for us, and I think this is what this is all about.

Sir, there is no consistency in any of the cases which have been dealt with by the Privy Council that one can say this is a straight line of thought and everyone who goes there, they will find some answer to say differently. The question arises from this. Over the last 20 or 30 years the legislature in the United Kingdom has seen it fit to say that buggery between consenting males is no longer a criminal offence. They have been exerting pressure on those countries that are still colonies of Britain to make homosexuality legal.

Suppose we in Barbados should convict a man of having sexual intercourse with another man over the age of 21 and he appeals to the Privy Council, we are going to find that their thoughts are conditioned to what exists in their land and we will get a similar sort of decision that we do not know what it is. I often say one of the problems a practising attorney has is to know, with some sort of certainty, what is the Law because you cannot advise a client if the Law has no certainty attached to it, and, as it stands, there is no certainty attached to a decision of capital punishment coming out of the Privy Council.

Mr. President, I think we need to bring home to those persons who are bent on breaking the Law and those who are bent on making other people's lives a horror, if we want to do something, we should adopt certain systems that are present in the United States of America (USA) now. We should allow civil claims against, not only the murderer but his immediate estate and his immediate family, because when somebody takes the life of another and removes the breadwinner, or the mother or someone in a family, it works hardship on that family. Since everybody is talking about the criminal and not about the victim, then somebody has to look at the victim.

I know the last Attorney-General was speaking about civil compensation for victims of crime but I would hope that when this step is taken that they allow civil cases to be brought in homicide cases. If you are going to say that you must not carry through the death penalty for persons convicted of murder, then you must have some other redress as well. I would not expect the two to go together. If you carry through capital punishment, the offender has been liquidated from the society. If you leave him in the society, he should be made to pay for his wrong deeds and I think that we should look to adopt this as part of our criminal code in the very near future.

I will not go through the various aspects of this matter, as has been set out by others, but I want to say that it should be carefully reviewed. We should support the Government and the Government should, in all haste, advise the other Caribbean countries that it is time we have our own Court of Justice and develop our own form of jurisprudence in these

regions.

If you look at Australia and New Zealand, you will see that we have copied Family Law from Australia. We have copied our Corporate Law from Canada. We have been copying laws from around the Commonwealth and each has their own final court. We will always run into problems if we do not create our own jurisprudence in this area. The thoughts and the mentality of the people in this area are certainly different to those in the United Kingdom and Europe. Anyone of us who went to Britain will tell you how strange we found it in a country that is supposed to be the mother country and speaking English like us.

I will stand up and say, although the other lawyers in here might not have the guts to say so, that when our Barbadian people who lived up there for more than 10 or 15 years come back, we even find them strange down here.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: They are so different to us that they do not think along our lines. I think it is but right that we look at creating our own jurisprudence in the region to deal with the things that affect us and how we see best to deal with them, and stop waiting for people outside to tell us what to do.

Sir, we keep holding on, and as Senator Kerrie Symmonds said, the EU has taken a position to attach certain conditions to our relationship with them. It is about time we speak with a strong voice and we can only do that if we create in our own environment, a situation which each and every one of us believe in, and support.

Mr. President, I thank you.
2.10 p.m.

SENATOR Dame PATRICIA SYMMONDS: Mr. President, this amendment is necessary, as has been pointed out by the Leader of the Senate, and others, in order to carry out the law of the land as it stands. It is not only a matter of law and legislative amendment, it is an attempt, I believe, by those who serve the public to give effect and expression to the will of the people and to make some attempt to counteract the approach of the Judicial Committee of the Privy Council in Britain.

This Judicial Committee of the Privy Council is too far removed from the Barbadian society to appreciate the torrent of support for capital punishment, especially in an environment of this small society where crime touches everyone and, as Senator Trotman said, creates a level of fear. It stopped old ladies from going to Church at night. It makes some people close up their houses early at night. It

makes some people even feel that they need self protection with a gun and causes people to ask the question, who is next, is it I?

Mr. President, despite the Government's best efforts, we could fail in our attempt since the Judicial Committee of the Privy Council could strike down this amendment as evident by the trend of its rulings. Senator Kerrie Symmonds and the Leader of the Senate referred to some of them, so I would not reiterate. However, I would like to say – and I am not disagreeing with the points Senator McClean made on this occasion – that this follows on a number of other initiatives on the part of Government, such as improving the terms and conditions for the policemen especially allowances and crisis insurance – this is where I would differ from the goodly Senator – improving police stations and building new ones; increasing legal penalties for gun offences as this Honourable Chamber has recently done; researching seminal causes of crimes and seeking to address these through the Ministry of Social Transformation and the Ministry of Home Affairs; reforming the penal system which again we have done recently and the ongoing poverty alleviation programme and job creation.

Part of the challenge which governments face is that increasing criminal activity has in modern societies accompany socio-economic development. We know about the influence of television. The United States of America, the United Kingdom, Europe and the rest of the Caribbean are all experiencing increased crime levels.

I know that the Leader of the Senate has mentioned before that crime is now viewed as one of the major health challenges facing the Caribbean. International organizations now speak about the epidemic of crime and the implication of it for overburdening our health system by young persons who are injured in street battles with guns, knives and machetes or from being badly beaten.

There are serious implications as well for – Senator Trotman, if you would forgive me for being so bold – the labour market, especially with the background of other health problems affecting this sector such as HIV/AIDS, diabetes, hypertension, heart condition and our aging population.

Although it has been said by some that hanging is not a deterrent, it has not been proven that it is not a deterrent. I believe that it may well be a deterrent in some instances. Here in Barbados people have been known to say that I would kill so and so if it were not that I would be hanged for it. That is a prevailing attitude and from that point of view I think that hanging or some other form of capital punishment may well be a deterrent.

I wish now to refer to Section 8. This new section gives an accused person for the first time the right to submit written representation to the local Privy Council. I have to

say, however, from experience that all related information has always been considered very carefully by the local Privy Council. At the same time it is significant because it does allow an even greater access to mercy, to clemency and to give better effect to the notion of justice.

Therefore, with these few words I unreservedly support this amendment.

Thank you, Mr. President.

SENATOR D. D. MARSHALL: Honourable Senators, I too speak in support of this amendment to the Constitution. I must first say that I am an unapologetic supporter of the death penalty. I suppose someone may argue that it defies reason because I have to concede that there is an element of finality to a death penalty that is not capable of being corrected.

Anyone who followed some of the events in the United States of America Press, and even recent events in Barbados, will know that our legal system is not infallible. There have been occasions in Barbados where people have been convicted of hideous crimes and have only recently had their names cleared. It frightens me that such an individual would be subject to the death penalty, so there is tremendous logic to be found in the comments of those people who do not support the death penalty. Perhaps, it is my own conditioning, perhaps, it has to do with my own being in a sense that the savagery that confronts us on a day to day basis or, perhaps, it is a measure of my own desperation at trying to find solutions for some of the ills that plague our society particularly as they relate to the liquidation which my learned friend refers to, which has essentially to do with doing away with a person's life.
2.20 p.m.

Mr. President, while I do have some reservations, my fundamental position is that I do support it, though I think our approach to the Privy Council is one which seems to me to be somewhat hypocritical. I wish to remind those Honourable Senators and members of the public who are not aware, that when the Judicial Committee of the Privy Council sits on an appeal from Barbados, it does so as a Barbadian court. Not only that, we have had at least one eminent Barbadian jurist who has sat on the Judicial Committee of the Privy Council. Furthermore, we have used, as a fundamental part of our West Indian jurisprudence, many decisions of the Privy Council.

Therefore, on the one hand, it seems that we are willing to accept all that the Privy Council offers when it is in our favour but, at the same time, our wrath is provoked when the Privy Council gives decisions that run counter to

public sentiments. Sir, I have a problem with that. Law and justice cannot be determined purely by public sentiments because the time may well come when public sentiments in Barbados or in England might shift entirely, then we would end up with the awkward situation of moving away from the fundamental principles, simply because it does not meet prevailing opinions.

Sir, this might well be the reason behind the Privy Council's castigation of the death penalty because that is no longer the prevailing attitude in the United Kingdom. I think the fundamental point has to be that as long as we continue to rely on the Judicial Committee of the Privy Council, as they say, we have to take the good with the bad. Therefore, we must stop criticising the Judicial Committee of the Privy Council which our law recognises and go to the very root of the problem since when the Judicial Committee of the Privy Council sits on appeals in Barbados, it does so as a Barbadian court.

Sir, at this point I would like to associate myself with the remarks that were made by those Honourable Members who recognised, quite readily, the need to establish a final Court of Appeal, which would understand and recognise the mores that exist among Caribbean people.

Sir, there is a school of jurisprudence called a school of American realism, which essentially says that judicial decisions are based on the social mores and conditioning of the individuals who give those decisions. I remember one of my law lecturers saying that if a man had a particular row with his wife one morning and came to court on a family law matter, one could have hardly expected him to rule in favour of the female sex. Therefore, whether that is true or not, the school of American realism recognises that people give decisions based on their conditioning, their mores and social values. Therefore, as long as we continue to rely on people whose conditioning, values and socialisation are different from ours, we have to accept the nature of the decisions that are given by those persons and recognise that those decisions might be at variance with those things that we hold dear.

Sir, the death penalty is just one example of a situation in which we have found ourselves to be at variance with the decisions and with the attitudes of the Privy Council. I remember the English definition on the question of provocation was a very snobbish and sophisticated attitude, where many of us were heard to be saying that if someone speaks disparagingly of a Bajan's mother, then one would expect to receive the worse from him. In the English common law, words could not constitute provocation but because of our special social values, a remark like that could have easily provoked a West Indian man. Another example would be if one makes an adverse comment about one's sexuality, that could easily have provoked some degree of violence.

Mr. President, the fundamental point has to be that we must stop criticising the Privy Council for giving decisions which they think are right. We have vested them with this power and it is only now that we have found those decisions to be at variance with those things of which we are critical. We have always recognised the West Indian way of life is very different and that, somehow, we were weak in our approaches to the development of law because we seemed to have thought it did not rest within our breast to establish and to develop these principles.

Sir, I am happy to say that the time has now come when we are so confident of our jurisprudential basis and of the quality of the people in the legal and judicial professions, that this BLP Administration is well on the road to work towards the establishment of a final Court of Appeal for Barbados and for the other islands of the Caribbean.

It takes a tremendous amount of courage to make this step because, in many aspects of Caribbean life, we often doubt our ability to excel. We seem to doubt our ability sometimes to govern. Therefore, it is a courageous step that we are taking but it is one that while it offers no guarantees, every right-thinking West Indian would feel more comfortable with.

Sir, if, at the end of the day we are given the responsibility to govern, we must, as an absolute necessity, be given the responsibility to make laws. Therefore, it follows that we must have the capacity to carry out those laws in accordance with the spirit in which these laws were made. Our Laws presently recognise that the only penalty which would be a salve to the pain which the community is experiencing where a person commits the heinous offence of murder, would be that of death. We have to put ourselves in a position in which we are able to satisfy that demand of the society.

This amendment to the Constitution takes us somewhere in that direction, but the more fundamental change would come when we establish for one and for all, that the Privy Council would no longer be relied upon to rule on decisions from Barbadian courts, whether of a criminal or a civil nature. I think the sooner this arrives, the sooner we would find ourselves as truly independent people who are able to soar, as we have, at other points in our history.

SENATOR THE HON. G. S. H. MURRAY: Sir, it gives me a great deal of satisfaction to make my intervention in what I consider to be one of the most important debates we have had in the Senate for a very long time.

Sir, at the same time, I would like to commend all previous Speakers for the very high level of debate that has prevailed so far. I think it reflects the seriousness to which

they have approached this very important issue and, therefore, it is a tribute to their sense of social responsibilities.

Sir, given the importance of this debate, when I said I commended all previous Speakers for their high level of contribution, I had included the lone representative for the Opposition in this regard. I think he spoke at an exceedingly high level. It was one with which we could find no fault. Sir, the level of his contribution only underscored the absence of his colleague.

Sir, given the heavy weather the DLP has made on the question of crime and violence, how they have sought to deride the Government's handling of crime, how they have tried to decry persons in the administration of justice for refusing to hang persons, *et cetera*, I would have expected a full debate to reflect its real importance. I would have loved to have heard how the new President would have addressed this issue but it is something which I hope that he makes up for on another occasion. I hope that an explanation would be soon forthcoming, otherwise I think the country is going to ask for an apology, or for an explanation why the Opposition has not performed its role in the manner that was expected in a debate that was so long in forthcoming. Sir, that is the only defect which I have seen so far in this debate.

Sir, I want to commend Government and the Attorney-General for the steps they have taken in seeking to express, in a very concrete manner, the widest possible sentiments of this society at large, with the issue of the death penalty. 2.30 p.m.

Sir, Government's first responsibility is not to provide education or health services but to protect its citizens and territory. This is the most fundamental responsibility of any Government and this step is in recognition of the Government of Barbados seeking to protect its citizens and help the society protect itself from criminals who seek to destroy this land.

Sir, this measure seeks to put beyond the shadow of a doubt Government's seriousness of reflecting the views and wishes of society where the question of the death penalty is concerned, where persons are tried in a court of law, before a jury, in full public view, where all manner of appeals have been exhausted and they are found guilty. Sir, we think the society has a right to protect itself in this regard.

I am not a lawyer but the Law talks about penalties and not deterrent and the death penalty, in my mind, is a penalty for a crime. The deterrent is a philosophical issue that others may want to take up but the Law says that you should be punished if found guilty of an offence. In this case, if you are found guilty, the death penalty applies. This amendment seeks to bring that into being and to enforce the Law as it

exists on the statute book.

Mr. President, I join my colleagues in giving this measure my fullest support and in so doing I want to reflect on the climate of fear that is supposed to be prevailing Barbados. Sir, people are concerned and justifiably fearful, but I do not see from my frequent travel throughout Barbados people cowering in fear. People are cautious, as they should be in this modern age and are aware of the pitfalls and what is happening in society but when you consider that we have just finished Crop-Over where there were 33 events over nine weeks, all well patronised with little or no incidence, I simply ask, where is this climate of fear?

Sir, if there was a climate of fear, Crop-Over would be the prime occasion when people would not venture into public gatherings where they would have no control of the environment so it might be an unwitting exaggeration to speak of a climate of fear. Sir, I share the concern about what is happening in society and I appreciate this step of Government in a whole arsenal of retaliatory measures to seek to put the society back on track.

Sir, it gives me great pleasure to support this issue.

SENATOR Mrs. V. E. NEWTON: Mr. President, I rise to add my voice to those who have spoken in support of this Bill this afternoon. I want to say that the present Attorney-General of Barbados is an extremely courageous person to bring this piece of legislation because Barbados is the first of the countries in the Commonwealth Caribbean which has been disturbed by the state of uncertainty into which the Privy Council has thrown our jurisprudence in relation to the execution of the death penalty.

I know that many Caribbean countries have grappled with the problems caused by Pratt and Morgan but few have thought of ways to deal with it and of those who have found a problem, this solution is the most effective.

Mr. President, the death penalty is going to be a deterrent to crime but I hope that Barbadians will not sit back, become complacent and think there is going to be a reduction in crime because the Constitution has been amended. As Senator McClean said earlier, crimes to which the death penalty attaches are not necessarily premeditated crimes.

The Attorney-General said that this amendment to the Constitution will be followed by legislation which looks at capital and non-capital offences as the Government of Jamaica and other countries have done to ensure that persons who do not premeditate the taking of a life are not sent to the gallows or electric chair.

I agree with Senator Trotman that if we are going to use the death penalty, we must think of more humane ways of using it than was done in the past with the gallows. I will not repeat the alternatives available to us as the Senator has already dealt with them.

2.40 p.m.

Sir, Section 15 of the Constitution seeks to counter the effects of Pratt & Morgan. Mr. President, a problem which I have with that section is, the amendment says:

“any of the following shall not be held to be inconsistent with or in contravention of this section” and Section (b) speaks about any delay.

I am worried about that because those who are familiar with the problems that come before the courts are aware that some of the delays in bringing a matter to conclusion are caused by the desire of some attorneys to ensure that their clients are not sent to the gallows.

In some cases the delays are also caused by the judicial system and the time it takes for a convicted person to exhaust all of their appeals that are available to the Inter-American Commission of Human Rights and the local appeals process.

In spite of reforms being put in place and being contemplated, it is doubtful any of these processes will be completed under five years, as the Privy Council contemplated in the case of Pratt and Morgan. I think that it should be possible for the court to look at some of the reasons for the delays. Where it is clear on the part of either side that the delays are intentional, then some consideration should be given.

Mr. President, I am uncomfortable with the delay provision in that subsection. I think it is wide but, at the same time, I am hoping that the courts, when they are dealing with cases of delay, will use the discretion that is available to the judiciary in such cases.

Sir, many Honourable Senators spoke to the amendment to Section 78. This is an example of the Government of Barbados seeking to put into effect one of the Privy Council's rules. I am saying this because one of Senator Marshall's comments was that we should not blow hot and cold in relation to the Privy Council, but we should take its decisions or leave them.

In the amendment of Section 78, the Barbados Government is taking the decision and is implementing the decision of a case in Jamaica. The case of Lewis vs the Attorney-General, 2002, which recommended that the Governor-General's Mercy Committee ought to let a convicted person know when it was going to hear his appeal

and should give him the opportunity to put his case in the form of written submission, this is one case where we are accepting a Privy Council's decision. Whereas the amendment to Section 15 is one, in which we are going against it in the case of Pratt & Morgan.

Sir, Section 78, to my knowledge, is necessary because local council interpreted the decision, Lewis vs the Attorney-General, that a convicted person ought to be able to make submissions to the Privy Council. They also interpreted it widely to say that the convicted person should be able to come before the Privy Council. It was necessary to reinforce that this is not the decision in the case of Lewis vs the Attorney-General and it was not a decision that would be in the best interest of those who are hearing the appeal or the convicted person, because much of the material that would be coming to the Privy Council would have already been heard by the Court of Appeal and other bodies.

Therefore, if this amendment was not made, we could see appeals going on for many years and which would be counter to what we are trying to achieve by amending Section 15, so the two amendments have to go together.

Mr. President, I support a Caribbean Court of Appeal although I know that there are a lot of difficulties being encountered. I do not think that at this stage it is a case of Caribbean people or politicians not trusting each other or not wanting to have their own final Court of Appeal. I think that it is a question of finance. I know that the Caribbean Development Bank is assisting the Governments in finding ways of having the Court established as soon as possible.

These amendments to our Constitution would still be necessary because the Caribbean Court of Appeal will be replacing the Judicial Privy Council. One cannot tell how courts will go about their business. If the Government is going to give effect to the popular will and to take into account the problems caused by the Privy Council's decisions, these amendments should be put in place.

Mr. President, I support the amendments.

SENATOR THE HON. J. X. WALCOTT: Mr. President, I want to thank all Honourable Senators who have spoken in this debate and the high level of their presentations.

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

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. J. X. WALCOTT the Senate resolved itself into Committee on the Bill, HIS HONOUR SENATOR C. L. BOLDEN in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

Clauses 1 to 5 inclusive, were called and passed.

On the motion of SENATOR THE HON. J. X. WALCOTT, Mr. CHAIRMAN reported to HIS HONOUR the PRESIDENT, the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

SENATOR THE HON. J. X. WALCOTT: Mr. President, this Bill seeks to alter the Constitution of Barbados, Sections 15, 23 and 78 and in order to change these Sections, the Constitution provides under Section 49 that this will not be possible unless the final voting in both Houses is supported by votes of no less than two-thirds of all Members of both Houses. This means that the votes of at least 14 Honourable Members from the Senate are required to bring this Bill into law.

I will, therefore, on final voting, be requesting a division by which Senators will be called by names to state his or her vote.

I now move that this Bill be now read a third time.

The question was put to the Senate and agreed to as follows:

Ayes: SENATOR THE HON. J. X. WALCOTT, SENATOR G. S. H. MURRAY, SENATOR T. E. BARKER, SENATOR P. C. GODDARD, SENATOR Dame PATRICIA SYMMONDS, SENATOR Miss J. C. ODLE, SENATOR J. E. D. WILLIAMS, SENATOR D. D. MARSHALL, SENATOR D. L. HAYNES, SENATOR K. D. SYMMONDS, SENATOR LeR. H. McCLEAN, SENATOR Sir JOHN STANLEY GODDARD, SENATOR Mrs. V. E. NEWTON, SENATOR Rev. L. W. B. ROCK, SENATOR C. K. LAURIE, SENATOR C. LeR. TROTMAN, HIS HONOUR SENATOR C. L. BOLDEN – 17.

Noes: (Nil)

On the separate motions of SENATOR THE HON. J. X. WALCOTT, the Bill was read a third time and passed and cited as the Constitution (Amendment) (No. 2) Act, 2002.

ORDER NO. 6 – SECOND READING OF THE
CONSTITUTION (AMENDMENT) (NO. 2)
BILL, 2002

SENATOR THE HON. J. X. WALCOTT: Mr. President, we are all aware that the Fourth Report of the

Electoral and Boundaries Commission was debated and approved by this Honourable House on June 5, 2002. Sir, I would like to give a brief outline of that Report.

Sir, the Commission in its review of the number of constituencies at that time found that out of the 28 constituencies, only 14 were within the required range. Among other recommendations the Commission suggested that the rules set out in the *Third Schedule* that the Constitution of Barbados be amended to include a provision that the electorate in any constituency shall so far, as practicable, not exceed 115 per cent, nor be less than 85 per cent of the total electorate divided by the number of the total electorate, divided by the number of constituencies.

In addition, they also recommended that Barbados be divided into 30 constituencies by the creation of two new constituencies to be named St. James Central and St. Philip West.

Sir, at the time of that debate it was indicated that a Bill will be needed to amend the Constitution to provide for the changes in the allocation of voters, that is, the 115 per cent and the 85 per cent. The purpose of this Bill is to provide that amendment to the Constitution.

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

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. J. X. WALCOTT the Senate resolved itself into Committee on the Bill, HIS HONOUR SENATOR C. L. BOLDEN in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is now in Committee.

Clauses 1 to 2 were called and passed.

On the motion of SENATOR THE HON. J. X. WALCOTT, Mr. CHAIRMAN reported to His Honour the PRESIDENT the passing of one Bill in Committee. Mr. PRESIDENT resumed the Chair and reported accordingly.

SENATOR THE HON. J. X. WALCOTT: Mr. President, I must state that this Bill also requires a two-third of the Senators to support it as it involves the changing of the Constitution.

I beg that the Bill be read a third time.

The question was put to the Senate and the Senate dividing as follows:

Ayes: SENATOR THE HON. J. X. WALCOTT, SENATOR G. S. H. MURRAY, SENATOR T. E. BARKER, SENATOR P. C. GODDARD, SENATOR Dame PATRICIA SYMMONDS, SENATOR Miss J. C. ODLE, SENATOR J. E. D. WILLIAMS, SENATOR D. D. MARSHALL, SENATOR D. L. HAYNES, SENATOR K. D. SYMMONDS, SENATOR Sir JOHN STANLEY GODDARD, SENATOR Mrs. V. E. NEWTON, SENATOR C. LeR. TROTMAN, HIS HONOUR SENATOR C. L. BOLDEN – 14.

Noes: SENATOR B. R. COLLYMORE

Abstentions: SENATOR LeR. H. McCLEAN, SENATOR C. K. LAURIE

On the separate motions of SENATOR THE HON. J. X. WALCOTT, the Bill was read a third time and passed and cited as the Constitution (Amendment) (No.2) Act, 2002.

ORDER NO. 4 – TREASURY BILL AND TAX
CERTIFICATES (AMENDMENT)
BILL, 2002

SENATOR THE HON. J. X. WALCOTT: Mr. President, the approval of the Senate is being sought to amend certain sections of the Treasury Bill and Tax Certificates Act, Cap. 106, which provides for the raising of funds through the issue of treasury bills, tax refunds and tax certificates.
3.00 p.m.

The registers for Government's securities were originally managed and maintained by the Accountant-General. During the 1970s, the Central Bank of Barbados took over the registers for debentures, treasury notes, saving bonds, tax refunds and tax reserves certificates. However, to this day, the Accountant-General continues to manage the Treasury Bills Register.

In keeping with the current trends in information technology and in order to maximize Government's output, the Government of Barbados has recognized the need to transform some of its business into e-business. It was recommended that the procedures now used by the Treasury Department for the option, issue, redemption, trading and processing of treasury bills and treasury notes should be done electronically. To this end, the Barbados Central Securities Depository Incorporated (BCSDI) an agency managed by the Securities Exchange of Barbados would be

used to process treasury bills electronically.

In the circumstances, it has become necessary to amend various sections of the Treasury Bill and Tax Certificates Act. These include the repealing and replacement of sections, 4, 5, 7, 8, 10, 12, 14 and 15 of this Act. In the case of Section 4, under this amendment provision is made for the separation of the processes for tax certificates and Treasury bills in relation to the Consolidated Fund. Section 5 is to be amended to specify treasury bills that are issued. The amendment to Section 7 makes provisions for the acceptance of electronically affixed signatures.

The amendment to Section 8 will empower the relevant Minister to choose the institution he deems best to keep the register. The amendment under Section 10 provides for the encashment of treasury bills or tax certificates by the use of electronic transfer.

The amendment under Section 12 provides for the cancellation of treasury bills or tax certificates by electronic means.

The amendment at Section 14 increases the Auditor-General's scope to audit all transactions relating to the issue and redemption of treasury bills and tax certificates.

The amendment at Section 15 changes the penalty for altering or forging treasury bills or tax or any other certificates from imprisonment for life to a fine of \$50 000 and/or imprisonment for 14 years. Sir, these amendments are very important and necessary at this point in time because of the Government's thrust toward e-business, as I mentioned earlier.

With those remarks I beg to move that this Bill be now read a second time.

Mr. PRESIDENT: I am advised that this Bill has not been certified as a Money Bill which, in fact, it should have been. Accordingly, I am going to defer further discussion on this Bill until later in the Sitting. I now ask the Clerk to move to the next Head on the Order Paper.

ORDER NO. 3 – RESOLUTION TO TAKE NOTE OF
THE REPORT ON THE COMMITTEE ESTAB-
LISHED TO ADVISE ON A POLICY
FRAMEWORK FOR A NEW PUBLIC
SERVICE ACT

SENATOR THE HON. G. S. H. MURRAY: Mr. President, this Resolution deals with an issue which is fundamental to the core of the Barbados society because a public service is one of those social institutions which are absolutely necessary to the proper functioning of a society.

Therefore, the importance of a public service especially a good, efficient and productive public service should never be underestimated or minimized.

Unfortunately, very often people take these kinds of institutions for granted. In Barbados for several generations it has been a tradition of ours to have a good, efficient and highly productive public service because without such Barbados and Barbadians could not have enjoyed the kind of growth, development, expansion and success that we have all enjoyed for successive generations and so our society could not be as well ordered, efficient or as effective as it is today even in spite of its shortcomings and its deficiencies.

The importance of a public service is underscored by the fact that there are many societies, even some closer at home, for example, in the unfortunate case of Haiti, whose development has been severely hampered by the absence of a well functioning and properly structured public service. It is felt by those who observed the scene in Haiti that one of the impediments of Haiti's development has been the lack of a public service as we know it in the same way that we have a public service in Barbados and in the rest of the Caribbean.

In more recent times after what has gone on in Afghanistan, one of the first acts of the persons who assisted in the military effort in Afghanistan had been to put in place a public administration because a public service impacts on every life of the society and has to be integral to the delivery of the various services provided by Government as well as the goods largely provided by the private sector.

Sir, it is in that context then that we have to see the public service in Barbados. Like I said, we have been blessed over the years with a good public service which when all is said and done, has been a tremendous credit to Barbadians. Therefore, I hope that the ensuing debate would see this Bill as providing opportunities for persons to use their ideas and imaginations to give ideas as to how the public service could be further enhanced, developed, improved and made more efficient, effective and responsive to the public and not be seen or treated largely as another opportunity to bash the public service in general for the few or the lesser number of incidents that persons would have had which are not up to keeping with our usual standards but which therefore does not reflect on the total society.

3.10 p.m.

Mr. President, I made that point in the same way that I would not condemn the private sector because of incidents that I have experienced, where service and the delivery of goods or service, have been less than desirable. Though this has happened, I would not condemn the whole private sector of being unworthy of further consideration or as a blot on the society of Barbados.

Sir, sometimes the public sector deserves to be severely criticised but, at the same time, persons sometimes seem to forget there are also incidents of bad and poor service being rendered by the private sector.

Sir, only as recently as last week, I had the occasion to call a bank to get a matter sorted out. I had identified myself. The lady on the other end was chewing gum at the same time and answering in a most unprofessional manner, to which I had to draw her attention.

Sir, in the Caribbean we are dealing with attitudes, which are commonplace in a society, and are not the sole province of the public sector.

Sir, this Public Service Act should be seen as another effort on the part of Government. This Government, as has preceding Governments, has sought to take steps to improving the public sector in Barbados. Succeeding Governments have made the question of reforming the public service as a matter of policy. Some to a larger extent than others but they have always contributed to the amendment or taken steps to what they consider would help to improve and to reform the public sector.

Sir, historically there are some persons who would argue that the amalgamation of the local government into a central government, or the integration of departments of Ministries was an act of public sector reform, where the creation of special project units or the birth of statutory boards are seen as some of the major milestones in this continuum. One cannot achieve full public sector reform in one swoop or even a series of swoops. Public Sector Reform has to be an ongoing process where the society is dynamic and changing.

Sir, there is no doubt that post-independence, there have been serious steps taken to reform the public service in Barbados. Sir, since 1994 when this Government came into office, it has been focussing, with some measure of intensity, on improving the public service both in terms of the conditions attached to jobs as well as seeking to improve the efficiency and the effectiveness of the organisational systems involved.

Sir, the measures taken to improve the public service are numerous but, for the record, I will name a few. They have gone from the very revolutionary step of converting over 4 000 casual workers into public workers with effect from December 1, 1998, thus giving them the same security of tenure and improved conditions as had been the right of public officers, which has redound to the benefit of those workers and their families.

Sir, this policy of converting and giving security of tenure not only applies to the general public service but also

to the statutory boards of Government. We have made this a policy where some workers have responded with a greater alacrity than others, but I would say that over a period of time, as a result of the Government's intervention, there has been a steady and very commendable effort. All the parts of the statutory boards have been formalised. I suspect there might be a few pockets of deficient persons in this area, therefore, our efforts would be ongoing. We would seek to clean the slate so that all workers, whether in the main public service or in statutory boards under Government's wing, do enjoy the same security of tenure and sense of belonging.

Sir, in addition, Government has also made a concerted effort by establishing a number of posts so that temporary workers could be appointed to those posts. Over 1 000 temporary posts have been established to allow those persons to become appointed. We have given an increase in staff to a whole range of workers, including the Post Office, Her Majesty's Prisons, the nurses, Customs Department, the Immigration Department, and other private sectors of the public service. In addition, Government has moved to protect the wages of public workers by amending the Constitution to prevent any further cuts in wages. Government has also amended legislation to make it possible that persons temporarily acting in other posts for at least 10 years would have received pensions, *et cetera*. We have undertaken a very comprehensive job evaluation exercise in seeking to bring a more scientific approach to the question of the evaluation of jobs and giving them personal values. Under this system, jobs are being accessed by using methodology that breaks jobs down in a number of parts and that certain weight and value is given to each part based on, for example, responsibility, skill, effort and working conditions. This process begun on November 1, 2001, and is expected to last for at least 18 months.

We have also embarked on performance management where we are seeking to develop a new performance and evaluation system that have a greater impact on the function of the public service, where one's job performance is being evaluated while using a number of processes and stages between the worker and management. That was identified and each person would have recourse of an evaluation from point to point.

This seeks to replace the aged-old and what was considered to be the highly inefficient annual exercise where persons are judged on the basis of performance at a period of time rather than over a period of time. This would help them to develop the organisation, using their skills and capacity to achieve agreed upon goals in the public service. One of the hallmarks of this system would be the periodic reviews during the year where persons could be guided, assisted and given the chance to correct any deficiencies in their performance rather than being evaluated at the end of the day on one's assessment at that time.

Sir, we have given flexibility allowances to persons who, for several years, have pleaded for it because of the nature of their jobs, to which they are required to work without any additional compensation. This has gone to nurses, police, prison officers, *et cetera*.

Sir, Government has been assiduously working to improve the conditions and emoluments of persons as part of a public sector reform. The Public Sector Reform effort comes out of a department which was set up in 1997, to facilitate the development and coordination of the Public Sector Reform programme.

The current strategy of the office is working with Government departments in modern management to develop strategic plans, conduct organisational reviews, assist agencies of Government with a customer charter programme, review and upgrade systems, establish internal reform committees, which are compiled of employees of these departments who consider the operations of these departments and who conclude with some basis how these areas could be improved, and the roles these persons could play in improving the efficiency and the effectiveness of the office.

3.20 p.m.

One of the issues now being confronted is the question of elimination of the much maligned red tape. Red tape refers to those measures which are felt to impede, create stumbling blocks for job creation and investment and diminishes a society's competitiveness by adding restrictions to the bureaucratic process.

Sir, every society must have a bureaucracy that orders things. People normally criticise the efficiency of a bureaucracy without seeing the benefits and because people talk about bureaucracy it does not mean there is nothing good about it. There is the recognition that certain things slow down the workers of Government in the delivery of goods and services to the public and there is a move to eliminate as many of these things as possible without doing damage to the integrity of the system and without abolishing all the rules necessary for the proper regulation of the society.

Sir, in that context, Government has been moving to deal with not only the Public Sector Reform, as outlined, but there is also a recognition that if Barbados is to respond to the demands of a highly competitive world, there are some elements in the public service which can prevent it from achieving these objectives.

In that context it was acknowledged that the major legislation governing the operation of the public service was limited in scope, that the rules and regulations under which the bureaucracy functioned had not been changed in any

significant manner for many years, that a serious examination of all the legislation and administrative procedures should be undertaken and that the current revolution in information technology would provide Government with an opportunity to do business differently, more effectively and in a more modern manner.

Sir, it was also felt that the sheer volume of the documents that contained the rules and regulations governing the public service was overwhelming, that there was a need to eliminate many aspects of what was considered to be an antiquated, irrelevant system and it was decided to formulate a New Public Service Act.

In that regard, a Committee was established by Government on April 8, 1999 and the mandate from Government recommended a policy framework within which legislation that impacts on the administration of the public sector would be consolidated and revised resulting in greater efficiency and effectiveness in the management of the public service.

In seeking to carry out this mandate, Cabinet said that this Committee would have to examine the following pieces of legislation which govern the operations of the public service in general:

The Service Commission Public Service Regulations, 1978.

The Service Commission Police Service Regulation 1978.

The General Orders.

The Civil Establishment Qualification Orders.

The Committee agreed that any Public Service Act forthcoming should cover the public service for another 20 years and should be one in which public servants can be recruited and promoted on the basis of professionalism, that meritocracy would emerge, that promotion would not only be on the basis of seniority, that we would have a well managed, trained, educated, highly motivated public service that would allow it to respond quickly and effectively to the requirements of Government and the public being served.

They also determined that the Committee would look at other issues such as secondment of public officers and the issue of creation and appointment to temporary posts.

This Committee was set up in April 1999 under the Chairmanship of the Head of the Civil Service and had a wide term of reference. The Committee focussed on issues such as:

- The accountability of public officers.
- The establishment of a code of ethics to guide public officers on standards of behaviour.
- The functions of Commissions established for the management of the public service.
- The mechanisms for handling grievances.
- Appointments, promotion and discipline in the public service.
- The establishment of Permanent Secretaries.
- The management of training in the public service.
- The establishment for a frame work for staff relations in the public service.
- The whole question of misconduct in the public service.
- The condition of service of public sector personnel.
- The structure of the public service.
- Safety in the public service.

The Committee produced a report which deals with a number of issues and raised a number of concerns about the present legislation, rules and regulations managing the public service.

Some of these concerns also dealt with the disciplinary procedures governing the public service.

It was felt by the Committee that these proceedings were cumbersome and unwieldy and that they led to the virtual crippling of the system from time to time and severe delays in the question of imposing and administering discipline across the public service.

It was felt that offences were not clearly defined and managers were reluctant for these reasons to take action in cases where there were perceived infringements.

Sir, there were also concerns about training. It was felt that training was haphazard and not related to overall policy needs, and that the Training Act and other legislation did not link concisely enough to the whole question of human resource management in the public service.

It was observed that many of the structures in the public service were based on the old system of management, exerted control over workers where workers were not

allowed to make input into the management of the organisation and, therefore, could not contribute to a creation of a dynamic environment in which they could work.

There was concern about accountability and that there was no legal framework to allow Government's operations to make use of and benefit from the revolution of information technology.

Sir, the Committee made a number of recommendations and suggestions. On the question of discipline and grievance handling it was felt that the system, as presently constituted, does not allow for speed in dealing with disciplines and did not ensure fairness and equity in protection of the rights of the public officers. There needed to be balance between speed of disciplinary matters as well as being fair and equitable to those concerned. This was done in the context. 3.30 p.m.

Sir, this was done in the public service and this is one of the things of which people have been heavily critical of the public service because it can take several years for serious disciplinary measures and other matters to be resolved.

As a result, it was felt that the human resource function of management, in which discipline is a critical part, was not functioning as effectively as it should. It was not well managed, and even top public sector managers were not really sufficiently versed in procedures. They did not understand the rules and regulations. It is a specialty art and probably there are very few specialists in it who understand it very well.

I am sure that Senator Collymore will be one of those persons who is very familiar with the myriad of rules and regulations and the interpretation and application of them, in a fair and equitable manner. Therefore, there was a need to ensure that the principles of natural justice were not trampled upon, in the search to bring quick resolution to grievances and resolution of charges.

Sir, the Committee, among other things looked at the whole question of a code of conduct and a code of discipline. The Committee sees a code of conduct is something which would seek to circumscribe the behaviour of what would be deemed acceptable and unacceptable behaviour in the public service.

It would cover such areas of punctuality, absence from duty, employment activities, gifts and bribes, the handling of records, information and documents, engagement in political activity, strikes, criminal conviction, sexual harassment, use of informational technology and the Internet, adherence to legislation and things of that nature.

The code would make it clear, Sir, what behaviours are expected of public officers and also spell out what breaches would lead to disciplinary action. As a result, managers and employees, according to this recommendation, will not have any doubts in their minds what measures will be infringed, what would be the penalty of infringement and also what would be the acceptable standards of behaviour for all concerned.

The code of discipline, Sir, goes along as a corollary to the code of conduct and will seek to guide the disciplinary process for the identification of an infringement to the ultimate dispensation of justice. The code of discipline will seek speedy and transparent resolutions to the disciplinary process, while protecting the rights of others. It spells out all the areas that they will deal with, for example, absence from duty for good cause, criminal conviction, *et cetera* and categorise offences as minor or major, and also deal with the penalties that would be imposed, if found guilty.

The Committee made a number of recommendations for grievance handling. It pointed out that grievance was traditionally handled by convention in earlier days but since the 1980s there was an agreement between Government and the unions. There were a number of steps by which grievances were to be handling over a period of time. There were four steps outlined in handling the grievance procedure. This procedure has worked, even though it has not been absolutely perfect, but it was felt that there would need to be an improvement in the framework put in place. This was one of the other issues raised by the Committee.

Sir, the Committee also looked at the question of training. As I pointed out earlier, there was a strict enough connection between the training undertaken in the public sector and the strategic planning within that sector. Sir, far too often, public officers pursue their own training, for their own personal development, rather than acquire the skills required by the organisation to which they were attached.

Sir, as you know, training is an integral part and a very central part to the advancement of any institution, whether it is in the public sector or the private sector, in order to keep employees up to date with developments in particular areas, and also to ensure the improvement in the productivity of the organisation and improvement in the efficiency of the work rendered by that institution.

Over the past four years, our records show that more than 1 500 public officers have been granted long-term study, or training leave, in a variety of disciplines and some 4 600 have benefited from in-service training. However, the grant of training and study leave was not tied closely enough to public service training needs and assessment. At the same time, the Government has spent about \$10 million over this same period, over the last four years in direct training programmes for public officers.

The Committee's recommendations have sought to recognise the importance of training and to establish a clear link between training and the public sector management, public sector performance and improvement, and changing the way of doing business worldwide.

There were a number of recommendations made, for example, that public officers should undergo at least 40 hours of training every two years. This will also depend on the availability of resources and it was recommended that this training should not only be at the Government's expense, but that public officers also had a responsibility to be part of engaging in their own improvement and training.

In a related matter, the Committee also recommended that no senior civil servant should be promoted unless he or she can show evidence of continuing education or training. This would help to ensure that the top level of the public service remains intellectually invigorated and are properly trained. In the present system, there is the unfortunate phenomenon where persons are very often appointed to top-level management positions and they would not have been exposed to the necessary formal training to disciplines of management and management techniques. That in itself sometimes retards the progress of the organisation and adversely affects the management of the worker under their control.

Therefore, it is felt that there should be training in management and other areas so that when persons, as a matter of course, as one progresses through the service, so that by the time one reaches upper management level, one would have been grounded in the disciplines of management and other aspects of management of the public service.

Sir, the Committee also looked at the question of the Services Commission of the Police and the Judicial Services Commission, *et cetera*, and felt that there was a need for expanding of the rules beyond the present function of dealing mainly with recruitment, promotion, and discipline. Instead, it should be broadened to one that would involve providing strategic guidance, vision, direction and support, add creativity and help to develop the public service.

There would not just be a perfunctory role for the public service but they should be involved in intellectual and skills development of the service and help guide and shape the division of the public service and not dealing with the matters of leave and promotion, equipment and disciplinary measures and things of that nature. There is a wider need for public service commissions in the Barbadian context.

Sir, it was also realised and observed that like most bureaucracies, there was a great deal of centralisation and control in the management structure of the public service and that, in itself, was stiffening the creativity and growth of the

sector. The recommendation therefore focussed on the need to delegate more functions across the public service than is now the case, while encouraging the changes that reduce or eliminate many of the problem or perceived weaknesses afflicting the public service, but not destroying the integrity and the professionalism of the public service.

Sir, that therefore helps to give an idea how the Committee approaches work. The Committee would have looked at the whole question of the condition of service. They felt that condition of service should not be legislated, but should continue to be one which should be determined through negotiations between the administrations and the workers' representatives, as is now the case, and which has worked well for Barbados and which has contributed to the general positive nature of Barbados' general industrial climate.

Sir, on the area of condition of service, there was a view that a majority of public servants felt that the question of recruitment, appointment, promotion and transfers was not always as transparent as it should be, and there was a need for recommendations that would help to deal with the whole question of giving greater transparency to the question of recruitment, appointment, promotion and transfers in the process.

The Committee has recommended the formulation of what is called an employment code. This employment code would seek to bring transparency to the process of recruitment, appointment, promotion and transfer. It would have outlines where it would demand that the qualifications, skills, experience and personal attributes needed for a particular job, should be known upfront for all interested parties. Selection should be on the basis of merit and this should be grounded on the basis of open competition which is fair and equitable.

This Government is aiming towards the creation of a meritocracy in the public service. Greater use should be made of recruitment panels and decision on promotion and transfers should not be left to any particular officer's point of view, but a wider panel of persons should be involved in seeking to guide the process to ensure that there is equality, fairness and transparency and candidates must be made to meet the requirements of the new revised qualification order. 3.40 pm.

The Committee also looked at the question of the physical conditions in Government offices in which Government employees are often required to work. These conditions, as we all know, are not always of the best, but the Government has been working consistently in seeking to provide improved quarters. Sir, that has led to the question of the Government expending millions of dollars a year,

having to pay for rental of offices owed by the private sector, in order to provide officers with improved conditions and better accommodation while, at the same time, working to improve the conditions in the Government offices.

Maintenance is an age-old problem which we are still battling with and too much of the maintenance is centralised having to depend on one particular office and Ministry, the Ministry responsible for Public Works. More and more offices are adopting a more modern, scientific and professional approach to the whole question of maintenance, where persons are being given sole responsibility for maintenance on an ongoing daily basis, and one does not wait until a crisis occurs to call on the Ministry of Public Works which will be engaged in several other activities across the service and might not be able to respond immediately, whether it is a leaking tap, a broken window, or a latch needed.

There should be a mechanism and system in place where these minor things can be taken care of at a much faster way before they deteriorate into conditions which will make the situation even worse than before. Therefore, this whole question of maintenance, like I said, is one which is getting more and more of Government's attention and there are attempts to make sure that these are dealt with in a more systematic and responsive manner.

The Committee also looked at the whole question of e-Government and thought that with what is known as the digital revolution, this upsurge in technology offers numerous opportunities for a Government to improve the operations of the public sector through the greater use of technology and bring about greater cohesion and connectivity between Government agencies, especially in the Government's ability to deliver electronic services to citizens.

This is a highly complex matter and when the Government is fully developed, as in other societies, it will be able to allow citizens to interact more with Government, when they choose, whether at home or at work and even while they are travelling around in their daily activities and that more and more citizens can find the electronic delivery of services that would provide them with greater convenience, making them more responsive and give them a more personalised service and much more responsive service than had been the traditional method of delivery of these services.

I pointed out that the Government would need to work in new ways, if the opportunities to improve the public service had to be seized. They would need to reinvent some of the ways in which they do business, by making radical shifts in arrangements and of working across departments and things of that nature. The electronic service offers the

potential to transform the public service and to put into practice many more aspects of the Government's public sector reform agenda.

Sir, this question of electronic Government is now being considered by a Committee which is looking to see what will be needed across the public service, in order to give meaning to electronic Government in a meaningful way.

The Committee recommended that there would be a central agency which will be established to oversee the development of electronic Government, the setting of standards, including the methodology, technology and data available on how these should be used and protected, also, the whole question of confidentiality, privacy and legality. There has been a sub committee which has been formed out of the Committee of Permanent Secretaries which has been established to formulate guidelines for an IT policy.

The Committee did not indulge in sessions of incestuous thinking and consideration. They exposed themselves to some of the activities and approaches that have gone on in the public service in the revision of the Public Service Act across the Caribbean. They looked at Acts in Dominica, and one that was being proposed for St. Lucia, and sought to see how they had dealt with some of the same issues which were affecting all the societies across the Caribbean, which came out of the same colonial experience and had inherited, basically, the same system of bureaucracy from which the independent societies particularly had to build. The Committee therefore did a wide range of work in a relatively quick period of time.

Among the other works, they also looked at the whole question of the General Orders. As you know, Sir, in the Barbados public service context, the General Orders are the main and primary instrument that governs or seeks to govern the relationship between the employer and employee, that is, between the Government and the public servant.

The General Orders, Sir, are well known of, but not always many people know them. In addition, while many people make reference to the General Orders, in the last few years there has been some controversy or even uncertainty how legal they are because the legal status of the General Orders has been challenged and questioned.

Therefore, it is within this context of the uncertainty and the controversy surrounding the legal status of the General Orders, that the Committee felt that these Orders should be reviewed, with a view to integrating permanent aspects of the General Orders, and those which will be applicable, useful and effective in today's world and for the foreseeable future. They should be incorporated into the new Public Service Act, while other aspects of the old General Orders are being treated as directives and codes of behaviour.

It was accepted that any organisation had the right to have an administrative code, in order to govern the conduct of the employees and the relationship between the employers and the employees, but that it had to be one which could meet the scrutiny of a modern society, given the rights and responsibility of all concerned.

Sir, as pointed out, it was observed that the British Government, for example, implied a civil service management code, a code of conduct, a code of discipline, and a recruitment code to guide the relationship between itself and its employees, and that the General Orders were designed to be a comprehensive instrument that embraces several codes.

Sir, as I said, this Committee did a lot of work and I want to commend them for their contribution in seeking to bring understanding and bring together a wide range of issues which one person or a very small group of persons would have had great difficulty in putting together in any coherent manner, as quickly and as well as they did. They have put together a series of recommendations and it is felt, Sir, that any future Public Service Act in Barbados should be one which would ensure that the traditional public service will be one which can grow, and one in which employees can feel they have a secure future.

3.50 p.m.

While the public service cannot compete with the salaries, perks and benefits of the private sector, there is no doubt that for those who have a sense of wanting to give service to the country that the public service offers opportunities for personal growth and development, for training and for exposure to some of the most complex and intellectually challenged courses and issues facing the Government. So there are still attractive and rewarding careers to be found in the public service of Barbados.

The public service of Barbados has standards which are very high and that is one of the reasons why, particularly with the coming into being with the new qualification order, that there are public servants who are working to improve their qualifications, standards and training to make themselves eligible for career advancements and for upward mobility in the public service.

I think that full due regard is not always given to the public service because it is very popular, as I said, to be able to criticise the bureaucracy and the stereotype of the public service.

The image of the public service of Barbados is changing. There are some departments where through the public sector reform efforts there are very noticeable improvements both in the physical conditions and in the way they do business. One of the most noticeable examples of

this is the Immigration Department. Persons who go there to do business would have seen a marked improvement in the physical layout. There has been the redeployment of offices to make them more convenient to persons.

There is a hotline where persons can get information and rather than everybody having to converge in Bridgetown, people can now go to the Post Offices throughout Barbados to collect a passport form. This can also be done at travel agencies. This is all in an effort to speed up the process and bring services to persons in a quick manner.

The same thing has happened at the Licensing Authority. The process for the payment or renewing of road tax is now being computerised. There is a box where persons can deposit their cheques instead of having to stay in a long line to get their business done. There are other improvements in the signage and the layout of the offices to make things more commodious and more comfortable.

There are also efforts afoot to give more comprehensive application to the customer charter which I mentioned earlier. Under these charters, offices and departments would be held bound to a series of standards which would be published, announced and displayed in the offices. If you write a department, you would be guaranteed an acknowledgement of the receipt of your letter by a particular date and of further action by a particular date. These stipulations will be published and will be well known. There would also be recourse for persons for the recording of any complaints or any instances where these standards are not being adhered to and where people have fallen away from the standard.

There are also public sector reform efforts going on at the Registration Department where there is computerisation for the retrieval and receipt of documents and the registration of births and death certificates where you can get your documents at a faster rate than in the past when persons had to wade through large volumes of documents and big heavy bound volumes of writing in order to pull out the information that is needed for a particular case.

There is also an attempt to refashion and re-brand the whole public sector. Very soon the public would be seeing a whole series of promos on television and hearing them on radio where they will be brought up-to-date on what is going on in the various departments and some of the steps that are in the offing. The public sector reform jingle has been revised and refashioned to give it a fresh image because from time to time one has to re-brand oneself just like in any other marketing efforts in order to be able to capture the public's interest.

One would be able to see in those promos instances of the improvements that have gone on in the various departments some of which I mentioned and some of which are still ongoing and also the plans for the future and what is in the pipeline in this regard.

Sir, this report from the Committee affords opportunity for the society to make an input into how they would like to see the future of Barbados' public service fashion. There are all kinds of examples that one can draw upon from across the world, particularly from within the Commonwealth, how various societies have approached their public sector reform efforts. For example, in some places like Canada, New Zealand and Australia positions at the permanent secretary level are no longer seen as career appointments. These persons are appointed on contract and they are evaluated by their Minister every one to two years. That is how some of these countries have approached the management, reform and revamping of their public service.

What we know as a permanent secretary, is called a deputy minister in Canada. That is the name given to what has hitherto been a permanent secretary. That person would have a contract in which the person has an outline and has agreed with the Minister in charge of the department to certain achievements that are supposed to be obtained over a period of time and then at the end of that period they are evaluated to see whether they have met those benchmarks which would often determine whether the person is reappointed. Those are some of the ways in which countries have approached the question of bringing the best persons with the widest possible training and expertise into the public service. Those persons do not see those positions as a career. They go and make a contribution and then go back to the private sector or wherever they want to.

In addition, Canada, New Zealand and Australia to one extent or another have sought to computerise many of their activities and a lot of things that we now have to do manually or by turning up at the departments ourselves are being done electronically by computer. People can now pay their bills, their land taxes and their income taxes electronically.
4.00 p.m.

There are a whole set of possibilities that are out there for a full reformed public sector of Barbados to consider. Barbados' public sector, between central Government and statutory corporations, now number approximately 27 000 persons. That is a significant segment of the Barbados workforce, thus making Government the largest single employer in the society.

Sir, given the size and the magnitude of the workforce and the fact that the public service is an institution which impacts on every person's life in one way or other, every person should have a vested interest in what is happening in

the public service, what could be done and to make an input and contribution to what they feel is a very important institution to enhance Barbados' growth and development in the future.

Mr. President, I therefore look forward to some inputs being made for a better Barbados. I thank you.

I beg to move that the Resolution do now pass.

SENATOR LeR. H. McCLEAN: Mr. President, let me say that whereas successive Governments have boasted of Barbados' achievements and its high ratings where the Human Development Index is concerned, as politicians we have always sought to take credit for these achievements and very often have failed to take into consideration the contributions that public servants have made towards the improvement in the standard of living of the people in this country. In fact, more time is being spent in attacking and deriding the public service than in praising them. I believe we need to acknowledge that the public servants in Barbados have made a considerable contribution to the development of this country. Unfortunately, we seldom seem to give them the credit they deserve.

Mr. President, with respect to the composition of this Committee, I am not happy with it. I have noticed there are seven persons at senior level in the public service in terms of key personnel officers, three private sector persons, two academics, one representative of a regional organisation and two workers' representatives.

Sir, I believe the workers' representatives would be better able to speak to that matter but I am concerned that, in my view, there has not been a sufficient input from the workers' representatives in terms of this Committee. Sir, if one is going to seek to reform the public service, there should then be significant representation from members of the public service in those proposals. Fortunately, these measures have to come before Parliament before being implemented and, therefore, there would be the need to have much wider discussion of many of these measures.

Mr. President, I think it unfortunate that the Committee has not seen the need for a teachers' service commission. I believe there are several issues with respect to the teaching service which are unique to teachers. When one looks at the number of teachers and the number of issues that have to be dealt with, I believe there is the need for a special teachers' service commission to address many of these issues.

Mr. President, in recent times we have seen many civil servants complaining about being superseded. Very often this ties in with the recommendation which seems to be in

use, where promotion is based on one's continuing education or one's training, which has been interpreted by many public servants to mean that one must have a degree.

Sir, a point that is being made by some civil servants is that very often persons who do not understand the job are being appointed into positions merely on the basis that they have a degree and that those persons who are experienced and knowledgeable are being bypassed. Sir, I hope we would deal very carefully with this because there are some persons who might be working in a specialised area which they like doing, then some one else might go off and do a degree which is totally unrelated to that area.

Sir, we have a tendency in our society to pay persons for their qualifications and therefore a young person coming out of school who has a number of CXC's might wonder how much they are going to be paid, not for the job they would be doing but for the number of CXC's which they would have.

Sir, I am not in anyway saying that persons should not make every effort to improve themselves and to get whatever training that is necessary to better themselves but I think that it is not fair that some civil servants, who would have had many years experience, should be overlooked on the basis that someone else might be more highly qualified than that person.

Sir, in the public service, and particularly with this Administration, there is a trend of getting around what is considered to be the bureaucracy in the public service by establishing private companies of which Government would be the only shareholder. Sir, by doing this, Government is able to get around many of the rules that relate to the operation of the public service.

I think this is a trend that has to be watched because, regardless of what some persons might believe or might think of the public service, we must be mindful of the fact that it is the very public service that has brought us thus far. Therefore, we should not throw out the baby with the bath water because people keep attacking the public service and feel there is no efficiency within the service.

Sir, when one looks at some of the ways in which these private companies have been operating in recent times, for example, how GEMS of Barbados has been operating, along with some of the other private companies that exist, one needs to be very cautious when taking such steps to get around the regulations of the public service by the establishment of these private companies.

Sir, another recommendation made here and probably is reflected by the composition of the Committee is the recommendation of having a committee of Permanent

Secretaries. Sir, I remember hearing a former Prime Minister speaking of a situation that had existed where a group of Permanent Secretaries would meet at a particular house on Sunday evenings and would determine what would happen in Government and so probably this now is formalising that old arrangement.

When I look at the functions of this Committee, it says specifically to advise the Prime Minister. I believe that is a potentially dangerous development. It seems to me that someone wants to create an exclusive club of Permanent Secretaries who would then take onto themselves the responsibility for determining what happens in terms of the governance of this country.
4.10 p.m.

It would be extremely difficult for any Government to resist a recommendation if a group of Permanent Secretaries got together and decided there would be a particular action because Permanent Secretaries have considerable influence over the public service. If Permanent Secretaries decide to go in a particular direction, which is contrary to what the Government wants, then they would be able to subvert the work of Government and, as far as I am concerned, they would be tantamount to another political party.

Sir, that brings me to the question of involvement of public servants in politics. The Committee recommended that public servants should not engage in any political activity but I see no reason why public servants cannot be involved in political activity because I would prefer to deal with public servants who show their true political colour and openly say which party they support. They could even run for office under that party and would still have the integrity to carry out their functions in professional manner.

In fact, persons who have declared their hands in their political preference would have a greater responsibility to be professional than the ones who have not declared their hands because there are closet politicians who will say they do not support any political party but would want to subvert the work being done by Government because they do not truly support what is happening.

Sir, we know that everyone has a political preference but we want to know that people have integrity to do their job in a professional manner regardless of their political persuasion.

Sir, it also touches on the fundamental rights of persons, the right of association that is guaranteed under our Constitution. Why should a person be deprived of the right to associate with a political organisation? We have already seen persons attacked relentlessly about their political

affiliation in this country while others have been holding political office whilst still being public servants. As a matter of fact, one person who is now in Government only resigned the public service as a teacher when he was declared a candidate. Yet, persons who only hold a position in a party were being castigated because it was felt they did not have the right to be involved in politics but we chose to close our eyes to other persons who hold Government office.

Asides.

SENATOR LeR. H. McCLEAN: Yes, it depends on which side of the fence you are on. Sir, in my view, there is the fundamental right of association and persons should be free to declare their political preference and still act in a professional manner when carrying out their duties. If they do not operate in a professional manner, then there are rules and regulations to deal with these persons.

Sir, this idea that people in the public service should not be involved in political organisations is depriving political organisations of talented people who can make a worthwhile contribution to the political development of this country. At the same time, we are saying that public servants should not be involved in politics, there are lawyers who are candidates speaking on political platforms who are given work from Government. Will they not operate in a professional manner? Will they work in such a manner as to cause trouble to the Government? Sir, I do not think this is the case. It is simply felt that certain people will work in a professional manner but that other persons are not capable of doing this. We need to trust people's integrity and if it is then proven that integrity does not exist, we should deal with those persons.

Sir, in my view, if public servants want to be candidates in an election, there is no reason why they should have to give up their jobs during the political campaign. Those persons should be allowed non-pay leave to participate in the campaign and if they are unsuccessful, those persons should get back their jobs and it is time we move in that direction. I do not agree with the recommendation made by the Committee in this regard.

Sir, the matter of disclosure of interest. I am happy that the Committee has dealt with this particular issue. Some time ago I made the point that public servants at certain levels should declare their assets on taking up position in the disciplinary forces, Customs, Immigration, the Judiciary or in any of the revenue-earning departments in this country so that the exact sources of income will be known.

Sir, we have heard a lot of rumours, charges and denials about public servants' wealth in this country but if there were laws to deal with this issue there would be no rumours because

we would be able to check them out. If a police constable were able to build a house for \$5 million on his salary, obviously, something would be wrong unless he won the lottery.

Sir, we cannot deal with the problem of drugs in this country unless we have means by which we can monitor the assets of persons in the disciplined forces in this country.
4.20 p.m.

Sir, I have said it before and I am going to repeat it again. We like to skirt around issues in this country and we like to sit down at parties or on someone's patio, with a drink in our hands, make small talk and treat these matters lightly. Sir, it is about time that we get serious. Otherwise, we would see the values of this country continue to erode.

Sir, we heard of what happened with other countries. We heard about the level of corruption that has crept into other societies to the extent that these societies are almost out of control. Over the years we have been able to build a society that has been based on the rule of law and this country has developed because we had responsible persons in responsible positions. We have had persons who could be trusted to carry out their functions in a manner that was in keeping with the rule of law.

This country has never been associated with any big rumours of corruption. There will always be the odd case when somebody does something foolish and they have always been dealt with. In fact, a senior civil servant made the point that they always tell junior civil servants not to trouble the Government's money, the system is slow but it works. Very often when you think that you have gotten away with committing an act, you will realise that two years after you have committed the act, somebody would discover what you have done and you will end up in jail. The system that is considered being inefficient, because it appears to be slow, the fact is, the system works.

Sir, if we see a situation where there can be a breakdown in the system, we must take preventative action as quickly as possible. Those who might be offended when I say that we should have certain civil servants declaring their assets, then let them be offended.

Sir, I agree with the Committee's recommendation for the disclosure of interest and I would hope that it would go further than that. We cannot have a situation where people are going to be taking decisions, for example, to award a contract to someone and that person has an interest in the company that is going to receive that contract.

Sir, we hear from time to time that people have been doing certain things but it has not yet reached the stage, in my view, where we can say that it is wide-scale or that there is any large-scale corruption in Barbados.

Unfortunately, as politicians, we are so quick to accuse each other of doing these things, very often the people who do them escape "scotch free". There is no politician who can sign a cheque to spend any money in the public service. The politicians are always seen as the villains. There are some public servants who have become extremely wealthy, more wealthy than they could become on their salaries, but nobody talks about them as being corrupt because as politicians we are our own worse enemies.

Sir, one of the reasons why you will not see the laws pertaining to people declaring their assets is because they are too many politicians who are afraid to be called on to declare their assets. Sir, because we feel that this is not something that is desirable for us, we are not in any position to call on the public servants to do so. This is probably one of the disadvantages of Independence.

Sir, I know a situation in a neighbouring country, which is still a colony, where the Finance Secretary is now before the court because the Governor was informed that he was doing something that was improper and the authorities were called in and he was arrested. Unfortunately, we have adopted a system where we have not put in all the checks and balances that are required, so the buck literally stops somewhere and nobody is able to detect exactly where it stops.

Sir, we need to get very serious about how we are going to manage this society to make sure that we will pass on to our children a system which will continue to work in an improved way and not one which will deteriorate as the years go by. If we are honest with ourselves, we will agree that we are seeing the systems deteriorating day by day before our eyes. Things that we never heard of in the past now seem to be taking place in this country.

Recently, we heard that most of the small businesses in Barbados are being started up with "dirty money". Maybe, that is one of the things we will have to contend with in a modern age. It can only be "dirty money" if we allow the situation to exist where people can make "dirty money". Unless we deal with this matter of the drug trade, there will always be the problem of money laundering because the bulk of the money that has to be laundered is money that came through the drug trade.

Sir, if you have a situation where a public servant can earn \$15 000 or \$20 000 by turning his back, then we will continue to allow a situation to exist for the drug trade to flourish and there will be more and more "dirty money" to be dealt with. When we start dealing with the "dirty money", we

are not dealing with the root cause of the problem. That is what comes at the end. We have to deal with what causes that "dirty money" to be on the road. I am saying that the majority of it comes through the drug trade. As long as that trade is flourishing, then there is the potential for people to be corrupt.

Recently, an organisation made the point that a Prime Minister could very well be elected in Trinidad and Tobago, who is a drug lord. It was an international agency who made the statement about two months ago. They said that it is very possible because everything is in place that a drug lord could be elected and become Prime Minister of Trinidad and Tobago.

Asides.

SENATOR LeR. H. McCLEAN: Why should we sit back if we know that this statement could be made of a neighbouring country and we continue to bury our heads in the sand and believe that it cannot happen in Barbados?

The problem is, we are always afraid to talk about certain things. I think that the day that you are afraid to talk about something or you cannot say exactly how you feel about it, you should not say anything at all. Then you should recognise that by saying nothing at all, you are contributing to creating a society that your children will not be able to live in.

Mr. President, I do not believe that is what I want to see. That is not the heritage that I would like to leave for my children. Therefore, I would have to say exactly what I see creeping into this society.
4.30 p.m.

Mr. President, I would like to finish by saying that I compliment the public service of this country for the great contribution they have made to the development of the standard of living for the people of this country. There are many unfound heroes in this country that we do not remember who have made a significant contribution.

I remember the public health inspectors who came around to make sure that there were no mosquitoes breeding at the house. I remember the district nurses who came around to make sure that the children had their vaccinations and that at least they had a certain standard of health. These are the people who built the foundation, along with the school inspectors and school teachers. We never really appreciate the contribution that they have made to the development of this society. Without the work of those public servants, we could not have the health service and educational system that now exist. Even the financial services which we boast about, because as politicians we do not do the work.

We make policy and provide the legal framework in which persons could operate, but those dedicated public servants have made their contribution to the development of this country and are the ones who have built the foundation on which this country has been able to develop. I think that it is because of their contribution that Barbados has stood up, not only in the Caribbean, but among third world countries as a beacon, and that Barbados has been thought of so highly across the world in many spheres of activities.

I would like to say that any recommendations which are coming forward, I would hope, Sir, that they receive the widest possible discussion and that the public servants, themselves, have the opportunity to make a significant input into how they could improve the system.

Sir, there is just one other point on which I would like to comment. The Honourable Senator in making the presentation spoke about the conditions of Government offices. The point was made about continued maintenance and that this has always been a problem. I think some greater efforts need to be made in this regard, to ensure that people have proper conditions of service and a proper working environment.

Sir, I know a few civil servants who had to leave their jobs, at a relatively young age, because of the condition of the buildings. I know of almost two persons who had to have extended sick leave. They thought they were recovering but as soon as they got back in that office environment, they lost their voice, or something else has happened to them and had to seek medical attention again. We see this happening over and over but yet, nothing seems to be done to improve the environment, because there are other persons who have a more tolerant system so people would not say: "Oh, he does not want to work".

We have also heard recently of a person dying in the public service at a relatively young age, where it is believed that the conditions in the office contributed to that person's death. Sir, I would hope that greater attention will be paid to the kind of environment that our public servants are working in because you spend most of your life in that working environment.

I also hope that greater attention is paid to some of the occupational related illnesses that are arising in the new technological age, the problems which would affect a person's vision, the carpal tunnel syndrome which apparently seems to be increasing because of repetitive actions. Yet, I am not sure that is one of the illnesses that is properly recognised. I know that recently, there was a lot of debate whether the National Insurance Scheme actually recognises carpal tunnel syndrome as a work related illness.

Aside.

SENATOR LeR. H. McCLEAN: I understand that they do now but it took quite some time before they recognised that it was a work related illness and many young women who developed that condition suffered for a long time before they could get any benefits.

I hope, Sir, that we would pay greater attention to these work related illnesses and the conditions under which people work. Finally, that there is wider discussion about the recommendations being made there, before any attempt is made to bring it into law.

I thank you, Sir.

SUSPENSION

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that this Sitting be now suspended for 20 minutes to resume at 5.00 p.m.

The question that the Senate be suspended for 20 minutes to resume at 5.00 p.m. was put to the Senate and agreed to and Mr. PRESIDENT suspended the Sitting accordingly.
4.40 p.m.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

SENATOR Sir JOHN STANLEY GODDARD: I want to start my contribution by paying tribute to the public servants of this island past and present. We must not take our development for granted. We must recognize that they have made a tremendous contribution to the economic, social and cultural development of Barbados over the years.

We must also recognise the work that has been done by the Members of the Committee who prepared this Report. It is 76 pages long. We must also remember the tremendous amount of work, time, effort, reading, research and the interviewing that was done before this report could be prepared.

I would like to begin, Sir, by looking at the Resolution before us which reads as follows:

"WHEREAS the Cabinet at its meeting on the 8th day of April, 1999 agreed to the establishment of a Committee for the purpose of advising the Government on a policy framework for a proposed Public Service Act;

AND WHEREAS the said Committee submitted its Report – that Report was dated December 28, 2000 – on the 8th day of March, 2001 to the Cabinet;

AND WHEREAS on the 20th day of April, 2001 the Cabinet agreed that the Report of the said Committee shall be laid in Parliament;

BE IT RESOLVED that Parliament take note of the Report of the said Committee.”

Sir, today is the 21st day of August, 2002. That Report is being laid today 16 months after the Cabinet agreed that the Report should be laid in Parliament. Something has to be wrong with that. I do not want to say that it is a demonstration of an urgent need for public sector reform but it might be. Sixteen months is too long.

If I may now turn to the Report, right at the very beginning the background is:

- 1.1. The Government recognized that if Barbados were to compete effectively in the emerging global environment its public sector would have to be modernized.”

That has been expressed in many different ways already and there is no point elaborating on that.

I will move on now to highlight Chapter 2.

- “2.1. The management of discipline was seen as the biggest problem in the public service and one that posed the greatest challenge to the improvement in efficiency. The Committee was unanimous in concluding that more attention had to be paid to this matter than any other issue in the public service. If this sector is to achieve the performance improvement, which was at the crux of all public sector reform efforts, then due emphasis must be placed upon the management of discipline.”

Mr. President, I could not agree with that more than I do now. Indiscipline is not only applied to the public sector, it is probably the biggest problem in the Barbadian society today. Let me just give a few examples to illustrate what I mean. We recently had a West Indies “A” Cricket team that went to England and Canada. The manager of that team said he would be submitting a full report to the authorities, but he let it be known unmistakably clear that he was very dissatisfied with the discipline of some of the players both on and off the field.

All of us are familiar with teachers. We know teachers and we hear from them about the indiscipline in both the primary and secondary schools. We know of the indiscipline in the workplace. We know of the indiscipline at public events.

Sir, I want to come to the third example which is Crop Over. I am all in favour of the Crop Over festival. It is an important national festival and it brings all Barbadians together. Six of my grandchildren participated in it, four grandsons and two granddaughters and I encouraged them but I cautioned them to behave themselves. I saw the Party Monarch Show on the East Coast Road on television. I also saw some of the parade on Kadooment Day on television. Mr. President, I regret to have to say that some of the dancing and the performances that I saw of certain people involved in the Party Monarch Show did not depict Barbadian culture, Caribbean culture or African culture. I felt embarrassed and ashamed as a Barbadian to watch some of those performances. I can only describe it, Sir, as lewd, depraved and vulgar behaviour. I watch them with – I will use the phrase – “hupa” disgust. If I was in the United States of America, I would say “doggone” disgust. It means exactly the same thing.

The National Cultural Foundation which is responsible for Crop Over is part of the public service. It is a statutory corporation. Therefore, it needs to focus on the management of discipline in future Crop Over events and whatever other events it promotes. Mr. President, I could not be more serious when I make those comments. If you are to deal with discipline, you have to provide for discipline.

On page 6 under recommendations it says:

- “(I) The Public Service Act should make provision for a disciplinary procedure which is simple, fair and swift and which will eliminate the deficiencies identified in the current system.”

You must have discipline and you must have mechanisms for ensuring that discipline is maintained.

At the end of page 46 under “Conclusion” it says:

- “11.4. It is therefore vital that a new Public Service Act should be in place early in 2001 because we are already lagging.”

Mr. President, we are now in the middle of 2002 and I have already made comments about the urgency of getting these things done.

I say that Sir, because I was involved in the Constitution Review Commission and that Report was submitted in 1998, almost four years ago. I was also involved in the work of the Committee for National Reconciliation and that Report was submitted in the year 2000. There is no point in having people spending a year or a year and a half doing a lot of work preparing a report and

then the next question is what action has been taken. In those two cases which I quoted, to date no action has been taken. That is not good enough.

If I may now turn, Sir, to Appendix 1, Code of Conduct which is on page 47 for those who are following it. Under the Preamble, it says:

“This Code is intended to cover all public officers and other employees of the Crown. Officers and employees who breach the provisions of this Code are liable to disciplinary action as specified in the Code of Discipline.”

You will note, Sir, that no exceptions have been cited there.

It then deals with matters of punctuality, courtesy and dress which is the usual thing you would expect to find.

I would like to focus now on section 1.12. under “Engagement in Political Activity” on page 50 especially as we appear to be coming into an electioneering season. It might be useful, Sir, to quote from that section:

“1.12.1 Officers/employees are expressly forbidden to participate actively in political activity.

1.12.2 For the purpose of this Code, political activity includes the following –

Being a member of either House of Parliament;

Being adopted as a parliamentary candidate;

Canvassing on behalf of any party or candidate for election to the House of Assembly;

Acting as an agent and/or sub-agent for any candidate for election;

Speaking at political meetings; and

Holding office in a political party.”

5.10 p.m.

Mr. President, at this time as we approach elections, it is important that this be noted, observed and complied with.

Sir, I know that a vice president of one of the parties is a vice president of that political party. I speak subject to correction but I understand that person is a teacher. I did not notice any exceptions in this Code but if there are, I would like to be informed.

Sir, turning to Appendix 4, page 64: “Review of the General Orders,” I have been advised that the General Orders came into being in 1970 and were revised in 1997. I

was also told that revision did little more than changed the cover. That might be superficial and might have been a way of saying there were no significant changes.

Sir, each section of the General Orders is noted, starting at page 66, sections 3.1, through to 3.4. They are listed in four categories with the comment that they would either be reworded, remain as is, be deleted or be legislated. Sir, there is one notable omission; after 3.10 comes 3.12 and, therefore, I would like to know what has happened to 3.11 which is in the existing General Orders. Sir, quoting from the existing General Orders, this is what 3.11 says:

“Officers are forbidden to be editors of newspapers or directly or indirectly to take part in the management of newspapers. They are also forbidden to contribute to any newspapers in Barbados or elsewhere on questions which can properly be called political or administrative, though they may furnish articles upon subjects of a general interest.”

Sir, in my opinion, that is an extremely important section on which I have commented on previous occasions, both publicly and in the Press.

Sir, I do know whether it is an omission, an error, a printer’s devil or whatever but I would like to see that section included in the new Public Service Act. Sir, unlike my colleague Senator McClean, I believe the Judiciary and the public service have to be independent in a democracy, free and removed from any political activities. Public officers are there to serve the public. They are there to give advice to an elective government, to carry out and to implement decisions that are taken by the elected office of Government. How then, could they be allowed to comment publicly on actions that are taken or decisions that are made by elective officers? It does not make sense and, therefore, the rules make no provision for that.

Sir, I would, therefore, like to see that section, to which I consider very important, inserted in the Report. Without a provision for that, to me is a recipe for anarchy. There is a Cabinet and Cabinet Ministers are diligently and consciously performing their tasks with persons working under them within the public service feeling free to criticise them publicly. That cannot work, not if we want to maintain an honest, honourable democratic system of Government.

Sir, much work has gone into this Report, but the public would judge Public Sector Reform on the basis of improved performance only, not on the basis of promises made. Sir, I think the public needs to be kept informed on a regular basis on the progress that is being made.

Sir, with those remarks, I see the importance of what is before us. Great care has to be taken because public sector employees are the largest employees on the island and it is important that members within that public service are clear as to what are the procedures, philosophies, cultures, codes of conduct, codes of discipline, if we want to continue progressing in this country. I thank you.

SENATOR Miss J. C. ODLE: Sir, I rise to say a few words on this item before us. I would like to start at a point which has always stayed with me, as was stated to me by one of my uncles, now retired from the Civil Service.

As I came into the elective political arena, his words to me were – and he has assured me always to remember – “Politicians come and go but the Civil Service remains”. How true is that, Sir? If we think about it in large measure, one of the strengths and successes that Barbados, as a developing country has had to date, has been the sound balance between a mix of the excellent political arrangements and the independence and continuity of the public service.

I have heard Sir John made mention to the fact that, based on the information in the Report, what he would like to see. I believe it almost to be a political public service, not denying any individual the right to their vote at the time but to execute one’s work in a professional manner without any apparent bias for the number of reasons to which he has just outlined.

Sir, I believe there are approximately 27 000 public servants. I believe that makes Government the largest employer. As persons go around, it is interesting to ask the question, what causes persons to want to come into the public service? I know that many years ago it was the first call for persons who wanted to come into and who could not afford to do a profession. At that time, we had a wonderful cadre of persons, and still have today, some almost on the verge of retiring.

At the outset, I would like to say that perhaps in the element of training within the service, I would like to see the skills of some retired public officers being utilised so that some degree of continuity could be maintained to the benefit of the young minds and to new persons who come into the service.

Sir, we must ask ourselves the question what makes a person come into the public service? I understand that security of tenure is one of the largest drawing factors. I must make note of the fact that since coming into office and through the conversion of casual workers to permanent ones, this Government has made it more possible and, therefore, the security of tenure is on the minds of persons coming into the service.

I understand there is much provision for non-contributory guaranteed occupational pension, enhanced vacations to four weeks, which is more than in the private sector, which is usually three weeks at a certain level. There is provision for interest-free loans on cars. When all this is pooled together, it is a good incentive, yet there is the perception that – and I believe to be almost misguided – the service and persons working in the service are slow, unproductive and that there is too much red tape.

I have heard the Minister speaking to the issue of too much red tape and how best that could be expedited to make persons feel that their cases are being dealt with swiftly and thoroughly. I believe there is always the perception that the public service is easy and guaranteed work with a steady pay and more importantly, fire-proofed.

Sir, perhaps the public relations in the public service could use some beefing up but I want to make the point that this country could not be as stable as it is, if the Civil Service was not the Civil Service that we have.

Sir, with all the other incentives in the public service, yet people leave the service and go and look for employment elsewhere. I wonder why this could be. In discussing and speaking to a number of persons, the issue of management very often is a bone of contention.
5.20 p.m.

It seems to be heavily hierarchical with little input from staff so the channels of communication get blocked and people get frustrated in their efforts as there is little opportunity for creativity and input.

I believe that the public service should have a specific department like the Government Information Service to expose the work of the Ministry to the public at large and there needs to be a human resource department.

This document is comprehensive. Tremendous work has gone into it and I agree with everything I have seen in it. Sir, it would be beneficial for us if it is implemented as quickly as possible.

On the issue of human resource management, interactivity needs to be focussed on. Generally speaking, when young persons join an agency, they work by trial and error as duties are often times not clearly spelt out for them, but if there is guidance for those young persons, they are then able to deliver well on the job and feel like stakeholders.

If there is a human resource department, young people can also share their aspirations, have a discussion on their career paths and where they want to go from that point. Sir, this whole issue of career paths need to be examined.

The question of performance appraisals in a fair and equitable manner needs to be examined on an ongoing daily basis so that if a person slips off the track they can be guided back onto the track so that annual appraisals are done with employees' input and efforts.

Sir, there is also room for self-assessment. If we examine ourselves, we know where our weaknesses lie and if provisions can be made for self-assessment in a structured programme with directions from human resource management, individuals would realise their weaknesses and seek to improve them by taking an additional course.

Sir, training needs to be continuous and against the understanding that if you were trained in a particular discipline, you are expected to execute functions for a period of time within that discipline and not jump onto another area. Often times people go on training seminars simply to get time off with pay and this is not in the best interest of a developing public service.

Sir, if these factors are taken into consideration, there will be much more productivity since when people have a sense of ownership, there is productivity and people will want to stay in the public service longer because it would be a desirable place for all the correct reasons.

Sir, the issue of recruitment and hiring. The requisite advertising should take place when jobs are to be filled in the public service so that we do not put square pegs in round holes. There should be a shortlist and interviews with a large degree of transparency because, very often, people rise like cream to the top leaving others behind and this can breed bad blood within an organisation and the feeling that those who have risen to the top should do the work. This is the bureaucracy and red tape that causes people to have a negative impression of the public service.

Sir, this leads us to the question of promotion. Primarily, seniority is the principal vehicle for rising up the ladder, but since our greatest resource is our human resource, every single Barbadian must take interest in his own development.

Sir, I work in an agency in the private sector that is heavily service-centred and people may think that since I have a skill I can do my job well, but I often make the point that people should be hired based on attitude even before aptitude is looked at. Sir, if a person does not have the right attitude to life even if he has the requisite skills, he will not go very far.

Also, the whole question of communication, how you get your point across to others, your body language and how you present yourself is also very important. Sir, this may not be appropriate but I find it offensive that people chew gum

in the office as customers are waiting to be served.
5.30 p.m.

Sir, we need to look at our leadership so that individuals can aspire to become the Permanent Secretary. Competency also exists when it comes to initiative. If we have people who are told to put the chair in corner A, B or C but there is nobody to tell them when to put it and why to put it, then we have a problem.

In other words we cannot only have, what I refer to as, a herd mentality. We need to have individuals, if we are to have a public sector that is working well, who will work in a manner to satisfy a growing society. Couple with that, management will also have to be embracing people using their initiatives, not stepping out of line but having a good trail so that the initiatives do not take us down the wrong road. We also want to encourage people in the public sector to have a strategic vision where they can see the public service going in the context of Barbados.

Sir, we must not forget that the public servants are us, not only parliamentarians, but the general public. We all have to share a role model image of where we want Barbados to go or want to maintain a particular growth pattern in a positive way.

I am of the view that flexi-time is something we need to consider within the public service. I think that gone are the days when you arrive at work at 8.30 a.m. to 4.30 p.m. This is necessary so that everybody would not converge in the office at the same time. The issue of congestion on the roads and everybody does not operate at the same level at a certain time of the day and whether they are in the mainstream of the civil service or at the statutory level, flexi-time is the way to go if all civil servants can be more productive.

I do not believe that we should be over anybody with a big stick telling them that they must come in at 8.00 a.m. and leave at 4.00 p.m. I think that it makes employees very tense. We recognise that there are those who would abuse such a system but I believe it is a system that can generally cause more productivity. How we are going to measure productivity in terms of dollars and cents, I would leave someone else to deal with that.

Sir, we get an increase of stress when persons have to leave the environment of the work place to pick up their children. I would like to see some provision being created in the work place where the parents can collect their children after school and have them placed in a secure and safe environment after school hours until the parents finish work rather than children making their way home and encountering all sorts of problems in the process.

Sir, years ago many of us would have been able to go home from school and everything would have been fine but this is a different day. I believe that if care facilities are provided within communities or within close proximity across the island, it would make it better for all concerned because you would know that your children are being supervised and well cared for and this is a greater opportunity in terms of staff because we would need qualified people to care for these children.

I believe that these things will speak to the physical and emotional well-being of public servants. I laud the work that the public servants do. I have had very little problems with the service provided but there are many people who complain about the Queen Elizabeth Hospital and other agencies, but I maintain that if you approach people in a certain manner, you would get an appropriate response. Sir, we have to remember that we are dealing with human beings. Sir, we become so self-centred and think a public servant is like a piece of furniture but we must remember that the employee is also of flesh and blood.

Sir, recently, I spent a day in the Accident and Emergency Department of the Queen Elizabeth Hospital with a friend of mine and at no time was placed in an uncomfortable situation. Some may say that because I am a Senator that I was treated differently. However, I would make the point that some of the physical conditions in some of the agencies could use some refurbishment, and I heard the Minister speak to that earlier today.

Sir, you cannot have an Accident and Emergency Department where there are no seats available or insufficient personnel. There are no drink machines which are equipped to use coins, other than quarters, where you purchase a drink. Mr. President, when we are dealing with sick people, even though there may be a waiting period, we have to make sure that the environs are user-friendly and bring it online with the year 2002.

Mr. President, the Bill was well presented and I want to laud the contents and it is the kind of document that I believe that Barbadians should have access to. I believe that it will allow people to understand where the public service is going.

I also want to laud the Committee and the work of the public servants and to urge all public servants with the buy-in to the improvements within the sector, so that at the end of the day Barbadians can be the beneficiaries of the wonderful and excellent service that the public service is capable of delivering.

SENATOR B. R. COLLYMORE: Mr. President, if it is one thing that I think this Report has done is to give us an

opportunity to examine the public service. The public service employs approximately 27 000 public servants. The expenditure on basic Personal Emoluments and related expenses is approximately \$1 billion, if you include all the statutory boards, and you should, because they are part of the public service.

Therefore, that level of expenditure should be subject to periodic examination, not only by parliamentarians but, I believe, by the public at large. The public servants are among the biggest taxpayers in the country. They are helping to pay themselves. Many years ago, an assessment was done of the contribution, taxation and GDP. Although it was a 25 per cent number of employees, the contribution was approximately 41 per cent. The reason for that is, the public service is, perhaps, the most permanent employer in the country and the average level of pay is probably better than other forms of employment.

5.40 p.m.

Now, having said that, the purpose of the examination that was done by this Committee, was to provide a framework from which the Government could enact a Public Service Act. In its examination, the Committee, I think, omitted several or some important pieces of legislation which affect public servants. I will refer to a few, the first that was referred to peripherally, was the Constitution.

Sir, Chapter 8 of the Constitution deals exclusively with the management, meaning, appointment, promotion, discipline and transfer of public servants. Some of the recommendations of that Committee will affect that Chapter of the Constitution because at present, all the rules relating to discipline, appointments, *et cetera*, are made by the Governor-General, on the advice of the Public Service Commission. The Public Service Commission derives its authority from Chapter 8 of the Constitution. So a thorough and more careful examination of Chapter 8 and its relevance to changes, is needed, in my opinion.

The next bit of legislation of significance, and it has not even been touched on, was the Civil Establishment Act, Chapter 21 of the Laws of Barbados. The Civil Establishment Act is even more relevant because everybody in the public service now falls under the Civil Establishment Act. There has been no mention of unestablished, temporary and casuals, therefore all fall under this Civil Establishment Act. Sir, that Civil Establishment Act empowers the Minister responsible for the Civil Service to establish offices, determine numbers, determine pay, prescribe qualifications, *et cetera* for appointment, and determine other conditions relating to leave passages, payment of passages, *et cetera*.

The Committee did not make reference to this Act except, peripherally as I said, when they dealt with the

question of secondments and reference was made to the provision in this Act for the conditions of secondments, *et cetera*.

Now, you cannot examine a public service and create a Public Service Act that does not deal with any of these functions. I am not saying they should be moved from the Minister, but if you are doing a proper Public Service Act, then this must form part of it, if that is what you want.

I am not satisfied that you need to make any drastic change in that respect, but if you recall the famous case of the 8 per cent cut, this Civil Establishment Act was the basis on which the cut was defended. It was quite noble, I think, of the Government in 1995 to bring an amendment to the Constitution in Section 112(A) a new provision, to say that henceforth, you could not cut salaries and wages to the disadvantage of public officers. Now, that is subject to wide interpretation.

If I came tomorrow and said that I wanted a 10 per cent cut, or you will get a 20 per cent devaluation, what is the disadvantage of sticking to not having a cut? So that, that amendment was made and it led to other problems. The other problems relate fairly and squarely to this matter of discipline. That henceforth, in this bad arrangement for discipline that we have, it was possible to suspend a person who was under disciplinary charge, on not less than three quarter pay or half pay, depending in which category you fell in, and in spite of that reduction in pay, disciplinary cases sometimes lasted five and six years.

I recall a case where a lady from one of our hospitals came to me and said: "I have been on suspension of three-quarter pay for four years, and I can no longer live on three-quarter pay, I want my full pay". Somebody, somewhere was responsible for not bringing this case forward. The lady got a lawyer to plea the case and apparently, in these discussions and negotiations, the people adjudicating could not get the case to completion, and the lady remained on three-quarter pay for five years. Now, eventually she was dismissed.

Sir, that is punishment, if there is punishment. That is inhuman but that amendment to the Constitution, now prevents you from even putting them on a reduced pay on suspension. Hence, the possibility that they will remain on suspension, on full pay longer than the present arrangements. I think the implications of these changes need to be examined much more carefully when you are doing them, because then it leads to greater and new problems.

Sir, that legislation which I referred to, the Civil Establishment Act, that was the genesis of all we are talking about, needs to be looked at again, the whole question of the

Service Commissions Act, Chapter 34, because very little or no mention was made of this. I refer to the Training Act, Chapter 35. Now, you cannot advance training in anyway unless there is a thorough review of the legal machinery for training in the public service.

The Training Act gives the Minister responsible for training, the authority to approve courses to provide funds and to lay a report in Parliament. No authority in law has the responsibility for selecting people for courses and this is what we are talking about, the selection of people for courses.

I want to get back to that, but let me say I am surprised that this Report says that training courses are normally initiated by the officers themselves, and they do not have a service-wide connotation. Nobody seems to think of the total public service in developing training. This is new.
5.50 p.m.

I know that we used to have a triennium of proposals where each ministry and department was asked to submit proposals for training with good reasoning for a three-year period segmented into annual training those that could be done locally, those that had to be done abroad and an estimate of the cost. Out of that submission there was a Committee called a Training Committee which had no substance in law but which was set up by the Minister. That Training Committee was comprised of a number of senior officers who would come up with a training programme for the year out of the triennium on the basis of availability of funds. Ever so often ministries and departments sought to get funds whether it was through the Pan American Health Organisation (PAHO), the United Nations Development Programme (UNDP) or otherwise, especially if it was the kind of technical training which we could not do in Barbados.

On the basis of that, a programme was enunciated at the beginning of the financial year for which funds would have been provided and training was not as haphazard as this suggest. What used to happen was that some people had the initiative to improve themselves and would use whatever means they could to locate requisite training and on that basis make an application.

There were different forms of training. There was training which would come from grant agencies. In the 1960s we trained 20 accountants to a professional level through grant-aided provisions. These were the people who subsequently became the Governor of the Central Bank, the Auditor-General and the Accountant General. When they were training, nobody knew that we would have had a Central Bank, so training was not as haphazard as this would suggest.

I want to get back to this question of training and the fact that people are sometimes not earmarked for training as part of their progress and the fact that the authority for selecting people is still not legislative. Before 1972 the Public Service Commission administered the question of the award of training on the basis of its responsibility for appointments, promotions and discipline. Training was seen then as an aspect of promotion because if you select me over somebody else to go for training in a sense you are earmarking me for higher things. In that context of training as an aspect of appointment the Public Service Commission had the responsibility for selecting me for training.

The 1972 Act was silent on this and therefore we were faced with a situation where it seemed that only the Minister had the authority since he approved courses and provided funds. The Minister of the day said, he did not want to select anybody and to let the Public Service Commission continue doing it on an agreed basis. The Training Committee would serve the Public Service Commission in screening the people and serve the Minister in determining the courses that had to be done. That was done as a gentleman's arrangement, but it has not always worked like that.

My own experience subsequent to that time has been that in many cases the Minister did the selection. Indeed, there was a bad case that I remember of people having been selected to go on training, who were waiting at Government Headquarters to get the approval and the money but their names were removed from the list on the very afternoon before the day they were to travel, so the Minister assumed the total authority for administering selection for training.

We talked about training and we say that training should be a prerequisite to promotion. In a sense I think so. I believe in another context I had also made recommendations that it should be done on a structured basis and not willy-nilly. We have a situation where somebody determines that a job to be filled will now require a different qualification than before. It is a sensitive area.

You have a staff of more than 100 people but you should not select a person to run that department because they have a specific qualification. They have to have other things. To run a department with 100 people requires a sense of management and an understanding of what the department does. To take training in that context of qualification is to misuse it. Training has to start early in a career especially for management. If I were to be asked what is the most serious matter affecting the public service, I would say management. You cannot manage unless you have practice. You cannot be suddenly recruited and put to manage anything. So how do you give practice beside the basic skill that people should have in training in qualification?

People who want to get into management must start at level three far down so they must be given the opportunity to do things like project work. Project work will expose them to personnel management, financial management, resource management and how to relate to other people. This is the hardest part of public service in that the managers have responsibility but they have no authority.

The public service was fairly well managed before because there was a kind of informal and built-in authority amongst those persons who were managers. That does not come about overnight nor does it come about by moving a man from one post to another before he settles down.

In one Ministry by 1998, in a four-year period, there had been eight different Permanent Secretaries. So how can a man ever learn anything about labour or anything if he cannot spend a period of time managing a subject? You cannot manage simply by qualification. If a person has been moved from one ministry to another, move back to that same ministry within 18 months and move back out within six months, he must be frustrated. So what has he learned or how can he manage anything?

These are all considerations in looking at management. People must be practising in it. They must have early exposure to managing projects and they must have relevant training. I came across a Permanent Secretary last year who told me he did not know there was anything called an Interpretation Act. These are the things one needs to understand. You do not have to be a lawyer but you have to know where to find it.

6.00 p.m.

Mr. President, if one had taken the local Government and given it to somebody who had no experience and wanted to have local Government gotten rid of, that agency that had that responsibility had no lawyers, no personnel people, no engineers but yet was required to call on those services, and that is what a manager must be able to do. A manager must establish the linkages and connections to ensure that the job is done.

Sir, what is the definition of management? Management is not becoming a permanent secretary or a head of department. Management is getting the job done. Whether or not one has all of the resources, management's job is to find the resources and to do what is necessary to get the job done – and the directive was, without any loss of job earnings, *et cetera*. Have we lost that type of person?

Mr. President, there was only one person who was able to establish that move of local Government – Sir, this person produced six pieces of legislation, along with other things in order to get the job done. This person was working

with a man who understood what it was to get things done. This man was Sir Carlyle Burton. Sir Carlyle never kept files on his desk. Sir Carlyle had spent a number of years working in a number of different departments. There were others who have done equally or nearly as well.

Sir, what that says is that one cannot become a manager by moving from department to department. As I earlier said, within a four-year period there were a total of eight different persons who had been in charge. One would not be able to get an airport authority functioning unless persons settle down and decide who is going to be the manager of Civil Aviation – and there is no Act that could address this problem of indiscipline.

Mr. President, I am not being too unreasonable on this question of discipline. Every jurisdiction that I have ever had the opportunity to see function, has identified discipline as the greatest problem. The Fulton Committee in Britain in 1968 had identified discipline as the worse function in the public service. A subsequent committee six years after also identified indiscipline as the worse thing. Why is it that difficult for people to approach and to manage discipline in the public service.

One of the first things is that managers in the public service do not have any authority. There is a Public Service Commission and there are rules laid down through the Constitution which ensure that each person being charged is given a fair hearing that the person might be able to exercise whatever appeals that are permitted. On the other hand, a public officer is asked to carry out a preliminary examination of the charge.

Barbados is a small society and every person is almost known by another. When this public officer is asked to carry out the preliminary investigation, he has to rely on legal help from the Attorney General's Chamber, which he does not get freely, while the person who has been charged has a lawyer who would use whatever mechanism he can to ensure that the matter is delayed, which could be frustrating to persons involved in this matter of discipline. Also in this matter of discipline, let us not rule out something called political consideration.

Sir, I have had the experience of reporting an officer. It was later said that comments were made by the officer to the effect that I would long have retired as Permanent Secretary and that officer would still be employed in that department, and it was true.

Sir, when we were doing the Inquiry into the Queen Elizabeth Hospital, some of those senior officers came before us and it was most frightening to hear the things that were told to them by some workers. Sir, discipline within the public service will always be a special problem where

authority and responsibility have no connection.

Sir, if persons are not clothed with the relevant authority to exercise the discipline that should be exercised, then one would give up and would not try very hard to do anything about it. Sir, the rules are not impossible to apply. What one needs, as the Committee has recommended, is to put a time frame in place and to let that be known to everyone. Even so, there is still room for the preparation of persons within the system for carrying out the basic adjudication of disciplinary cases. Discipline is going to be much harder to administer now that persons are permanent. Discipline is going to be much harder to administer when one can no longer suspend persons on reduced pay. It is going to be much harder where it is going to be much difficult to prove charges that are brought against persons.

Sir, I see a Code of Conduct in this Report. However, proving it is going to be difficult.

Mr. PRESIDENT: Senator, you have one minute to wind up.

SENATOR B. R. COLLYMORE: I will make mention of a senior public officer saying that she was in the habit of getting a worker from the Ministry in which she worked, to come on weekends to do gardening. She noticed that the worker was coming, not only on Saturdays but on other days of the week. When she questioned him about it, he informed her that because of his being permanently employed in the Ministry, he could now take a day off during the week.

I am sorry I could not touch on something else but I hope another opportunity would come for me to deal with it.

I thank you.

SENATOR Dame PATRICIA SYMMONDS: Mr. President, I too, like those who have spoken before, have nothing but praise for some public officers past and present who have worked diligently and efficiently.

Sir, I am particularly interested in the Code of Conduct. I looked at the generous statement but I do think there should be more specificity to which public officers should live up to.
6.10 p.m.

I think there should be a set of principals which public officers should be required to live up to. Public officers should realise that the public service exists to facilitate the public's interest. It is the duty of a public servant to understand what his job entails, work diligently, honestly and efficiently, to act fairly towards everyone and treat the public fairly, regardless of what is the status of the person. A civil

servant should keep proper records especially where action has to be taken, and he should be able to provide accurate information. It is also important that opportunities exist so that he can prepare himself for preparation through reading, refresher courses and self-development.

Sir, when I was a Government servant and had to deal with civil servants, I found it very irksome that often they did not take decisions quickly enough and this could be very frustrating. I am made to understand that this attitude still exists today. Sir, I think this is unfortunate and unprofessional.

Since there has been emphasis on Public Sector Reform, I have observed an improvement in attitudes generally, not because someone may recognise my voice but, generally, there has been an improvement in attitudes and the courtesy expected of any public service.

I must praise, unreservedly, receptionists because invariably they are courteous. I find both in the public and private sector that there is not always the understanding of the distinction between civility and familiarity and that some people object to being called "dear" which is a Bajan failing.

Sir, I do not mind being called "dear" since I think it is rather endearing, but some people object to this. Some people also object to the words like "hi", "uh hum" and "hum" which are certainly not acceptable.

There is also need for refresher courses in English, etiquette and protocol and I wish to see acknowledgment and replies to letters that are sent to the public service which are not the best courtesy.

I am concerned when I look at the Code of Conduct about punctuality and I confess that I have reservation about it being considered a minor offence. I know there can be extenuating circumstances but punctuality, if taken too lightly, can become the thief of time and can hinder productivity. With our development and level of sophistication, I thought the time had long passed when we made a joke about punctuality being a part of our cultural heritage. Sir, I think punctuality needs to be monitored.

I am particularly disappointed to see the response to the suggestion that there be a teacher's commission. It should be considered that the Public Service Commission was designed for a time when there were few public servants and things proceeded at a leisurely pace but now there are now four times the number of public officers.

The Ministry of Education, acting as a Secretariat, should be able to deal with matters more speedily as there are roughly 2 700 teachers in our schools and 2 564 established posts. One of the major benefits of having a teacher service

commission would be speed and persons dealing with teachers would have only educational matters to look at.

When Senator Collymore spoke about teachers, it drove home to me that training for teachers should not be lumped with other professions or go through so many channels. If there was decentralisation for teachers, the determination for training would be left for the parent body, the Ministry of Education, and it is all the more important today when teachers are being lured abroad.

Sir, the attraction of people to the public service is a difficult problem because years ago, when there were fewer options, Barbados scholars went abroad, came home and went into the public service or to teach but, nowadays, the world is their oyster and there are many more options here in Barbados.

I think that meritocracy is very important along with seniority and chances of promotion are the keys to attracting competent and exceptional people to the public service. One will have to accept that it is difficult to draw people into the public service when there are so many more opportunities in the public sector. It does not mean it cannot be done but one has to look at the realities of it.

6.20 p.m.

I wish to congratulate the Committee that submitted this Report, although I have some reservation about some of the recommendations which were made. I think that much is being done to see that the process of Public Sector Reform is carried out as speedily and efficiently as possible. Sir, those persons who worked with the Public Sector Reform Committee are to be congratulated.

Mr. President, I am much obliged to you.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, I want to make some comments on the matter before us. I hope that they would be taken in the light in which they are given.

Sir, Barbados has been blessed with a very good civil service that has taken us through many rough times and has put us in the position that we are regarded as one of the most developed countries in the third world and this should be made known and public. Civil servants should understand that a country cannot perform well unless we have an adequate public service.

Sir, in the 1970s, when I was first elected to Parliament, I began to realise that we were moving swiftly into the 21st Century. During that period there was a restaurant located at Pelican Village where most of the graduates from the University of the West Indies and top

professionals used to meet, particularly on Fridays. Professor Waldron and Dr. Rolston were among those persons who met there around 10.00 a.m. At that time I begged those who were lecturers from the university to start a discussion focussing on whether the Civil Service of today was applicable to Barbados in the year 2000.

Sir, I thought that it would have been wrong for a politician to raise such a discussion because the civil servants would get vex with the politician. I realised at that time that we were getting into a situation where we lacked training in areas which would have become relevant in the 21st Century. We had a major case of absenteeism in the Civil Service and that situation annoyed me at the time.

Mr. President, when we talk about productivity, I wonder how we are going to deal with productivity within the Civil Service. If you telephone some of the Ministries anytime before 9.30 a.m. there is no answer. We are moving into the electronic age and I ask myself, what is the good of placing telephones in offices if no one is going to answer the telephone? Sir, it is not only the Civil Service that is at fault.

I remember BarTel used to have a logo with two fingers on the telephone directory which said, "Let your fingers do the walking."

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: Sir, if you call BarTel today, the telephone will ring approximately 69 times before anyone answers the phone and we are talking about productivity.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: BarTel has now established "292" numbers and it is pointless calling those numbers.

I want to warn the Government of Barbados that it is folly to get into a situation where you publish telephone numbers and when you call those numbers a recorded voice comes on which says, "If you know the extension you want, dial it now". Sir, you will be pressing numbers for over one-and-a-half hours in the morning and you still do not get any answer.

I want to know if we can call that productivity and a reform of the Civil Service in Barbados. Sir, that cannot be public sector reform. If I call a ministry, I am calling it for a reason and I want a quick answer because I have business to get on with. I may have a client sitting in front of me in my office who requires an answer immediately.

Mr. President, recently, I called a Government department and I went through six persons in that department before I got an answer. A lady said to me that she was the Secretary to the Minister and she would speak to the Minister for me. Sir, about 15 minutes a gentleman called me and gave me the answer. Sir, this is a problem that we have in the Civil Service in some departments today and the first thing that the civil servants say to you when you ask for information is that you would have to speak to the Permanent Secretary.

Sir, what Senator Collymore said relates to the question of management and responsibility. If you have management, then management goes with responsibility and management goes with discipline. I have said many times before that it is time we devise a method where the managers of departments can adequately discipline the staff.

Sir, I represent a police officer who has been on suspension on half-pay for almost seven years. The last time I saw him he was living in Canada and he comes down every few months to let the Government know that he is still a Barbadian and that he is still on suspension. I am saying that at the end of the day the Government will have to pay that police officer back-pay for the time he has been on suspension. In addition, he would have acquired the number of years to retire and would be entitled to a pension.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: Sir, we have to reform the Civil Service in a way that is suitable to Barbados in the year 2002 and beyond.

I notice in the recommendations that we are going to retain a lot of the rules from the old General Orders but I wonder if it is right to retain these or will it not be better for us to look at Barbados, in a developing world, and create rules to suit what is happening.

Sir, the late Prime Minister, Errol Barrow, said, "The Civil Service is like an army of occupation, once they get in you cannot get them out." I believe that we must find a method in dealing with those who hold back the system. It is not every civil servant who behaves this way.

I deal with many ministries in Barbados and eight out of ten of the ministries were very responsive when you call and they knew what you wanted or they could tell you where you could find the information that you were requesting. In other cases you were left afloat.

Sir, we depend on the financial sector in Barbados today. In fact, the Prime Minister said that he would like to make Barbados the financial centre of the Caribbean and the

Western Hemisphere. We have to build a civil service that understands that. They must be able to give answers that are relevant within a very short time.

Mr. President, I heard in this Chamber today that some Members spoke about lawyers who cause delay in dealing with matters.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: Sir, let us recognise that if you go to the doctor, he treats you to the best of his ability so that you can be well again. If you go to a lawyer, he treats you to the best of his ability and he gets the result that you want. It is not a question of lawyers delaying time because a lawyer plays it according to the law. If the law lays down time limits, he has to work within those time limits. Sir, at the same time you must ask how many civil servants delay action so as to prevent the lawyer from getting results.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: Sir, many times I have a matter set in the court and I would receive a telephone call from the court a week before telling me that they want to adjourn the matter for a little while longer because they cannot find something relating to the matter and then the matter is adjourned for six months later.

Mr. President, I have worked out what the six months mean and I thought that Senator Collymore would have raised it.
6.30 p.m.

Sir, years ago, we had the colonial powers in Barbados and the Permanent Secretaries were all from Britain and they used to get overseas leave of six months. The boat took two months to travel to England and two months to travel back. When they got overseas leave, they had a system of clearing their desks the evening before they left. They spent two months travelling to England, two months vacation in England and two months travelling back. When they got back to the office, everything was on their desk, just to be signed.

Aside.

HIS HONOUR SENATOR C. L. BOLDEN: Sir, today if you write a letter to certain departments in Government, it is six months before you get an answer and I dare anybody to tell me that is not true. Even an acknowledgment of the letter takes two or three months – your letter has been received or I am acknowledging receipt of your letter dated

so and so – but you do not get an answer for six months.

Sir, overseas leave has been abandoned but the system is still with us and the method is still with the civil service to this day.

Aside.

HIS HONOUR SENATOR C. L. BOLDEN: I want to ask what is the attraction to the Civil Service and this is why I agree with Senator Collymore that management and discipline are absolutely necessary, if we must have an effective civil service.

I was transferred to the Ministry of Transport and Works. One day a lady, whom I say is a “real-real yard fowl” of the Barbados Labour Party and a diehard supporter came to see me with her grandson. She said: “Mr. Bolden, I want a job for my grandson”. I said: “What does he do?” And she said: “He wants to go into the drawing office”. I said: “Son, why do you want to go in the drawing office?” He replied that he has a friend who works at another firm of draftsmen and he told me his friend told him that when the boss gives him a project and tells him that he wants it back by the next two weeks, he must get it back by the next two weeks.

He said that his friend gets paid the last day of each month. I said: “So what is wrong with that?” He replied: “Oh, when you are in the Civil Service, you get paid on the 25th or 26th of the month and if anybody gives you anything to do, you do not hurry up with it because his friend, who is in the drafting office told him so”. I said: “And I will tell you this. As long as I am Minister here, you will never get a job in this Civil Service with me, because you are coming here to waste time”.

Sir, it is absolutely necessary for managers to write about this because, as somebody said in here, they will come to work in the morning at 8.00 a.m. or 8.30 a.m. and they disappear until 1.00 p.m. When you come back, you hear that they are at lunch. Then, when you ring at 3.00 p.m., they are gone. Senator Laurie will support me on this because in the Ministry of Agriculture, they had a gentleman there, you only had to tell him there is a good domino match down the road, and he is gone for the remainder of the day.

There was another one who wore white, from top to bottom and I have been asking if anybody can compute the hours he has given to the Civil Service of Barbados in his whole working life in the Civil Service.

Aside.

HIS HONOUR SENATOR C. L. BOLDEN: You know what I am talking about because he belongs to your party.

Mr. PRESIDENT: Please address the Chair.

HIS HONOUR SENATOR C. L. BOLDEN: Sir, that gentleman said that he spent his time in the Ministry of Education trying to derail the Minister, when he was there. Sir, if you had management and discipline together, you could deal with these odd balls in the civil service who pull down the whole system. You cannot expect one person to behave in that way and another will not look and say: "Well he does not come to work, he does not do anything".

Sir, in today's world, we need an efficient and effective Civil Service, irrespective of what we say. Even if we have to reduce the numbers and pay those who remain substantially more to produce the work we need, it would be better for Barbados, because we are entering a technological era and I have made comment quietly to some of my friends which I think is something that has to come out.

Sir, in Sunday's newspaper, there was an article about a report on Barbados sent from Barbados to a United Nation Committee which highlights what efficiency in the civil service means. You prepare a report which is contrary to what is happening in Barbados, and pass it through the Minister, and I can tell you how it was done. It was put in a file with note attached which says: "Minister, please approve". The Minister signs and it goes to the Cabinet with the poor Minister accepting the words of his Permanent Secretary or his staff. When it gets somewhere and somebody reads it in full, then we see the situation which it highlights is not true.

Sir, I am saying that if we expect our Ministers to function properly, and that is why I raised the issue of the letter which I wrote, and the Permanent Secretary told me that it is not done so, because they often told me when I was there, "Mr. Minister, we do the research, we write the programme, you approve it".

Aside.

HIS HONOUR SENATOR C. L. BOLDEN: Yes, Mr. Minister, now you know what we are talking about.

Mr. President, the next question we have to look at that Senator Collymore has raised, is how do you charge a civil servant for dereliction of duty and how do you produce the evidence to support the charge? I say very, very seldom can you do it, because I have represented several civil servants under this situation and after the second or third hearing, it is adjourned and it never comes back up because, as Senator Collymore said, everybody has a friend.
6.40 p.m.

Sir, this was a long time ago, and Senator Collymore

might remember it, there was a time when about 16 nurses from the Psychiatric Hospital were charged for carrying away items from the Hospital. The former Chief Justice, Kenneth Stoby, was carrying out the inquiry and a still practising attorney who was then a civil servant was secretary to Mr. Stoby. Five of the nurses were my clients and the first day of the hearing – Mr. Stoby and I had a little quarrel before – Mr. Stoby said: "I am adjourning your cases". I said: "Until when?" He said: "We will let you know". I think Senator Collymore will agree with me on this. When they adjourn the cases, they do not set a date on adjournment. So when they talk about lawyers keeping back cases they must tell you that they never set a date on adjournment.

Even now if you appeal a matter of the Town and Country Planning Department, you do not know when it is going to come up. Sometimes the file does not come up for years, so people should not talk about lawyers keeping back anything. They should talk about the system in the Civil Service where files are lost. Even in the courts today, files are lost every day. Whom do you complain to? So it is not the lawyers, it is the system which the civil servants themselves set up. So it is not a question of the lawyers keeping back anything.

As Senator Collymore has said, we need a very comprehensive review of what you are going to do. You need also a supervising authority. When civil servants in departments disagree, you must have the supervising authority to settle the issue and get on with the job to be done. That is why we are now struggling with the Land Registry Department and the Court Registry because years back in the 1970s when the then Harold St. John and I suggested systems for the Supreme Court and the Land Registry Department, three heads of government departments said they wanted different systems.

The Government had just purchased a computer from a company in Grazettes, because I brought a charge against them and wind them up for not paying their debt, and when we suggested how the Government could use the computer, three different heads of departments could not agree on what systems should be used and it took more than 15 years for the Government to decide how to computerise the Land Registry Department and still has not yet computerised the Court Registry up to today.

Every Permanent Secretary has his idea of what he wants and there is no supervising authority to settle the dispute to get on with the job. So if we are going to revise the whole of the Civil Service, we must look at all the pitfalls and the things that are keeping us back because it does not keep back the Civil Service only, it keeps back the entire country.

People quarrel about legal fees for transfer of land but they do not understand the research that has to be done to satisfy a mortgagee on a title and they think it is the lawyers who are robbing them, and all you try to tell them it is not the lawyers, it is the Government system, nobody wants to believe you, so if you are looking comprehensively at what is happening, you have to look at all these things. Even now and you send certain documents to certain Government departments for approval – if you do a deed of gift, the system is that, despite a land tax certificate, the document has to go to the Valuation Department of the Land Tax Department for them to give you a valuation before you can register the document, but how long does it sit out there?

I personally just had an instance in which I was selling a piece of land and wanting a tax certificate for the year 2002-2003. I went in to the Land Tax Department and asked a question. The response was: “Oh, the gentleman who is valuing that area is not in today. I do not know if I would see him before Tuesday or Wednesday next week”. I said: “But I have to close on Friday”. The response was: “well, I do not know”. I said: “Madam, I have to have a document. I have to close on Friday. Do not tell me you do not know where he is. I want the job done today.” Within an hour after that I got a tax bill. She pulled the figure out of the sky. A piece of land being sold for \$440 000 and she puts it down as being valued at \$800 000. Now, there should be some method of dealing with civil servants who create that sort of behaviour. They should not be able to get away with it.

Senator Laurie would tell you that there are certain government departments you go to that if they like your face you get what you want and if they do not like your face you do not get what you want, so there should be methods of dealing with that. It may sound strange but that is true, and we should be able to deal with those things.

Another point, Mr. President, I would like to see really taken into account is absenteeism for sickness. I would not say pretense on the words that the officer is sick. Sometimes when you call a department you are told that you would have to call back because the officer is away on sick leave and would not be back until next week. Even that can be frustrating. I do not know how it is dealt with internally in the Civil Service because, unfortunately, as a Minister, you never know these things.

I always hear people complaining about the Minister does this and the Minister does that but it is time the people understand that the Minister is technically only a figure head at the top and that a Minister has very little power in the hierarchy of things.

I have said before and I would like to recommend again that when a political party wins an election, it should be able to carry in its executive managers to manage and process work through the system. It is done in the United States and as Senator Collymore or someone else said, you would hear

Ministers come and Ministers go but the Civil Service will still remain. When civil servants want to block you, they can block you. This is where discipline comes in.

I will tell you another example, Sir. When the late Errol Barrow died, I was coming up Broad Street the same evening and a political civil servant looked at me and said, “You hear the Skipper dead?” I asked, “Who Skipper?” He said: “Errol Barrow dead.” I said: “Oh, yes I heard that”. He said: “But the file for ceremonial funerals is lost.” 6.50 p.m.

I am only letting the President know what happened that a civil servant could tell me that same evening that the files for state funerals were lost and were not found until two weeks after the death of Errol Barrow.

Sir, there are good civil servants but as I say, it is like a barrel of apples where, because of one bad apple, everybody refers to the bad batch, yet there is only one bad one. It is the same thing happening in several departments of Government where we have the odd person who seeks to retard the progress of the department.

I think we should very consciously take heed of what Senator Collymore has said because he knows the Civil Service very well. I will say this, not only should we listen to the words of Senator Collymore but I look at the Document and see the name of another Permanent Secretary who made presentations at the Town Hall meetings.

I know of another civil servant who is a Permanent Secretary who had said to me that when this debate comes to the Chamber, recommend that I get rid of Permanent Secretaries because Barbados operated without Permanent Secretaries for a long time. One of the persons who was making presentation told me that he would like to speak to the Prime Minister because he could give him 38 reasons why the whole Civil Service should be changed.

Mr. President, I read in the papers some time ago of a representative of the NUPW who was complaining that when his members retire from the Civil Service, it took them a very long time before they could get their pensions and that Government should do something about it. Sir, that was the strangest statement that I had ever heard or read because he was complaining about his members actions.

One of those persons who had made submissions at the Town Hall meeting told me, that a year before he had retired, he had sent in all documentations that were required for him to be entitled to his pension. When he retired and received his pension, he realised it was computed wrongly. He returned to the department to enquire the reason for the error and was told that they had not taken into account his

ten years working in another Caribbean island. He then sent in the required papers and six months later, he still had not heard anything. When he called, he was told that, as yet, the department had not had a chance to look at his matter.

Mr. PRESIDENT: Senator, your time has just about expired. Would you please wind up?

HIS HONOUR SENATOR C. L. BOLDEN: Thank you, Mr. President. It only goes to show that we should look to those who have left the service, draw on their knowledge of the pitfalls in the system and sit with them and devise new rules which would carry us forward for the next 50 years. Without doing that, the entire country suffers. We need the good ones in the Civil Service to be praised and if we could get the whole service functioning cohesively, then Barbados would be even further ahead than it is today. I thank you, Mr. President.

SENATOR C. LeR. TROTMAN: Mr. President, this has been a most interesting evening. For example, I now understand that the value of interpretation which was troubling Senator Collymore somewhat. Sir, given his difficulty there, I can now say to him, through you, that from interpreting what Senator Bolden has said, we could easily say lawyers delay but do not blame the lawyers, blame the civil servants. Mr. President, if I got nothing else from what he has said, that is how I understood his speech to be reading.

Sir, I wish to note the Report and to say that the Trade Union Movement, including my cousins referred to earlier by Senator Bolden, believe in discipline. I can boldly say that I do not think there is one trade union in Barbados that will tell you that it does not believe in the need which there is for discipline and proper discipline within the private and public sector of Barbados.

I say even more emphatically that personally speaking, for the private sector and those public sector members that I represent, I have publicly gone on record last August, for example at our Annual Conference and even before that and have made it pellucidly clear that, insofar as the BWU is concerned, we believe very strongly that what is required in this country is a position which is being taken by every man and woman, whether that person is a non-management worker or management worker, whether that person is black, pink, blue, Indian, Chinese, *et cetera*, there must be an understanding that there must be a fair day's work for the pay one receives. If we do not believe the level of pay is right, we should still do the fair day's work and agitate to make that pay a fair day's pay. This was said before and I do not say anything different this afternoon.

Sir, by and large, I believe that trade unions believe that way. Trade unions and public sector workers have been burnt too. I have been involved in a situation at the Transport

Board, where the trade union had agreed with management that a worker had used up all of his chances and should be terminated. That worker, in my experience, has walked away from Roebuck Street, gone into the Pine, and walked back into the job without having to speak to the General Manager or the trade union.

Sir, the BWU believes in discipline. When that man walked back into the job, did he have any reason to respect the General Manager or to listen to him? Therefore, let us not become too anxious to start pointing fingers. There are some persons among us who would tell us that when that starts to happen, the Good Master stumped and started to write in the dirt and by the time He is finished writing, the accusers had all kept quiet and had all disappeared. He must have been writing the various other crimes that are committed for which some of us believe the punishment is to be at the level of the Civil Service, the public servant and the poorly paid servant.

Mr. President, the punishment does not have to operate at a higher level. Let us be careful when we start crying down people when, in fact, indiscipline for public servants is an evil in the entire body of this country. I do not mean the politicians but the fabric of this society, but the politicians may also be part of the indiscipline. It is a sickness that is not endemic anymore but is now epidemic. After all, the civil servant is only a micro-cousin of that society, reflecting the evils in that society.

If that person goes to work at 10 o'clock, what happened? How was it that person has reached the stage where he believes that it is proper to arrive at work at 10 o'clock? It may be that when that persons reached work at 10 o'clock, there was no supervisor present to recognise the time it was. Sir, we believe in discipline.
7.00 p.m.

Now that we are having this debate and understand the enormity of the problem, Government will understand that we cannot help as much as we would like to if they do not realise we are doing their job and that Government needs to assist us in order for us to do it better.

We ask people in the private sector to take their employees and make them more committed to Barbados. They say they want change, but they do not want to work towards creating that change. We use occasions like this to pound on civil servants and workers in the private sector but when the time comes for moving to make them better people by providing an opportunity for them to improve, we say we do not have time with them and we do not want to spend the money to make that change.

Meanwhile young boys and girls are looking for role models and when you ask them if they want to be like a

certain leader or employer, they say no, because when the person goes to lunch at 10.00 o'clock, he does not come back to work until 3.00 o'clock. They have been able to take all the worst role models, the ones who go to work, lock their door, look at Playboy magazines, do not drive a stroke, then walk around with their chests puffed up, say that other people in the society do not contribute to it and they get looked upon as the nice people in the society, perhaps because of the nice clothes they wear.

Let us accept that this Barbados society at all levels is lazy. Move from there to try to correct the sickness at all levels and let those of us who are able to, lead by our example. Do not point fingers at the simple ones, when we know that every time we point a finger at them, we are pointing four more fingers at ourselves.

Sir, the matter of change within the public service has been mentioned by my colleagues, and I want to deal with it. There is no doubt that the public service needs change.

When we had the problem at Cable and Wireless...

Asides.

SENATOR C. LeR. TROTMAN: No, I do not mean the wicked problem we had last week. When we had the problem at Cable and Wireless, there were people working 32 hours and they wanted a regime in which people would work 40 hours. In the public service that would be impossible but Senator Williams can tell you that we sat down as rationale, reasonable people, interested in building a company, applied common sense to the issues before us and arrived at an arrangement where the hours of work are now 40.

Sir, if we are prepared to reason together then for every problem there is a solution but, instead, we are taking the position that to every solution there is a problem. If we are not careful, we are going to find a regime where we will say that to every solution there are three, four or five problems. Mr. President, the opposite to that is equally true, but we have to have the creativity and the "stick-to-it-ness" that will tell us that if we want it badly enough we will have to join in a regime of effort to bring it about.

Part of what seems to be preoccupying some of my colleagues, Senator Sir John Stanley Goddard particularly, has to do with part of the Report that speaks to the public service being involved in national politics. I understand what he is saying but we have to be able to recognise that when these Orders were prepared the public service was a fairly small institution. Today, the public service has 27 000 persons and I do not believe that democracy could dictate that one-eighth of the voting population of Barbados would

be told by any prescription that they cannot participate in policy activity in their country.

Mr. President, there was a very interesting case in Antigua, Lloyd DeFreitas vs. Minister Humphrey, about 12 years ago. Lloyd DeFreitas was a senior public servant and Minister Humphrey was the Minister of Agriculture and DeFreitas led a public demonstration that spoke openly to the honesty of the Ministry of Agriculture and he was fired. He won in the local court in Antigua and the matter went forward to the Privy Council.

7.10 p.m.

The Privy Council in its review of the matter indicated that whereas, previously it could be said that a civil servant could not show on his shirt a preference for a political Party and could not demonstrate against a Minister, that was okay when you were talking about a very small and limited public service. However, in a society where the significant number of workers in a country are civil servants, to deny those civil servants their right to exercise a democratic choice, is to deny too many people in a community their choice to have a political position. Therefore, what we are saying is that there has to be a level within the public service where a cutoff point comes.

Sir, if a person is a teacher, a postman or some level of worker who is not in a position to influence decision making at the highest level of that Ministry, you are saying to that person not to exercise his political preference? If you are saying that, you are going to run the risk of having him do it anyhow.

Asides.

SENATOR C. LeR. TROTMAN: Sir, I see the most elevated public servants in Barbados openly identifying with political parties.

Asides.

SENATOR C. LeR. TROTMAN: Mr. President, we have to be careful about that particular stricture. I understand what the Senator is saying but we need to recognise that things have changed somewhat and we have to make sure that the integrity of the public service is preserved, but we still have to be careful that we do not deny people their constitutional entitlements for freedom of expression and association.

I support the view of Senator Sir John Stanley Goddard that there have been some problems regarding the approach of the Government to some of these reports. I did not take part in the Constitution Review Committee but I was tempted earlier to speak about the fact that there are several aspects of the Constitution which, in my view, needs

to be addressed with some degree of haste but which have not been addressed even though we have been doing the exercise in a piecemeal way, as I was accused of doing earlier today.

I have been part of the Reconciliation Committee and I am disturbed that having gone to the trouble of appointing a Committee, seeing its work and accepting that the work is good, we have not gone the extra step to follow other countries in the Caribbean and formulate an action plan through which we would be able to work meaningfully at reconciliation through colour, class and whatever differences there may be.

Perhaps, if we were to get to that day, we might have the calypsos with a different flavour than some of them attempted to suggest during the period of rejoicing, which Senator Goddard was not particularly happy with. Senator Goddard, I cannot join you and express the same view because I did not see it.

Mr. President, Senator McClean indicated that this is not a perfect document. Indeed, it could not be a perfect document because too many different people were called upon to draw up the document. I do not mean that the people were inefficient, but I mean that they represented too many different interests. Sir, what we have before us might have been the result of their views pooled into a single person who was Commissioner-in-Chief, who then wrote the Report expressing what he thought were the ideas that best captured what we have before us.

Sir, there are too many different interests involved here and so there are weaknesses and I think that we should congratulate the people who went to the trouble of seeking to put this document together. Mr. President, I am not as worried as Senator McClean that only two trade union persons represented the trade unions on this Commission because, Sir, Joseph Goddard and Patrick Frost would have been quite capable in taking on twice as many persons as those that were put in this group.

Asides.

SENATOR C. LeR. TROTMAN: Sir, there are some problems in some of the things which have been described.

Mr. President, part of the problem lies in the fact that we have been seeking to address what we perceived to be the best way forward without coming to grips with what is actually happening on the ground today. These repertoires who got together do not, for example, clearly understand the problems with appointments to the public service.

Some of the problems that I encounter in the public service are that directors, notice I said directors, using the widest possible interpretation for what I am saying, and not

Ministers, Permanent Secretaries or Human Resource Managers. Sir, there are some full-time directors in the public service who behave as though they can exercise personal decisions regarding the livelihoods and the conditions of their staff in their departments, ministries or boards.

Mr. President, to help clarify this in the minds of Honourable Senators, there is the classic example of a decision made by our Prime Minister, five years ago, that persons who have five or more years of service be appointed into the permanent staff. No conditions were to be applied except the condition of five years. Sir, what we got from these dictators and directors, I call them "little Hitlers", was a position where some of them in their departments, were trying for years to suppress junior staff and determined that a particular member of staff had a problem 20 years ago and, therefore, should not be appointed. Another person had a problem 12 years before, as we had at the Customs Department, so these dictators said that he should not be appointed. Mr. President, if it was such a bad problem that person should have been dismissed, but he is still employed.

However, a problem existed with a member of staff 12 years ago and the Prime Minister said that all persons with five years service must be appointed but they asked, who is the Prime Minister to tell us to send names for appointment? Sir, that is part of the problem in the Civil Service and this problem exists in more than one area but, perhaps, Customs is the worse in my experience.

Asides.

SENATOR C. LeR. TROTMAN: Sir, we have situations where people have been acting for a long time, yet people have come yesterday and have got their appointments, whereas, the ones who have been acting for a long time remain disappointed. For example, a man was acting as a senior employee. He was good enough to act for 12 years without a break in service but when the time came for the interview to be appointed to the post where he is acting, his name was not sent forward to be looked at for permanent appointment in the position.

This can only frustrate the morale within the establishment. It can only point to a position where there ought to be the *esprit de corps* that is required to make the station satisfactory. That will not come forward in the Prisons or the Fire Service unless there is the approach that would say that we understand that you are colleague first, anything after that, you are entitled to respect as a man or woman and as a subject in any other position.

Mr. President, we need to recognise in this country that Public Sector Reform is not something that we need to be

afraid of. It is a matter that we have to be willing to take onboard and it is a matter on which the trade unions should be willing to work with the Governments. There cannot be any proper reform if there is not a recognition, at all levels, that what we are seeing is a society in which we are the Pharisees, so to speak, who beat our chests and say: "God look at me and see how good and proper I am. I go to work every day but I would not tell the Lord what I do when I get to work. I am not like those who stay home and say that they are sick."

Asides.

SENATOR C. LeR. TROTMAN: Sir, let us be willing to work with the trade unions, the society at training, incorporating and building a society into which we are going to have different and better approaches for all of us, a society in which the public service will become the employee par excellence to cause the private sector and the rest of us to be able to take new heart, direction and guidance to build this better Barbados that we all hope for.

7.20 p.m.

SENATOR P. C. GODDARD: Mr. President, I rise to continue this very interesting debate on public sector reform and to say that many of the comments that I have listened to, have been comments treating the symptoms and not the core problem of reform. I believe that we have to structure the Civil Service of the future, with a new view of the technical requirements and skills needed for the needs of our society in the twenty-first century.

The complexities of trade, the complexities of health, the complexities of the environment, the management of the environment, dealing with new technical requirements and new technologies require a level of education and training and a restructuring of the work environment and that is the most critical part – the restructuring of the work environment – to meet the needs of the knowledge-based worker of the future.

We talked a lot about discipline and we talked, to my mind, too much about authoritarian mind set, but I think the following should be applied:

- A properly structured work environment, and by that I do not mean the physical environment, I mean the virtual environment within which people work.
- Proper management skills.
- Leadership, and only one Senator mentioned this critical ingredient and that was Senator Trotman. Leadership is more important than management.

Leadership by example. Leadership to inculcate enthusiasm in the workers and in the team that you are building.

Sir, let us get away from the concept of workers. Let us talk about team building. Let us talk about the network society that is evolving. Let us talk about information sharing and I do not agree with this Report that discipline is the major problem. It is a significant problem but discipline will flow from the correct environment, the correct management and the correct leadership.

Many of the causes of indiscipline today cannot be solved by punitive action alone. It has to be solved by the very restructuring that we are talking about and the creation of an environment of a place where people will want to come to work, because they feel they are achieving something and contributing to the common good.

If people come to work and sit at a desk with no equipment and nothing to do, their morale has to be poor. If they are sent on a job where no materials arrive for weeks on end, or no equipment is there for them to work with, their morale cannot be good. Therefore, we have to look at the total work environment that we are creating of these teams to achieve for the common good for all of us here in Barbados.

Sir, quite correctly, it has been stated that this is not just the problem of the public service, but this is a problem of the Barbadian workplace. There is much evidence in the private sector to indicate that many of the ills that occur within the public sector also occur in the private sector. It is interesting to note that in this restructuring of the workplace, we come to the last chapter of the document which is Chapter 10 and it talks about electronic Government.

Sir, to my mind that is the core of creating the new environment and the core of creating an information sharing society where the inter-departmental and inter-ministerial barriers are broken down and people come to the realisation that individuals in Government do not own the information, but the information is there for the use of policy makers and the general public.

Various degrees of security and compartmentalisation may exist but the vast amount of public information is there for all the public to get at and to get at when they want to see it, not when somebody wants to give it to them. Sir, that is what electronic Government is about and that is how we will transform the workplace for the civil service of this country.

their ability to function efficiently and productively. If the structure is wrong, the brightest person in the world will not be able to produce.

Mr. President, I draw your attention, a book called, "The Fifth Discipline", which outlines some of the thinking in that regard. In fact, a very interesting experiment was conducted by Harvard University over a period of many years, where they took some of the brightest and most successful executives across North America, Japan and Europe and set them to work a simple task of distribution, utilising a retail outlet, a wholesale outlet and a factory.

They set the framework for people to work within that programme and they found that the level of variants in efficiency in producing the required result at the retail level and at the factory level varied at most by 10 per cent, regardless of how foolish or how bright the people were who worked within that structure. It was the structure that controlled their efficiency.

7.30 p.m.

Therefore, the critical ingredient to the Civil Service reform will be the structure that is designed for individuals to work within and to utilise the technologies of the day. I believe that the Committee has addressed that but I also believe that they have put the wrong priority on it. I believe that many of the things which are in the front of the document address the symptom of a lack of productivity.

Mr. President, workers have to be given a direction. They have to be given a focus and they have to be given an objective to accomplish the end result that one needs to get. Quite often, the planning for these objectives is either insufficiently done or, quite frankly, not done at all. It is in this project management process that we really have to strengthen our skills in this society.

I can speak about the physical things we are doing such as building or fixing roads, or constructing a hard court. We will move into some of these things or we would see people building houses without even drawing a plan to build the house. They do not get Town and Country Planning approval. They will often start the house and change midstream and end up with an unsound structure. I have seen one edifice so distorted that when they came to put the roof on the second floor they were told that it would collapse the building, so the second floor remains unfinished and the people are living on the first floor.

I am not really looking forward to the first storm that hits us because that is going to be a problem, so we have this sort of thing in our society. There is a lack of planning. There is a lack of thinking things through and there is a lack of developing the structures that we need to accomplish a specific job.

Mr. President, the issue of training and education is

one that is going to be critical. It is something that the Government cannot do by itself, the private sector cannot do it by itself, neither can the trade unions. It is something that needs a national effort. We have to have the broadest view of how we develop the training and education of the knowledge-based worker of the future. We cannot be blinkered and tunnelled vision in saying that because you are an accountant it does not mean that you should not be taking a course in database management or a course on developing your managerial or leadership skills. These are some of the issues we have to develop in a more concrete way in this paper to understand better the needs of the education and training levels that are necessary.

I am not afraid of the requirements for degrees, but degrees are only an indication of what one can achieve academically. A degree has never taught anybody to manage anything. I think it is a useful benchmark to know what peoples' academic capacities are so that they can move into the more technical areas of Government. We have to recognize that as the world becomes a more complex place, we will need people with much higher skills to manage our society and to develop the policies that are necessary to take us forward into the 21st century.

I support this document. I think it is a very good first effort. It has given us a guideline of where we would want to go but I really do feel, Mr. President, that we need a lot more debate on the structural reform of the Civil Service. I feel that this document touches too much on the symptoms and does not touch on the core problems revolving around the business of Government as far as the Civil Service is concerned.

With those few remarks, I am very pleased to support the objectives of this Report.

I thank you.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, I rise to wind up this debate on what has largely been a most enthralling discussion and to say that at the beginning I had expressed the wish that the debate would not consist so much of Civil Service bashing but that it would be more of suggestions and pointers for the future how our reform should come about and how we can improve the public sector in Barbados for the good of the whole society.

My wish has been fulfilled partially, Sir, and I want to thank all those Honourable Senators who contributed but, particularly, those who pointed to the future and not so much dwelt on the nostalgia, or reminisces, but sought to lead us where we could go from this point given that this is a Report of the Committee Established to Advise on a Policy

Sir, it is important to understand that the structure that we create for people to work within is going to be critical to

Framework for a new Public Service Act. Sir, this is not intended to be a definitive document but to be a jumping off point from which we can initiate debate.

Sir, in spite of my misgivings or any disquiet I might have had about some of the contributions, I am very pleased that we are privileged to have a debate on the public sector in Barbados and look forward to the day when we can have a similar debate on the private sector in Barbados because the private sector and the public sector are part of the same society and while a lot of attention is being paid to public sector reform, there is no indication that there is any cohesive, coherent or structured private sector reform. Maybe there is the feeling that there is no need for private sector reform, that that takes care of itself as a natural course of things and that once you are in the private sector, that you therefore reform yourself.

My first job, Sir, was in the public sector. That is when I first met Senator Collymore. I learned some useful lessons in the public service that have lasted me all my life and which have guided me and enabled me to function in the private sector, so there are a lot of useful things to be had out of the public sector. Let me put that up front straight and centre.

I also want to ask those who are particularly critical of the public sector and the slowness, the delays, the inefficiencies and the obstructions to pause, think and reflect on the fact that the ENRONs of this world and the World. Coms of this world did not occur in the public sector. They occurred in the private sector, so the private sector needs to take a look at itself in that respect.

7.40 p.m.

Mr. President, there are more built-in checks and balances in the public sector than there are in the private sector. Those delays occur because we are protecting the taxpayers' money and their property.

Sir, I agreed with Senator Trotman when he said there is nothing to fear about public sector reform because Barbados, unlike many countries where public sector reform has been occurring, largely imposed by external forces or institutions in order to restructure a society or whatever, the Barbados Public Sector Reform effort is totally homegrown.

It was not done to satisfy any requirement from the World Bank or from any other outside forces. Therefore, one of the hallmarks of the Barbadian exercise is that there has been no job loss as a result of this public sector reform. Sir, this cannot be said for many countries in the developing world which have gone through public sector reform.

Sir, the public sector provides a good breeding ground for the rest of the society. When one looks at the number of

former senior public servants and public officers who are now being recruited by the private sector, these persons must have something to offer. These persons are given salaries and benefits that are much higher than what they could have had while working in the public service.

Sir, the root of this Report is to create a new and more highly professionalised public sector reform in Barbados and, therefore, steps have been taken to do that.

Sir, Senator Odle spoke to the fact that there are some duties within the public sector that are not clearly outlined. That we have recognised and there are moves afoot to create job descriptions for every post within the system which would serve to address that problem.

Sir, succession planning is another area that is being seriously addressed so that we could give greater focus and coordination to the issue of providing training and readying persons to rise up the ranks in order to become future public sector managers.

Sir, Senator Collymore spoke to the issue of public sector training, to which I had alluded and given the views of the Committee as it saw the concerns expressed. Sir, the Public Service Training Committee still exists and still operates. It meets and deals with recommendations that come from the different Ministries and Departments. There are set criteria used based on one's length of service, the relevance of the training being sought and how it ranks in the hierarchy of needs within the service. Though it exists, we realise that has to be more highly refined and improved.

I also agree with Senator Trotman pertaining to the issue of discipline. Senator Trotman, quite rightly re-enforced the point that, as a trade unionist, he does not know of any trade unionist who would encourage persons to be indisciplined. Certainly from my association while working with the sub-committee on the Social Partnership, the question of discipline is one to which I could attest about trade unions speaking very strongly about. I do not know of any politician who has or deliberately would encourage persons to be indisciplined. Therefore, this stereotype image of politicians seeking to ingratiate themselves to the public by encouraging inefficiency is one, I believe, to be largely undeserved and therefore, I believe the time has come when an end should be put to it.

Sir, there are other positive things that are happening in the public service. I have already made mention of an incident regarding a transaction I had with someone in the private sector and that person's lack of professionalism while on the telephone. We, in the public service have been addressing the issue regarding telephone etiquette and have recently issued and circulated a booklet throughout the

service for receptionists and persons who answer the telephones. We have also addressed the issue of how persons address letters and persons by their titles. These issues are being approached by the use of various publications and training programmes.

Sir, I want to assure my colleagues that these problems raised are not unique to Barbados only. I have seen literature on Public Sector Reform around the world. Sir, I am quoting from a document entitled "*Public Sector Reform in Korea – Some Policy Implications*" authored by Pan Suk Kim. Sir, some of the very aims we are seeking to acquire in our public service, are the same ones being pursued in South Korea. They want to have:

- an efficient Government
 - a more highly competitive Government, and
- (c) a customer-oriented Government.

Sir, in the case of Britain, Britain wants a restructured public sector, introduction of principles of competition, cost containment, contractual relationships, accountability to the customer and consumer, *et cetera*.

Sir, even though we might have different approaches which might be as a result that we have to respond to our cultural imperatives, we are seeking to provide the same efficient and improved service for the satisfaction of customers and the public everywhere.

I am very hopeful that these improvements in the public service would continue. Of course, there would be failures, slip-ups and delays but, as I have said at the beginning, it is a continuum towards the improvement of the Barbadian society, to allow us to survive and to be able to cope in a highly competitive world, to be able to offer the next generation a better standard of living than what we now enjoy today.

Sir, in closing I would like to make a quote from a document from Belize:

"Charting of the way forward 2000 and beyond will no doubt be fraught with many challenges. However, it is incumbent on every one involved with the changed process to focus on the task at hand and to steer the course. Perseverance, cooperation and haunting *esprit de coups* between key players will be mandatory if the goals of strategy outlined are to be met."

Sir, also a quote from Canada, a country that has undertaken some of the most expensive public sector reforms:

"An overlooked lesson is that it has taken a long time to reform public sector. Today's industrialised countries took centuries to develop effective public sector institutions. Developing countries are trying to do the same in the space of a few decades. Mistakes and setbacks are inevitable. They should be used as learning opportunities rather than excuses for squashing reforms."

Sir, I think this Report by the Committee, established to advice on a policy framework, should be used as a guide for the opening of opportunities for us to continue to raise Barbados, through its public service, to the highest possible level and for it to become a standard bearer, not only for Barbados but for the entire Caribbean.

I, therefore beg to move that this Resolution do now pass.

The question that the Resolution do now pass was put to the Senate and agreed to.
7.50 p.m.

RECOMMITTAL

ORDER NO. 4 – TREASURY BILL AND TAX CERTIFICATES (AMENDMENT) BILL, 2002

SENATOR B. R. COLLYMORE: At Clause 5 reference is made to Treasury Bills. Is there any further information the Minister can give on this matter? What are those financial institutions?

SENATOR THE HON. J. X. WALCOTT: I believe it would be held by the Barbados Pensions Securities Depository Incorporated which is an agency managed by the Securities Exchange of Barbados.

Mr. President, I beg to move that this Bill be read a second and third time and cited as the Treasury Bill and Tax Certificates (Amendment) Bill, 2002.

The question was put and agreed to.

ADJOURNMENT

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that this Sitting be adjourned until Wednesday, August 27, 2002 at 11.00 a.m.

The question that the Senate do now adjourn until Wednesday, August 27, 2002, at 11.00 a.m. was put to the Senate and agreed to and Mr. PRESIDENT adjourned the Senate accordingly.
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