
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1994 – 99

HOUSE OF ASSEMBLY

Tuesday, June 11, 1996

Pursuant to the adjournment, the House of Assembly met at 11.20 a.m. on Tuesday, June 11, 1996.

PRESENT

His Honour I. A. ROETT, B.A., Dip. Ed., (Speaker)
His Honour R. D. MARSHALL, (Deputy Speaker)
Rt. Hon. L. E. SANDIFORD, B.A., M.A., (Econ.),

J.P.

Mr. H. deB. FORDE, Q.C., M.A., LL.B.
Mr. B. M. TAITT, B.A. (Hons.), M.P.A., LL.B.

(Hons.)

Mr. L. A. WEEKES

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

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

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

Hon. Sir Harold St. JOHN, Q.C., LL.B.

Mr. L. R. TULL, Q.C., M.A.

Hon. Miss B. A. MILLER (Deputy Prime Minister, Minister of Foreign Affairs, Tourism, and International Transport) (Leader of the House)

Mr. J. O. TUDOR, J.P.

Hon. G. W. PAYNE (Minister of Public Works, Transport and Housing)

Hon. R. C. EASTMOND, B.A. (Hons.), Dip. Ed., LL.B. (Hons.), L.E.C. (Minister of Agriculture and Rural Development)

Dr. R. C. HAYNES, M.B., Ch.B., F.R.C.P. (Edin.)

Mr. D. CARTER

Hon. R. N. GREENIDGE, (Minister of Labour, Community Development and Sports)

Mr. G. A. CLARKE (Parliamentary Secretary, Ministry of Public Works, Transport and Housing)

Mr. J. M. EDGHILL

Mr. F. J. STUART

Mr. W. C. C. CALLENDER, J.P., B.A., Dip. Ed., B.Sc. (Chairman of Committees)

Mr. H. F. LASHLEY

Hon. R. St. C. TOPPIN, LL.B. (Minister of State in the Ministry of Foreign Affairs, Tourism and International Transport)

Mr. D. St. E. KELLMAN

Hon. Miss H. E. THOMPSON, LL.B. (Minister of Health and the Environment)

Hon. Miss M. A. MOTTLEY, LL.B. (Minister of Education, Youth Affairs and Culture).

Prayers were led by Rev. Canon Ivan Harewood.

Mr. SPEAKER: The House is now in session.

MINUTES

Mr. SPEAKER: Minutes of Tuesday, May 21, 1996.

Hon. Miss B. A. MILLER: I beg to move that the Minutes of the House of Assembly for its meeting of May 21, 1996, which Minutes have been circulated, be taken as read.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

Mr. SPEAKER: If there are no observations or corrections, then let those Minutes stand **confirmed**.

PAPERS

Hon. Miss B. A. MILLER: Mr. Speaker, I am commanded to lay the Annual Report of the Public Utilities Board for the year 1995 and also the Customs Tariff (Amendment) Order, 1996.

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, I am commanded to lay the Barbados Highway Code, First Edition 1996. Copies will be available to Honourable Members shortly.

FIRST READING OF BILLS

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, I beg to move that the Supreme Court of Judicature (Amendment) Act, 1996 be read a first time.

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

The question that the Supreme Court of Judicature (Amendment) Act, 1996 be read a first time was put and resolved in the affirmative without division.

ORAL REPLIES TO QUESTIONS

Mr. G. A. CLARKE: Mr. Speaker, the reply to Parliamentary Question No. 22 is ready.

ORDERS OF THE DAY SUSPENSION OF STANDING ORDERS

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that Standing Orders 6, 16, 18, 20, 42(5), 43 and 44 be suspended for the rest of this day's sitting.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

The question that those Standing Orders be suspended for the remainder of today's sitting was put and resolved in the affirmative without division.

GOVERNMENT BUSINESS

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

ORDER NO. 6 - THE IMMIGRATION (AMENDMENT) BILL, 1996

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, this Bill to amend the Immigration Act has a fairly long history. In pursuance of the establishment of a Single Market Economy within the region, the Heads of Government in 1995 on July 4, agreed as a first step towards facilitating the free movement of skilled persons among Member States of the Caribbean Community to implement with effect from January 1, 1996 the free movement of CARICOM nationals who, I had better say, university graduates subject to the acceptability of their credentials by Member States concerned.

Secondly, the Heads of Government requested the Secretary General of CARICOM in consultation with the University of the West Indies, University of Guyana and the University of Suriname to establish a database or similar mechanism at the CARICOM Secretariat with respect to the accreditation of universities to assist Member States in arriving at decisions in cases where there were questions as to the validity of the credentials of particular skilled persons.

Thirdly, the Heads requested the Secretariat to convene a meeting of a regional committee of officials from Ministries of Foreign, Labour and Immigration with the CARICOM and OECS Secretariats and the U.W.I. to prepare proposals on the type of administrative machinery and procedures necessary to implement the free movement of CARICOM nationals who are university graduates. At that Heads of Government Conference in July 1995 the Bahamas indicated that that Commonwealth would not be participating in the arrangements for the free movement of skilled persons at this particular time and the CARICOM Secretary General also gave an undertaking at the Conference to make available to Member States by September 30, 1995 draft modern legislation that would give effect to the decision of the Heads, the substance of which I dealt with a couple of minutes ago.

The CARICOM Secretariat had work on this matter done by Professor Camegie of the University of the West Indies and he produced a paper and a draft Bill and the draft Bill was called the Immigration Caribbean Community Skilled Nationals Act. That was circulated to all member states. However, individual states were free to determine whether they would enact the Camegie draft without more or whether under existing laws there could be an amendment to existing laws, and provide for it as we have done in Barbados by amending the Immigration Act.

11.30 a.m.

What has happened since the Camegie draft has been circulated and considered by Member States is that some territories have gone ahead and implemented the Camegie draft as their own - Dominica and, I think, subject to correction and memory, Grenada. Others have decided to amend existing legislation. Jamaica, I am advised, is doing that. This Bill before the House today is an amendment to our existing Immigration Act. Just over the weekend I read in the local Press that the Minister of Foreign Affairs in Trinidad has - the newspaper report spoke of a Resolution and I think they mean Bill, from the content of the report - produced for themselves some form of legislation which we have not yet seen, but that was dealt with in the Parliament of Trinidad last week Friday.

However individual territories proceed, whether by amendment of existing legislation or enactment of the Carnegie model, essentially the purpose and intent of the legislation, however drafted, is to allow persons of Caribbean nationality who are graduates of tertiary institutions, whether within the Caribbean or outside of the Caribbean, to work in any territory that is scheduled in the particular legislation without the necessity of having to apply for a work permit. I want that clearly understood, Sir.

At first the draft was circulated which did not clearly spell out that **non-UWI** graduates would be beneficiaries of this right, which really is a right of freedom of movement, and to that extent this law is perhaps a derogation from the problems of constitutional provisions that exist in every **territory's** constitution, and I will come to those in detail later on.

The Government of Barbados and all the other Governments have now accepted that whereas the original discussion, and perhaps the original decision, of the Heads was limited in its purview to graduates of the University of the West **Indies**, that original decision or intent or purview has now been expanded to allow persons who are graduates of a **tertiary** institution in any part of the world – provided that tertiary institution obtains accreditation – to have the right to work in any country in the Caribbean Community. That is important, Sir, because the original discussion would have had the effect of prohibiting persons like myself, graduates of non-Caribbean universities, from having the right to work. If I wanted to go and work in, let us **say**, Trinidad or Jamaica, I would have had to get a work permit and so on, because as originally conceived there was that limitation. That is no longer the scope of the legislation. It is much wider and therefore anybody, provided he is a CARICOM citizen, who holds an **accreditation** from a tertiary institution, which accreditation is **accepted** within his particular skill as being the equivalent of a good tertiary qualification, is entitled to move and work in the region. So that if somebody from CAST in Jamaica was **seeking** to work in Barbados, the Ministry of Education here would assess the equivalency of the CAST qualification and if satisfied that it was a tertiary institution of the requisite level, the person would be entitled, and **vice versa** for, I suppose, the Community College which is now awarding associate degrees and **so** on.

As I said at the beginning, Sir, the intention is that the Secretary General should establish a database at CARICOM **so** that countries could feed into this database to **determine** the status of the particular tertiary qualifications. That obviously is not yet ready and pending the implementation and operation of such a system, individual territories will do the **accr** ditation process themselves thr^{ough} the relevant **Ministri**s.

Mr. Speaker, the present Bill removes the requirement for work permits and provides for **the** unhindered entry into Barbados and employment in Barbados of CARICOM citizens by birth or descent of a Member State which is listed in the Fourth Schedule who, as I said earlier, are holders of a degree, diploma or equivalent qualification from universities or tertiary institutions that are approved.

The Bill also provides for skilled nationals – it is called in some states skilled nationals legislation – to be accompanied by their spouses, minor children and dependent relatives. We have taken the opportunity in the draft legislation to provide for similar treatment for nationals of states in the Fourth Schedule who are employed by accredited CARICOM, regional, non-governmental, non-profit organisations specified.

11.40 a.m.

Let me just point out the Schedule so that Honourable Members can follow. On page 5 of the Bill, the Schedule speaks of Caribbean Broadcasting Union, the Caribbean Conference of Churches, Caribbean Congress of Labour, Caribbean Conservation Association, Caribbean Policy Development Centre, Caribbean News Agency Limited, West **Indies** Cricket Board of Control.

Mr. Speaker, the newspaper report on what Trinidad is doing purports to convey the impression, and it may be the fact, that Trinidad has limited the categories of skilled persons. I saw in the newspaper doctors, lawyers, accountants, engineers **and** one other else, I can't remember. About 5.

Barbados has made no such limitations in this legislation. We said any profession provided the qualification is one that is accepted and **recognised**.

Mr. Speaker, I could not just introduce this Bill baldly without setting the Bill in its historical context. I believe the Rt. Honourable Member for St. Michael South will recall that this idea originated at the Heads of Government meeting at Grand Anse in **1989** and of course the West Indian Commission in their report entitled Time For Action did discuss this matter and **speak** to it and I would like to quote some of the paragraphs and certainly the recommendations at page **142** from the Ramphal Commission Report. I have earlier said in here that in dealing with immigration matters generally as Minister responsible I have kept in the back of my mind the existence of this document.

We cannot have the eminent persons who constituted this **Commission** who worked so hard to produce this **docu**. **ment** – and it is sound in its overview – do work on our **behalf** and then just let this stay on a shelf to

catch dust. There are times when we must go back to the basic concept of this document. When we are dealing with matters of regional integration and Caribbeaness and so on, we must go back to the philosophical basis to be found in this Report.

I have been careful and said that in granting various types of status I also consider where we want to be as a people of the region, let us say, in the year 2000. Do we truly want to be an integrated community recognising the similarities and the identities of Caribbean people as Caribbean people or do we wish to continue in a splintered, fragmented way as has bedevilled our existence for so long? I think everybody accepts the need for regional integration and the time has come when we must no longer pay lip service to the concept of regional integration but act in such a way as positively as to ingrain in the region those precepts which we believe are fundamental to the development of regional integration and the deepening of that process and regional cooperation. If it has to be done in some cases by legislation, then we have to legislate as we are doing today.

At page 142 of the West Indian Commission Report, the Commission recommended as follows:

- "1. That there be the earliest implementation throughout CARICOM of recommendations already adopted for ensuring hassle free travel for West Indians within the region. A single line at airports for citizens, residents and CARICOM nationals. That West Indian graduates of UWI and other designated universities and media personnel should have the right to live and work anywhere in the region as a start in the process towards mobility of people within the CARICOM single market.
2. That the implementation of the measures listed above be seen as the initial step towards the full freedom of movement of people and the essential pillar for the establishment of the single market and economy on which the Heads of Government have already agreed."

What we are doing today is in fulfilment of that agreement by the Heads, way back in 1989 and subsequently reaffirmed in 1995, to provide for the ultimate establishment of a single market and economy. The single market and economy, as I understand it, conceives of the region as though it were one national market. The Europeans have shown us the way and more and more because of the complexities of today's global situation regions are developing into blocs and the Caribbean must not be left behind in the movement to organise small units into larger entities.

11.50 a.m.

We have made a start. The single line at the airport, Sir, has been in operation in fulfillment of the recommendation of the **Ramphal** Commission. Sometime last year, Sir, I announced that in the **Ministry** we **had** agreed, Cabinet accepted, that Caribbean Journalists would not have the hassle of having to apply for work permits, Sir, and submit all the paraphernalia, Sir.

Last year we removed the impositions on Caribbean Musicians and Entertainers. When I read people **talking** about, in the newspapers, Sir, that we have done nothing for the entertainment industry. It is not **correct**. All those people who now have turned Barbados into the Cultural Entertainment Center of the region, because I have **been** following the newspapers and every weekend there is some group from somewhere, Trinidad, Jamaica or wherever coming into Barbados and having shows here, Sir. They **are** doing it without having to resort to work permit applications. As I said, we have removed that hassle.

I hope that our Caribbean entertainers **are** finding it as easy to go outside, carry our talents outside, our culture outside and earn some foreign dollars in the **process** as those who are coming here every other weekend Sir. There is a big one this weekend with the Jamaican Balladeers, Sir. The old reggae stars, Ken **Lazarus**, John **Holt** and that crowd at the Gymnasium. Ultimately that cross fertilization of cultural talent, can only redound to the development of the Caribbean music industry.

I emphasise, Sir, that what we **are** doing here in Barbados today must find reciprocity throughout the region. In the past Barbados **has** gone as the "guinea pig" in pursuance of regional integration and suffered. I remember, I think it was **1985/86**, there was a meeting in Belize and it was agreed that certain duties would be removed **to** promote the importation of Belizean beef, Barbados did it first, the others did not.

In regard to this particular Bill, Sir, I have every confidence that the reciprocity, which we hoped for, will in fact eventuate. As I said, Dominica has passed the legislation already. Grenada has, Trinidad is about to do so, Jamaica is amending similarly to what we **are** doing here. They need **skilled** persons in Guyana. I believe, Sir, that there will some satisfaction provided to skilled nationals of CARICOM with the implementation of this legislation regional.

Now, one can expect a certain level of emotionalism to und **rp**in discussion on this Bill. I can hear people **talking** about opening the flood gates and everybody coming and swarming on Barbados.

I really think, Sir, and indeed Professor Camegie in his paper tried to alleviate any unnecessary concern in that regard. First to be **emphasised** is that, as we say in Barbados, "it is not every and severy." Who will have the right to come? That right of freedom of movement with a view to work is limited to highly skilled persons, those who have tertiary qualifications. So that will create a limited class in itself.

Secondly, realistically, I do not see any, let us say Lawyer from Jamaica, just **picking up** his family tomorrow and coming to Barbados not knowing that he is going to be working for a firm or anybody. He would be speculating. I do not believe that the skilled persons of the region, even though they may have a residual spirit of adventurism, will necessarily be so reckless in disregard of their family's rights and concerns, Sir. Just to turn up in countries without knowing what they are there for.

So, I think that any fears that persons may have of an unreasonable influx of persons into the States have to be counter balanced by an examination of what are the real possibilities. What is the real likelihood of a skilled person going to reside in another country, unless he is going knowing that he going to work, Sir?

So, I believe that we will see some transfer of skills in those areas where there are shortages. I can see the accounting field, Sir, the engineering field, I can see the transfer of skills from one country with a supply to another country with a demand. As I said that transfer of skills would only occur (a) where there is the demand and perhaps the offer of a job. But certainly where there is a demand, that in itself is not something that any of us worry about because if we need the skills and we can get them within the region, I say so much the better that we can get people like ourselves to come into the region and do provide work and services for us where there are shortages in skills.

Mr. Speaker, the legislative technique that we have used is to amend the existing Immigration Act and to insert as new a Sections 17A and B, Sir. A and B as follows: Amend Section 17 provide from 17A to **17E**. Provisions which we hope when incorporated in the scheme of the existing Chapter 190 will give effect to the decision of the Regional Heads of Governments, and at the same time preserve the right of the country to determine in the final resort whether a person is qualified or not to come.

Section 17A defines a national as "a natural person," who by birth or descent, is a citizen, or national of, or person belonging to, a State or temtory set out in the Fourth Schedule with all the **English-speaking** temtories,

Sir, together with Belize and Suriname. Even including the independent temtory of **Montserrat**.

"A national who satisfies the requirements of subsection (2) is not required to comply with section 17". And the requirements are that a national:

"(a) is the holder a degree, diploma or equivalent qualification from the University of the West **Indies**, University of Guyana, University of Suriname or any other university or institution of higher **learning** or equivalent institution approved by the Minister responsible for Education;

(b) seeks to enter **Barbados** to take up employment

(i) with a specific employer or to embark on employment as a self-employed person, or

(ii) in respect of any of those non-governmental organisations of a regional character –"

which I spoke of before in the Second Schedule like CANA, West **Indies** Cricket Board, CBU, and so on.

"(c) has, in the case of a person who is a member of a professional body, accreditation from and membership where necessary, of the appropriate professional body in Barbados, and otherwise complies with the law of Barbados regulating the profession; and

(d) satisfies the Immigration Officer on the production of documentary evidence as to the matters set out in (a), (b) and (c)."

12.00 noon.

You cannot just come in without the Chief Immigration Officer knowing. You cannot just come and work. The Chief Immigration Officer still has to be satisfied that you are who you say you are and that you are qualified as you allege, and then the normal hassle associated with work permits is removed.

I mentioned the entertainers, journalists and so on and also sportsmen, particularly jockeys. I have removed the requirement for jockeys to pay work permit fees. They

are perhaps the only ones, Sir. Cricketers, footballers and so on are not professionals in the same way as jockeys are, so we removed that.

Now, Mr. Speaker, there are one or two general points about Immigration that I wish to make before I resume my **seat**. We are getting very close, Sir, in the Ministry to **finalising** a draft paper for discussion on Immigration. Strictly speaking, I suppose it should be a Green Paper. We may do that rather than draft a White Paper. We should have had it ready before but we had a number of unavoidable circumstances that militated against the delivery of the Green Paper including illness of key persons absent from the island and so on, but we are almost there. In that Paper, we are going to be dealing with the principles and policies which will inform the grant of the various types of status for which people make application in an effort to be frank and open about immigration matters. I think that for too long Immigration matters have been shrouded in mystery, even mystique. There has been a lack of consistent application of principles and policies **as** a result of which there has been some arbitrary, in some cases capricious or whimsical conduct, but the threat of consistency has been broken from time to time.

Applicants do not always know what are the requirements for a particular form of status and I believe that the law ought to be certain. Clearly, you cannot ask somebody to comply with a law that is uncertain. The man must know what he is asked to comply with. It must be fixed and certain. We are hoping, when we produce the document for discussion, that we will get information...

Aside.

Hon. D. A. C. SIMMONS: You qualify or do not qualify. I take the point said by the Honourable Member *sotto voce*. But you qualify because you are required to have 1, 2, 3, 4. There are cases where some people are asked to have **1, 2, 3, 4, 5**, another set of people have 1.2 and 3 and get through or do not get through. We just want to set out what **are** the requirements.

In addition to that there will be need for substantial legislative amendment. It is my personal view. Nothing has gone to Cabinet yet. It is my personal view that the **Immigration Act** **as** a whole needs to be scrapped and rewritten in light of historical experience and in light of what is being proposed in the Green Paper. In many ways the Act is written in a back to front way, and a disjointed way. I would like to **see** a more structured piece of legislation.

We have the discriminatory problem that has affected men who have married Barbadian wives and do not have the automatic right to citizenship. That requires a

constitutional amendment. I am sure that the Constitutional Review Committee, which will be under the chairmanship of the Honourable Member for Christ Church West, that is a matter they will deal with and resolve very easily. There are overlaps between the Immigration Act, the Citizenship Act and the Constitution so we need to make sure that we provide the legislative basis for smoothing such wrinkles as presently appear in the legislation.

In addition to that, Sir, and as part of public sector reform, and as a contribution to public sector reform through the Department of Immigration we are going to set out in the Green Paper our ideas for Citizens' Charters to the extent that we will indicate when you apply for a passport from scratch, that passport will be delivered and be ready in – let us say you get a new passport in two weeks and a renewal in a week. These are not hard and fast so I do not want anybody to run off and say that as from tomorrow you will get a passport in seven days. I am **trying** to give you an idea of the kinds of things we will provide for in the document. Immigration status will be three months, citizenship three months, or whatever. The intent is to be customer friendly. The Immigration Department is delivering a service and we feel that the consumer citizen has a right to know in advance the quality of service he can expect from that Department. The existing circumstances will change and we have computerised to a large extent the operations of the Immigration **Department** and we are still sorting out one or two teething problems. We need a few more staff to really make the department function as efficiently and as smoothly as the general public would like.

12.10 p.m.

I appeal to the public to have a little patience because there are a number of factors which have affected the smooth functioning of the Immigration Department. For a start, space is limited. We ought to have that whole building down there on the Wharf but there are about 14 persons from the Cooperatives Department and the Water Authority has a depot in there so we do not have the **run** of the whole building and there has therefore been pressure on the staff **working** in cramped conditions.

The management of the Immigration Department has responded magnificently in **looking** at ways of reorganising and we did that. We spent money on improving the interior of the department and we have given ourselves a bit more elbow room but really if we had control of the whole building we could do a lot more. So there is the problem of physical space. There is the problem of shortage of staff. Then there has been the third problem of implementing the computerisation programme within the last year. We tried to do it **really** on our own and some immigration officers who are wizards in this area have helped very well but

we have had some problems but I think we are getting close to ironing out those problems. If we get the additional staff fairly soon and a few more computers I confidently expect that within a year the Immigration Department will be an exemplar of how a service oriented department of Government can operate. We are going to be working very **hard** within the next year to make sure that we honour that commitment.

Mr. Speaker, I am therefore pleased to move that this Bill be read a second time.

Hon. Miss B. A. **MILLER**: I beg to second that, Sir. Mr. Speaker, Sir, I would wish to congratulate the Honourable Attorney General on bringing this legislation before our Parliament. In my opinion it is long overdue, it is legislation which I would want to see, not only now but in the future, cast in the widest possible light.

It is an interesting thing, Mr. Speaker, Sir, that when we were children, at least those who are older among us here...

Aside.

Hon. Miss B. A. **MILLER**: Well there is the Right Honourable Member for St. Michael South, the Honourable Member for St. George South, when we were children, very small children, we **can** barely remember it, but we can remember there was a time when there was freedom of movement across the Caribbean. We did not need any passport to go anywhere. We did not need any work permit to go anywhere and that was in the so-called bad old colonial days. So to put this in its historical context it has taken just over 40 years for us, now that we are the managers of our own affairs to come back to a place where freedom of movement will be something that one would take for granted.

Mr. Speaker, Sir, we had a federal experiment which predates some of the younger Honourable Members in here on both sides but a federal experiment which saw a certain opening of the doors. We were inclusive in those **days**, we were not nearly as exclusive in our behaviour and in our stances as we have since become. Not much has survived by way of institutions, that is, not much has survived the federal experiment, the West **Indies** Shipping Company (WISCO) survived for a long time but that now has gone the way of all flesh and perhaps it is only the University of the West **Indies** which remains as an institution which was a forerunner to the federal experiment and a survivor of it and the one institution which has grown from strength to strength and continues to do so.

It is a matter of great regret that the Federal Court of Appeal we saw fit to dismantle it and again it is going to take us some 30 to 35 years, sometimes I think it may take

us another 40 to 50 years before we can come back to that position where a Caribbean Court of Appeal becomes a reality. It is something that we give a lot of lip service to but it seems, Mr. Speaker, Sir, such a colossal waste of time and talent. Why does it take us so many generations to move forward. In fact what I am saying, Sir, is that in the latter half of this twentieth century which is rapidly drawing to its close we have too often, as a region, stepped back too many steps before we could take a step forward and this whole question of freedom of movement is one of those areas where we have done it. We have unnecessarily, in my view, dismantled regional institutions which worked well and **served** us well.

In a very recent event, Mr. Speaker, Sir, at which I believe most if not all Honourable Members were present and from which I regret I was absent, several Members of this Honourable Chamber were honoured by their **peers** and the Honourable A. N. R. Robinson, a former **Prime** Minister of Trinidad and Tobago, in a grand regional statement, it was he who was chosen to speak for the honorees and in the course of his remarks a copy of which I have in my hand and would very much like to make a document of this House, it is a pity that it **cannot** be read into the record, because it must be a part of the history of this Honourable Chamber. Mr. Robinson said, among other things, that Barbados has always given generously of her talent to the region and I dare say to the world, her sons and daughters have made outstanding contribution in many fields. He described us as a people who have delighted millions with our skills and **artistry** on the cricket field everywhere and that we have been a shining example of stable democratic government. That is a high and a large compliment that is paid, not only to us in Barbados, but I think that is paid to our concept of ourselves as Caribbean people. It is as large a regional statement as could be made in this day and age.

12.20 p.m.

Mr. Speaker, Sir, I welcome this legislation for many reasons. I believe that now that there is an association of Caribbean States that we have got to be more open-door in our policies. We have got to get away from an old time idea that Barbados is only for Barbadians. We must remember those hundreds of thousands of Barbadians outside of this country who are bringing credit and honour in other people's countries. In other Caribbean countries, there was a time again when some of us were children that the headmaster at the **grammar** school, the **fire** chief, the matron of the hospital, the priest in the various churches, the police in the various Police Forces across the Caribbean were Barbadians and to some extent that is still true. So that we have produced a long line of what I like to call regional civil servants over the years and this legislation is now presenting the opportunity for us to do that with greater ease, greater efficiency, and in greater numbers. We must not be afraid to open our doors and to be inclusive.

It is good. The cross-fertilization is good for us. It is not new in our history. There was a time when there was a large Jewish community in Barbados to the extent that we have the second oldest synagogue in this entire hemisphere in Barbados. There was a time when there was a great influx of people from the Eastern Caribbean and that is still true. It honours me as the representative for the City of Bridgetown in **this** Chamber that a lot of those people tended to settle **first** in the City of Bridgetown and then as they grew more prosperous moved to areas outside of the City and they added to the sum total of what is Barbados today. We should never, never be reserved in any way or concerned about opening our doors to other skills and to other ethnic groupings, because too many countries of the world have played host to our talents and our skills and we have given generously outside of the Caribbean as well. In a small region like this, it is a matter for great pride that we have produced two Nobel Laureates. There are larger countries that have never produced one. Our people have sat at the highest level in the international arena. They have held the highest post at the regional level as well. The Caribbean Development Bank and the Caribbean Tourism Organization...

Aside.

Hon. Miss B. A. MILLER: There is a little heckling coming from the Leader of the Opposition. Sir, I hope that it is not heckling. It sounds so but I am being reminded that the Honourable Member for St. Michael South once wrote a poem which he read in a foreign place. I am told that he has written two. But that is only more for the melting pot, Sir. As a Caribbean citizen and as a Barbadian, I welcome the idea that more and more we will have this cross-fertilization.

I am interested to see that the legislation at this stage speaks only to those people who have had tertiary qualification. But I would like to see the day come, Sir, when it would include secondary. We need more cross-fertilization at the secondary school level. When I was at school, there was a lot more of that movement than I am seeing today. Students from the French departments in Guadeloupe and in **Martinique** would sometimes come here and again students from Barbados and other countries would go there. We need more of that. We are very pleased to have our children participate in the American Inter-Cultural Programme as it is now called, formerly the American Field Service Programme, to have them go off and spend a year in Denmark or Guatemala or wherever. What is wrong with Barbadian students spending a year at the secondary level at an equivalent institution in Jamaica or a Dominican student at an equivalent in Trinidad or Tobago or wherever. We need more of that. The university has proven to us for those of us who were ever "Doubting Thomases" about it that there is everything positive and to be encouraged about that rather than negative. You can imagine that in the early days when the experiment started

there were people who were doom-payers and **so** on and **so** forth. But the accreditation is a very important thing. There are many institutions which **are** properly speaking to be described as post secondary institutions which need **the** recognition more and more of the university of the West **Indies**. I have felt, Mr. Speaker, Sir, even that the **CXC** which is the Examination Council for this region has another larger role that it can play in the area of accreditation. I do not ever see **the** need for a separate accreditation body. Examining Councils should have that within their remit and it is something that we need to look at.

But as I was saying, Sir, with the association of Caribbean States, it is important that these barriers must come down and particularly the barrier of language **has** to come down. The more and more exposure that **our** young people get is the better and we have to start as young as we can. In a way, Mr. Speaker, Sir, I have to tell you that I am seeing this almost as companion legislation to the Facilitation Unit for Returning Nationals. Because those nationals who are returning to Barbados **are** not only bringing capital with them, but they are bringing skills and they are bringing experience. Now this whole business of skills training and cross-fertilization of regional civil servants is critical. It is my observation, Mr. Speaker, Sir, that not only in the public service in Barbados but in the private sector as well there is a serious **dearth** of well trained people and adequately trained people and relevantly trained people in the middle ranges. It is true in the Civil Service and it is true in the private sector and I believe that it is not only true in Barbados but other countries in the Caribbean,

Mr. Speaker, Sir, there is a movement now of quite extensive public service reform afoot in Barbados. In the Ministry of Foreign Affairs, I have not been able to wait. I just have not been able to wait! The Civil Service must do in general what we are doing in particular in Foreign Affairs. Go at the university and look for the brightest and the best. Not only for the Foreign Service, we **need** it for Health, Education, Tourism and we need it in **every** sector of our economy. In the **Ministry of** Foreign Affairs, we have dismantled the old Victorian colonial administrative structure. You will no longer **find** a Registry in the Ministry of Foreign Affairs. You will find that the **Ministry** has been divided into 5 divisions, each of which has a Head who has been given responsibility and people respond to responsibility. Those people who did the mind-numbing job of just shuffling and shuffling paper from one file to another in the **Registry** – some people did that for 40 something years in the Civil Service.
12.30 p.m.

Nothing could be more conducive to bringing on early Alzheimer's than that exercise, so we do not have that now in the Ministry of Foreign Affairs. You have somebody

who is virtually an office manager who manages a division within the Ministry, and again these people have shown a tremendous enthusiasm, a tremendous aptitude and responded to the new responsibilities given to them. It has meant greater productivity. It has brought a greater efficiency to the work in the Ministry. That is what I mean when I say that at the middle ranges in our management systems there is a dearth of **skills**. We need more cross-fertilisation in the Ministry of Foreign Affairs. We have now put in place cross training where officers from that Ministry go into other Ministries for periods of time and they have training, so when a Foreign Service Officer goes abroad now that Foreign Service Officer can deal with almost any matter or issue arising in any sector as enquiries arise at Missions abroad.

It ought not to be **true** only at Missions abroad, it should be true here at home base as well. You always have to have your specialists, but we need to create a system where more and more generalists will come into it. I remember many, many years ago in an earlier **administration** the late Tom Adams **making** the point that if all of the Barbados Scholarships are going to science and technology, and if that is the way of the future, who will be the Permanent Secretaries of the year 2000, 2010 and 2020? Who are the ones who will be the students of modern studies? I do not think anybody at the level of the sixth form now in Barbados does the classics. Those studies have gone the way of all flesh, although I believe there is one secondary school where Latin is still taught. I am not advocating a return for that, that is something that can be self-taught.

Aside.

Hon. Miss B. A. MILLER: Well, the Attorney General says why not. My mind is open on it, but I am not asking for a particular **return** of that, I am asking for skills geared to where Barbados is going to in the future. I think it was that thinking which encouraged the then Prime Minister, Tom **Adams**, to offer a special prize for Barbados Scholars who would bring home a scholarship in modern studies. It is not a much won prize.

Aside.

Hon. Miss B. A. MILLER: No, modern studies, but it is not a prize which has been much won. It does not matter whether it is languages or modern studies, the liberal arts as opposed to science and technology, but that prize which is considerable has been very little won in the years since it was implemented and it is a prize still open to any Prime Minister of Barbados to bestow.

Mr. Speaker, I see this legislation as a platform, an instrument to jump start more skills exchange within our countries, more cross-fertilisation of ideas, of concepts in

our **countries**, if Barbados really is serious about making its way, standing on its own two feet in the world in the early 21st **century**. For instance, languages. We are all going to have to **become** bilingual, possibly multilingual, wherever that is possible to do. If we are going to be an Association of Caribbean **States**, several of whom are native speakers of Spanish, and even within CARICOM some of us speak French and some speak Dutch, and Spanish as well, and of course we belong to the overwhelming grouping of the English speaking, sometimes known as the Commonwealth Caribbean. All of these facilities, all of these **skills** are what we need.

When I was a very young child, and it is one of my earliest memories, my father said: "Never forget that you are Caribbean people" and put us in a leaky old schooner called The Monica and took us down the islands. That was the first introduction. And then when you were a **guide**, some of the honourable gentlemen here were cadets, there was always a summer camp or an Easter camp in one or other of the islands. If you did not go to St. Vincent, you went to St. Lucia. I remember a big Scout Jamboree in Trinidad. All of those occasions gave rise and birth to friendships which long outlived our time in the Guides and in the Scouts. I do not think there is any Honourable Member in this House who cannot go to an island in the Caribbean and find a courtesy aunt or courtesy uncle, somebody who out of respect you would call Auntie something or Uncle something. It is still going on but not on the scale it was in former times. Now the children want to go to Miami, **Puerto Rico**, New York and so on for their vacations. I am not saying they should not do that, they do need that exposure. It is good for them. But I am saying do not let us neglect our sisters and brothers here in this region. This is what the legislation at base is about. This is another tool to help us to strengthen the Caribbean as a region.

The Attorney General made the point in his opening remarks, and I would want to re-emphasise it. We are not going anywhere in the 21st century as little individual islands. Everywhere in the world we see now blocs, mostly trading blocs, but other blocs as well, other entities. The Commonwealth is an entity which is now rethinking its survival into the 21st century and what it will in fact metamorphose into. The Association of African, Caribbean and Pacific States, known as the ACP, within **Lomé**, are also in the process of restructuring **and** rethinking a new role they can play on the world stage in the early 21st century. The Association of Caribbean States is a partial attempt by ourselves in the wider Caribbean region to address these problems as well, and that we must do. All of those old protectionist policies have fallen by the wayside now. All of the special trading and other arrangements that we grew up with, and always knew have been protected. **Our** sugar industry has always been protected in that way. Those days are gone. If this can be cement, or glue if you will, Sir, to hold the building

blocks of a Caribbean entity, a Caribbean state if you will of the 21st century together, and this is not the beginning of it, because the beginning of that goes back way beyond our **time**, but if this is an important step forward that we in Barbados can make particularly as we are coming to the close of this 20th century – in other words, if we can go into the 21st century in new regional clothes and with our loins girded stronger with regional bonds, it can only be for the better.

I cry shame on all those who would be afraid or concerned about opening our doors. We have always done better, we have always thrived when we opened our doors. It was when we closed our doors and became introverted and thought that we were God's fair creatures and that this was God's little acre here in Barbados, that we became smug and that our CARICOM brothers and sisters found us a little difficult and trying to deal with. But it was when we opened up our doors and when we gave freely of what skills we had and were willing to take freely of other people's skills that we learnt better. Do not let us believe that there is anything special about the fact that you may be **born** in Barbados anymore than you are special because you were born somewhere else. It was non-Barbadians who brought the craft of making of sugar to us. We have learnt much over the centuries in this old and venerated Parliament. Barbados is not an ancient country. Bridgetown is not an ancient capital when you compare it to Greece and to Rome but, certainly, in the context of the Americas, we have one of the oldest settlements, proud settlements. The City of Bridgetown is 358 years old at a time when the Americans and the Canadians and the Australians and the New **Zealanders** barely can rack up 2 centuries.
12.40 p.m.

So this is another building block along that path. Barbados has always taken a leading **role** and for that we don't apologise but we must get away from this business about closing ourselves off from other people and feeling that we will be overrun. It cannot happen. It will not happen. It is not how humans behave. We need that intercourse. We need that interface with other cultures and with other skills so that we learn other ways of doing things. As Prime Minister Arthur has said, and I constantly quote this – in fact, it is how he is characterised in my mind – we **have** constantly to be learning new ways of doing old things, and also, Mr. Speaker, new ways of doing new things as well, we have to tailor to suit our needs.

So I welcome this legislation. It pleases me greatly and I hope that it is not going to take us another 35 or 40 years to build on this so that we cast the net even wider than this legislation is purporting to do.

Mr. Speaker, I am much obliged.

Rt. Hon. L. E. **SANDIFORD**: Mr. Speaker, there will be agreement across the Floor of the House on this particular measure. I think, however, at the start of this debate that we must pose the question where do we wish to go in the Caribbean and what **kind** of society, what kind of culture, do we wish to build in this area. If we take Barbados and examine its success we will note that there are no barriers to the movement of people, of goods, or of services when we move from the fair parish of St. Lucy to the benign and welcoming locale of St. Michael South.

Sir, goods and services can move freely. There are no barriers to cross, no customs or excise officials to meet – I am 'not sure when we go into St. John or St. Philip whether those republics may not be contemplating such – but, I think in our country, there are no barriers and we would not wish for any barriers to be erected anywhere in Barbados.

Free movement of goods and services.

Sir, a lot of us have it as a dream and a hope that within the Caribbean and hopefully in our own lifetime we may be able to see such movement among those countries which have the will and which have the inclination to create such space for the greater commerce and interchange of people, of ideas, of concepts, of culture and of goods and services. I think, Sir, that could be our vision and our challenge. We have to keep **working** at it and it is not an easy task. It is certainly a thankless function.

This particular **measure** that we are dealing with the Immigration (Amendment) Bill of 1996, is yet another step in that particular direction. Those of us who have responsibility at this time for helping to fashion the new Caribbean will have to drive a nail here, apply a little glue there, maybe also a proper weld at another point in order to put the **structure** together so that we will have made our contribution towards the attainment of the goal.

Sir, this is a time and an age, an epoch, when the barriers are coming down. Maybe in the biosphere we encounter certain barriers, but this is the time of cyberspace and it is very difficult to erect barriers or the traditional kinds of barriers in that particular space. I certainly am happy to note that this measure is before us to enable a start in the movement of the people of the Caribbean from one place to another with fewer **barriers** in the way of such movement.

I believe, Sir, that there will be fears and we cannot prevent people from having fears, especially in circumstances where economic considerations are important. What we have to do is to ensure that as we build we try to remove those fears not simply by saying we should not fear but by creating the conditions whereby those fears will not materialise. That means that we

have to enlarge our economic space and we have to build that single market and economy which will create economic activity. So that there will be more jobs to go around, and that there will be more opportunities created for the people of the Caribbean to benefit from.
12.50 p.m.

I will say too, Sir, that there will be a need not only to put this legislation in place, but to keep a close watch on the development. Too often, Sir, we passed legislation and we only remember the legislation when a problem occurs. This legislation will place additional responsibilities on the Immigration Department. As law makers we tend to believe that we have done a job when we have passed the laws but we do not make any additional provision for those laws to be administered and implemented in the most efficient way possible, and to ensure that adequate reporting is done on a timely basis.

All of this cause for either additional personnel. Sir, I am getting a little tire of the term human resource. It is a **disembowelled** term, Sir. It sounds too much like we **are** talking about some economic concept or **so** and we **are thinking** about people as some kind of resource, like Capital. I, certainly, will try to avoid it as far as possible now that I turned my sights on it, you would not see it featuring too often in the constituent, Sir. I think we should use different term to describe what we are, and remember that people are at the center of whatever we are trying to do, and to refer to them as human resource, I think, Sir, might not be doing the best for them and viewing them in the best light.

I believe that the Immigration **Department** which is doing a reasonable job, I am going on what the Minister responsible has said. I would say that it is well led and that there are some outstanding officers in that Department. I hope that they will be able either, if they need additional resources to carry out their job or the reassignment or re-allocation of duties and responsibilities, I certainly hope that they will be able to administer the additional responsibilities brought by this Act and also to do the necessary reporting on a timely basis so that we can keep on top of the situation and see how it is actually working. So that if there is any need for amendment down the road, that we can do so in a timely way.

Sir, I recall the report of a West Indian Commission, sometimes forgotten that in Barbados, we provided the headquarters for that Commission, and there was a debate on the Commission or its Report in the Honourable Chamber. I do not recall whether it was on a substantive motion or in relation to something else. We did discuss the Report, Sir, and there were certain aspects of it that we

were very much in favour of. Others in which we had some reservations, and I think the Attorney General and Minister for Legal Affairs was quite right in going back **to** those principles which were set out in that Report and to anchor the debate in those principles.

Let me say, Sir, that the attempt to breathe fresh life into the integration movement embrace the effort to permit a greater movement of people among the territories of Caricom. That is a desirable objective, Sir.

It was **recognised**, and we all **recognised that** we could not go in one full flush and say there is freedom of movement. It has to be done, and had to be done, in an orderly fashion **so** that we could deal with the kinds of issues and problems that would come up from time to time. For Barbados there was a particular problem which we had to keep on top of.

I believe that the steps that we have **taken** are the right steps, and I am happy to see that the **Minister has** brought this measure before this Honourable Chamber that we can determine upon it. I would certainly urge **all** Members to give support to the Amendments that **are** before us.

I would like to just **issue** a word of caution. Like **the** Member for Christ Church West and the Member for Christ Church South, in particular, I am an unrepentant integrationist. We belong to **that** club. I would have included the Member for St. George South, although I am not sure what mood he is in **today** because he is capable...

Asides.

Rt. Hon. L. E. **SANDIFORD**: ...Though, Sir, I have heard him speak very fervently, Sir, in favour of the integration movement. I have never heard him **speak** against it, Sir, but I have never heard him praise certain steps that were taken on all occasions. That is why I said it depends on the mood that he is in, but when he is in a good mood, Sir, he would be in that league also.

I think my particular word of caution would be, that they are some people who believe that they can slip Federation in through the back door. I would like to say that it cannot come that way. That would only, if it comes, through a conscious decision of people to take the steps which they deem necessary for creating that ultimate union. It cannot come through the back door by trying to **talk** about Caribbean Citizens and to **talk** about freedom of movement in the Caribbean, and not **realise** that these are attributes of some kind of larger constitutional entity and some larger framework which we have to keep our eyes on.

We must be conscious that we will not make any great leaps until there is one agreement among those **territories** which wish to go forward. Within that context, Sir, we should not **seek** to discriminate against certain **kinds** of people because they went to this particular university, or that particular university and, hopefully, the legislation that is before us avoids that **kind** of choice.
1.00 p.m.

Sir, I am a graduate of the University of the West **Indies**. My daughter did not have that privilege of going to the University of the West **Indies** but in its original **form** she and **others** would have been excluded from the privilege of moving among territories in the Caribbean simply because they were not graduates of the University of the West **Indies**. I am glad we have gone beyond that **kind** of concept and that we are now **firmlly** in the position that CARICOM nationals, meaning nationals of territories within CARICOM, so long **as** they have the necessary qualifications, will be able to move. I do hope that this will be just one step and that other steps will be taken as the way becomes clear.

I would like also to indicate that we must be in a position to ensure that we do not draw the net **too** tightly in terms of the institutions or bodies which may be able to employ some of these nationals. I stand to be corrected, Sir, but the Fifth Schedule is limited to certain non-governmental **organisations**. I hope we do not have to amend this Fifth Schedule if there are bodies which would qualify. I am wondering if the Attorney General will consider this matter.

For example, Sir, I will **ask** about the private sector organisation. I do not see them here. We have the Congress of Labour. We are **talking** about the movement of whatever it is, and I believe there is, a Caribbean private sector, **CAIC**. They have access to the Heads, but they **are** not here. It is these kinds of things, **I believe**, we should pay some attention to and maybe, when you go into committee, you may be able to look at that.

Sir, there **are** other points I wanted to make but I do not intend to resume my address after lunch. Let me say we on this side welcome this particular piece of legislation. We are giving it our support and we certainly hope that it would lead to the further strengthening of the Integration Movement and would bring nearer the day when we will be able to say we belong to a fully integrated Caribbean.

Thank you.

SUSPENSION

Hon. Miss B. A. MILLER: Mr. Speaker, I beg to move that this sitting be suspended until 2.15 p.m. this afternoon.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

The question that the sitting be suspended until 2.15 p.m. was put and resolved in the affirmative without division and Mr. SPEAKER suspended the sitting accordingly.
1.07 p.m.

RESUMPTION

Mr. SPEAKER: This sitting is resumed.

Mr. W. C. C. CALENDER: Mr. Speaker, I rise to support this Bill. Sir, I **see** this as a means of strengthening the spirit of integration within CARICOM in an area in which there is pressure towards **globalisation**, where we have threat of external services it is incumbent on the Caribbean to harness its technical expertise. I **see** this Bill **as** allowing for there to be greater cooperation between the various personnel with skills in the Caribbean.

Sir, the Bill is designed to allow for **free** flow of movement of skilled persons. I notice different countries are giving their own prescriptions but in general we here in Barbados **are** looking at facilitating people who have skills, skills which can be shared with other consultants, for example, in Barbados. Skills which can be used for the betterment of this country. To be more specific, Sir, we have examples of professional persons who at times might need to have additional expertise made available and if this expertise is available in other territories of the Caribbean then together they can share it for the betterment of this country instead of having to resort to using expertise from North America and Europe.

I believe, Sir, that this sharing of expertise will serve to strengthen the **skills** bank in the Caribbean and will also help to prevent our dependency on external resources. I know many times many people are allowed to quote on international contracts and many times the available skills are not there in any one particular island so that it is important that we have an arrangement which **can** facilitate people from throughout the Caribbean having association with particular groups in the island where they **can** come for a length of time without having to go through the hassle of work permits which sometimes is more of a bother than everything else because as is practice there **are** many times when the work permit is granted but for the people who have to travel on a regular basis for consultancy purposes it really becomes more of a hassle than anything else.

I **know** for example lawyers who do cases throughout the Caribbean will welcome this measure because they will not have to go through the hassle of having to get a work permit every time they have to travel. I know, Sir, there are engineers who work throughout the Caribbean, there are a number of people who are involved in training, who are involved in public relations. I believe there are also some medical practitioners who work throughout the Caribbean and this Bill will take away some of the hassle of doing it.

When I speak of this Bill, Sir, I am speaking against the background that the other CARICOM territories will also be expected to put a similar Bill in place so that there will be reciprocity in this measure. I believe that in the spirit of Caribbean integration that we can expect that the other Caribbean Islands will be implementing the Bill such as we are doing here today. Some have started already, Sir, and it is not a **case** of people with expertise coming to Barbados and Barbadians with similar expertise not being able to go to the other islands. From what I can **see** I believe that it would benefit Barbadians greatly because when I travel through the Caribbean I notice that there **are** certain hotels in the region where, to use a Barbadian expression, you butt up on a lot of these technocrats and these professionals in the region and this shows that they are doing a lot of travel all over the Caribbean.

There are quite a number of Barbadians who travel throughout the Caribbean and I do not think that the same thing can be said where we have a number of people from, for example, the OECS who would have similar kinds of skills to travel to Barbados. There are some but I believe that we in Barbados have a greater number of professional people who would benefit by this kind of arrangement. I believe Jamaica too should have a good number of them and perhaps Trinidad. It would allow for the kind of arrangement where people could come to Barbados with these skills, we can consult with them and likewise we can travel the Caribbean countries without having the hassle of going through work permits and all of that.

Sir, it is also good to **see** that recognition is being given to the skills that have been acquired through the University of the West **Indies**. I think it signals the respect which the Caribbean region is giving to the University of the West **Indies** but at the same time we cannot ignore the other universities from around the world where some of our Barbados Scholars and exhibitioners have gone to engage in specialised study. In the olden days some of our lawyers a number of whom are probably in their fifties who would have gone to study law overseas when the opportunity was not available in Barbados, this Bill would allow them to have the facility of travelling without the hassle of having to go through the arrangement for work permits.

Sir, I do not **see** it as making any tremendous impact on the employment situation in Barbados. I do not see it as taking away jobs from our people. I see that we are in a

reciprocal arrangement. I **see** it as providing an opportunity for people to come here to assist our own local people in developing their skills **as** a body.

There are a number of sole trader businesses, small businesses, who **can** share expertise where they would pay for it on a contractual basis where it is a situation where they cannot pay for it long term so that usually you have people who would travel, for example, for a week, two weeks, maybe a month and they would share their expertise during that period of time and this can **strengthen** a number of the consultancies that we have here in Barbados. So, with these few words I just want to reiterate that the Bill is in keeping with the spirit of CARICOM, it is **good** for Barbados, it is good for CARICOM and it will not, as I **see** it, be impacting on the unemployment situation in Barbados. Indeed it might very well, because it is a **reciprocal** arrangement, provide for greater opportunities for employment of our people on a part time basis, on contractual basis in other islands and even for some for full time employment for those who might have relatives in other islands who are in the legal fraternity to have stints with them overseas and so forth. Likewise there would be a few **cases** where this would happen here but I do not **see** it **as** impacting on us. As a matter of fact it will create a wider market for the skilled labour force to find its level in the Caribbean and it will achieve a level of independence away from the non-regional consultancies and any consultancy arrangements on which we depend now when there **are** any **specialised** contracts being given. I thank you.

His Honour R. D. MARSHALL: Mr. Speaker, I too rise to give support to this Bill before the House.

Mr. Speaker, the Caribbean territories before many of them went on their separate ways of independence and so, **as** you know they were English colonies and during that time we found that there was a closely knit body where the nationals travelled on one passport. Many of these nationals went to England which was known as the Mother **country** and families came together out of these Caribbean territories, friendships were built and then after the colonies went their separate ways through independence I found that there was a kind of drifting apart from each other. If one can go back to the forties and the fifties, people would remember that there **was** movement in the Caribbean. I remember people telling me, and I also know that Barbadians worked in the police force, teaching profession in Grenada and St. Vincent. I remember the late Dame **Nita** who worked in Jamaica.

2.25 p.m.

Mr. Speaker, we also tried at Caribbean integration in the **Adams** era with the Federation. We also tried at CARICOM. We tried in many ways to hold the

Caribbean together. **Through** cricket we have been able to have something still. As the Honourable Deputy Prime Minister said, she was not there but she has a copy of the speech by A. N. R. Robinson when he addressed the group and he spoke about Barbados as a kind of forerunner in things. One thing I remembered that he said the other night **was** that he himself remembered that many of his secondary school teachers were from Barbados. I am saying this to show the amount of respect that Barbados has in the wider Caribbean. It is only recent since we had the University of the West **Indies** that other Caribbean people are at the university and in Barbados working as lecturers and in the past a lot of Barbadians left and went to the wider Caribbean Islands and so on to use their expertise in the field of teaching, *et cetera*.

When one looks at the **European** Union of the coming together of countries in Europe and anyone who looks at **NAFTA** where people get together for certain things like **trade** and so on, we in the Caribbean have to decide that we have got to get together and try and make a oneness of our people. If one remembers the calypsonian, Stallion, in his calypso "Caribbean Man", he spoke of us making the same trip on the same ship, **talking** about coming from Africa to the West **Indies**.

Mr. Speaker, this legislation before the House accords with the Barbados **Labour** Party's philosophy going back to the **Adams** era. I would say, Sir, that I see it as a forerunner to any future Caribbean integration. If we **are** going to be moving people, that is people who are university trained and so, on in the Caribbean, it is a good step in that direction. You are moving people around the Caribbean who are our brothers and sisters. I hope that the time will come that we will not be **talking** about the more developed countries **and** the less developed countries. I hope that we will be **talking** about a oneness in our people.

Mr. Speaker, I want to **touch** a little on the Immigration Department. I **know** that recently the department was given better facilities where the staff **are** in a position to work in comfortable **surroundings**. I also want to praise them on the relationship which they have with the general public and the courtesies that are extended there when you go there on your business. Mr. Speaker, it comes out from the department that there is the need for some staff and I am glad to hear the Minister responsible saying that as time permits as soon as possible that they will be able to get the additional staff. It was brought to my attention that the ball is not in his court alone. There are other people who are responsible for that. But by and large, Mr. Speaker, as I said, I do believe that this Bill before the House today is a step in the right direction and that will bring some kind of harmony to the Caribbean. I thank you.

Mr. D. St. E. KELLMAN: Mr. Speaker, I had no intention of speaking on this particular Act. But after listening to some speakers, I realize that this Act has serious implications for the Caribbean people. I was asking myself how far and how near we **are** to becoming a Banana Republic in the Caribbean. It seems to me that this Act deals with the upper level as if only the upper level has something to offer to the Caribbean people. I honestly believe, Sir, that some people will say that it is only a step in the right direction. But I believe, Sir, that this Act needs to be more open-ended. I cannot see, Sir, how you can say that only certain people within the Caribbean have something to offer to the people or to the Caribbean. Am I to believe, Sir, that somebody qualified – when I say qualified, let me say a good chef or someone who can do things well within the hotel industry and because he did not go to the University of the West **Indies** or he did not go to a university somewhere in the world that he has nothing to offer to the people of the Caribbean? Am I to believe that a good mason who has developed a technique of building structures a particular way that he must come and **ask** someone to get a work permit and just because someone else has a degree that person can just walk into another country and he is allowed to work without anybody interfering with him? Am I interpreting this Act wrong? If so, I am prepared...

Aside.

Mr. D. St. E. KELLMAN: I am not discussing the Honourable Member for St. Michael South. I am discussing the Act and I am discussing the Act in the way that I understand it. If I am wrong, correct me. I am prepared to sit down and allow someone to get up on a point of order. I am saying that this as it stands, Sir, carries a bias against certain groups of people who have something to offer the Caribbean. I find it rather difficult, Sir, to support certain sections of this Act at this time because we are saying that we are going to support 15 per cent of the people of the Caribbean and the next 85 per cent we are going to have a problem in supporting them. It is a dangerous example, Sir, that we **are** setting and it is a precedent that I believe that we should not get involved in, Sir, especially at a time when we are **asking** for Caribbean unity. You cannot have Caribbean unity, Sir, when you are saying that certain people are not going to be involved in certain things and that certain groups of people will have special privileges but the others must come and consult and give advice or do the work and they will not get any recognition. So I would like those few points clarified because I am **finding** difficulty with this Act as it stands, Sir. I believe that it is too tight. We need some flexibility in it, Sir, because I cannot sell this to my constituents neither can I **sell** it to my Caribbean brothers. Thank you very much.

Mr. G. A. CLARKE: Mr. Speaker, Sir, I want to make a few brief remarks on this Bill because I believe that integration is indeed the way forward for the

Caribbean man. Way back in 1876, as I was reminded, the first Federation riots were when first our great grandparents wanted to integrate the Caribbean. That was a time when Caribbean people wanted to move across the Caribbean freely. Since then there were many attempts, as the historian pointed out, to integrate the Caribbean. Today we are closer to realizing the dreams of the people of 1876 in moving and accelerating the pace of moving labour across the Caribbean. But there must be some criteria that have to do with the demand and supply of labour. Clearly there is not an elastic demand for masons and carpenters across the region, but one sees from time to time that the various states within the Caribbean, especially in critical situations like epidemics, storms and so on, when there is a demand for labour nothing prevents a state from asking for help from another state. But there must be some criteria.
2.35 p.m.

The most important point here in this debate is the point of reciprocal agreements between the states. We would hope that if Barbados passes this Bill today other Caribbean islands will follow suit. But we need to know that our labour can move to Jamaica and Trinidad and Antigua, as well as other islanders who would want to come to Barbados, because we know that there is a demand by some Caribbean nationals to come to Barbados. Everybody believes that Barbados is the Mecca of the Caribbean and we are proud to see this...

Aside.

Mr. G. A. CLARKE: ...but there is indeed a demand and we would hope that we could monitor this.

I believe it would have a strong impact, because today you would have a movement not only of university graduates, but graduates out of the Community College, the Skills Training graduates could move across the Caribbean region where there is availability of work. I can see student movement, across the Caribbean. I can see a situation where more students would want to come to Barbados to be educated. There was a time when boarding schools were popular in Barbados and I think we may very well see an acceleration of students who want to study within the Caribbean. I know that today a number of students across the region come to Barbados, not only to study at Cave Hill but at the Barbados 'O' Level Institute, the Community College, the School for Hospitality Studies and I am saying that this indeed is a good move.

I have been involved in the Caribbean Examinations process for a number of years, CXC, and there has been the movement of educators across the region to correct examination papers. We saw at the time that teachers are better able to go into countries like St. Kitts and Antigua and work; because there is a demand. I believe that Barbadian teachers, educators, would find work if there is

reciprocity with the other jurisdictions. I do not have the statistics here, but I believe that more than 1000 Barbadians are coming out of the universities and the Community College every year. We may not have the room for teachers and students with six and seven 'O' Levels, whereas in some islands, like Jamaica and to a lesser extent Trinidad, but surely in Dominica and Antigua there is a need for teachers. I was told this only recently by an Antiguan educator who felt that Barbados stands to gain from such an exercise where not only our educators but also our civil servants. I hope the time will come when our civil servants, our journalists – we have a number of journalists being trained at the Community College in Mass Communication and so on – will be able to move across the region and find work. If this legislation is passed throughout the region, I see not only a oneness, as one Member pointed out, but I believe it is more of a deepening and widening of the integration movement.

We hope that people of the region will not be as insular as they used to be. I hope that we will set an example. We have set such an example where today we have the Association of Caribbean Community Parliamentarians meeting. I think you will find that Barbadian lawyers will be practising throughout the region, Barbadian educators will be going throughout the region and *vice versa*. We will find that, as the Member for St. Michael West Central pointed out, we all came in one ship from one base source and I think this is indeed an important step to deepening the process of the Caribbean integration.

Thank you.

Hon. D. A. C. SIMMONS: Mr. Speaker, I rise to wind up and to thank all Honourable Members who have contributed to this debate for their comments and their support. The Honourable Member for St. Lucy seems to be in some doubt as to whether he can support the Bill. He says the Bill does not go far enough, but the Right Honourable Member for St. Michael South, who spoke on behalf of the Opposition, did give it his wholehearted support and in fact commended the Government for bringing the Bill.

Let me just respond to the contribution made by the Honourable Member for St. Lucy. His concern is that the Bill does not go far enough. The Bill limits the types of person who are eligible to work in Barbados, being CARICOM nationals in certain skills without the necessity of having a work permit. To carry it further, we could as well all just abolish work permits and have absolute freedom of movement throughout the region. The Heads of Government have not so agreed and the Bill is the positive enactment of a decision of the Heads of Government, except for Guyana which has an open door policy, but I do not believe Guyana has an open door policy for all kinds of workers. It is certainly more liberal than the others.

If the Honourable Member thinks about this, he will be aware that either last year or November–December, 1994 I announced in the House that there were a number of persons in Barbados who had been here, particularly CARICOM brothers and sisters, prior to September 1992 who had no documentation, who had come and overstayed or whatever, and that we were willing to grant a kind of amnesty. We have not formalised an amnesty but we have formalised a policy that gives some form of status to those CARICOM persons who were here before September 1992 and who have gone in and filled out the documentation and applied for status.
2.45 p.m.

To a large extent, the concerns of the Honourable Member are answered by administrative policy which has recognised the reality of persons in Barbados and rather than throw them out granted them status in order to legitimise their stay in Barbados. Now to go the next step and just announce today that anybody in the Caribbean can come to Barbados will open certain such consequences for this country that, as I think, we ought not to contemplate. Look at the strain that would be put on the social services of Barbados if we just allow Every and Severy to come whenever.

The Heads, I believe, have **recognised** that the more developed countries with **greater** facilities would automatically attract as it were like a magnet those from the less well-off countries and allow them to compete with their own local nationals at levels where there is no shortage of supply and create a permanent social problem.

Could you imagine if we just asked all kinds of carpenters, masons, labourers, and joiners to come into Barbados? In 2 weeks time, you get 20 000 of them in Barbados using your premise to compete with the labourers, carpenters and masons out there now who are...

Aside.

Hon. D. A. C. SIMMONS: The Honourable Member for St. Michael South is speaking as the oldest on that side and as a leader of that Party. He said "leader".

Mr. D. St. E. **KELLMAN**: On a point of order. I never said as the leader of this Party because this Party has one leader unlike that Party.

Hon. D. A. C. SIMMONS: He said today that we should move towards freedom of movement incrementum. This is the first step in that process.

I want to remind the Honourable Member why he has to be careful of his position when he speaks at variance with the vast majority of opinion on that side. On page 140, of the West Indian Commission Report, the authors said, and I am repeating this **so** that the history could be understood, **so** that the position of the Democratic Labour Party when it was the Government of Barbados on this matter can be understood in a **historical** context. I want to quote from page 140:

"In terms of **the** decision and actions taken by CARICOM Governments since July 1991, the Government of Guyana in February 1992 informed the sessional meeting of CARICOM Heads of Government on its decision to allow CARICOM nationals who are **graduates** of the UWI and UG to travel freely practise their vocation and if **necessary** **settle** in Guyana with effect **from March** 31, 1992.

Legislation to that effect has since been **enacted**, the media was also informed of **approval** by the Government of Jamaica for graduates of UWI and UG to travel freely and work in Jamaica. **The** Governments of Barbados, **Grenada**, **St. Kitts and Nevis** indicated approval in principle of these measures and undertook to take steps to implement the necessary arrangements at the earliest opportunity.

In the meantime the matter of **free** movement of skills continue to be addressed by an interim ministerial committee lead by Guyana comprising representatives **from** Dominica, Grenada, Guyana, Trinidad and Barbados. We **are** making progress in an area of fundamental importance to the reality of the community."

At the time when this Report was **written**, when **the** Democratic Labour Party was still **the** Government of Barbados, the then Government was taking steps and I **use** the language of the Report, to implement the arrangement for moving to the position where we **are** today. That **was** a position that you start with graduates. They were saying in those days, UWI, the University of Guyana and then Surinam came later. Then it was expanded to **all** Caribbean nationals who **are** graduates of tertiary institutions. The ideal that my friend **seeks** will be achieved in due course.

A comment was made, Mr. Speaker, about the pressure that could be exerted on countries, the fear that could be excited if people do not fully understand that this is a limited category, almost an elitist group, **for** whom provision is being made. Again, as I indicated : my opening speech, the fears **are** more imagined **than** real and that emotional argument was addressed in this **report** at page 141 and I read it into the records **because** it sets it neatly into context. It says:

"Within the context of the emerging single market and economy the Commission is satisfied that the old bogies of invasions of people from other territories are not only anachronistic but are indeed ill-founded. Few West Indians, if any, will be leaving their corner of the West Indian homeland to relocate elsewhere unless the free play of market forces and the law of supply and demand indicate that it is prudent for them so to do.

They who are inclined to take the plunge out of desperation are far more likely to go for broke in terms of migrating to the more traditional destinations. In the move from community and common market to community single market and economy it is inevitable that greater deal of travel by CARICOM nationals throughout the region should be accompanied by increasingly greater freedom of movement of such nationals wishing to work in parts of the region other than in the country of their birth. That will remain an important goal for us to reach as we deepen the process of integration."

Finally, Sir, the Honourable Member for St. Michael South asked about the non-inclusion of CAIC in the Schedule. I am not too sure of the status of CAIC. Those organisations which are mentioned in the Schedule are non-profit organisations. I am not sure that CAIC qualifies as a non-profit organisation.
2.55 p.m.

However, the principal Act, itself, permits the Minister to make regulations, Sir. If we have forgotten somebody and representation is made, it can ways be **alterations** of the schedule via the route of regulation, Sir. Because the Minister has ample power under the parent Act, Sir.

With those few comments, Sir, I am grateful to Honourable Members again, Sir. I think that we are creating our own little bit of Caribbean history, and what we are doing has found favour with our colleagues through the region. This is a united position where the principles of reciprocity and comity will operate to ensure the implementation, in the smoothest way, of the intentions of our Heads of Government, Sir.

I am obliged to you, Sir.

Mr. SPEAKER: The question is that this bill be now read the second time. Those Honourable Members in favour please say aye. Those Honourable Members against please say no. **Methinks** the ayes have it.

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, I beg to move that your Honour do now leave the Chair and the House go into Committee.

Mr. SPEAKER left the Chair and the House went into Committee.

The question was put and resolved in the affirmative without division and Mr. SPEAKER left the Chair and the House went into Committee, Mr. W. C. C. CALLENDER in the Chair.

COMMITTEE

Mr. CHAIRMAN. This Honourable House is now in Committee.

Clauses 1 - 3 inclusive, were called and passed.

On motion of Hon. D. A. C. SIMMONS seconded by Hon. Miss B. A. MILLER, Mr. CHAIRMAN reported to His Honour the SPEAKER the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On separate motions by Hon. D. A. C. SIMMONS seconded by Hon. Miss B. A. Miller the Bill was read a third time and passed.

Mr. SPEAKER: Order No. 9.

ORDER NO. 9 - SUPREME COURT OF JUDICATURE (AMENDMENT) BILL 1996

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, I spoke to the Honourable Leader of the Opposition, over the weekend, about this Bill and indicated that the Government would have been obliged to sign, Sir, for their cooperation in allowing us to do this Bill in all its stages **today**, Sir.

As Honourable Members are aware, the compliment of judges on the Court of Appeal has been reduced by the elevation of Sir Clifford to Governor-General. On Friday this week, I believe Mr. Justice Smith will be **demitting**. So that there will be a number of changes in the personnel of the Judiciary.

Mr. Speaker, If we recruit Judges from the High Court to the Court of Appeal, in circumstances where you do not give long notice of an intention to promote, the very possibility exist that when a judge is promoted he has outstanding matters in the High Court to be finished. Judgements to be given or part heard cases to be completed and so on. So there needs to be a legal device to allow a judge, when he goes on promotion, to complete matters that he had started in the court.

This matter first came to the attention of the House in 1992, Sir, by the Act, 1992 (14) Supreme Court of Judicature (Amendment) Act, 1992 (14). Honourable

Members will recall that on the 4th November, 1991 Barbados establish a separate and distinct Court of Appeal on the 4th November, 1991. Prior to that date, Judges of the High Court were **entitled to sit as Judges of the Court of Appeal in matters** which they had not **tried** in the court below. We used to refer to it as a "scratch **back**" Court of Appeal, because Judge "A" will sit today in the High Court and there was an appeal from him to Judges "D," "E" and "F." He would go up when there was an appeal from Judge "D" and he would sit "E" and "F". **There** was that problem that people thought the appearance of it, could have impair, as it were, the purity of the judicial decision **making**. We moved towards the separate court that we have. A separate set of four judges in the Court of Appeal, five or six, whatever, in the High Court, separate and distinct.

Prior to November 1991, those judges, other than the Chief Justice, were styled "Puisne Judges." They were able, because of having to do Court of Appeal from time to time, they were able to have as part of their conditions of employment, \$4 000 a year as an additional perquisite of office, expressed as a Court of Appeal allowance. So they were called Puisne Judges and added onto their salary, as a High Court Judge, they got another \$4 000 a year to allow them to sit on Appeal, when necessary.

Now, when the Court of Appeal was **set** up on the 4th November, 1991, technically that nomenclature of Puisne Judge **disappeared** and they are **all** called Judges now, except on appeal they are Justices of Appeal. So you refer to them in the High Court as Judge, on appeal Justices of Appeal.

There were two who were Puisne Judges, Sir Clifford Husbands and Mr. Justice Chase, he was appointed in 1988 before we had the separate Court of Appeal in 1991. 3.05 p.m.

As Honourable Members will have read, Justice Errol Chase **has** been appointed to act as a Court of Appeal Judge since Sir Clifford has gone up to Pilgrim House. It was thought until last Monday that because of an amendnient in 1992 he would have been entitled to finish off his work in the High Court but on close reading of the existing law the better view is that he does not have that power for reasons which I will explain, **and** that an amendment to section 4 of the Supreme Court of Judicature Act, Cap. 117A is called for. I will show you where the little problem exists.

The present section reads as follows: -

"(4) A person who,

- (a) immediately before the 4th day of November 4, 1991 held the office of Puisne Judge and on that date became a Justice of Appeal, or
- (b) on or after that date was appointed to the office of Judge of the High Court and who is subsequently appointed to the office of Justice of Appeal, may sit in the High Court as if he were a Judge of that Court for the **purpose** of delivering judgment or doing any other thing in relation to proceedings which were **commenced** before him whilst he was a Puisne Judge or Judge of the High Court, as the **case** may be."

When you look at the two provisions, **4(a)** and **4(b)**, **4(a)** covered Mr. Justice Husbands as he then was, a person who immediately before November 4, 1991 held the office of Puisne Judge. He was a Puisne Judge since the late 1970s and on that date became a Justice of Appeal - he was made a Justice of Appeal on November 4, 1991 - could then be allowed to go and finish his work that was left over in the High Court. Clear, no problem. That was **4(a)**.

How does that apply to Mr. Chase? Section **4(a)** does not apply to him so we looked to **4(b)**. Section **4(b)** says - "A person who on or after that date," 4th November, was appointed to the office of Judge of the High Court and who is subsequently appointed to the office of "Justice of Appeal," but he was not because he was a Puisne Judge since 1988, so we have amended it. This is all there is to this.

What we have done, and it would not happen again because there are no more Puisne Judges is, we have taken **4(a)** and **4(b)** and reworded them. What is before the House now is the following: -

"A person who holds the office of Judge of the High Court..."

Because the gentleman is a Judge now -

"And is subsequently appointed to the office of Justice of Appeal may sit in the High Court as if he were a Judge of that Court for the purpose of delivering judgment or doing any other thing in relation to proceedings which were commenced before him whilst he was a Judge of the High Court."

That cures **the** little problem.

Mr. Speaker, it is not usual for us to discuss Judges. I think I have explained the amendment to Honourable Members.

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

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

Mr. D. J. H. THOMPSON: Mr. Speaker, the Opposition will not be opposing this piece of legislation. The **first** premise on which we take the stance that we will not be opposing this piece of legislation is that it is essentially a piece of legislation which is to better facilitate the administration of justice and to ensure that in the majority of cases on the assumption that you have productive judges that there will only be a few matters outstanding which would require this section to come into operation.

Aside.

Mr. D. J. H. THOMPSON: I have to function on that assumption because I do not wish to be invidious, and the Honourable Member for St. Thomas has said that we do not normally discuss Judges. I am not proposing to discuss individual judges even though I will discuss the concept of the work which they do. Sir, that is the first assumption that we make.

The second assumption is that it will provide an opportunity for those litigants who have matters outstanding for which they require decisions to have those matters speedily decided without having to have them heard again and therefore have to pay whatever expenses and costs there are in relation to that. If we make those two assumptions, then we can easily support this legislation.

But I want to say some things about it, Mr. Speaker. There are not many categories of persons in the public service in Barbados for whom legislation is made to excuse them or facilitate their lack of productivity, but this Chamber has always been quite zealous, as have all the Chambers in the Westminster model, in making amendments to legislation to paper over some of the severe deficiencies which may exist in the judicial system. We do it out of deference for judges whom we believe, even though in the dictum of Lord **Atkins** that justice is not a cloistered virtue, and even though it is the place from which you receive most of your learning in which the highest court for Barbados is still located, there is active and progressive discussion about the quality and performance of judges in this jurisdiction. We have always adopted a stance in which they function in a bubble or a cocoon, isolated **from** the kind of rigorous and vigorous criticism which would help the system of justice and not hinder it.

I am not going to engage in that criticism today except to say that when, as Leader of the Opposition, I am called upon to tender advice in the quarter in which I am

supposed to tender it, I do not propose simply to rubber stamp or to concur in any recommendations where it does not appear to me that the person who is likely to be either elevated or appointed has not demonstrated the level of diligence and hard work which is necessary to carry them forward either being promoted, or in a movement from the Bar to the Bench, or from the public service onto the Bench. My stance will **be that** I will consult very widely, and I do consult widely.

I must say that I do have concerns about the judicial system and I have concerns about the backlog of decisions by High Court Judges which need to be attended to, if those persons are to be viewed as potential candidates for elevation to the Court of Appeal. In fact I know the Honourable Member for St. George South may even agree with me if he were to reflect on it. Sometimes it seems **as** though we punish the most diligent performers at that level because we have had a judge in Barbados in recent times who has really shown how to be a path breaker, productive, hardworking and as the Honourable Member for St. George South said and I concur even though I was not present at the event, a man who truly understood the ways of the Barbadian and was therefore able to cut through a lot of the chaff.
3.15 p.m.

Those kinds of persons whom we need to demonstrate within the judicial system are worthy of elevation and promotion. But I am not making a case for anybody because it is not within my power to recommend. My power is only to reflect on the recommendations which are made. So that as long as this piece of legislation is not being used to paper over a scenario in which anybody has judgements which are 6 years old to deliver and I hope that this is not what this piece of legislation is in fact doing, then the Opposition will give its full support to it.

There can be no excuse, none whatsoever, for a scenario in Barbados where litigants and lawyers have to wait in excess of 18 months to 2 years, running down into 6 years, for decisions to be written and judgements to be written in matters. What is more odious, Mr. Speaker, Sir, about the judicial system are the criticisms which are levelled at lawyers some of which are valid, are that lawyers are expected to be upright, hardworking, more customer oriented and where they fail in that duty, you can take them before a disciplinary committee on the flimsiest of complaints, even for delays. Yet it does not seem as though a litigant who has to wait 6 years for a judgement has any neutral tribunal or individual to appeal to.

If I had a judgement outstanding I would not want to go personally so that the Judge would know I have complained I want the judgment for fear, and it is

a genuine fear, even though it may be very misplaced, in a small society that as a result of my complaint it may affect my chances in the event that my case could go either way. So I would avoid that. We therefore need to have an impartial tribunal or individual, ombudsman or whatever you want to call it. Just as some have called for it in relation to the police. It already exists in relation to lawyers so that those complaints can be made.

The present system is one in which people complain to the Chief Justice. If the Chief Justice is the Head of the Judiciary his natural instinct, as would be mine if I were Head of the Judiciary, would be to seek to deal with the matter internally and try to solve it without much complaint. Just as if somebody came to complain to a Prime Minister about one of his Ministers you would not tell them well go and write to the Governor-General or go and complain to the Opposition Leader. You would try to deal with it internally. Litigants are being frustrated, attorneys are being frustrated and the judicial system is being brought into disrepute because of the delays and I cannot think of any excuse that anybody could offer in relation to a decision that could cause it to take 6 or more years to be delivered. And I therefore would hesitate any time any opportunity exists for me to comment in recommending for promotion or elevation or for any other accolade, any judicial officer whose performance has not met what I would consider to be reasonable standards of competence. It just is a blot on one's weer. I make the assumption that that is not what this legislation is about and I believe I can make that confidently for the time being until the Attorney General says otherwise and I do not think he will.

I want to reiterate that the public gets impatient with Attorneys-at-law but what is an Attorney-at-law to do in a situation where judgments can be outstanding for that length of time. Complaints can be made to the Disciplinary Committee, attacks in the newspaper. I just came back from London and every third question from the mouth of Barbadians in London was about a lawyer who took a deposit and was not able to complete the transaction in "X" number of months and so on.

Aside.

Mr. D. J. H. THOMPSON: Well you know my reputation in that regard. But it is a serious problem because as I say, I really do not think that we should be expected, even though we are supposed to be detached from these things and not interfere in the Judiciary, and I accept that, I still feel that there is a certain level of competence that is required, speed and efficiency.

The Honourable Member for St. Thomas has said that he is making every effort to upgrade the facilities and has been doing it therefore there can be no excuse and I hope

therefore that this piece of legislation will not be viewed by those who can avail themselves of it as an opportunity to put up their feet for a few years and then get promotion thereafter and while they are promoted then do the work they should have been doing when they were functioning at another level without citizens being able to complain.

You know how I feel about the judicial process and therefore I hope that there will be improved standards and with the appointments which the Government is contemplating that the persons who have the honour of serving Barbadians at that level will view it, not as a princely retirement gift but as an opportunity to serve, **work** hard and to ensure that justice is given to the people of Barbados in a speedy and efficient manner in the law courts. That is really all that I can say. On that basis we will not be opposing this piece of legislation.

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, I am grateful to the Leader of the Opposition **for** the **candour** with which he spoke. It was indeed a feat **because** he was very restrained in his use of language. I listened carefully between the words. I understand exactly the **innuendo** and messages that were being sent in that speech. I entirely support the view that in appropriate **cases** the Judiciary must not see themselves as above criticism. Indeed the best learning is that they are entitled to be **criticised**. In one of Lord **Denning's books** you will **see** that he wrote that the Judiciary should be criticised from time to time and David Pannex in his most recent book, he has got two, one **called** Advocates and the other called Judges. In Judges he gives a whole set of authority for the proposition that judges should be criticised and criticised vigorously. And they are criticised, certainly in England, **so** long as it is at a level of objectivity rather than from malicious inspiration.
3.25 p.m.

Sir, this legislation is not intended to act as a covet for inefficiency or judicial delinquency of one sort **or** another. I have explained that it was found **necessary** to amend in 1992 and then I do not think that anyone would have alleged that the particular person affected by the legislation had any lists of outstanding judgments. The problem has arisen because of the specificity with which that Section 4 was amended in 1992. I believe that the judges have been working under handicaps for a long time. The Government is trying gradually – I do not want to say speedily because my Ministry is dependent on other Ministries to get things done. We **are** trying our best to make the conditions under which the judges function more commodious. I believe that I can say, Sir, that the Government is accepting that the judges should **each** be provided with secretarial assistance and that I believe that that secretarial assistance should be forthcoming very shortly in the context of the legal term which begins in October. I believe this year that we will begin in

October because we would like to close for August and September. We are **committed** both in the manifesto and at other levels of policy to provide the judges with such secretarial assistance.

I would make an observation that I made some years ago when a Chief Justice of New **Brunswick** came to **Barbados** about 3 years ago and spoke to the Bar about devices that they were using in Canada to speed up access to justice and to manage cases better than had been the practice hitherto. I asked the judge, and I cannot remember his name now, Sir, what proportion of judgments in his jurisdiction were delivered orally at the conclusion of the case. He said that it was over 54 per cent. I had to explain to him that in Barbados it is more like 95 per cent of judgments are delivered in the written form and that is where you get the problems in our system. That is the major contributory factor to the problem that a judge would start a case today, he will complete the case and he will reserve a decision to go home and write something. Next month he is assigned to assizes and he is turned in entirely on criminal matters and writing summations every night. Well, the thing builds up. To do that with 5 or 6 cases, it builds up. You never get back to them. In my experience as a lawyer, I can say truthfully that there were two cases in the 25 years where delay on the part of the judge worked injustice, in that during the **trial** the judge was **willing** to give judgment there and then. He decided to reserve for over a year and in one case 18 months and when he came back he gave a judgment completely **different** from the way his mind was working before. It is as if he had not remembered because once you put down the file or the notebook and you come back to it 6 or 8 months later on you miss the nuances and the immediacy of the atmosphere when you were recording the evidence or whatever part of the case it may be. That is the problem. We are hoping to have continuous assizes as soon as we have the judicial bench fully populated at the High Court level and the **Court** of Appeal and as soon as we complete the renovations to the Courts more work is starting on the Courts very shortly, Sir. Over the library section, the roof over there is leaking and it has been for years. **MTW** has assured us of their cooperation in starting that work even before the vacation. On the veranda, all of the rotten boards **on** the exterior of the Court are going to be changed and repainted and refurbished.

There are about 3 judges chambers, Courts No. 3, 4 and 7 which are going to be renovated during the vacation. Some of them are very, very awful for a judicial office and we are going to do that in the summer. We are looking forward to closing the Courts for the months of August and September. I invite the Chief Justice to consider that and to give us enough time. Some work we will do even before August. But to really allow **MTW** to go in and do all that they have to do we need at least those 2 months and we

are working towards that. In the Ministry we are planning to acquire the materials in advance and arrange the overtime with **MTW** to do the High Court and we are making plans this year for the computerization of the Registry. We have had air conditioning units installed in the **Magistrates'** Courts in District "A" and no connection or supply of electricity for months. I had a meeting last year, Sir, and you know that I can lose my temper from time to time, Sir, and the top went off. I hope that we will soon get the electricity connected to make sure that the workers at District "A," Magistrates' Courts work in cool conditions and that includes the judicial workers **too**. As soon as that is finished, Sir, we are going to air-condition and make some renovations to the Registry on both floors so that I hope by the end of this calendar year all of the internal work of renovation will be completed and the Courts will be more comfortable and indeed the judges will be better provided with assistance to help them get out their judgments in a timely fashion.

I would only wish to wind up, Sir, by saying that we have been plagued as it were from time to time in the judicial system with slow judges. I remember one judge on the morning that he came to deliver 8 or 9 judgments he just looked at the party and said: You were for who? I go with the plaintiff and the defendant will pay cost and that was real palm tree justice. But I really think that too much emphasis is placed on the need to write a judgment and to reduce it to real **fine** style, like a **treaty**. Every judgment does not lend itself to that. There is a running down case. Two people are involved in an accident case. Why do you need in an accident case to reserve a judgment for months? At the time you must be able as you are going through that case to know which of the two sides is lying. So there and then you must know as you are doing a case that you do not like that evidence. This witness contradicted the person. At the end of the case you fine for one side or the next and say it. I do not think that people understand that when you delay in giving a judgment there is a chain reaction. We do not officially have contingency fees as part of our practice but it is really the practice, because there are a lot of people who come to a lawyer and cannot pay. Take the **QC's** on the back bench. Do you believe that they can charge a retainer to the average man in an accident case and expect to get all before the Court before the case **tries**. If the case is worth \$8 000 to \$10 000, do you think you can charge that up **front** and get it before? No. You get the bulk of the fees at the end when whoever is liable pays up, the insurance company. You don't give judgment in a timely fashion and what happens is that the person who wins has to wait for months, years, before they get the judgment and then they have to wait for the fruits of the judgment and God help them if you appeal because they wait another year before it is heard, and then, of course, the lawyers are out of pocket for a long time. People don't understand we have to carry all those costs associated with the case very often. You still have to run your office.

Sometimes they cannot pay to file certain documents when they need to be filed and you have to advance it. They don't have any idea of the complexities. Unless you **are** involved with the practice you would understand.
3.35 p.m.

I believe **the** judges are getting the message and all over the world there **are** concerns being expressed about access to judges. When I addressed the Bar last December I spoke to them at length on how as practitioners we could contribute to speeding up the process. I am hoping, but I have to discuss it with **the** Chief Justice, and I have spoken to members of the Bar about it and I spoke to the Bar itself last year, to have a one day seminar what I call spreading the big tent. Let us meet at Dover or **Sherbourne** or somewhere, all lawyers and judges, and let us talk about the problems and how to resolve them with the understanding that we would leave there that day with a firm set of plans for action and no further talk. I am **looking** to spread the big tent soon and I am going to approach the Chief Justice to find a convenient time **perhaps** in late July or very early August where the Bar and the Bench and all of us can get together and talk freely without recrimination about the problems.

There are problems about how to discipline judges. The Constitution has the standard provision for good **behaviour** or bad behaviour, however you put it, but there is a limited method of dealing with a judge who is persistently slow or whatever. The Commonwealth Law Ministers recently referred all of these matters in Malaysia to a working group. I declined because of pressures that I **see** coming up later on this year. Jamaica is our representative in the Caribbean and we're **looking** at the concept of independence of the judiciary, what factors will contribute to enhancing or enlarging independence of the judiciary and we **are looking** at how to discipline recalcitrant judges.

In the meantime, I would just ask Honourable Members who **are** interested in this area to think about it. It is one **of the** matters that I am sure the Constitutional Review Commission under the Honourable Member for Christ Church West would be interested in hearing. Do we need to alter the Constitutional provision that presently exists to make provision for other methods of disciplining judges? **As** I said, if persons feel strongly about it there are precedents in varying parts of the world of how people deal with these things and all of these will come up for discussion during the Constitutional Review Commission.

With the assurances I gave to the Honourable Leader of the Opposition which I trust he accepts as to the purpose

and intent of this Bill, I beg to move that this Bill be read a second time.

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

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

On the motion of Hon. D. A. C. SIMMONS seconded by Hon. Miss B. A. MILLER, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. W. C. C. CALLENDER in the Chair.

COMMITTEE

Mr. CHAIRMAN: This Chamber is now in Committee.

Clauses 1 - 2 were called and passed.

On the motion of Hon. D. A. C. SIMMONS seconded by Hon. Miss B. A. MILLER, Mr. CHAIRMAN reported the passing of one Bill in Committee without amendment and Mr. SPEAKER resumed the Chair and reported accordingly.

On separate motions of Hon. D. A. C. SIMMONS seconded by Hon. Miss B. A. MILLER the Bill was read a third time and passed.

QUESTION TIME

Mr. SPEAKER: We will revert to Questions. The Honourable Member for **St. John**, Question 22.

Mr. D. J. H. THOMPSON: Question No. 22 reads as follows:

Will the Minister state what steps, if any, Government proposes to take to alleviate the plight of residents who use the road leading to the easternmost part of the Kendal Tenantry, **St. John**, which is impassable on foot because of pools of water along the mud track where the water also breeds mosquito larvae, thereby creating a health hazard?

"There has been a mud tract at **Kendal**, **St. John** which has been in disrepair for the last 30 years or more. The Government proposes to have plans drawn to establish a proper road for the unfortunate residents of Kendal Tenantry, **St. John**."

3.45 p.m.

Mr. G. A. CLARKE: Mr. Speaker, Question 22, the reply is as follows:

"However, in this financial year, the **Ministry** of Public Works, Transport and Housing will provide a sum of money to do urgent repair work to the mud track to eliminate the mosquitoes and other vermin in that site."

Mr. D. J. H. THOMPSON: Mr. Speaker, a supplementary question:

"Is the Minister aware that plans have already been drawn for the construction of a tenantry road at Kendal, in St. John?"

Mr. G. A. CLARKE: Plans were drawn, Mr. Speaker, for a number of years.

Mr. W. C. C. CALLENDER: Mr. Speaker, a supplementary question:

"Is the Minister aware of how long this road needed repairs?"

Mr. G. A. CLARKE: "Repairs for more than 30 years, Sir,"

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, supplementary question No. 2.

"Will the Minister state when it is likely that the remedial work on the existing pathway is likely to start?"

Mr. G. A. CLARKE: As soon as funds permits. In this financial year though.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, supplementary question.

"Can the Minister tell me whether the Barbados Water Authority is likely to lay water mains in that area shortly?"

Mr. SPEAKER: The Honourable Member for St. John, when you say "in that area," I take that you are referring to the path. The same path.

Mr. D. J. H. THOMPSON: The question is, "based on the plans that have been drawn, when the Barbados Water Authority is likely to lay the main because that is a pre-condition in putting in the road. Whether the main is ready to be laid?"

Mr. G. A. CLARKE: We will investigate that matter, but I do not have the information right here.

His Honour R. D. MARSHALL: Mr. Speaker, supplementary question.

"Can the Minister say who was the Representative for that constituency for the last 30 years?"

Mr. G. A. CLARKE: The present Honourable Member for St. John and a previous Prime Minister.

Mr. W. C. C. CALLENDER: Mr. Speaker, supplementary question.

"To his knowledge when any questions were asked about this said road and its bad state. Is this the first time a question has been asked?"

Mr. G. A. CLARKE: I am not sure. I think it is the first time. It is the first **time**.

Asides.

Mr. SPEAKER: Please, please, let us hear the question, please.

Hon. D. A. C. SIMMONS: Mr. Speaker, supplementary question.

"Will the Minister please tell us, Sir, whether this road was slated to repair in the St. John Development Plan?"

Asides.

Mr. J. O. TUDOR: Mr. Speaker, supplementary question.

"Will the Minister state the number of pathways throughout Barbados that remain for the last 30 years?"

Asides.

Mr. SPEAKER: Please, please, question, please, please, please. Do you want the number of pathways throughout Barbados or in Kendal?

Mr. J. O. TUDOR: Throughout Barbados that are similar to Kendal, that are in the same state as Kendal.

"Will the Minister state the number of pathways that have been left in the same state as Kendal?"

Mr. SPEAKER: In the same state as Kendal.

Mr. G. A. CLARKE: I would ask the Member to put it in a separate question so that we could investigate that. If the Member can put it in a separate question we would, gladly, investigate. I do not have that.

Mr. SPEAKER: Any more supplementary questions, please?

ADJOURNMENT

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that this Honourable House do adjourn until Tuesday, June 25, 1996 at 11.00 a.m.

There are important matters still outstanding, Sir. Some are out for Select Committee, the culling of further comment from the public domain, and from professional associations and **so** on. **The** Defamation Bill is one such Bill, the Insurance Bill one such Bill. Depending on how

the Select Committee works, Sir, on Friday this week, it is entirely possible that June 25, we would be in a position to proceed with the Insurance Bill and possibly the **Defamation** Bill as well. So there would be quite a bit of work proposed for that **day**.

I am not going to do the Special Development **Areas** for a number of weeks because I have invited further comment. Depending on how the Committees work, Defamation Bill should be ready for the **25th**, **so** should the Insurance Bill be ready for debate on the 25th.

Hon. D. A. C. SIMMONS: I beg to second that, Sir.

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

3.53 p.m.

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CLARKE, Mr. G. A. (St. George North)
KELLMAN, Mr. D. St. E. (St. Lucy)
MARSHALL, His Honour R. D. (St. Michael West
Central)
MILLER, Hon. Miss B. A. (City of Bridgetown)
SANDIFORD, Rt. Hon. L. E. (St. Michael South)
SIMMONS, Hon. D. A. C. (St. Thomas)
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TUDOR, Mr. J. O. (St. Michael East)