
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2004

HOUSE OF ASSEMBLY

Tuesday, April 22, 2003

Pursuant to the adjournment, the House of Assembly met at 11.10 a.m. on Tuesday, April 22, 2003.

PRESENT

His Honour I. A. ROETT, B.A., Dip. Ed. (Speaker)
His Honour J. M. EDGHILL, J.P. (Deputy Speaker)
Hon. Sir HENRY FORDE, K.A., Q.C., M.A., LL.M. (Cantab.)
Rt. Hon. O. S. ARTHUR, M.Sc. (Econ.) (Prime Minister, Minister of Finance and Minister of the Civil Service)
Mr. D. J. H. THOMPSON, LL.B. (Hons.) (Leader of the Opposition)
Hon. Sir HAROLD St. JOHN, K.A., Q.C., LL.B.
Mr. L. R. TULL, Q.C., M.A. (Oxon.)
Hon. Miss B. A. MILLER (Deputy Prime Minister, Minister of Foreign Affairs and Foreign Trade)
Hon. Dr. R. L. CHELTENHAM, Q.C., M.A., M.Sc. (Econ.)
Hon. G. W. PAYNE
Hon. R. C. EASTMOND, J.P., B.A. (Hons.), Dip. Ed., LL.B. (Hons.), L.E.C. (Minister of Labour and Social Security)
Mr. D. CARTER (Chairman of Committees)
Hon. R. N. GREENIDGE, B.A., LL.B. (Minister of Education, Youth Affairs and Sports)
Hon. G. A. CLARKE, B.Sc., Dip. Ed. (Ministry of Housing and Lands)
Hon. R. D. MARSHALL (Minister of Public Works and Transport)
Hon. H. F. LASHLEY (Minister of Social Transformation)
Hon. R. St. C. TOPPIN, LL.B. (Minister of Commerce Consumer Affairs and Business Development)

Mr. D. St. E. KELLMAN
Hon. Miss H. E. THOMPSON, LL.B. (Minister of Physical Development and the Environment)
Hon. Miss M. A. MOTTLEY, LL.B. (Attorney General and Minister of Home Affairs) (Leader of the House)
Mr. M. Z. WILLIAMS
Mr. T. A. PRESCOD, B.A.
Rev. J. J. S. ATHERLEY, B.A., B.Sc., J.P. (Parliamentary Secretary to the Attorney General and Minister of Home Affairs)
Mr. D. T. GILL, B.Sc.
Hon. N. A. LYNCH, B.Sc., M.B.A. (Minister of Tourism and International Transport)
Hon. A. P. Wood, B.Sc., M.Sc., M.Phil., J.P. (Minister of Agriculture and Rural Development)
Hon. R. R. FARLEY, B.Sc., J.P. (Minister of Economic Development)
Hon. Miss C. Y. FORDE, J.P. (Minister of State, Ministry of Education, Youth Affairs and Sports)

Prayers were led by Rev. Canon Ivan Harewood.

Mr. SPEAKER: This House is now in session.

MINUTES

Mr. SPEAKER: Minutes for the meeting held on Tuesday, 15th April, 2003.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, the Minutes of Tuesday, 15th April, 2003 be confirmed, subject to any omissions and/or corrections.

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

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

FIRST READING OF BILLS

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I beg to move that the following Bills be read a first time.

1. Caribbean Court of Justice Bill, 2003.
2. The Constitution (Amendment) Bill, 2003.
3. The Income Tax (Amendment) Bill, 2003.

Hon. R. C. EASTMOND: I beg to second that, Sir.

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

SUSPENSION OF STANDING ORDERS

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I beg to move the suspension of Standing Orders Nos. 6, 16, 18, 20, 42(5), 43 and 44 for the remainder of today's Sitting.

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

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

GOVERNMENT BUSINESS

ORDER NO. 9 – THE INCOME TAX
(AMENDMENT) BILL, 2003

Rt. Hon. O. S. ARTHUR: Mr. Speaker, in the course of two presentations to Parliament, in 2001 and 2002, I had set out essentially, a framework to bring about a substantial restructuring of the direct and personal Income Tax systems of Barbados.

The Amendments contained in this Income Tax (Amendment) Bill, are intended entirely and only to give effect to the principles and specific proposals as set out in those framework statements to Parliament, especially, those that were announced on 22nd October, 2001. They are to be incorporated into the law and to give legal certainty to the proposals of 2002.

Sir, before I go to the specific proposal, Mr. Speaker, I should make it clear that the approach to the reform of the direct tax system of Barbados and the reform of the personal Income Tax system must be informed by different sets of considerations.

In the case of the corporation tax system, it has to take into account, the need for rationalisation of the system, in and of itself. Any change in the corporation taxes system, Sir, has to take account of the fact that the Barbados economy, now and into the future, will function as part of a

single Caribbean Market and Single Economy, Sir, and that will require certain adjustments to enable Barbados, both not to lose business to the rest of the region and to make Barbados the preferred location for the carrying out of business in the region.

Secondly, Sir, as we are all aware that we have inherited a corporation tax Structure where there is a substantial difference between the tax payable by local corporations and the tax payable by companies operating in the international and business sector.

The discriminatory nature of that tax system, was one of the things, of course, that prompted concerns by the OECD about the functioning of our international tax system. It is obvious, Mr. Speaker, that in an age where we function and have to take account of the existence of international trade rules which treat non-discriminatory practices, as a major aspect of financial policy, the sooner we reach the stage in Barbados of removing the discrimination between the corporation tax as it pertains to local companies, and that which pertains to offshore companies, the better.

Mr. Speaker, our corporation tax system has to be designed to bring about some convergence, eventually between the tax payable by companies functioning in the local market and tax payable by international business companies. Our approach to the reform of the corporation tax is guided by those three principal considerations.

Sir, let me deal with the first. Barbados has inherited a nominal corporation tax rate of 40 per cent of profits. On the face of it, it seems high. On the face, Sir, the nominal tax rate of 40 per cent seems high relative to Caribbean standards, if only because there are other Caribbean jurisdictions that have the corporation tax rate in the lower 30s, but, Sir, Barbados has not only a corporation tax rate of 40 per cent. We have a number of very attractive concessions, some which allow for the grossing up of expenditure, others that apply to things like market penetration and yet others that are not granted with other Caribbean countries, such that there is a fundamental difference between the 40 per cent corporation tax rate and the effective rate. This is the rate of tax that the enterprise effectively pays after it takes into account all of the allowances and deductions available.

The truth is, that while we have maintained this nominal rate of 40 per cent, and some jurisdictions have been condemned for too high a nominal rate, the effective rate of corporation tax in Barbados is about 22 per cent. We can, therefore, have a restructuring of the direct tax system that is intended to bring the nominal rate of 40 per cent closer to the effective rate of 22.5 per cent. Sir, this would involve at some stage, a review of the allowances that are granted.

Mr. Speaker, the reform of our corporation tax rate has to be informed by the fact that Barbados is going to

be functioning in a Caribbean Single Market and Single Economy. There are some Caribbean countries that have been dropping their corporation tax rate and might even drop them further.

The key however is that one of the provisions by which a Caribbean Single Market and Single Economy is to be created, takes the form of a double taxation agreement between all Caribbean countries which, as we know, Sir, is based upon the ambient, namely, it provides for the payment of tax at the source.

If Barbados therefore, Sir, maintains a higher corporation tax rate than those of its key competitors, having regard to the structure of the CARICOM Double Taxation Treaty, it is obvious and possible that Barbados will not be the preferred location for the establishment of any businesses that have, as their focus, the functioning of a Caribbean Single Market and Single Economy. Our reform of the direct tax system, has to be guided by the precept of bringing our corporation tax in line with that to the best which obtains in CARICOM, if we are to project ourselves as a preferred location for the conduct of regional business.

In addition, Mr. Speaker, as you are aware, there is a vast gulf between the corporation tax rate of 40 per cent and the tax rate payable on international businesses, which stands at between 1.5 per cent and 2 per cent of tax payable where the tax is payable.

Sir, about 60 per cent of our Corporation Tax is generated by the taxes on local businesses and 40 per cent taxes on international business. If we were to bring about at this stage, Sir, a convergence, one of two things to bring the domestic rate in line with the offshore rate, as some will require, we could do that at a rate of about 10 per cent, by lifting up the international business rate from 2.5 per cent to about 10 per cent as Ireland has done, but we would do that, Mr. Speaker, at a great risk. It would mean that the largest proportion of our return from corporation tax will depend, almost exclusively, on the activities of the international business sector. We could not at this stage, Mr. Speaker, expose the economy to such a tremendous risk.

Mr. Speaker, what we therefore have to do, is to sequentially bring down the rate of the Corporation Tax. First of all to establish it on a platform where it is the most competitive in CARICOM, and after we have brought it down to that highly competitive CARICOM rate, then carry forward the effort to bring about a convergence between that rate and the rate at which we can live with, a common rate for both the onshore and offshore business of Barbados. Mr. Speaker, that is the strategy and that is the set of measures which have been incorporated in our proposals.

11.20 a.m.

As a result, I announced in the year 2001 that over a period leading to the year 2006, in each year, we were going to make adjustments to the corporation tax rates to bring it down to 33 per cent. The House would recall that I announced last year that we were going to accelerate that process so as to be able to move at an earlier date to the convergence of the onshore and the offshore tax rate.

Therefore, we are going to set in train a process by which the adjustment to the corporation tax rate would be made to bring down the corporation tax rate from 40 per cent to 25 per cent in the shortest possible period maybe to the year 2006. The proposals that are before this House are to give effect to that statement of policy as outlined in my presentation to Parliament in October last year to reduce the corporate tax rate to 25 per cent, as the first stage in the exercise to bring about a convergence between onshore and offshore taxation in Barbados. I would like to see the day when we could come to a stage and a circumstance where there is one uniformed tax rate that is low.

Obviously, if we are going to reduce the corporation tax rates to CARICOM standards, we also have to take into account all of the proposed adjustments to the allowances that are part of the CARICOM harmonisation of tax structures. If I may elaborate, Mr. Speaker, there is a programme as part of the Caribbean Single Market and Economy for the CARICOM countries to harmonise the nature of the allowances that they provide to enterprises. So our reduction of the tax rate would be accompanied by measures to rationalise our allowances taking into account the provisions of the CARICOM harmonised system of corporation tax.

Sir, I turn next to the reform of the direct tax system. Income tax in Barbados was introduced as early as 1921 and amendments to the tax have been made from time to time. I believe that it would be appropriate if I were to just briefly refer to the recent attempts to reform the tax to set the background to what is now before us and to spell out very clearly the philosophy that guides this Government in changing the structure of personal income taxes.

The last major overhaul of the income tax system as one consolidated effort took place in 1992, when on July 7, the Government of the day, the Democratic Labour Party Government, introduced a new regime for personal income taxes. On that occasion it was guided by the precept of trying to introduce more transparency into the system, but effectively in essential terms, what was done then was that three rates of taxes were established, a zero rate, a basis rate of 25 per cent and a top rate of 40 per cent. A number of allowances and deductions were also eliminated on that occasion. Prior to 1992, one could deduct mortgage interest; medical expenses; insurance premiums; national insurance contributions; contributions by employees; purchase of

shares; payments for household help; dependents, other spouse and children allowances and rent expenses.

In 1992, the Democratic Labour Party as part of its tax reform eliminated all of those allowances. The allowances that were kept were credit union contributions, subscription to registered trade unions, contributions by parliamentarians to a political party and national insurance contributions paid by employees on behalf of employers.

The Democratic Labour Party having eliminated the allowances consolidated them all – I trust I am being fair because I think that was what was done – into an allowance where you could claim up to \$13 000 of all income as tax free. So the income threshold below which income tax was not paid, under the 1992 reform was set at \$13 000. The system was simplified by the consolidation of the allowances and by the charging of three rates, a zero rate, a basis rate of 25 per cent and a top rate of 40 per cent. Few allowances were permitted. That was the system we inherited.

My party has a philosophy in relation to the treatment of income and taxes. We believe that a threshold below which taxes should not be paid should be high enough to treat to the needs of the working poor and that it should be periodically reviewed to take into account growth in income and inflation. We also recognised that the change in the threshold is the greatest way by which tax relief can both be afforded and afforded most equitably.

When we increase the threshold from \$15 000 to \$25 000 everybody benefits. If, however, you just increase credit union allowances, only credit union members will benefit. If you increase the threshold from \$15 000 to \$25 000 the proportionate benefit is greatest for the middle class and those in that lower middle income range because an increase in the threshold by \$10 000 on income of \$25 000 is greater than that increase of \$10 000 on income out of a \$100 000. So increasing the threshold is the best means by which you can bring greater progress to the system. It is also, as you would appreciate, Mr. Speaker, the most expensive. In our circumstances to increase the threshold from \$15 000 to \$25 000, everybody would benefit once you are above the threshold that you should not pay income tax which will cost the Treasury about \$100 million.

We believe as a party that the income tax, system and the person's income system should be so structured as to allow for an income threshold below which taxes are not paid to accommodate the needs first of the working poor and to remove them from the liability of tax, and then incrementally address the needs of the lower and the middle income classes of the society of Barbados. We, in our Manifesto, pledged before this term is ended to introduce such a tax system that caters to the needs of the working poor, the lower middle and the middle classes in particular.

Mr. Speaker, it is also this party philosophy that the income tax system should be so structured that the legitimate expenses incur by people in maintaining a home should be treated as items of expenditure that they should be allowed to take into account in reducing their liability to tax.
11.30 a.m.

Mr. Speaker, I think it is not just a matter of tax administration but a matter of philosophy. We feel that the expenses that a person legitimately incurred in maintaining a home and a household, should be taken into account as legitimate expenses that should be allowed as deduction for the purpose of establishing their liability to tax. Therefore, while it was not desirable in 1992 to remove mortgage interest payments and other household related payments from the tax system as deductible expenses, we thought that an income tax regime in Barbados could only be sensitive to family values if in fact, we reintroduced them. Certainly, we feel that an income tax system should be designed to promote savings. Essentially, one receives an income. One needs basic necessities such as food, clothing, *et cetera*. One then has to maintain a home. One then has to save.

Therefore, we feel that a whole range of concessions that are attractive as stimuli to savings should be deliberately built into the income tax system and that should only be paid after provisions have been made for the working poor by setting an income threshold that captures the poor and the middle income. The tax payable should be on the balance of one's income after one has been allowed to deduct expenses that allow us to maintain our homes also taxes should be paid on that income after provisions have been made for savings and investments after the security of one's future and one's dependants.

Therefore, we have sought to modify the system that has been inherited since 1992, to increment it as our resources would allow, to introduce and to bring allowances into the tax system that enable persons who are maintaining homes to expand the amount that they could claim as tax credits for expenditure of homes. We have also improved the system by allowing an attractive range of incentives for savings.

Sir, the point is that every year since 1992 we have sought to improve the personal tax regime to make it more beneficial for home owners and for those who save. We have evolved a whole new range of instruments by which the needs of both home owners and savers can be met.

Mr. Speaker, prior to 1992, the only allowance that home owners could have claimed was allowance for mortgage interest. We have recognised that in modern Barbados, there are a number of legitimate expenses that should be part of home allowance. Therefore, this Administration has conceived of a concept of home

allowance, recognising that not only do home owners pay mortgage interest but some have expenses for solar water heaters. We have also said that the expenditure that one now pays for home improvement can be part of home allowance.

We also recognised that we have to help to reduce the enormous cost of insurance that the Barbadian home-owning public has had to endure, merely because we were regarded as a high-risk region because of the frequency of the storms that affect Florida and us.

Therefore, this Administration has broadened the concept of home ownership by making provision for any expenditure for making one's home safer against hurricanes by retrofitting, *et cetera*, which are all now tax deductible.

We also recognised we have to use, first of all, the carrot rather than the stick, in making Barbadians want to insure their homes. Those are now tax deductible. There are folks in Barbados who feel that we should make home insurance mandatory. I would love for that day to come but before we could make it mandatory, we have to do two things. We have to make sure that insurance is easily available at a reasonable cost. Secondly, we should allow any such expenditure for home insurance to be claimed as a deductible allowance for the purpose of establishing one's liability to tax.

Sir, last year I had indicated that it was Government's intention to broaden the concept of the home allowance to include those kinds of deductible expenditure. The point is that we want to have an income tax system that is flexible; that anticipates the legitimate needs of a householder; that allows the householder to go on with its business on the understanding that a collection of legitimate expenses, rather than one can be taken into account by the tax man, in helping to reduce the householder's liability to tax.

Therefore, whereas in the past there has been an allowance for mortgage interest, we have introduced the concept of a new home allowance. It is up to the householder to decide whether he wants to take the home insurance in the form of mortgage interest, repairs, retrofitting, *et cetera*. There is now up to \$10 000 to be claimed each year for legitimate expenses that would have incurred in dealing with the business of managing a home.

Sir, this is nothing dealing with tax administration. We agreed that strong homes and strong families are the bedrock of Barbadian society and that must be reflected not just in our social transformation policies but embedded into the tax system. Therefore, every year we have progressively introduced amendments to the Income Tax Act that broadened a range of things that the home owners can claim. As I said, an income tax of \$10 000 per family is a lot of money.

The Income Tax Amendment that we are proposing and have proposed since 1992, has seen us, first of all, reintroduced a home allowance, starting first with the provision where people could claim for mortgage interest in such instances as solar water heating, water storage facility, *et cetera*. We then broadened it to make provision for retrofitting, *et cetera*. As the situation before us, one could claim \$3 500 in legitimate expense for home insurances. I indicated that in this income year 2003, the home allowance would be increased to \$6 000 and then broadened it to \$10 000. In doing this, we then make provision for home owners to include any insurance premium they pay on their homes as part of the legitimate expenses that one could include in one's income tax adjustment.

Therefore, what is before the House in the first instance, is a provision to increase the home allowance from \$3 500 in the income year 2002, to \$6 000 in this income year. We are, therefore, granting householders an additional \$2 500 in relief in this income year and to carry the home allowance to \$10 000 in the income year beginning January 01, 2004, on the understanding that the householders have the flexibility to claim it by compiling a list of items that can now be treated as deductible for tax purposes.

The point is that we must reach the stage in this country where the Minister of Finance is not an enforcer but that he allows flexibility. Therefore, householders can now take the home allowance however they wish. It can be done by a combination of insurance premiums, expenditure on home improvements, on water storage, solar water heaters, *et cetera*.

I think that this is a fair and generous thing to do. There are a large number of persons in the middle-income bracket who are making these kinds of expenditures to help improve the housing stock and, therefore, I think we are creating a fair society by restructuring the income tax system to speak to those particular needs.

Mr. Speaker, the Democratic Labour Party left a personal income tax system with a basic rate of 20 per cent and a top rate of 40 per cent.
11.40 a.m.

We feel that there is also a need for us to introduce new allowances like a home allowance but that we should also bring down the tax rate. As a result in last year's presentation to Parliament, I indicated that in each year between this income year 2003 and 2006 we were going to bring down the income tax rate payable of the Barbadian taxpayer.

Under the 1992 regime the basic rate payable on the first \$24 200 of taxable income that 25 per cent will be brought down in two instalments from 25 per cent to 20 per cent and the top tax rate payable on all taxable income will be reduced from 40 per cent to 35 per cent by the year 2006.

Sir, we feel that a top rate of 40 per cent in Barbados is a disincentive to creativity, that we should go in line with reality to enable people to retain a larger proportion of income by reducing the rates of taxes. The amendments before the House are intended to give effect to what was said in the Budget of October last year that effective January 2003, this income year, the basic rate of income tax levied on taxable income of \$24 200 or less will be reduced from 25 per cent to 22.5 per cent, from income year 2004 the basic rate will be further reduced to 20 per cent, in income year 2005 the marginal rate of 40 per cent applicable too taxable in excess of \$24 200 will be reduced from 40 per cent to 37.5 per cent and in income year 2006, it will be further reduced from 37.5 per cent to 35 per cent.

Sir, we are reducing both the corporation tax and the income tax together and changing the rates over a period of time because to do it in one fiscal year would put too much pressure on the exchequer but they can be accommodated if they are phased in over a period of years.

Mr. Speaker, the way in which you add greater progress and capture the concern of more existing taxpayers is to change the income tax threshold below which taxes are not paid. The poverty line is set at \$12 000 for household incomes and Barbados has now an income threshold under which taxes was not paid to cater to the poorest of the poor. It was set under the Democratic Labour Party at \$13 000 and the Barbados Labour Party increased it to \$15 000 and in our Manifesto we pledged that we would introduce a system to progressively upgrade it from \$15 000 to \$25 000.

Sir, as I said before, to increase the income threshold from \$15 000 to \$25 000 is a tremendous adjustment because it applied to everyone whether he owns a home or is saving. When the threshold is changed everybody in that income bracket benefits as well as everyone in a position to pay income taxes and the extent of it is substantial. When an income threshold is changed by \$10 000 it is a substantial change.

We recognise that because of the enormity of the fiscal cost that we had to do it incrementally. Therefore, in last year's presentation to Parliament, I indicated that we were reviewing the threshold of \$15 000 established by the Barbados Labour Party and would be ready for implementation to begin in income year 2004. The review has been undertaken and I am now in a position to announce to Parliament that effective January 1, 2004 and each of the following three years that we are going to progressively increase the income threshold below which taxes are paid in Barbados by \$2 500 per year over a four-year period to the point where by the year 2007 no taxes in Barbados will be paid on income of \$25 000 or less.

Sir, at present the threshold is \$15 000 and in addition to reducing the rate we are increasing the basic allowance by \$2 500 per year over a four-year period.

In January 2004 it will move from \$15 000 to \$17 500.

In January 2005 it will move from \$17 500 to \$20 000.

In January 2006 it will move from \$20 000 to \$22 500.

In January 2007 it will move from \$22 500 to \$25 000.

Mr. Speaker, this will allow households to better plan their affairs. It is not a promise but it is built into the law and every year the amount of taxes payable will reduce by combination of the facts that the rate of tax will fall from \$25 000 to \$20 000 and from \$37 000 to \$35 000 and the income below which tax is not paid will rise from \$15 000 to \$25 000.

Mr. Speaker, the combination of these measures will cost the exchequer well over \$100 million over the period and it explains why we said in the Manifesto that we must progressively raise the threshold from \$15 000 to \$25 000. We are not only honouring the Manifesto but we are going beyond what was pledged by raising the threshold while also reducing the rate. We are doing this with legal certainty by incorporating it into the law as was promised last October.

A lot has been said in this country about tax reform. We on this Side feel that tax reform is not simply an accounting matter or changing the tax but it must reflect a philosophy. It is our judgement that the philosophy must first cater to the working poor and of a nature that is attractive to the middle income and lower income people whilst not stifling the creativity of those in the upper income bracket.

We feel that when a person gets his income he should be allowed to keep a portion of it as a personal allowance to pay his basic bills and that amount should be \$25 000 by the year 2007. Thereafter, he should be able to keep at least \$10 000 free of the tax man to help maintain, fit and manage his house. He should also be allowed generous concessions to save and invest in his future and the country's future. We feel that the system should reflect these things a permanent aspect of it and as resources allow they should be expanded without doing violence to what is still at the core of what makes this country a just and good society, without jeopardising or compromising our ability to provide our people in general with a range of public and social goods to maintain a social safety net that ensures that Barbadians do not fall between the cracks.

11.50 a.m.

Sir, I am implying that while tax reform is vital at the personal level, the good society that Barbados has developed and inherited, is one that must carry us into the future.

I think it is in this country's best interest, to continue to live in a society that we can have an educational system where people can enjoy the vista of having access to free

education, up to the university level. There is a form of countlessness on the part of some of those who like to compare our tax system with other countries' tax system, where you have to pay for education, sometimes as low as the secondary level.

I feel, Mr. Speaker, that we must continue to live in a country where access to health care is a right.

Aside.

Rt. Hon. O. S. ARTHUR: Sir, access to health care at a cost to the state, must be a right. I think that is how you build a good society and that our tax system must, therefore, be designed to enable us to collect the revenue to ensure that the provision of health care is a right which we can afford the Barbadian people.

Asides.

Rt. Hon. O. S. ARTHUR: I feel, as well, Mr. Speaker, that we must always continue to strengthen the safety net. We are reducing poverty in this country but there are still people, Sir, who cannot function without the helping hand of the state.

I know that in today's more conservative world, there are people who believe, as an article of faith, that the disruption of the social safety net is the way in which you build a society and leave it all to private initiative. Mr. Speaker, that is the principal way by which you create, not just distress and alienation, but it is the most empathetic way to approach the development of a society.

Barbados, Sir, has emerged as a strong, developing society, precisely because we had a strong social capital. We have been a caring society and those who want to radically restructure the tax system, must take into account, the fact that we still have those aspects of our societal relationships that are vital, if this country is to remain stable.

It bears common sense to compare our tax regime to perhaps the Scandinavian countries that have a social welfare system akin to ours, rather than to other less worthy social colonies which do not pay the same kind of attention to meeting the social and economic needs of their society.

Sir, having said that, I need to point the way. We have, as an administration, reformed the tax system to treat to the needs of the working poor, by allowing for a reverse tax credit. Obviously, that is a matter which will, in due course, have to be reviewed.

The reverse tax credit has recognised that there are still some people whom, because they are below the income threshold at which tax is not paid, cannot benefit from a reduction, either in the tax rate on personal income taxes, or

can they benefit from the grant of allowances. Hence, they are entitled to a reverse tax credit. This matter, Sir, obviously is something that has to be taken into account. As we raised the threshold from \$15 000 to \$25 000, obviously the number of persons who, sometime in the future will be the subject of this, will have to be considered.

We also recognise, Mr. Speaker, that there is ongoing work in relation to the taxes on property that has to be reviewed. This Administration has brought the rate of taxes on property at the lower round down to 0.1 per cent. Obviously, that has established a platform at which you could now do more creative things in the future. There are aspects of taxes on leases and the evaluation of property has been of concern. These matters must continue to engage us in a sympathetic way.

Sir, as for the future, the great change in tax reform in the future will be caused by trade liberalisation. Right now, \$170 million in import duties are being collected but in negotiations of which we are involved with the WTO under the FTAA, will see the phasing out of import duties beginning in 2005. This aspect of the trade reform relationship to tax reform is not always understood by many.

The consuming public, the productive sectors, particularly, tourism and the international business sector, will stand to be major beneficiaries of a reduction and removal of import duties sequentially after 2005. We are talking about \$170 million in taxes.

Mr. Speaker, between 1992 and now, as part of the exercise in participating in the Caribbean Economic Integration, we have implemented the Common External Tariff, which has seen the top basic rate of Import Duty fall from 45 per cent to 20 per cent. We have been phasing in those and we succeeded in phasing in a reduction in import duties from 45 per cent to 20 per cent, but the great leap forward will come after 2005, when as a result of our obligations, under the FTAA and under the WTO import duties will be reduced and phased out.

It seems not to be well understood by many, Sir, that because the VAT is payable on a chargeable value on goods that include import duty, if you phase out the import duties you also reduce the VAT. Sir, a lot of people that are calling upon us and picking at the VAT, seem not to understand the point I am making to them. That is, come 2005, once you start phasing out a 20 per cent import duty, the import duty is part of the chargeable value of goods for the purposes of applying the VAT, and that having to do nothing else but to phase out import duty, you are also going to reduce the VAT.

I am not here making political promises, Mr. Speaker, I am here just encapsulating what we know to be facts, into an integral part of the tax reform of the future.

Today, our tax reform is being shaped by our desire to fit the economy better into the single market and the single economy, to develop a system that has given vent to a philosophy, as to how we should treat the household sector. But, in tomorrow's world, the tax system and our capacity to manage our public financial affairs, will have to be more responsive to the imperatives of trade liberalisation.

Sir, all of us who want to engage in this matter in an intelligent way, has to understand that trade liberalisation will affect the VAT as well. On our Side, Sir, we are planning for it, so that the commitment to participate in a free trade area of the Americas, Sir, the commitment to be part of a Caribbean Single Market and Economy, the commitment to enter into a new relationship with Europe, the commitment to be part of a multilateral trading negotiation under the WTO, in services, manufacturing and agriculture, as are presently taking place, have profound implications for the structure of a future tax system.

Sir, those implications will be that a very large adjustment will have to be made, beginning 2005 that will see both import duties go, and the amount paid as VAT reduced, because the VAT is part of the chargeable value for the purposes of chance. So that you do not have to tinkle with the VAT because the whole structure of the VAT changes once you reduce import duties.

Sir, I speak in these terms because the society has to be accommodated for them. We are hearing a lot of loose talk about how this matter should be addressed, but what is in train will deal with the situation in a sensible and constructive manner, without there being this tinkering here and tinkering there. The entire structure of the VAT will be reduced because of the reduction in import duties, without having to do anything else.

Mr. Speaker, I put that on the Table for what it is worth, as part of pointing the way forward in general, because clearly, Sir, it sets the objective limits within which we can make substantive further adjustments, if we want to continue to live in a good society.

12.00 noon

Sir, I am happy today to be able to bring these proposals to Parliament. As I said, they go beyond that which was promised in the Manifesto. They are honouring the commitment to lift the income threshold below which taxes are paid progressively from \$15 000 to \$25 000. They go beyond what we are committed to by allowing for a reduction in the rates of taxes paid from 25 per cent to 20 per cent and from 40 per cent to 35 per cent. They allow us to carry out a fundamental restructuring of our general economy designed to allow it to become the most attractive economy for location in the Caribbean, by having a corporation tax rate that is competitive with the best in CARICOM and to let

us set the stage for the fullest and the most efficacious integration of the domestic economy into the international economy by ensuring that we set a corporation tax that can allow us to bring about a convergence between the onshore tax rate and the offshore tax rate.

Above all, the system is responsive. It is flexible. It treats fairly to the legitimate needs of consumers. It favours home-owners especially. It is going to be attractive to the middle class and it is fair to the corporate system. So to the extent that it has been designed to do the greatest good for the greatest number, I am greatly pleased to be able to commend this to the House and beg that this Bill be read a second time.

Mr. D. J. H. THOMPSON: Mr. Speaker, I must confess, as a former Minister of Finance, who the Honourable Member for St. Peter acknowledged undertook the most thorough-going recent reform of the tax system in Barbados, that I am not always as excited by the manner in which people seek to take small issues of tax reform and blow them up into sharp philosophical differences.

I believe that Economists are prone to that, that is their profession, that is their outlook and that is the way they believe the world spins. I think we need to have a much broader perspective on tax reform and must understand that a lot of it comes from expediency; the circumstances which a Minister of Finance might project – he has the elbow room – or is forced to undertake reform; international trends in relation to taxation; the impact of regional and international agreements and the relative weight that you may place on the performance of one sector of the economy over others, over a given period of time.

No one doubts that in 1992 tax reform was vital for a number of reasons not the least among which is that of the persons who were paying income taxes in Barbados and who were entitled to benefit from the desperate allowances that existed. If there were 11 000 taxpayers, there were less than 3 000 who had a sufficient number of allowances to carry them over the \$18 000 threshold. In other words, you can only benefit under our tax system from those additional allowances that go beyond the \$15 000, the \$18 500 or the \$12 000 as it was back then, if your overall allowances when grossed exceed the threshold. But the vast majority of persons paying taxes did not have enough allowances to benefit from those special concessions that were itemised. So in 1992, the Democratic Labour Party undertook income tax reform.

There is something that is often forgotten in Barbados, that is, that it was the Democratic Labour Party between 1992 and 1994 that obliterated the vast majority of levies which were extremely impactful on workers at all levels. You did not get any allowances. Levies were paid by every

single worker in Barbados, and the genesis of those levies was the Barbados Labour Party. So even if you were earning \$150 a week, \$120 or \$90 a week, apart from your national insurance contributions you were also paying seven per cent in levies. So in a phased process over two years between 1992 and 1994, the Democratic Labour Party removed those levies which were iniquitous.

When these levies were first introduced, the late Right Excellent Errol Barrow took a very strong position against them and the then Government continued, and subsequent governments, to increase those levies. You had health levy, transport levy, this levy and that levy. Some of them were not going into the Consolidated Fund in those days, then a Minister of Finance under the Democratic Labour Party ensured that all of the levies went into the Consolidated Fund so that in a sense they were no longer special and unique, so why then impose them.

Sir, these things are not really philosophical issues except to the extent of where the burden falls. There is no divide in Barbados on where the tax burden falls. There have been no Government in Barbados that has been so extravagant and excessive in its approach that it relieves the rich completely of all taxation. We have always had a reasonably progressive system which places higher burdens on those who earn more. Therefore, when I hear about philosophical differences... The differences are not philosophical, they are technical differences in which Ministers of Finance obviously often express preferences for certain types of taxes, the way in which they are collected and in which they look at the capacity of the revenue raising entities to undertake their job.

There is also the very stark reality that successive governments have also inherited trends from other governments. For example, it can be said in Barbados that the preparatory work for introducing the Value-Added Tax was undertaken by a previous government. There may be differences in the way in which the tax was applied. Some people elevate those to philosophical differences, I do not think they have to be elevated to philosophical differences. Differences in philosophy to my mind function at another level completely. Where there is suffering, then all of us as parliamentarians should have a commitment to eliminate that suffering. To the best of my knowledge, nobody in Barbados was ever elected on the platform that they would increase suffering.
12.10 p.m.

No one in Barbados was ever elected on the basis that they were going to impose additional burdens on people. No party has promised to raise taxes to an astronomical level if elected. As I say, there has been no major philosophical difference. What one might do is to look at a particular tax, such as land tax or property transfer tax, and determine

where the burden should fall, or how best it is collected, what government's targets and obligations are and to develop a tax strategy to suit.

Therefore, I cannot elevate the debate beyond my own personal approach to this. In 1992, we had a very simple approach – the simplification of the tax system, the removal of the levies to introduce free rates and, in the process, to basically level the playing field so that we could then start over by looking at how best the allowances that have been granted could impact.

Sir, I will give you the extent to which no Minister of Finance could be certain that those allowances would have the impact. I heard the Honourable Member for St. Peter in this particular debate saying that nominal corporate tax rate is 40 per cent in Barbados but that the effective rate was 22 per cent. When he took into account the various allowances that were being offered, a large number of corporations benefitted from those allowances. Therefore, for one to come to that conclusion, one had to consider a number of things. The first thing is to identify the companies in Barbados that are paying corporation tax.

We did that in 1992. No recent study has been done to determine whether they are the same companies that have benefitted from the allowance that the Government has put in place. In fact, the reason why the Government needs to undertake that analysis is that the Minister of Finance has said that he has put concessions in place, some from which not a single corporate entity in Barbados sought to benefit. One such allowance was a research and development allowance. I do not even remember in what area it was granted, that had been on the statute book for years and not a single entity had filed to benefit from that particular allowance. That was nothing new. There was a foreign exchange allowance which was in place prior to 1986 and was in place right through the entire time that the Democratic Labour Party was in Office. From the early days of this administration, professionals and others providing services for which they earn foreign exchange, should have been able to benefit from that allowance but there were problems in the manner in which that allowance was calculated.

The legislation had to be clarified and, therefore, no one benefitted during that period. Successive ministers of finance were jumping up and down Parliament, every year during the Budget or the Estimates, talking about the forward-looking introduction of these allowances and benefits and giving persons the impression that many Barbadians were filing for those benefits when, in fact, no one had benefitted from them because they were unable to work out effectively what the legislation meant. There was a difference in opinion between the tax authorities in Barbados, the accountants and the legal professions, *et cetera*.

The vast majority of Barbadians and persons from outside who looked at our statute books would probably be saying how progressive it is. The Economist who gets steeped in these technical issues and believes that these are philosophical things would say how philosophically advanced the Government was that introduced that particular allowance only to be told that it was a paper allowance and that nobody had benefitted from it.

I used to sit in here listening to the tax and legal experts and laughing, while they were talking about forward-looking approach of the Barbados Labour Party in the 1980s; how this was a boost to investment and how this is what has caused a large number of persons to go into services. All kinds of rubbish I heard. We were hearing this up to 1992 that the Barbados Labour Party had put the threshold in place in 1986 and that these allowances were responsible for the growth of the credit union, the growth of the insurance industry, the growth of hardware stores, *et cetera*. As if not to be outdone, sometimes ministers of finance from my side would get up and would add to those allowances, on the pretext that they were carrying it a step further.

When the study was done in 1992, the results were there for public scrutiny. Of course, nobody wanted to scrutinise it then because people do not even remember who removed the levies, the circumstances were not propitious to say any of that. When the study was done, and I urge that one be done now, one would find out that out of 11 000 taxpayers, not even a quarter of them were benefitting from this raft of allowances that ministers of finance, through an annual hoax, were adding, as if to outdo each other from the list from which taxpayers benefit but when a check was made, they were not really benefitting.

Therefore, there is no certainty that the effective tax rate on the vast majority of corporations is 23 per cent. I have heard that rubbish being said more than once. I would urge the Honourable Member for St. Peter not to adopt it. Let that remain on the Backbench from where it originated. Let him carry out the study and see exactly how the incidents of taxes occurred because the information is there and it is not difficult to find it out. It was not difficult in 1992. It was frightening when it was read, to recognise that all the rhetorics from the 1980s and the early part of the 1990s had so consumed even economist, that they never checked to see whether the statistical basis for what they were saying was correct. Again, the analysis can be carried out.

It is like the cry of the manufacturers in the 1980s and 1990s about the impact of duties and taxes. Some of the most vocal of them, when checks were made with the tax authorities, they had owed millions of dollars and had not been paying and successive Governments relieved them of that burden to the extent that their effective tax rate during the period was zero per cent and the businesses still folded.

Then some economist would calculate that if the taxes were eliminated that there would be a reduction of \$10 million or \$15 million burden on the manufacturers, only to find out that they had never been paying those taxes but that they owed Customs and Excise Department, Land Tax Department or every conceivable tax collecting department in Government, but were the most vocal persons in saying the burden of taxation in Barbados was too high and is killing their business.

On the other hand, there were persons in the tax offices who were arguing that if they were forgiven the payment of those taxes, then there is a moral hazard, that persons would start to accumulate arrears in the hope that they could encourage some future Minister of Finance to obliterate what they owed in taxes. Therefore, pressure came from both sides and, therefore, it does not become a philosophical issue anymore. It becomes a very practical issue as to whether one could offer those concessions without disrupting the flow of resources to Government and whether the persons who are requesting a reduction are persons who are truly deserving of such a reduction in taxations.

Sir, the cries about taxation, however, are not so now because the Government has boasted of being one of the most effective collectors of taxes in our history.
12.20 p.m.

One of the things this Parliament has done is provided resources and personnel for each of the tax gathering offices to increase their capacity to collect taxes. The Government set up new audit departments, employed new staff and made new buildings available to collect taxes.

The Government boasted for the past nine years that it would be easier and the collection of taxes in Barbados would be more efficient. I assume that the Government has met its objectives. The Government cannot argue that it is battling against high levels of arrears of taxation of Barbados. Some people might say with justification that it takes an inordinate amount of time for them to get refunds in relation to the VAT or for any money that Government owes them. A lot of small businesses in Barbados are facing severe cash flow problems as a result of the failure of Government to refund these people money which it owes them. People have to call at the departments of Government to track down whether the funds are available and, of course, everything is subject to Government's ability to pay. Despite what the Minister of Finance and his acolytes may say, the Government is facing a cash flow problem now which has been crushing some small businesses in Barbados. Sir, I know that Ministers are being inundated with requests to see what can be done to assist many of the businesses in agriculture, tourism, the distributive sector *et cetera* to get back refunds of VAT or other payments paid in to the Government.

Sir, we should be concerned about this because we were told that Government's position is a healthy one and Government is quick to deny any reports that there are any hiccups. Government says it has provided the resources to all of the revenue collecting departments and auditors and there should be no legitimate excuse for persons who have small businesses and salaries to pay and who need cash to purchase stock, pay their phones and light bills and need to buy capital equipment without loans, there should be no reason why these people cannot get their refund on a timely basis. It does not require any big philosophical analysis. It is a straight practical matter because these businesses employ Barbadians and they have the right to see their businesses flourish. They will not take on any light banter in Parliament about philosophical differences between political parties in the way that corporation taxes and income taxes are applied.

Sir, I remember in 1992 an assault was launched on the then Government and Minister of Finance for removing a number of allowances. The argument was that these allowances had contributed to economic development and that we were doing a savage thing to the taxpayers in Barbados. Who would believe that nine years later I am now hearing the same person who launched that attack saying that Government is not going the route of reintroducing these kinds of specific sectoral allowances but is moving in the opposite direction of increasing the overall threshold so that over the next five years it will be \$25 000 which was precisely where the process of reform was being guided in 1992.

Now that we have come back to sanity, we have a situation where Government is committing future Parliaments and Governments, obviously on the eve of an election, to a process that will see personal allowances move to \$25 000 over four years. Sir, no one can quarrel with it on the face of it but if you go back to 1992, you will see the arguments adduced then for increasing the tax threshold rather than giving those special allowances to specific activities like the installation of a solar water heater and other kinds of things.

There is a sense in which we need to be realistic about our tax system in Barbados. We need to be mindful of the regional changes taking place and of the international changes that are taking place in our tax system and be realistic about the direction that we are taking.

Mr. Speaker, I want to move over to another area of concern. I remember in the early 1990s when the Government in Canada change it was at a time when the Auditor General was once again complaining about the companies in Barbados that benefitted from what he called a 'tax loophole' and paid less taxation than they would pay in Canada as a result of the facility offered to them in

Barbados. At that time the new Minister of Finance was Mr. Paul Martin who is now destined to become the next Prime Minister of Canada.

12.30 p.m.

There were persons who told us that it would not be anything to bother about, because he had a stake in substantial investments. There were the companies which owned them and which were registered in Barbados, Canada Steam Ship Line and many others. When we met with him, he assured us that Barbados, because of its special relationship, would continue to enjoy those benefits as long as he was the Minister of Finance.

He then transferred the beneficial ownership of the shares in those companies to his sons, in the lead up to his accession to the leadership of the Liberal Party. There has now been a big media campaign questioning his investment. There is a great fear by persons in the offshore sector, in Barbados, and persons in Canada who do business with them, that the pressure on the former Minister of Finance and the future Prime Minister would be so great that he may be forced to relent and pledge to abolish this benefit which arises out of the mutual obligations of Barbados and Canada, under the tax treaty. So that there is, once again, a frenzy of fear in this particular area and I believe it is incumbent on the Government to respond to this fear.

I know that in times of great controversy is sometimes not the best occasion to raise the issue, but I assume that the Government of Barbados has received assurances, since very little of this issue has made the Press in Barbados. Of course, it will only make the Press when the Government believes it has saved the day. I know how this Government operates. When the threat is there, you would not hear anything about it, but you can rest assured as soon as the Government feels that it is solving it, it will tell you how big the threat was, and how the unique skills of Honourable Members on that Side were able to reduce the impact of that threat.

Sir, I am saying what the threat is now and I assume the Government has a plan to deal with it, because, unlike many of the previous threats, the politicians did not have to be guided by what the Auditor General said. They were able to staid them off. When it reaches almost to the top, or the potential top of an administration, there is always the threat that action will be taken or will be promised. The impact of that action in other words, the removal of any benefit, would have serious implications for Barbados and very serious implications for our international business sector. We need to be mindful of it and the Government needs to be proactive in seeking to deal with the problem to ensure that the sector is not obliterated by such a threat.

One of the ways in which it can be done is by what the Right Honourable Member for St. Peter identified as a

convergence of the onshore and offshore tax rates, but Barbados is not ready for that yet. I daresay that there are many of these small jurisdictions that offer low taxes which are not ready to go that route as yet because they have other international obligations. Some of them have regional obligations, under their regional groupings, in relation to the way in which they conduct their tax business.

Then, there are countries like Barbados that as a matter of philosophy, offer a low tax rate for foreign companies which can benefit under various pieces of legislation. We have never promised the same thing to the companies that operate here which are owned by Barbadians. Even though we may wish to move to that, the Government would not be in a position right now, to offer any such concession.

Sir, based on what the Minister of Finance said, it should not be that difficult to do it over time because we are not starting at a 40 per cent tax rate. The Minister of Finance has indicated that we are starting at a tax rate of about 22 per cent, so we are not moving the convergence that far. Once we set a target and work towards it, just as the Government set a target for the personal Income Tax threshold, it can set a target for convergence and work towards it as one of its objections. But that is not going to solve the immediate impact of what has been happening in Canada, and what it holds for Barbados, as a result of enjoying a special relationship with Canada.

I hope that the Government is mindful of it, and during the course of this debate, they will indicate the direction that will be taken in this regard.

With those few words, as I said in the Budget debate, I am supportive of a reduction in taxation on Barbadians. I was conscious then, as I am now, that the reduction needs to be much faster than is contemplated in this legislation, but this is the timetable that the Government has set.

Other political parties in Barbados will be able to set a more ambitious timetable. I am not going to let anything out of the bag, because I believe that Barbadians need to be relieved of the incidence of taxation that is burning a hole in their pockets and for which the Government is raping them of millions of dollars, and then blowing a lot of that money in investments which are not paying the level of returns that are desirable. You cannot even say projected because nobody knows what the projections are for the rate of return, on any of those investments because they have never been stated.

Therefore, if you do not state anything, you can always move the target when you are being criticised, and that is what has been happening. Sir, what can be certain is that the Government has blown millions of dollars, over the past four or five years, which could have been better allocated to reduce the impact of taxation on Barbadians. Sir, that is why

they are not able to offer the level of tax relief that would be desirable right now, but have to offer that tax relief over a four to five-year period.

I regret that very much, Mr. Speaker, because, as I say, I think the opportunity should be given to Barbadians now, to invest more of their own money, and to have a little more disposable income available to them, particularly the people on fixed incomes in Barbados are facing great challenges in surviving.

With those few words, Sir, as I said, I am not opposed fundamentally to the Bill, but I believe that the reduction in taxation could take place much faster, and that the Government has not been as ambitious enough in setting out a timetable for that reduction.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I do not intend to delay the House long. The fact that I did not even intend to speak at first, but having heard the Honourable Leader of the Opposition, I would simply like to make a brief intervention and it is on this point as it relates to the question as to whether or not, there is a philosophical difference.

Perhaps he is correct in saying that there is no philosophical difference because the Democratic Labour Party has not reflected any philosophy as it relates to taxation and fiscal policy.

The reality is, Mr. Speaker, that this Government has remained committed to using fiscal policy, not only as a revenue raising measure to meet the cost of Government but also to be able to help shape the society, commensurate with the philosophy that we hold as a political party.
12.40 p.m.

In 1993 the Democratic Labour Party set the non-taxable personal income threshold at \$13 000. In 2003, we are moving it from \$15 000 to \$25 000 over four years. So our system reflects a personal income threshold below which no one shall pay tax on \$25 000 as compared to their \$13 000, certainly an increase that is far more than that of inflation during the period of time we are talking about.

The Leader of the Opposition made a lot of the fact that they abolished levies which existed in relation to the income of working people. I agree with that, but this Government has never reintroduced them and far from that, we took a position that a tax system as designed does not benefit those who are not paying taxes.

We therefore introduce for the first time a reversed tax credit of \$500 so that those persons earning below the threshold of \$13 000, the working poor, would now not only not pay taxes but benefit from the system by a \$500 receipt

recognising that many of the things that we talked about in the context of fiscal policy would have left them on the outside of the margin.

Philosophically, we believe that those people ought not simply to remain outside the system but that in the same way we are trying to stimulate savings among those who are working and can afford to pay taxes and therefore can benefit from the tax reforms, that we had a moral duty to be able to reach out to those people who are currently outside of the tax system. That is what I mean about a philosophical approach to the issue of fiscal reform but let us go on.

They set personal tax rates at two bands, at 25 per cent and 40 per cent. We have said in our reform measures that there should be at 20 per cent and 35 per cent. They set corporation tax at 40 per cent. We have said that corporation tax must come down progressively to 25 per cent. In any event we passed small business legislation in here to set a special concessionary tax rate for small businesses at 25 per cent. The Democratic Labour Party had the opportunity to do that and never did.

Mr. Speaker, when I talked about philosophical perspective, it is because this Government has a philosophical perspective that those small and medium size businesses in this country with a gross turnover under \$2 million must have an opportunity to benefit from the fiscal system because of the very distinct challenges that they face in being able to sustain their enterprises. Now, if the Government were only interested in raising revenue, there would be no reason for us to establish a concessionary rate for small businesses.

We have said that we believe that small and medium size businesses will play a critical role in the creation of jobs in this country. Therefore, we feel that in the same way we can reach out and stimulate savings in the economy through allowances so designed to do that, that we are also interested in as many Barbadians working as possible and we would therefore help to create an environment through fiscal incentives to enable as many Barbadians to have access to employment in this country. It does not stop there, Mr. Speaker.

In 1993 the Democratic Labour Party offered no allowances. They gave you the \$13 000 and that was it. In 2003 we have a range of allowance, the most attractive of which is the home allowance. Let me tell you, Mr. Speaker, why the change the Prime Minister has made is so significant. There is a class of Barbadians, Mr. Speaker, who have used traditional Barbadian values to inspire how they build their houses. They have not relied on borrowing from banks but they have put the concrete blocks outside in front of the house and they build 'a little bit on' and when they get 'a piece more change' they build 'a little bit more on' and

when they get a little bit more they build some more on. Therefore, when you linked home allowances only to mortgage interest you are excluding from the benefits, hundreds of Barbadians who continue to show prudence in how they go about the business of preparing a home for themselves and their family.

Mr. Speaker, that could not be the intention of any Government that is serious about the empowerment of people who were recently poor or who are still part of the working poor. That is why I say that there is a philosophy that inspires the design of these policies because we believe it is not just about raising 'X' amount in tax revenue but as you raise the money, you selectively use it to be able to help create, as the Leader of the Opposition would say normally in other circumstances, a form of political and social economic engineering such that we get the kind of equitable society that we all want to see develop in this country.

Savings: Under the Democratic Labour Party tax reform in 1993 only the credit unions benefited. Under our reform, your savings can be credit unions, registered retired savings plans, mutual plans or the issuance of new shares.

Mr. Speaker, this Government understands that the fundamental success of our economic performance in the medium to long term is going to be dependent on the creation of wealth that is equitably placed. We also understand that the overall performance of the economy is dependent on the number of enterprises that we can create or the number of existing enterprises that can be expanded such that will not only contribute to the overall well-being of the fiscal take or the overall well-being of the economic performance of the country but that people can be working. Sir, at the end of the day that thing which we measure ourselves most by is the well-being of individual families in this country because we have a history that has seen too many people marginalised and too few people benefiting from that which is considered to good economic performance.

I, therefore say to you, Mr. Speaker, that we believe that most Barbadians must be encouraged to own shares particularly in new enterprises and in mutual funds that act as a form of holding vehicle for investment in a range of other companies and entities. We want to be able to see the broad base of Barbadians having investments other than the land which they own on which their house may be located. If we are going to see the development of this country beyond the stage where we were just after independence, then these are the range of fiscal stimuli that are required to be able to help us almost craft the kind of society with the kind of investments and the kind of benefits that we want to see.

12.50 p.m.

Mr. Speaker, I have said this because it does not stop there. In 1993, the Democratic Labour Party (DLP) left a

situation where the first \$15 000 for pensioners was tax free. In 2003, what do we have? The BLP has said that it must be \$30 000, in spite of the fact that inflation has not doubled within the corresponding 10 years.

Mr. Speaker, I have already addressed the issue of allowances for the working poor who do not pay taxes because they earn less than the income threshold which was set. The Democratic Labour Party did nothing to those earning under \$13 000. We established a reversed tax credit and caused \$500 to go into the hands of every person who is working for under \$13 000.

Mr. Speaker, when I look at the nature of the allowances; at the nature of concessionary rates applied to small businesses; at the broadening of the home allowance beyond the point of mortgage interest, I see a Government that is committed to creating a society that is equitable and just. I see a Government that specifically reaches out to those who would not otherwise have benefitted. I see a Government that seeks to create new enterprise through the participation of the broader mass of people by enabling them to pool their savings, such that they can be used to build productive capacity. That is what I see. Mr. Speaker, I have spoken today to make a point and, that is, that I disagree with the Leader of the Opposition when he said that these are technical matters not rooted in philosophy.

When I looked at the programme of reform annunciated by the DLP in 1993, I can agree there was no philosophy. They were simply hustling to raise money to stave off the International Monetary Fund (IMF) and the other persons to which they were treated because of the state of the economy.

When I looked at the adjustments today, articulated between the last Budget and now, ranging over a four-year period, I see a Government that is prepared to use fiscal incentives to help in the task of political and social engineering and not just to raise money for the purpose of meeting Government's expenditure.

Mr. Speaker, as the Honourable Leader of the Opposition was about to sit, he said that it is spread out over too long a period. Anyone in any doubt as to the commitment of this Government's treat to its promises would have now to sit down. We have a record where we have maintained faith with what we have said. It is true that we have said that we would carry the personal income threshold progressively to \$25 000, we have done that without putting at risk the fiscal stability of this country, recognising that since 2001, economic performance has not been as buoyant as it was in the first seven years. In spite of that, we have chosen to keep faith with it because we have recognised that there are areas where we would have to make adjustments, given the fact that the existence of a Single Market and Single Economy within the Caribbean will put Barbados at a competitive

disadvantage in relation to other locations within the region, if we keep our tax rate at the level at which it was for corporations.

Therefore, if we want to maintain businesses here and want to be able to attract new ones, given the Treaty to which we all are within CARICOM that establishes that taxation is at source, then we have a duty to position Barbados well to take advantage of the economy and not to place us at a competitive disadvantage in relation to our neighbours.

In addition, the Leader of the Opposition is well familiar, as is the Democratic Labour Party, with the commitments given to the reduction of import taxes as a result of our commitments in April, 1994, to the World Trade Organisation. We have been systematically working in pursuance of those commitments to reduce the tax rates for imports from the high level of 45 per cent where it was, progressively down to 20 per cent and it will go further. The tax takes from those imports now stand at \$170 million. If anyone knows that they are going to lose that \$170 million within a few years, then one cannot play fast and loose with the future of the people or with the fiscal stability of this country, simply because one wants to be able to win an election.

This Government has been firm and resolute in its view that it will not take any steps that would place this country in jeopardy. We are cognisant that there must be a reform of the tax system for economic, political and social reasons but we will do it in the context of what can still assure Barbadians a viable future. We have set it in the terms of over four years recognising there must be relief but recognising as well that we must be capable of still shoring up the financial security of this country.

Mr. Speaker, as I said, I believe this is a Government that is committed to bringing about improvements into the tax structure to benefit individuals. I believe this is a Government that recognises that we must broaden the base of ownership, as well as the potential to create new enterprises and to expand existing ones in this country. I believe this is a Government that feels we must encourage savings in this country, among the people of this country, such that those savings could be pooled to build productive capacity.

I believe this is a Government that encourages the virtue of home-ownership but recognises that some people would take different avenues to reach that home ownership. I believe that we should not restrict the incentives for home-owners only to those who have mortgages. I believe that this is a Government that recognises that though one knows that one does not have to pay taxes in this country, it does not mean that one does not carry a burden and since we are committed to the objectives of the elimination of poverty,

then we must also seek in what ways we could bring about tangible objectives to those who fall outside of the tax net at this point in time.

Mr. Speaker, that is a Government that is rooted in a philosophical perspective as to how we treat to the issues of development and that we have allowed that philosophical perspective to inform us in the crafting of this tax reform as we seek to move Barbados into a more competitive environment and liberalised environment.

Mr. Speaker, I believe the Right Honourable Member for St. Peter ought to be commended for being able to provide the delicate balance that assures Barbados' financial and economic security, while providing the reliefs and correct stimuli to allow for some level of political and social reengineering. I am obliged to you.

SUSPENSION

Mr. SPEAKER: I now beg that this Sitting be suspended until 2.00 p.m.

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

The question that the Honourable House be now suspended until 2.00 p.m. was put and resolved in the affirmative without division and Mr. SPEAKER suspended the House accordingly.
1.00 p.m.

RESUMPTION

Mr. Speaker: This Honourable House is resumed.

Hon. R. R FARLEY: Mr. Speaker, I rise first of all to respond to the presentation of the Honourable Member for St. John who in making his presentation sounded like a man writing his eulogy. Sir, eulogies are about the high point of a person's life and the Honourable Member for St. John as a Minister of Finance believed he was a radical reformist when he introduced a number of changes to the tax system in 1992, spent much of his time speaking about what he did when he introduced a number of changes to the tax system in 1992. It really must be set in the proper context, if like a eulogy, it is attractive to those listening but also rounded in accuracy. The Honourable Member for St. John was correct in making the point that the 1992 tax reform had the objective of simplifying the tax system and reducing levies, forgot to mention that it was under the Democratic Labour Party administration that a most massive increase in taxation was put on the people of Barbados particularly between 1986 and 1991 and under the auspices of the IMF there was the imposition of certain increases in user fees and various charges so that the net impact on the economy and the people was that it was Government intention to dampen demand by taking more money out of their pockets.

If the Honourable Member's eulogy reflected what happened during that period he must also make the point that the Minister of Finance before him came to this Parliament and made a speech about the economy being on the rocks and that he had to administer the right medicine to save it and to steer it off the jagged rock. The medicine included reducing Government expenditure by slashing public services and servants, increasing tax, introducing the stabilization tax and other measures. The Honourable Member for St. John should speak to those as well.

Sir, by sharp contrast we have the Barbados Labour Party administration which in two terms has not only been consistent in putting back into the pockets of people by reducing level of taxation but also has not raised any user fees or charges during that time which is a most unusual act for Government. This is the sharp contrast, as I have said, between the Barbados Labour Party and Democratic Labour Party.

Contrary to what the Honourable Member for St. John would want us to believe, it fell to the Barbados Labour Party to undertake a full reform of the tax system in Barbados and to simplify and reform the indirect tax system by abolishing 13 individual taxes in this country and replacing them by a single simply Value Added Tax that did not include taxes on food.

It fell to the Democratic Labour Party to take millions of dollars off taxes on energy product, mitigating the impact of potential increases in gasoline and diesel prices and making sure that the burden on the ordinary man was reduced.

This Government manfully took to the task of the direct tax system recognising that our perspective of putting money into people's pocket and letting them make their spending choices is what inspired us to make these sweeping reforms. These are not empty promises but policies rooted in the law to be implemented as of the dates specified in the legislation. This Barbados Labour Party has moved from making these policy commitments to having them implemented.

I want to touch a few aspects of these policies which were introduced by the Honourable Member for St. Peter this morning. The benefits of the increased basic allowances are obvious because all of us will have a larger portion of our salary free of tax and at the date of the introduction of the \$25 000 basic allowance persons who fall in this category will be free of income tax all together.

I looked at the Schedule of Personal Emoluments which gives an indication of some of the salary ranges and position and a number of persons will be particularly touched by this measure such as maids, school meal servers, cooks, laundry workers, library attendants, porters, telephone operators, security guards, receptionists, postmen, messengers, health aides, dental assistants, ambulance

drivers. These are real everyday decent Barbadians who will benefit from having \$25 000 deductible which will result in them not paying a single cent of income tax. This means more money in their pockets for them to make their own spending choices. These are not loose promises blowing in the wind but practical realities.

These policies not only speak to the benefits of the individual but they also speak to laying out the broad economic framework within which this economy can grow and prosper. Take for example provisions in relation to corporation tax designed to ensure that businesses in Barbados are able to grow and develop and to ensure that we will be able to hold our own in the Caribbean Single Market and Economy.

There are also special measures which have not been adverted to as yet in relation to the matter of the reduction of the premium tax on property insurance from 5 per cent to 3.75 per cent in this income year 2003.

2.10 p.m.

Sir, you will recall that after September 11, 2001 which caused the insurance industry, internationally, to go into a tailspin where insurance rates went through the roof. You will also recall that in our region, because we are generally grouped in the area as susceptible to hurricanes that our rates have been raised as well. Even though, Sir, our record as far as claims on hurricanes and other natural disasters, is nothing compared to the high claims made in Florida, and on the eastern coast of the United States of America, generally we are grouped in that area and our rates have increased.

The Government has a responsibility to ensure that home owners, business owners and all other interests are able to continue to ensure their properties. One way of doing that, Sir, is helping to reduce the cost. The Government's intention in reducing the taxes which it levies on property insurance is again similar to our policy on energy.

Sir, we recognise that when you add the component cost at delivering either energy products at the point, or insurance services at the point of writing the coverage that in addition to the expenses of the business, there will be Government taxes as well. When we reduce the taxes, then this reduces the cost of doing business in that area and, thereby reduces the cost to the consumer.

Sir, this is an important measure because we continue to be concerned about situations in which persons, in order to save money are either not ensuring their property, or seeking to reduce the level of cover which they have at present. One of the important things for us, as persons with responsibility for economic planning, is to ensure that in the unfortunate event of there being a major catastrophe in Barbados, we will be able to return to normal economic

activity in the shortest possible time. Sir, having adequate insurance on houses, industrial buildings, and on any plant and equipment in Barbados, Sir, allows the individuals and companies to be able to have the financial wherewithal to get back into productive activity as soon as possible.

Therefore, Sir, this reduction of the tax on insurance is an investment in our future. It is an investment in security. It is an investment in stability. The Government would rather forego the receipt of this income, so that it can empower and enable the individual economic stakeholders to rebuild in the event of some disaster.

I therefore, Sir, want to say that the Government would, of course, be monitoring the situation as far as the pricing of insurance is concerned and to ensure that this reduction in tax, in truth and in fact, benefits those that it is intended to benefit. That is, Sir, those persons who are writing business with the insurance companies, the policyholders...

Asides.

Hon. R. R. FARLEY: ...because that is really where the benefit is intended to be, Sir.

Sir, another aspect of these amendments which are here and I want to speak to, is a matter which relates to our telecommunications reform. There is a provision in this legislation which will provide an incentive under an amendment to section 10, for amounts paid to Government departments or agencies for the acquisition of licences to operate such activities to be written off, over a period of time.

For example, Sir, in the case of telecommunications of the liberalisation of the market, the cost of the licences in the sector, represent a legitimate cost of doing business. However, Sir, in order to mitigate the impact that those costs will ultimately have on telecommunications costs and we recognise that it is normal, in several jurisdictions around the world...

Asides.

Hon. R. R. FARLEY: Sir, this allows as in other jurisdictions, for the sum spent on acquiring those licenses to be a deductible expenditure. Sir, this is important because the telecommunications sector, under the Barbados Labour Party is now for the first time in our history is going to be subjected to full competition.

It is therefore as important to provide incentives to stimulate entry and sustainability in this market, as it is in other competitive areas, such as tourism and manufacturing.

Sir, where there are multiple players, you will want to provide an incentive to encourage persons to enter the market

to provide services to the public of a high quality and a low price. In fact, Sir, there are these investments by way of incentive on the part of the Government, where we are willing to forego revenue on the first round, in order to stimulate economic activity. We get revenue in other rounds of the economic wheel, Sir, as it turns because the very future of our economy and our country will depend, a large extent on the fullest and quickest reform of the telecommunications sector.

All over the world, Sir, is now driven by information and communications technology. This is the reality. Telecommunications, their high cost, the lack of options, as far as the technical services that are provided, has been a constraint to development in Barbados. There has been a constraint in the development of the informatics sector. There has been a constraint in the development of the offshore financial services sector.

In fact, it is somewhat of an amazing feat, that we have been able to develop as far and as fast as we did, given the telecommunications environment in which we are operating. Sir, with the competition, together with this incentive making it a more attractive proposition to be involved in the sector, we anticipate a very bright future for the services sector of our economy generally, Sir, and more particularly, the financial services sector, the software development call centre activities and other telecommunications intensive sectors in this economy. These amendments to the Income Tax Act speak to that, Sir.

It is clear that in crafting these amendments and implementing the Government's policy, with respect to our taxation system that we have a very clear philosophy. It is a philosophy which is implemented or given effect by way of a wide range of initiatives. The initiatives which are aimed at putting, as the Right Honourable Member for St. Peter has indicated, over \$100 million back in the pockets of the people of Barbados, by way of reductions in the level of taxation over the next several years.

2.20 p.m.

It is seen in initiatives which would have a direct, dramatic and beneficial impact on the labourers, the sale clerks and a range of employed persons in this country. It is seen in a range of programmes and policies to benefit the working poor through the reverse tax credit of \$500 in addition to them not paying taxes on income at all. It is seen on the package and the programme to empower the middle class.

Earlier speakers have spoken about the range of reductions recognising that in addition to persons paying their basic bills that they needed to take care of their home and family and they also need now more than ever to be able to be involved in savings and investments. So the policies and programmes as they speak to investments, to retirement savings plans, to investments in mutual funds and other

savings and investment devices are all part of that programme. They are also seen in support for certain key aspects of business activity because at the end of the day government do not trade and government do not invest. It is private individuals and companies which do and it is up to the Government to provide special incentives in various areas for social and economic reasons.

We, therefore, will continue to ensure that there is appropriate differential between the general taxation rate for companies and the small business rates. You would recall that this Administration for the first time in the history of Barbados, recognised that our role included special attention being paid to encouraging entrepreneurship, to giving encouragement and inducements to small business operators to change the culture of our young people from looking towards a job whether it be in the Civil Service or in a big business to being business owners themselves. It recognised that it mattered not so much whether they were in agriculture, manufacturing or tourism, the traditional areas of which incentives were provided, but the fact that a young person got into business to start with, was putting them on a path which would ultimately redound to the benefit not only of themselves but of the society in which they function. So that the incentives provided for small business by way of reduction in the rate of tax payable on profits are all part of a very carefully crafted programme to stimulate activity, incentives under the Tourism Development Act, incentives by way of reduction on the taxes on insurance premiums for property, by way of the incentives now provided as a new measure to allow for companies such as telecommunications companies who have to pay substantial sums, \$2 million a year for licences for telecommunication operations to be able to make those benefits deductible. I mention already the reduction in our taxes on energy.

So it is clear to me, but it has not been clear to the Honourable Member for St. John because he is looking through a different prism. In seeking to write his eulogy, he focussed, as eulogies do, on his achievements. When he was Minister of Finance, he was this radical reformer but I sought to add the other...

Asides.

Hon. R. R. FARLEY: Peculiar things happen in here. Some people write them and put them for others to read.

Sir, in all seriousness, the Honourable Member for St. John needed to be reminded of the wider reality in which he functioned in 1993 and the reality of how this Barbados Labour Party Administration has functioned, how we have delivered on our promises of tax reform, how that tax reform has stimulated business activity, how that tax reform has empowered individuals by putting millions of dollars back into their pockets while at the same time doing two very important things, first of all, maintaining our economic and tax sovereignty.

The Honourable Member likes to make light of what we were able to do in the matter of the Organisation for Economic Cooperation and Development (OECD) and the battle there. That battle was about much more than the offshore sector. That was a matter relating to economic and tax sovereignty. All countries in the world are different. We do not have a large army to feed, warships to fuel or tanks to fuel at a gallon to the half mile based on the reports that you see on the various issuance.

On the other hand, we have made a decision as a people that education and health are so fundamental to our development, that contrary to what obtains in other parts of the world, who prefer to feed armies and to go into space rather than provide for the development of their people, that we would do that. Therefore, our tax policy has been crafted in such a way that we do not have to incur one type of expenditure but we have to incur the other.

This Barbados Labour Party Administration has been careful to maintain its commitment and its public spending especially in the area of education and health which still today represent the largest slice of Government expenditure – that is a record of which we are proud – while at the same time ensuring that we continue to reduce the level of... Government take from the income of individuals and companies. That is the way we have approached this matter.

I am pleased to support these amendments to the Income Tax Act and I want to commend the Minister of Finance for his astute leadership in this matter. He has been able to steer the economy of Barbados through some of the roughest waters that we have seen in a while without any loss of our foreign exchange position, without any loss of confidence in our domestic position, without any increase in charges for government services, no increases in road tax, dog licences or National Housing Corporation rents. Sir, we can go on and on improving the efficiency of Government operations and moving public officers from a wage cut and a wage freeze to an increase in wages and salaries at every negotiation since this party has assumed office while maintaining very moderate fiscal deficits other than out of the deliberate policy of this Administration after September 11, to run a higher than normal deficit as part of what the economists call a counter-cyclical policy.

In order to maintain economic activity in Barbados, we have deliberately maintained and even increased Government expenditure so as not to trigger a general widespread decline in the economy. It is clear that that policy and programme work and we need now to use these tax cuts to provide a stimulus to individuals and corporate activity so that the early signs of the return to growth, which have already been indicated by way of the numbers coming from the Central Bank and the general performance of the economy, can be translated into solid and sustained growth.

Mr. Speaker, I am pleased and proud to support these well-crafted, well-thought-out, carefully executed programmes and policies in relation to the reform of our direct tax system, and I am pleased to be a part of this team which is putting money into the pockets of the ordinary man and woman in this country.

I thank you.
2.30 p.m.

Hon. Miss B. A. MILLER: I am very pleased to give my support to the Bill before the House. The Barbados Labour Party (BLP), in its last Manifesto at page 38, Tax Relief, had made the expressed promise that in respect of income tax, it would continue to make it attractive for Barbadians to save and to invest in their homes.

Sir, this is what attracts me particularly today. It is not only this but a number of other things which are underway, which speak to home ownership and home improvement in a very general fashion.

Barbadians are a very house-proud people and indeed, for the majority of us, one's home is perhaps the largest investment that one would make in a lifetime. Some young men and some not so young, sometimes think that a motor car might be the largest investment they would make in a lifetime but as time goes by, I think the home is what overtakes it all.

Mr. Speaker, it pleases me when I look at the amendment to see that with effect from this income year, 2003, an individual who owns and wholly occupies a residential property may deduct for the assessment of income purposes, up to \$6 000 and with effect from income year 2004, up to \$10 000. Currently it is \$3 500. It goes on to say that in respect of expenditure incurred jointly or separately for mortgage interest; insurance premiums; house repairs; renovations; energy saving or water saving devices, *et cetera*, steps that one might take in respect of making one's house more hurricane resistant or steps that one might take in respect of keeping one's house properly maintained. This is a measure that would allow more people to undertake home ownership because of the relief it would bring and, on an ongoing basis, to improve their houses.

What I like is what the Right Honourable Prime Minister has referred to as flexibility. One can decide within the \$6 000 to \$10 000, what one wants to do in respect of the upkeep and maintenance of one's house, and whether it would be by way of insurance premiums or water storage tank or undertaking repairs of one kind or another and this element of choice, I think is more than welcomed.

The Right Honourable Prime Minister made reference to the strengthening of the safety net. I see this particular

measure, among several others in this amendment, as going to that strengthening of that safety net. The home ownership of which I speak in this Administration is broad-based. It is not only in respect, as this amendment is speaking, to those who own homes. It speaks to other measures being undertaken in this Administration in respect of properties in rural and more recently in urban tenancies.

Mr. Speaker, as a Parliamentarian, I am sure that you would share this feeling. We have lived with what was going on in rural tenancies for several years now. We have seen people living in the third and fourth generation of their families, getting to own property in a way that they had never contemplated 30 years ago. Everywhere across the length and breadth of Barbados, we see houses going up or houses being converted from wood to wall. It is a wonderful thing to behold and in more recent times we are seeing this happening in urban Barbados.

A number of Barbadians are only now recognising that urban Barbados is really a large patch work of tenancies. In my constituency, the City of Bridgetown and I believe in yours, Mr. Speaker, and many of us who represent urban constituencies, there is now a proper understanding that the people who live in that urban setting can now embark upon this journey of ownership.

A lot of the housing stock in Barbados, including urban Barbados, has been, for many generations, of poor quality. A lot of it had to do with the fact that persons did not feel the confidence and did not have the certainty that they could have improved the house in which they lived, simply because they did not own the land and did not have any prospect for owning the land on which their houses were positioned.

There are still a few like that. Last week, I met a lady who is in that position. She is not in a tenancy but the land her house and the other houses are on is owned by one person and for years, they have been upgrading their homes, resulting into two beautiful houses, well built and well maintained but these persons are still in doubt. As they grow older, they become more and more concerned and sensitive about what can the future be for these family homes, where there are a number of children and grandchildren following on.

Everywhere in urban Barbados, we are seeing home ownership being introduced at another level and a lot of those persons are taxpayers and will become beneficiaries of this legislation and in the nick of time too because they will begin to understand that with home ownership, in the sense of which I speak, comes the need to insure. I am one of those and I say it unabashedly because I have said it so many times on the Floor of this House, who would like to see home insurance become mandatory in Barbados. It exists for

motorcars and because Barbados finds itself in the happy position that only once in the whole of the 20th Century, we had experienced a hurricane and even then, not at full force, we must not believe that in this Century and perhaps Centuries to come, that would continue to be the case.

As I said, Barbadians are a very house-proud people so that all of those persons who have now come to home ownership out of a Barbados Labour Party (BLP) policy, in respect of rural and urban tenancy lands becoming available at an affordable price to would-be home owners, they too, would be pleased to see this legislation. They too, want solar water heaters. They too want to strengthen their houses or to build in features which would make their homes more resistant to hurricanes.

In addition to that, we also have sizeable percentages of Barbadians who, for many years, have lived in National Housing Corporation units where a number of them are embarking upon home ownership in a way they would never have thought possible 25 or 30 years ago.
2.40 p.m.

They too will become beneficiaries of this very enlighten amendment which is before the House today. This will have an overall effect of upgrading and strengthening the housing stock of Barbados at the physical level.

Sir, there is no feeling to supercede the feeling of waking up one morning and knowing beyond any contradiction that the house in which you live is yours. Barbadians do and will appreciate these enormous measures and steps being taken by this Barbados Labour Party to bring home ownership to a broad spectrum across the Barbadian population.

Mr. Speaker, I do not have to speak at any length on this measure because there are others to which I would wish to speak but I did not feel that I could sit and not speak to this amendment. I willingly and happily endorse comments made by other members who have spoken to the amendment thus far and some of the comments made by the Honourable Leader of the Opposition. The Honourable Member went back to 1991 and 1992 and he was concerned that people did not notice that tax reform was being undertaken then but we cannot blame people for not remembering because they can only remember the 8 per cent cut at that time and the other horrors inflicted upon them at a time when the Leader of the Opposition was Minister of Finance in this country.

Sir, that pain has a certain amount of 'recency', if I may be permitted to invent a word, and Barbadians will not want to go there again. Barbadians are fully aware that this country and the management of its fiscal affairs are in good and safe hands and would wish it to remain so for the foreseeable future.

Mr. Speaker, I give my support to this matter and congratulate the Right Honourable Minister of Finance, who having made the promise, has now brought to this House the performance.

Sir, I am much obliged to you.

Mr. D. St. E. KELLMAN: Mr. Speaker, I rise to speak on this amendment and also to say that forty years ago the Right Excellent Errol Barrow said to Sir James Tudor to implement free secondary education or he would find a Minister to do it. It is clear to me that the Democratic Labour Party will have to implement tax reform in this country at a level higher than was ever seen in this country. Those people who will have the mandate to do so will have to implement it or look for another Ministry.

After listening to all the speakers today it is clear that we have passed the stage of tinkering and piecemeal realisation and Barbados is now ripe to abolish some of their direct taxes and implementing indirect taxation is the way to go. If one listens to the Honourable Member for St. Peter one would recognise that direct taxation creates a conflict with the international thinking on taxation, that we have a taxation system that is best suited for external forces rather than internal ones, that we need to correct the particular problem and that we can only do this by going the indirect route.

There was a time in this country when people believed that indirect taxation was regressive and I honestly believed that too but since the introduction of VAT and the reverse tax credit which operates the same way that personal allowances operate, it is clear to me that this country is ripe to depend solely on indirect taxation and will be better served in implementing indirect taxation and getting rid of some of the direct taxation as was done in 1992 when the Democratic Labour Party got rid of the levies.

Sir, this economy is operating like a car which changes its engine from gasoline to diesel but still turns up looking for gasoline. It is also clear that we are pandering to those who call for a reduction in taxes and it is clear to me that the Government is interested in making sure that the economy of Barbados will expand and it needs to find tax reforms that will encourage the economy to expand and also encourage people to produce. Over the years we have been punishing producers and encouraging people to consume external resources that is not in the interest of the economy and we need to reverse that.

It is clear to me that many of the people sitting in this Parliament are not aware of what is happening in the economy and this is why we continue to use a piecemeal approach and call it tax reform.

Sir, it is not tax reform. It is tinkering and what is needed now is reform because we need to increase our productive forces and encourage Barbadians to work twenty-four hours a day. We can only do this when the workers of Barbados feel they are part of the three-way relationship because they have seen a relationship where Government is able to maximise on its revenue, the private sector has been able to maximise on their profits but the workers have not been able to maximise on their disposable income. I am saying that we are at the right time to take the other step and to complete the triangle by making sure that the workers maximize and make sure that they fully have the disposable income and they are free to do whatever they want to do with what they work for.

2.50 p.m.

As it stands now, Government policy dictates how the worker's money is spent. The workers are bribed with their own disposable income that every year some Minister of Finance comes here and increases the allowances and reduces the tax rate. I am saying, Sir, that we have passed that stage. We need to allow the workers to earn and receive what they work for and we need to punish them for what they consume.

Sir, a couple of years ago I could not make that statement because it would have been one of the most regressive statements to make. But today, Sir, I can stand in here and make that statement because we have something called the reverse credit which can be easily used to cushion any impact in indirect taxation. In the same way that we use personal allowances and relate them to income tax, we can now use the reverse tax credit with indirect taxation as we speak about VAT. So we need not fear VAT, Sir. That is why I have always said to my comrades that in 1992 we should have introduced VAT and we should have abolished income tax. We should use the reverse tax credit as a piece of social engineering to cushion the impact of VAT on the masses of people in this country.

Sir, anyone who doubts what I am saying just look at Table 14 of the Current Estimates 2003-2004. One can easily recognize that with the implementation of VAT and the removal of those 13 other taxes there was a significant increase in the tax-take by the Government of Barbados which was greater than the amount collected from income tax. This tells you that if income tax was abolished the tax-take would have been greater because there would have been much disposable income, it would increase the spending power of the workers and the tax-take would have been greater.

Sir, the Prime Minister rightly said that by 2005 the revenue sector of Barbados would be losing \$170 million, but the biggest fear, Sir, is that even though \$170 million will be reduced, will the consumers of Barbados gain from that. There is no guarantee that the Government of Barbados will

gain from that \$170 million that will be reduced because of trade liberalisation for the simple reason, Sir, that there will be no direct contact between the Minister of Finance and the consumers of Barbados. The Minister of Finance cannot guarantee the consumers of Barbados that they will actually feel that reduction.

Sir, one thing the Minister of Finance can guarantee anybody is that if he reduces income tax or corporation tax that all of those entities involved in the circle will feel it, because there is no third man that you have to worry about. One does not have to worry about anybody holding on to the reduction that normally would be expected by the consumer. If you want a productive economy, Sir, you need to understand that the main economic tool going into 2004 and onwards is the reverse tax credit. That empowers the Minister of Finance to locate his reductions wherever he wants them to be located, especially around the working class people of Barbados. That is why I continue to preach that this economy can be better treated if we understand what is going on within the economy and we implement those policies to make all the players within the productive sector happy.

The most significant section that we are ignoring is the workers of Barbados. The workers are the people who will turn the economy for us. They are the ones, if we make them happy, who will work the economy and increase the capital of Barbados and hence they will increase the GDP. That is what we want. We want to see the GDP increase by removing 13 taxes, this does not necessarily mean that you will increase the GDP but if you abolish income tax, Sir, you will make sure that you will have a happier worker.

Sir, that is why when the Governor of the Central Bank a couple of months ago said that she expected to see moderate increases in salaries but a reduction in taxes, a certain gentleman got angry about it and attacked the Governor and I went and defended the Governor because I understood exactly what she was speaking about. Sometimes we have to understand that because we are accustomed to having things a particular way, that we cannot continue to do them that way. This system has been in place since 1921 and it does not necessarily mean that we have a relationship with it and that we should hold onto it. This system needs abolishing too just like there are many other laws on our books that need abolishing. We cannot relate to them because we are operating in changing times.

As I said to the Prime Minister earlier this morning, he reminds me of a fisherman. He came in here well prepared and he knew the fish he was about to hook. He came in with a well-baited line looking for a blue peter shark, because he knew once he threw that line into the sea that the shark would bite. But I want to warn the Prime Minister...

Aside.

Mr. D. St. E. KELLMAN: Of course not. I am speaking in fishing terms. It is clear that the Prime Minister also understands that there is something in the sea called a lion shark that is not easy to hook. The blue pointer shark might bite everything that is thrown into the sea, but the lion shark is quite prepared to knock the bait to find out if there is a hook.

I am saying, Sir, it is rather strange that on the eve of elections that the Prime Minister would bring these particular adjustments before Parliament and would not include them in his Manifesto. This tells me that there is a possibility that there is something else that is being hidden and there is something else to come. Politicians understand that there are politicians who will reason beyond the limit and they will recognize when a trap is being set.

Sir, I am saying that before I used to hear about tax reductions. All I am hearing now from the Other Side is tax reform. This is very interesting. That is a very interesting comment and it tells me that the Other Side has now matured to such a level that they are not speaking about tax reduction anymore. They have now comprehended, Sir, the language of tax reform and they now fully understand the true effects of tax reform.

Sir, I am also saying that we have to recognize in the international world, it is clear to us based on everything I have seen coming out of the OECD that the one thing we have in Barbados is our taxation system. If one watched how the players in the OECD operated, it would be clear that they fear our taxation system. If that is true, we need to capitalize on that. We need not postpone it on a piecemeal basis down to 2008 or 2009. We need to do it now, Sir. We need to let the international world know that we might not have the resources they have, but we have systems based on some principles instilled in us since 1961 and we are prepared to work those principles to maximize the benefits for all Barbadians.

I am saying, Sir, that there is no doubt that the Democratic Labour Party removed direct taxation when they removed the levies. It is also true that...

Aside.

Mr. D. St. E. KELLMAN: I am being educated by my friend from Christ Church West that income tax is a direct tax and he knows that I know that quite well. The point that I am making is that in removing the levies that was only the first phase. That is why we would have hoped to see a swap between the other direct tax, as my honourable friend would say from Christ Church West, in contrast with VAT because it yielded a lot more revenue than income tax did. In addition, when you use the reverse credit, VAT is not counter-productive.

When one looks at the tourism industry and all the other productive industries, direct taxation is now counter-productive.

3.00 p.m.

Sir, if we are talking about trade liberalisation but how can we be liberalising everything and not liberalising the workers of Barbados. Why should we, as politicians, believe that we should continue to take from the workers and then feed them back in spoonfuls all the time. Sir, this is exactly what it is, you are taking from the workers and then you are offering it back, either in the reduction of the rate or the reduction in allowances. I am saying that you cannot rob a child and give it back something and that is exactly what the Income Tax system allows to happen.

Mr. Speaker, if one doubts what I am saying, one only has to look again at Table 14 and recognise that in 1993 to 1994, when there was not a VAT, that the Democratic Labour Party would have had current revenue of \$1 billion. In 1997, when the VAT was fully introduced, that increased to \$1.45 billion and by the year 2000, it has increased to \$1.7 billion. This shows that the VAT was operating at such a rate that it was bringing in a lot more than projected, and it also brought in a lot more than what we could have taken from Income Tax.

I also made a statement when the VAT was introduced in this Parliament which was that we could not only look at the total amount of money received by VAT as we could identify, but we also needed to look at the indirect intake from VAT, through a column called, Taxes on Income and Profits.

Sir, if anybody wants to find out whether that statement is true or not, one only has to look at Table 14 again, and one would recognise that from the time the VAT was introduced, the Corporation Taxes and other taxes increased.

I remember this Parliament being told that the people who were tax gouging would have been the small shops. The lie to that can be seen in Table 14. What has happened, Sir, is that those taxes were not passed on to the consumer. The Government was the beneficiary or part of the deal, by receiving 40 per cent of those taxes which should have been passed to the consumer, in terms of reduction, in the way of taxes on profits, *et cetera*. In other words, those people who should have passed the benefits to the consumer, kept them and paid the Government their share for keeping them, and nobody can contradict that, Sir.

Mr. SPEAKER: Honourable Member, when you say that those people are part of the deal, are you suggesting that the Government was in collusion with these people, Sir?

Mr. D. St. E. KELLMAN: No. I did not say that, Sir. I am saying that the Government was a beneficiary because

once profit increases, that 40 per cent of the profit would come to the Government. Sir, that is all I am saying.

Mr. SPEAKER: Thank you.

Mr. D. St. E. KELLMAN: I am saying that occurs whenever you have an indirect system and that is why I cannot agree with those Independent Senators whom I heard calling from the Other Place, calling for easing VAT to consumers. Sir, even though the call is sensible, when one looks at what can happen, there is no guarantee that if the VAT is reduced, the consumers of Barbados will get a price to reflect the reduction of VAT.

Sir, that is why I would prefer that any reduction to be a direct reduction between the Minister of Finance and the worker or the Minister of Finance and the consumer. This is why I would continue to make the point, that the reversed credit should be carefully studied and used because right now it is not used in the proper way.

I am saying that, Sir, and I stand by that particular statement. The reverse credit has a lot of potential. It is that economic tool that can better the lives of the masses. For example, Sir, can anybody tell me, after we implement these proposals today, and they become law, what effect it will have on people working for \$15 000 and less. Can anybody tell me, Sir?

Asides.

Mr. D. St. E. KELLMAN: There will be no effect on them, Sir, and I am saying that if we feel, within ourselves, that we really want to benefit the total masses of people of Barbados, what we need is to totally abolish it, do the adjustments needed, and then adjust the Reverse Tax Credit.

Mr. Speaker, we also have to understand that if we are really serious about agriculture, we need to find a system to encourage Barbadians to go back to the field, and I do not mean necessarily working for somebody else, but we need to find a tax system that will encourage them to produce for themselves, to help expand their investments.

Sir, the Prime Minister spoke about savings. I am saying that we are a state, in Barbados, where we cannot only be talking about savings. We have to be at the stage now where we are speaking about investments. It does not make sense for the banks which have all the money in the world and yet, still that money is not being turned into investments to create work, and to expand the GDP of the country.

What we need, Sir, is to create an atmosphere in Barbados where the smallest worker by wage pack can feel that they can use some of their money to buy shares, to expand companies and to give them capacity so that they can export

more or even subsidise the Import Bill. We are not going to do it, Sir, if we are just going to take the money and put it in bank accounts.

I am not going to agree with any Government that speaks about savings. I am going to support any Government that speaks about investments. Sir, we need investments right now and we need to see those countries which have been making large profits, expanding their operations, not only for the internal take but also for the external take.

Sir, the problem in Barbados is that there are too many companies with the capacity to go outside Barbados which believe they still have to remain in Barbados. At the same time they are remaining in Barbados, there are other companies which do not have the same capacity and efficiency which are coming to Barbados to take advantage of our resources.

I am saying that the same way the Trinidadians feel they have a right to take up everything that we have in Barbados for sale, there have to be companies in Barbados which feel that they have the capacity and know-all to go outside of Barbados and also create that atmosphere.
3.10 p.m.

There are companies in Barbados that are producing good products and they must use their efficiency to export their products instead of waiting on the local market.

We are no longer operating within our own country or within the Caribbean, we are now operating on the external market and the international market and we must behave like international players.

We also have to understand there are some companies that will have to take risks and Government must be prepared to be partners with those companies that are prepared to take risks to generate foreign exchange for the country. That is why I look forward to the day when we can identify those companies that have the capacity to export and see a working relationship between the Government and those companies to create capacity.

The next point I want to make is that we also have to understand, now that we are talking about reforms in our system, that we need to bring the returning nationals on board. The point that I have always been making is that our capital market can easily be fuelled by the savings of returning nationals that they have in bank accounts overseas. We need to create an economic tool to encourage returning nationals not only to bring back their furniture and their cars but to bring their bank accounts as well and we must pay a fee for them bringing them to Barbados.

There is a lot of economic sense in that because when you have to service those bank accounts, you will be servicing

those bank accounts in Barbadian dollars and you would not have to look for foreign exchange to service them like how you would have to service a foreign loan because whenever we service a foreign loan, we have to look for foreign exchange to service it, but if we can get the returning nationals to bring their savings and their pensions on a monthly basis to Barbados, we would not create the demand to have to go on the external market to look for money, we would have the inflows, which we would then pay out of our local currency, but there would be a cost which would simply be more Barbadian dollars, but we would get foreign exchange in return and we will have an inflow not an outflow. We can create an investment atmosphere in this country if we put the right policies in place.

If we try to get a balance between the local investor and the foreign investor, we stand an opportunity also of removing a lot of red tape and people who want to invest in Barbados would not have to run to a government ministry seeking this permission and that permission because it would allow us to send one blanket policy right through the world that stands for local investors, foreign investors and everybody would know to pick up a particular document and be able to relate to our investment climate.

I am saying that the time for reform is now. It is not from now to 2008 and those changes have to be made. We have the reversed tax credit and we have to use it to our benefit.

I thank you, Sir.

Hon. Sir HENRY FORDE: Mr. Speaker, I really tried very hard to follow my friend, the Honourable Member for St. Lucy, but he has been all over the place this afternoon. He tried to encompass a whole number of things in his speech and he has not really developed in any depth any of the themes he sought to address. He is saying *sotto voce* that is platform talk, but I hope he is not falling into the same trap that the Democratic Labour Party has consistently fallen into in that they made platform promises, they do not cast those promises out and they have the habit of 'backraising' people and eventually 'catspraddling' the economy of Barbados and the country. My mother always used to say that 'wha don't bun goat mouth, does bun he tail.'

I really have to seriously warn Barbadians to listen very carefully to the Democratic Labour Party and remember that when they did a 'backraise' formerly, they almost killed this country, destroyed the working class of the time, sent home 8 000 workers both in the public and the private sector, took away their severance pay, cut civil servants' salaries and in the process destroyed democratic Government in the country and the Democratic Labour Party.

I really have to say that because I have been in this House long enough to hear the Democratic Labour Party cry when they want to cry and hear them throw up in the air all sorts of airy-fairy ideas without accounting to the country. I really have to listen to them and as one of the senior political people in this country to make sure that the wise and sensible policies followed by this Government and led by this Prime Minister are clearly understood and are clearly followed by the country in order to retain economic stability, while bringing equity and fairness into our system and into our taxing system in order to stimulate the economy, to stimulate growth, increase savings, increase investments and increase employment while at the same time retaining political stability. That is very important in any taxing system.

The measures which are before this House today call on the face for changes to various aspects of our taxation system. I think the important background that we must bear in mind is that Barbados is moving more and more into a single market and economy and that therefore we must be positioned to be competitive not only within the Caribbean region but within the wider area of Latin America and the Caribbean and also to face up to the challenges of globalisation.
3.20 p.m.

Those challenges will come, not only in trade but particularly for this small economy in services. One of the things that has inspired this Government and in particular this Prime Minister, is that he, the Cabinet and Government, have a clear view of the vision to where exactly Barbados has to be. Therefore, we want to use our prized resources of human capital and initiatives in order to withstand what would happen in the world outside and the world at large.

We have been a tax reforming party. If one looks at the Income Tax Act of Barbados and looks at either investments, initial allowance, or the calculation of assessable income, one would see the number of changes that have been made to our legislation during the current session of this Government and at other times when we have been in Office.

Sir, when the Honourable Member for St. John claims that the DLP is a tax reforming party because of measures brought in 1992 on the instructions of the International Monetary Fund, I remember very well, warning the Government that the International Monetary Fund did not understand the culture of Barbados. They did not understand that every Barbadian wanted to own a home. Therefore the DLP took off all the allowances that were given which would have encouraged Barbadians to own and to insure their homes and said it was recommended by the International Monetary Fund. We reinstituted it and this Prime Minister is, today in this House, not only following up on that reinstitution but putting more in the hands of the very persons that the Honourable Member for St. Lucy was speaking about, to encourage them to own their homes.

Sir, we do not have to listen to the International Monetary Fund or foreign advisors. We believe that here in Barbados, among our people, we have the economic advisors and financial tax experts, even exclusive of those in our Party, who can advise us. We do not have to want anyone who would protect themselves. This Government and this Party have enough access to persons who have sufficient integrity that when we are advising, we do not do that in our own self-interest but in the interest of the country. Even outside of the advisors, the Prime Minister has enough grasp of the economy and of the taxation system of Barbados, that he can make the decisions that are necessary and has been making those necessary decisions.

Sir, I want to go back to our Manifesto. I heard the Honourable Members for St. John and St. Lucy saying that this has come on the eve on an election. I want to ask him to look at the policies annunciated by the Barbados Labour Party for taxation in both of its Manifestos for 1994 and 1999. The promises we have made are the promises we have kept. That is why we have considered our Manifestos to be contracts with the people and have proceeded to work in relation to those promises.

Sir, one of the promises we have made was that we were going to encourage home ownership and maintenance with the immediate reintroduction of income tax allowances on mortgage interest, repairs and maintenance and home insurance. We have done that. We are going to resume the practice of reducing land tax rates after every third year, so that the impact of this tax was not considered to be burdensome.

This Prime Minister went so far as to improve the position so that not only companies but individuals like the Honourable Member for St. John and I who ply our services across the Caribbean, when we do work outside of the Caribbean and get paid for it in foreign currency. We are encouraged to do that because we get a lower rate of tax. The Honourable Member is saying that he wants to see something like that but it is already in the legislation.

We also said we were going to reduce the rate of land tax. We have done that in the 1999 Manifesto. We are going to reintroduce the reversed tax credit. Now the Honourable Member is most pleased that the Prime Minister had the foresight to give a reversed tax credit. He also makes the point, and I agree with him, that the reversed tax credit benefits those persons who are at the lower earning level in Barbados, that is the urban and rural poor. Therefore, when I hear the Honourable Member saying that the Barbados Labour Party has no interest in the working class population in Barbados, meaning those persons at the bottom of the ladder, he must be wrong.

Asides.

Hon. Sir HENRY FORDE: Sir, let me say this Government has followed its promises and has now gone beyond those promises. The country can remain secured that it would generate a level of taxation that would not burden the growth prospects of Barbados, that would position us to be competitive and at the same time, would bring equity to the system. Therefore, people can be certain planning investments in Barbados up to the year 2007. That is the importance of this legislation.

The only criticism I heard coming from the Honourable Member for St. John was that he thinks he might be able to do it sooner. Sir, this Government has proven itself and, therefore, the country can rest secured that if the economy grows faster than we anticipate, if world conditions improve, that we are not constrained by the constraints that would hold us back.

Let me take one example on oil. When prices go down, Government is able to give back to the people. Therefore, there is balance. We have been tested and can show that in our performance, this Government, led by this Prime Minister, sticks to its word. We will return money to the people's pockets when we can do so without distressing and 'catspraddling' the economy, as the Democratic Labour Party has done. Therefore, if it is possible to achieve our objectives in a much shorter time than this legislation allows, I have no doubt the Government has the confidence, the vision, the foresight, the determination and the sense of fairness that it would come to Parliament in time.

Mr. Speaker, I want to say something about the specific measures that are being introduced. Some of them are more farsighted, if we deal with the specific measures, than people think. In regards to the intellectual property, the Government is allowing a person to take into account 50 per cent of the amount expended in respect of the acquisition in calculating the taxable income. That must be a farsighted measure. What is involved in intellectual property? I do not believe the Honourable Member realises that is copyright, designs, trademarks, *et cetera*, of every musician, entertainers, *et cetera*. These are the persons who would be affected by it. It is a positive contribution and recognition of the intellectual capacity of Barbadians and particularly in the area of services.

When I look at the threshold of taxation, what are we doing? Sir, we came into office and raised the level at which taxation started and we are raising it further and thousands of persons under this legislation will be free of direct income tax and the Honourable Member for St. Lucy must concede that point. The Honourable Member said that we should abolish income tax completely, have a reversed tax credit and allow VAT to do the job.

Asides.

Hon. Sir HENRY FORDE: There must be some form of income tax in order to have a reversed tax credit. The Honourable Member for St. Lucy must understand the concept first because we already give a tax credit and I have no doubt that it will be expanded in order to benefit those persons who are not only now below the \$15 000 threshold but when the threshold is raised it will benefit this category as well as the working class to benefit more and more.

Sir, this is a democratic socialist party and part of our legacy and philosophy is to give opportunity to those at the bottom with talents so that they can move forward and abolish the stratified system of class in order to make it possible for people to realise their tremendous potential.

Sir, particularly between now and March next year when people have all sorts of ideas, the country must realise that the Barbados Labour Party Government particularly under this Prime Minister had to correct the serious errors of the Democratic Labour Party when they brought us into the hand of the IMF.

Sir, I warned this country before the elections in 1991 that the then Prime Minister was going to lead them into the hands of the IMF. Unfortunately, the Honourable Member for St. John was still a young political neophyte at the time and I excused him because he did not have the political experience but I found it difficult to excuse some of the people in the Democratic Labour Party at the time because within three months of the elections they had the country in the hands of the IMF.

I am asking Barbadians today not to listen to the Democratic Labour Party coming for a vote on the basis of a tax policy but to ask them what sacrifice the country is being asked to make again by the Democratic Labour Party. Do they want to send home mother, daughter, father, son, aunt and uncle from the same household? People in my constituency cried because an entire family went home under the Democratic Labour Party.

Asides.

Hon. Sir HENRY FORDE: I am a statesman and this is exactly why I am warning this country. My statesmanship leads me to warn this country against the Democratic Labour Party between now and March next year. The people of Barbados have to be careful of those plying their trade as professional politicians rather than looking after the genuine business of the country.

Sir, I welcome these measures as part of the tax reform measures and I look forward to their implementation and to using them in order to improve our competitiveness and the savings in this country.

Sir, the Honourable Member for St. John spoke about taxation collection and said he thought the Government had in place enough people and therefore, should not be talking about problems with tax collection. Sir, there are always problems with tax collection. We have tried to improve the tax collection system.

I find it difficult as a taxpayer myself to understand the thinking of some people who would run up to the National Insurance Scheme office as soon as they reach age 65 to draw a non-contributory pension but worked their entire lifetime without contributing to that pension. Sir, it cannot be fair to the working class people of this country because there are a large number of self-employed persons who are still not recognising their obligations in this respect. If it goes in the area of national insurance and social security, it goes to some respect in the area of payment of taxes.

If we had in the Treasury the money that is owed to this Government in tax, we could do much more to hasten the convergence of which the Honourable Member for St. John spoke. Sir, people want better roads and we have done better roads, although people complained two years ago about the dust from the roads. They are now driving on nylon roads and there are no complaints anymore.

Asides.

Hon. Sir HENRY FORDE: This is not election talk, this is the reality of trying to deal with human nature. Government has to take measures to improve the lot of people but they do not see that Government's intention is *bona fide* and improving the lot of people. They criticised the dust and now that the roads are completed there are no complaints.

I heard the Democratic Labour Party say that we introduced VAT and that we have a lot of money from VAT but I have said to the people in my constituency not to worry about the Democratic Labour Party but remember when they had to wear two sets of shoes to get out from Rockley Tenantry Road but there are concrete roads there now.

Asides.

Hon. Sir HENRY FORDE: I do not have to canvass anymore. My canvassing days are over but in the interest of the people I am saying what we have done with the money because the Honourable Member for St. John said we wasted the money. You can see the money reflected in the roads and housing. Mr. Speaker, I saw someone like you in the newspapers recently with a spanking new set of apartments in Bush Hall, your constituency. This is where the VAT money goes.

I want to say that this Government has brought the correct measures in order to stabilise the economy to achieve

growth, keep employment high and to keep us out of the hands of the IMF and ensure that Barbadians achieve their initiative. This is why these measures commend themselves to Members of this Honourable House and I am confident that they will commend themselves to the country at large.

I thank you, Sir.
3.40 p.m.

Hon. Sir HAROLD St. JOHN: Mr. Speaker, I just wish to say a few words in support of these measures because they implement the policy of the Barbados Labour Party in relation to taxation. Its preference for encouraging savings, its preference for ensuring that the burden of taxation does not fall upon those who are least able to bear it, while at the same time, remembering that Barbados is part and parcel of an integrated community and therefore, its tax rates and the impact of taxation would have to take the competitive position of Barbados into account.

Sir, we also have to bear in mind, all of the experience of those countries within this area, which have gone the route of abolishing Income Tax. This has been a long debate in the Parliament of Barbados, I recall, in the 1960s. There was a businessman in Barbados, the late Sir Kenneth Hunte who was a great advocate of Barbados following the Bermuda system, and abolishing Income Tax and increasing Customs Duties.

I was a young Senator at the time and I was one of those who led the attack upon the proposals. Because, then as now, the position is that where you have only an indirect form of taxation, an unjust burden falls upon consumers, who very often are the majority of the people who are unable to bear the burden.

Those who are owners of capital, those who are owners of other property, get away with their fair share of the burden of taxation. So too, I am convinced that we have not reached that stage in Barbados, where we can accept the proposal put forward for the Honourable Member for St. Lucy. Even with his feeble attempt to mitigate the impact of the Government's rule with those unable to bear the burden by what he calls a reverse tax credit.

Sir, there is another area of this reform that I feel very keen and strong on. I am convinced in my mind that no meaningful tax reform in Barbados can take place until we deal with the question of evasion and anti-avoidance. For years, it has been recognised that the skills of so-called tax consultants have been used throughout the Commonwealth and other democratic countries to ensure that legitimate taxpayers have to pay an undue burden of taxes because of the capacity and ability of those who are able to employ these consultants whose aim and method of remuneration very often is based upon a percentage of their life savings.

Many countries have attacked this problem, such as Australia and New Zealand. They came up with specific provisions dealing with this matter. In the United Kingdom, the judges, through their interpretation of the Shell companies, through their interpretation of the Income Tax laws have come to a conclusion that they can deal with it, but we in the Caribbean have not made any conscious effort, in this direction. What we have is, with all the best will in the world, with all the desires and motivations, we have tax departments which are unable to compete with these skilled operators and it is something that we have to deal with.

I am told that the Government, as a matter of policy, has appointed a Treasury Counsel which will be made available. This is something that I am very glad to see because this is a highly specialised area and it can only be tackled by personnel but, the personnel must be backed by laws, which have to be placed in our Income Tax Act. This is a very sore point with people in this country, being called particularly wage earners and others, they are called upon to pay a disproportional burden.

I do not think that the owners of capital in this country should have any grouse in this respect, because I want to say that some of the measures that have been introduced by this Government have greatly benefitted companies, particularly conglomerates. There can be no doubt about it that after many years of petitioning, the conglomerates and others in this country, had the advantage of being able, nowadays, to aggregate, not only income, but it can aggregate losses and they can set off losses from subsidiaries compared with profits, from the most profitable subsidiaries.

This is a substantial benefit. Therefore, having received those benefits, they should be in the vanguard of those who want to ensure that the other people who want to take advantage of these benefits, also face the burden of the impact of that change, without reference and resolve to these sham agreements, to these devices whose only purpose, as the case is put, is not any commercial objective, but an objective of fame and an unduly small burden of real taxation. So that is a point that, I am sure, any reform will take into account in the future.

Another area that we have to deal with, and will probably more appropriately, in another debate that we are going to have, is the question of being part of an integration movement and there being great disparity in taxation. Those who follow the European economic community will recognise the efforts, particularly with respect to savings and the disharmonies in the savings schemes, and what had to happen there with the efforts of tax harmonisation.

In the Caribbean, the late Sir Arthur Lewis pointed out that once you are in an integration movement, and you have a

free trade and you have a customs unit that it is important that various countries would not be able to play investors off against other countries, by offering different incentive legislation. He pointed out that it was a necessity to have investment agreements between the countries, so that there would be a harmonised system of investment incentives.

Now, we had that for a long period of time. Those fiscal incentive legislation treaties have now expired. I think the time has come, particularly as we move deeper into the integration, for us to have another look, as to whether we can have radically different approaches to taxation which would in turn lead to a disharmony and a distortion of the market.
3.50 p.m.

When we introduced the legislation that the Prime Minister spoke of to encourage offshore financial services, I well recall that a specific condition of that legislation was that international business companies could not trade within CARICOM. The objective was that that legislation should be so common within the CARICOM area that it would become an incentive to encourage all of the CARICOM countries to have the same type of legislation dealing only with the encouragement of incentives and by incentives of companies to export abroad, but many of the countries broke it and started to give international business companies status to regional trade activity which led us now into a position in which we had to do the same thing, but the original position was that. I remember it very clearly. I remember arguing with the Honourable Attorney General then, now the Honourable Member for Christ Church West, because when we were discussing this in Trinidad with the late Mervin DeSouza and Dr. Eric Williams, the then Prime Minister, they attacked us on the ground that we were indulging in anti-CARICOM behaviour. We had to explain very carefully that that did not apply to trade within CARICOM. Again I believe that is something in our tax reform that we would have to take into account.

Mr. Speaker, I notice that there is going to be a larger differential between our companies rate and the personal income tax rate. One of the objectives of preventing that in the past was because we did not want to encourage people, particularly professional people, to indulge in the formation of service companies where they would hive off some of their profits by expenses being incurred with these companies. I think that some look would have to be taken at that.

At the present moment, I believe that there is some scope for a relook – between now and 2006 is a lot of time – at the position of the non-qualified small business companies. As I understand it, one can only get the benefits of the small businessman tax rate if you go through a process that takes time and money and you have to qualify. The qualification for that process leaves out a large number of

micro businesses. If they make profit, the truth is that today they would have to pay their tax at the real corporate rate. The larger companies through the depreciation allowances, through export credit allowances and things of that kind do not have an effective tax rate of more than 17 to 20 per cent.

Indeed, not so long ago someone said that the total bank profits in Barbados was over \$400 million. When you look at the effective tax rate for banks, it was only like 17 per cent. Because of the ability of banks and other companies to so construct their profits it is difficult for them to be challenged on the ground of adjustment with low-cost provisions. So when we go through the real effective analysis of the larger companies in Barbados, we come to the conclusion that in truth and in fact their effective tax rate is much better than the normal rate. So I do make a plea for these smaller companies whose only potential for depreciation is the properties that they use in a commercial business.

Lastly, I hope the time would come when the Barbados Labour Party would be able to reintroduce a very useful piece of legislation with the design to ensure that the last area of social infrastructure in Barbados which was deficient would be remedied. That is, we had a special tax rate for those people who wanted to undertake the burden of building houses for the working class and the middle class people in Barbados. That was abolished in the great reform that the Honourable Member for St. John spoke of. I think it is time that we should have a look at it again. The last area of social infrastructure that has to be attended to in Barbados in my opinion is the provision of housing for our people.

I believe that just as we grant tax incentives to manufacturing, to services and to a number of areas, that we should grant incentives to the service of providing those houses because it is a special service which deserves special treatment as opposed to others who earned their living in retailing and other areas of activity like that.

Those are the comments I would like to make in support of this Bill.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, this has been in general, on both Sides, a very constructive debate and I thank the House for the spirit in which the amendments before Parliament have been reflected upon.

I just want to give exact clarity to precisely what is before us. Mr. Speaker, today we are only giving legal certainty to a programme of direct tax reform, the framework for which has been introduced as far back as October, 2002. I will repeat that. We are giving legal certainty by incorporating into the Income Tax Act a programme for income tax reform, the framework and the chief features of which and the rationale for which were outlined in October, 2002 and broadly hinted at in my presentation to Parliament in the year

2001.

May I say again that it is a programme of tax reform. I stress the point because we do have the need periodically at intervals of ten years to see the tax system as a whole and to implement systemic features that are intended to change the way in which the tax system is structured. That periodic reform must be multidimensional; must have many different parts that interlock; must be capable of being implemented over a period of years; must be benchmarked against achievable economic, social and sometimes even cultural objectives; it must be implementable and must be capable of being sustained for an indefinite period.

I distinguish between a programme of tax reform and the annual adjustments that you may make to an allowance here and there for what specific reason? What is before us is to agree to a programme of tax reform. It is a programme that is multidimensional. It is intended like any good programme to be implemented not just in one fell swoop but over a period of years. It has been carefully benchmarked; that it has very careful objectives to be sought and it has been designed to be implementable and to be sustainable.

4.00 p.m.

Mr. Speaker, I stress that latter matter because the Democratic Labour Party might well remember that in 1986, what was intended to be a programme of tax reform failed in the process because it proved to be neither implementable nor sustainable. The programme was not implemented as conceived and within 18 months, was reversed to the stage where the very reversal was referred to as a backstreet abortion, undertaken with a blunt instrument. It was reversed to a stage where it virtually split the Democratic Labour Party into two. Therefore, if there is to be a programme of tax reform that is multidimensional, that could serve for at least 5 to 10 years, the question of its fiscal sustainability has first of all, to be assured.

Anyone who has been a minister of finance knows that while we would love to be always as generous as possible to our taxpaying public and to our corporate sector, that, at the end of the day, there is still a duty on that minister of finance to ensure fiscal stability by not having a deficit incurred that would put the country on a slippery slope. Therefore, to have a realistic sustainable programme of tax reform, one has properly to cost it. If it cannot be implemented in one year, the minister of finance seeks to achieve his objectives by satisfactorily seeing it in conformity with one's best estimates of growth and in conformity with the country's best estimates of the likely impact on the fiscal deficit.

This exercise meets all of these considerations. I began by saying and repeating that the 1993 exercise was also

a programme of tax reform. It was a programme conceived in the context of the International Monetary Fund in a large measure and, therefore, it reflected a lot of what I call the International Monetary Fund precepts as to what tax reform is about, with great emphasis being placed on things such as mutuality. By that the International Monetary Fund is not necessarily in the interest of Mr. 'X' or Mr. 'Y', even when their circumstances would be different. In their view, they should be treated equally in relation to the law.

We feel that the International Monetary Fund one-cap fit-all methodically, is not suitable for Barbados. Therefore, the International Monetary Fund would not ever agree that we should have tax incentives for homes. We feel that our tax system could only be culturally relevant if we accept that we must transform Barbados into a property-owning democracy, in which the ordinary man and woman's relationship to that property-owning democracy was expressed only in the form of the home that he or she owns. Therefore, a tax system is culturally irrelevant if it does not treat to the specific goal of helping persons to achieve their overall goal of national development.

Mr. Speaker, the 1993 programme was intended to be implemented over a number of years as well but built into it was the concept of the indexation of allowances. When I began as Minister of Finance, I had to make a judgment. The indexation of allowances only made sense in circumstances where inflation is so high that when changes are made to allowances, those changes would be meaningful but when there is a very low rate of inflation, to change allowances by 1 per cent per year is meaningless because there it is not going to have any meaningful effect for the beneficiaries and all it does is to complicate the system, where in one year the threshold would be \$13 000 and in the next year it would be \$13 500.

Indexation in the context of a low inflation is a meaningless way to pass on the benefits of an income tax system. Therefore, rather than follow the indexation method that the International Monetary Fund wanted us to follow in 1993, the approach my Government and I agreed was that we were going to introduce a number of incentives that would have been far better for the consuming public and the corporate sector than indexation and that would allow us to make the tax system socially, economically and culturally relevant. Hence, we felt then, as we feel now, that any properly structured tax system in Barbados must treat to the needs of the working poor.

The needs of the working poor were not incorporated in the 1993 tax reform programme. We incorporated it by putting in a provision that if one is not in a position to pay income tax, one should still get a reversed tax return. Sir, we want to retain the provision for the working poor as a permanent feature of a culturally relevant tax system in Barbados.

We also feel that the tax system should cater to the needs of those that are most disadvantaged, for instance, our pensioners. Hence, our tax system has always, up to now, institutionalised an arrangement whereby the personal allowance for pensioners has been higher than that for ordinary working people.

Sir, I want to stress the point that Barbados has a tax system in which the personal allowance for pensioners at \$30 000 is higher than the maximum pension from the National Insurance Scheme that any pensioner can get. The point we are making is that we have so lifted the personal allowance for pensioners that any pensioner living in this country and receiving National Insurance Pension, is already receiving that pension tax free. The National Insurance Pension is \$24 000 per year but a pensioner can claim \$30 000 per year, tax free.

In addition to that, we not only put the threshold to \$30 000 but it was this Administration that removed taxes on savings of pensioners. We have allowed pensioners to pay land tax at half the value of properties of an equivalent value held by other members of the society. Therefore, the tax system has been incrementally modified to incorporate the interest of pensioners.

Mr. Speaker, the tax system, taking into account fiscal sobriety, must also treat to the needs of a transforming economy. That is crucial. It must promote the purposes of strong sustainable economic growth but growth within the context of social justice. It must cater to the needs of those classes of the economy that need state intervention.

We have structured a programme of tax reform to promote economic growth within the context. Sir, at a time when the ordinary enterprises were paying taxes at 40 per cent, we introduced a Small Business Development tax, where small businesses pay at 25 per cent. The new rate of corporation tax that we intend eventually to have for all businesses, would be at 25 per cent in the year 2006 but small businesses are already paying at that rate.

Sir, the point is that we are going to have soon to set a new rate for the small business sector to make the difference between the general tax rate and the small business tax rate still an incentive for small business development. To do that is to anticipate.

In relation to these measures, a tax reform programme must be a benchmark. What does one want to achieve through changing taxes? We do not want to change taxes just to give persons a windfall or because we want to be politically popular. We want to change the corporation tax to build a strong economy that could, in the first instance, be the most successful economy in the Caribbean Single Market

and Single Economy and having been so restructured, can then be successfully integrated into the global economy as a fully developed economy.

Therefore, to make our economy the most successful in CARICOM, one of the things that must be done is to have a corporation tax rate that would establish Barbados as the preferred location for the carrying out of business and particularly, regional business in the Caribbean.

Therefore, our corporation tax rates must be on par with the best in CARICOM because under the Double Taxation Treaty, taxation in CARICOM is tax at source and, therefore, if we have a higher tax rate than Trinidad and Tobago, the business would go to that country.

4.10 p.m.

If we have a higher tax rate than Trinidad the business will go to Trinidad. Hence the 25 per cent tax rate by 2006 is a response to that particular initiative. The Honourable Member for Christ Church South picked up a great point of economic restructuring that this measure speaks to. Barbados is participating in a Caribbean Single Market and Economy, the Free Trade Area of the Americas and it is interested in participating in multilateral trade negotiations under the WTO and a new relationship with Europe because for the first time, if we are part of a Caribbean Single Market and Economy and part of the new economy of the Americas for the first time in our history, we can plan the development of the Barbados economy free of the constraints that geographical confines have hitherto imposed on us. Sir, this is an historic opportunity because hitherto we were a fourteen by twenty-one island with 280 000 consuming persons of 70 000 households and a Caribbean Single Market and Economy gives us the chance to broaden our perspective as to what constitutes our national economy. Equally to fit our economy in the Free Trade Area of the Americas, frees us of the constraints of small market and population size that has hitherto been a limitation on our growth.

Sir, if we are going to maximise the benefit by unshackling ourselves from the constraints of growth then the future expansion of the Barbados economy cannot just be the expansion within our domestic frontiers but out of the domestic frontiers by nationally owned factors of production. Hence, the export of intellectual property, capital and the creative energies of the Barbadians must be the future wave by which we transform and grow this economy. It can no longer be built within the geographical confines that Barbados is as a nation but within an expanded concept of the nation state.

Sir, concessions like this that promote the development of intellectual property, the export of the skills of our professionals must all constitute part of the new economy and this is why this Income Tax Act speaks to this kind of

transition. We are not doing it because we want to give away taxes but it is benchmarked against an objective that is strategic, that this economy must become a fully developed one that must be the most competitive in the Caribbean Single Market and Economy, fit easily into the markets of the Americas and the world markets and this must be done in many respects through fiscal engineering.

This explains why we are doing what we are doing, the manner in which we are doing it and the sequence in which we are doing it. We will iron out all the problems of Caribbean Single Market and Economy and after 2006, we will begin the great convergence that must take place between the onshore and offshore economy. Sir, all of this is built into this arrangement.

As regards personal income tax, the system must be culturally relevant because home-owning is a natural part of the Barbadian culture and to have a tax system that does not promote home-ownership is to have one that is not 100% Bajan. The first thing the tax man must do is to give the Barbadian taxpayer a basic income allowance and then allow the person to claim expenses paid on maintaining a home against his income taxes.

We are making this tax system culturally and socially relevant by being inspired by the best Barbadian values that have made this society strong. A tax system is not only about fiscal objectives but about economic objectives as well. In that respect the tax system must cater to those above and below the poverty line. The way in which we set these incentives, we are not treating just to the working poor who are perpetually in our consideration but we are seeking to evolve a robust middle class who will, through these measures, retain a larger portion of their income, develop their homes, their savings and investments so that a robust middle class can play a more robust role in the building of a more democratic society. Sir, this is what it is all about.

Mr. Speaker, the measure must be implementable and capable of being sustained. To move the income threshold from \$15 000 to \$25 000 and change the corporation rate and the personal income tax rate at the same time will run this country into \$100 million or perhaps \$150 million and it cannot be done in any one year but must be implemented over a period of time and this is what we are doing.

The income tax system to be implemented must also anticipate other adjustments that are not being forced upon the overall economy by income tax changes and accommodate them in general planning. Once this is put in place, the tax changes of the future will be of benefit to the consuming public and the productive sectors and will also be in response to trade liberalisation. The year 2005 is just beyond the horizon and at this time we will start phasing out

import duties that are at a basic rate of 20 per cent and agriculture at a rate of 60 per cent or higher which will be of benefit to the consuming public. We will also start to reduce the VAT because we will change the import duties.

Sir, anyone who does not discuss tax reform in terms of the implementability or sustainability and does not see the links of the benefits on the direct side by what has to be done on the indirect side, is blind.

The House knows that when 2005 comes, import duties at 20 per cent will have to be reduced. In planning a tax system for the future on the direct side, one has to take into account the 20 per cent reduction in the import duty that will come naturally because of the Free Trade Area of the Americas and the consequential adjustment downwards in the VAT that will follow.

I am not tinkering with the tax system, Mr. Speaker, but making a fundamental change in our fiscal arrangements that respects the best precepts of tax reform. It is multidimensional and properly benchmarked against achievable, social, economic and cultural objectives. It is also fiscal responsibility and anticipates the future.

Sir, in these 100% Bajan days, I want to say that it is also homegrown and that these measures have not been thrust upon us as a result of participating in the IMF programme but these measures have been thought through carefully by all the Government revenue department heads, their staff, the Minister of Finance and others have worked together with the private sector and others in Barbados.

Sir, I respect the right of BARP and other interest groups to put things before us. I heard things coming from the accountants and every interest group. I respect their advice but, at the end of the day, a programme of tax reforms that is intended to be effective over a period of time must have at its core fiscal sustainability.

I urge all those who will want us to do everything, to recognise that there is a dividend that comes from being able to live in a country in which stability and sustainability of social programmes is a factor and feature of our existence. The Honourable Member for St. John spoke in certain terms of doing it sooner. Perhaps I might explain how fast we can transform. The direct tax system in Barbados must take into account the changes that are coming in 2005 in relation to import duties and value added tax. To accelerate this faster, Mr. Speaker, would be to find oneself in a situation where one can have fiscal deficits as an endemic feature in the Barbados economy.
4.20 p.m.

Mr. Speaker, I would have said enough to suggest to you that there will be consequential adjustments along the

way within this very programme. I would have said enough to embed preferential rates for small business as a feature and once you reach a stage where there is no difference between the small business rate and the general rate, then you have to treat to that matter.

Sir, under a Tom Adams Administration there was a separate rate for construction companies that catered to the very point that the Member for Christ Church South, who seems as though he wants to stay in the House, but he did not go without reminding us that there was a time when there was a special rate for construction companies, recognising the great value that we attach to the construction sector in a society in which its democracy is expressed in terms of the mass ownership in some respect in owning a house and who knows what else.

Mr. Speaker, we also take the point that as you lift the income tax from \$15 000 to \$25 000, then clearly at some stage the size of the reversed tax credit is a matter we have to review, but those are adjustments which would have to be made in the system. The reform of the system goes to the issue of how you set its systemic features.

Mr. Speaker, I do not think that we have to review the property tax. We have brought it down to the lower income bracket but it is still working a hardship on the short-term lease. It is not the Government's wish that the property tax would work a hardship on Barbadians and there will be some adjustments. But what we do have now, Sir, is a new programme that is in many respects a superior representation of a tax programme for Barbados than what existed in 1993. This programme has higher thresholds but obviously there will be higher thresholds. We are now reducing the tax rate. The DLP tax rate for corporate and private purposes was set at 40 per cent. We are conceiving now a tax reform meaning a lower rate of tax. May I repeat the point, Sir. We want a Barbados in which the tax system is characterized by a relatively lower rate of tax. It can stimulate savings investment, sustain economic growth. It is responsive to important cultural and social attributes that make Barbados a good and just society and that it anticipates changes in the economy and changes in international tax practices in relation to tax planning and incorporate them as specific features in the tax system.

Sir, if an aspect of an optimum tax system is the rate of tax, then by logic a tax system that has a tax system of 40 per cent, as was then set in 1993, is not to be preferred to one that sets the tax rate between 20 to 25 per cent as we are now proposing. We want a lower tax rate. This programme goes to that benchmark. We want a tax system that can achieve fundamental economic goals. Who can doubt, Mr. Speaker, that by making Barbados the most competitive economy in the single market and economy in the Caribbean is a fundamental economic goal? Why should we not go for it?

We want a tax system that facilitates the most efficacious system into the global economy. We cannot reverse globalisation, Mr. Speaker, but we can alter our affairs to better utilize the adverse effect.

The taxation speaks to that particular issue. The tax system must be relevant; it must be socially dynamic; it must treat to the needs of the working poor in this country and the marginalized and those who are old. Our system internalizes specific proposals to deal with those social classes on every ground. This is the system for the time and I commend it with great pride to this Honourable House and beg that it be read a second time.

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

On the motion of Rt. Hon. O. S. ARTHUR, seconded by Hon. Miss B. A. MILLER, the House went into Committee and Mr. SPEAKER left the Chair and Mr. CHAIRMAN assumed the Chair.

COMMITTEE

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

Clauses 1 to 10 were called and passed.

On the motion of Rt. Hon. O. S. ARTHUR, 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.

On the separate motions of Rt. Hon. O. S. ARTHUR, seconded by Hon. Miss B. A. MILLER, the Bill was read a third time and passed.
4.30 p.m.

ORDER NO. 7 – THE CARIBBEAN COURT OF JUSTICE BILL, 2003

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I deem it a distinct honour and privilege to be able to introduce this Bill before this Honourable Chamber because in the context of the history of modern Barbados, this legislation will mark a significant departure from that which has informed our jurisprudence and the structure of our judicial system to date.

On a previous occasion, Sir, in amending the Supreme Court of Judicature Act, I had the honour of recounting for the Chamber, the history of the Barbados Judicial System. I do not propose, at this stage to repeat it. But suffice it to say that the Bill which stands before this Chamber today, allows those of us of this generation to complete a process which began in 1966 with the assertion of sovereignty when we became politically independent.

Mr. Speaker, it is not often therefore, in the history of a country that it is given to a Parliament to advance aspects of our sovereignty in such fundamental ways. If I may, at the outset of this debate, refer to the Barbados Independence Order, to clearly reflect that even in that Order, it was contemplated that a Parliament of Barbados at some future time, would seek to settle its constitutional arrangements such that the entity, which, upon Independence was to have been and was, our final Court of Appeal, namely, the Judicial Committee of the Privy Council, might some day be replaced.

In that Order, Mr. Speaker, made on the 22nd November, 1966, laid before Parliament on the 22nd November, 1966, coming into operation on the 30th November, 1966, Section 11 clearly stated,

“Until Parliament otherwise provides, an appeal should like, under Section 88, subsection 1 of the Constitution, from decisions of the Court of Appeal, established by the Constitution to Her Majesty in Council in the cases mentioned in paragraphs 8 and (b) of section 3, of the British Caribbean Appeal to Privy Council Order, in council 1962”.

Mr. Speaker, until Parliament provides otherwise, Sir, that Order became effective on 30th November, 1966. Some 36 and a half years later, that of a whole generation but when I reflect, I would certainly have been 13 months at the time, when that Order came into effect. Some 36 years later, the Parliament of Barbados has before it, a Bill which seeks to bring into reality that which was only contemplated at the time of the Order.

Thus, Mr. Speaker, this must be counted as an historic debate in the development of this country’s constitutional governance, its sovereignty and indeed, Sir, the development of its judicial system. But the journey to this point, is not one that started with the signing of the Agreement in February, 2001. It is a journey, that has taken in excess of three decades and it is a journey that had as its inspiration, a Federal Caribbean Court, that existed during the brief period of federation, when the countries of this region took the bold step, even if forced upon us, of establishing a political federation. In the context of that political federation, countries took responsibility for their judicial matters through the establishment of federal court.

It was a departure, Mr. Speaker, from the courts that existed purely, in relation to the geographical boundaries of our countries. While that court ceased to exist, with the end of the federation, those who not only practise law or presided over the law throughout the region, but average Caribbean people, long for the day when we would take responsibility for that aspect of our governance.

Indeed, Mr. Speaker, it is right for me to recite that a Government is essentially made up of three arms: the Executive, the Legislature and the Judiciary. If on Independence, we were only able to settle one of those aspects of our governance, then it is fair to say that we remain having to complete that process of Independence and today carries us but one step closer, leaving only one other matter to be resolved, such that we can conclude that we are fully and completely independent, as a nation in this world.

It is remarkable for some that two of the three heads of those arms which constitute Government, reside outside of the geographical boundaries of this country. The Judicial Committee of the Privy Council, otherwise referred to as Her Majesty in Council, of course is located in London. Indeed, the Head of State of Barbados is still Her Majesty The Queen, but it has been contemplated by us for sometime now that at some point in the future, the Head of State of Barbados should be a Barbadian by birth or by descent and that should be an Honour to which all Barbadians can aspire, because in that context, we would fully have accepted responsibility for our destiny.

Mr. Speaker, for those who may not know, the Privy Council would have been established through the Act, 1833 as a judicial body as our final Court of Appeal. Therefore, what we will be reversing today, by supplanting it with an institution of our own deliberate creation will be, in fact, bringing to an end, over 150 years of existence, as the highest court of this land.

I believe, Mr. Speaker, that we are seeking to bring to an end a contradiction in the constitutional symbolism of a politically independent sovereign nation. I believe, Sir, that those who in 1970 at the Sixth Caribbean Heads of Government Conference took it upon themselves, after a Resolution from the Organisation of Caribbean Bar Association (OCBA), to investigate the matter of the establishment of a final Caribbean Court of Appeal, as it was thus conceived, would have recognised that this day ought to be inevitable for Independent Caribbean territories.

Sir, that process led to a report by the now deceased eminent legal mind, Aubrey Fraser, and thereafter, a pause occurred, in respect of the planning, discussions and decision making after 1972.

4.40 p.m.

In the late 1980s when the Caribbean Heads of Government met in Antigua, they revisited the question and a decision was taken that the political sovereignty of Caribbean countries required the establishment of a Caribbean Court of Justice if we were to complete that process. Therefore, Mr. Speaker, I must confess of being a little surprised when parties to that decision later distance themselves from it by asserting that we should remain with

the Judicial Committee of the Privy Council as our final Court of Appeal.

I refer to a decision that was made before the Grand Anse Declaration, which determined that there would be the establishment of a Caribbean Single Market and Economy and before the Judicial Committee of the Privy Council decision that determined that the length of time on death row beyond five years would render such detention and hanging unconstitutional. I want to repeat it, Mr. Speaker, because as recently as last week in Australia, an eminent British Queen's Counsel in addressing the opening ceremony of the Commonwealth Law Conference was able to allege that the Caribbean Court of Justice was being established as a hanging court only. Mr. Speaker, there is nothing further from the truth.

I was happy that our own Chief Justice was present and was able within 48 hours in his own presentation on the Caribbean Court of Justice to correct that folly which fell from the lips of that Queen's Counsel. Anyone who is familiar with the developments would know that the Caribbean nations and persons here have been asserting that the independence process can only be complete when we treat to all of the issues pertaining to the three arms of Government. Therefore, in those circumstances, the establishment of a final Caribbean Court would be essential to our independence process.

Mr. Speaker, Pratt and Morgan came more than five years later. While we as Governments have reflected negatively – not only governments, because Lord Justice Hoffman, in the case of Neville Lewis and the Queen, in dissenting judgment spoke of the doctrinal disposition of the Judicial Committee of the Privy Council in respect of the delivery of judgements relating to capital cases coming before it from the Commonwealth Caribbean. On these developments, it has never been the case that we see the Court as constituting a replacement for the Judicial Committee of the Privy Council purely because we would wish the death penalty to be applied.

Mr. Speaker, any country that is independent would wish to have persons who are familiar with the socio-cultural and the socio-economic conditions of the country to preside over matters that come from that country. Mr. Speaker, that is so because those persons have an appreciation for the context in which disputes may arise, have an appreciation for the need to be culturally relevant without compromising the fundamental precepts of justice and due process and have an appreciation for the need for a country to give full expression to its history and to its traditions.

Mr. Speaker, we are not and can never be defensive of it. I believe that the time is upon us as we embark on this second phase of our independence to put in place structures of our own delivery creation. We are happy to be

independent, but it cannot go unnoticed that even the very Constitution we have is not an act of this Parliament.

Mr. Speaker, one of the principal recommendations of the Constitutional Review Commission and one of the principal promises of this Barbados Labour Party Government is to repatriate the Constitution of Barbados. However, I do not believe that a simple act of repatriation will make it our own. Therefore, I believe that the consultative process first embarked on by the Constitutional Review Commission all over Barbados, and by Barbadians within the diaspora, is the first step, but we must go even further in our engagement with the public of this country recognising that those things which would constitute a Constitution and the plans which must reflect the way of life of our people have truly be the deliberate act of the people of this country. I believe that we have a responsibility to bring a philosophical perspective always and that the foundation and the formation of this Court rest upon the precepts of sovereignty.

The idea of our taking into our hands the responsibility of defining our political and constitutional identity and most important ultimately rewriting our own jurisprudence... Our own great writer George Lamming has spoken about the development of a Caribbean philosophy of law. Mr. Speaker, I longed for that day because while there have been elements of it in respect of the high courts and the courts of appeal we want to be able to feel that our final court is reflective of the experience, knowledge and appreciation of Caribbean citizens.

Mr. Speaker, this debate takes place today in the context, as I indicated, that the agreement to establish the Court was signed here in Bridgetown on February 14, 2001, Valentine Day to be exact. We have been working assiduously to put in place the administrative and financial systems that would see this Court coming into reality. Barbados, therefore, is particularly honoured to be the first country in the region to be introducing this legislation into its Parliament. We were not the first to ratify, that was the honour accorded to St. Lucia, whose Prime Minister holds lead responsibility for governance issues under which this Court falls within the CARICOM region, but we were the second. We are the first to introduce the legislation.

Mr. Speaker, it is the intention of this Government to have this legislation passed once it meets the will of both Houses, and to hold its proclamation until the inauguration of the Court which we anticipate to be before the end of this calendar year.
4.50 p.m.

It is also the intention of the other countries which are signatory to the agreement that they too shall very shortly be introducing legislation for the court to their Parliaments. We

believe that since Barbados has the responsibility for chairing the Preparatory Committee to establish the court, first through my predecessor the present Chief Justice and now through myself since August 27, 2001, we must lead by example in bringing this legislation before our Parliament. Hence, its positioning here today, even though it would not be proclaimed until later in the year.

Mr. Speaker, we have also worked assiduously to meeting the concerns expressed by the various quarters as to the financial sustainability of the court and as to the independence of the judiciary who would constitute the court. I believe in all my heart that we have met those concerns fully.

We have, for example, treated to the issues of the financial sustainability by way of agreeing to establish a trust fund, which will have as its settlement, US \$100 million, the income from which would be sufficient to meet the recurring cost of the court on an annual basis. We have done it this way so that the court would never have to wait for a country to pay over its dues, whether those dues are one or five years in advance.

The arrangement is that the Caribbean Development Bank has agreed, through its Board of Governors, to help raise the funds and that each country in the region that is signatory to the agreement would be responsible for a percentage of the loan, such that the court would be insulated from the financial arrangements between the contracting country and the Caribbean Development Bank.

Mr. Speaker, I believe it is a significant agreement that we have reached. I believe there are those who might have had concerns about the extent to which Governments might have difficulties with cash flows, that would have recognised that by so insulating the court, we have ensured that it could function, first of all, without reference to needing funds from the Governments on an ongoing basis.

Secondly, that the court has the ability to insulate itself from even the hint of political pressure due to financial reasons.

I believe we have agreed that there would be some independent funding that would be pursued separately from the trust fund but that in no circumstances would we seek to attract independent funding for the settlement of recurring expenditure, particularly the salaries of the judges. If we are prepared to have our own court, then we must be prepared to pay for it and, as a people, we have made that deliberate judgment.

Mr. Speaker, there are those who were doubtful. When the sum of money was being calculated as only US \$S25 million, there were those who wanted to suggest

that Governments in the region should not step up to the plate. Instead, they have stepped up with the sum of US \$100 million. This is because all of the Governments that have signed the agreement have recognised the historic importance of the decision which they are taking and the implications, not only for the sovereignty of the countries but for the region as a whole.

We believe we should have the ability to make justice accessible at an affordable cost to our people. What do I mean by that? Let us use Barbados as an example. I do not believe that we have had more than 12 cases to the Judicial Committee of the Privy Council in any one year for the last 10 years and the cases which go, the majority are capital cases. Very few civil cases go and, on occasion, some constitutional cases would go. Therefore, for the majority of litigants, the final Court of Appeal has been, in effect, that on Coleridge Street. We are now saying that for a range of matters, our citizens could have realistic, affordable and actual access to another layer that has effectively been denied to them because of the cost of being able to go to that next layer.

Mr. Speaker, there were concerns also expressed about the independence of the judiciary. I want to say clearly that I do not believe there is any cause for concern on the part of the Caribbean people, as to the quality of persons who would comprise the Bench of a Caribbean Court of Justice.

I am satisfied that the process for the establishment of the Regional Judicial Legal Services Commission, which is the body responsible for the appointment of all judges, with the exception of the President, is sufficiently diversified and broad that we will guarantee transparency in the selection process.

I want to say at the outset that the measurement for persons who would qualify to sit as judges are persons who have either sat as judges of unlimited jurisdiction for over five years or persons who have distinguished themselves in the practice or teaching of law for a period in excess of 15 years. One of the measurements is that they should be within either the Caribbean countries or the Commonwealth. Therefore, it is conceivable that not all of the judges might be Caribbean judges, although I believe that the quality of persons practising the law within this region have the capacity to sit with the highest integrity as judges in that Court of Appeal.

Mr. Speaker, I believe in particular that the injunction of Socrates will inform them to hear courteously, to answer wisely, to consider soberly and to decide impartially. Therefore, I have no fear on that but let us be clear that there are those who doubt themselves so much that they would want us to continue relating to a court outside of the geographical boundaries of this region; a court that may one

day tell us that we have to go, that we have been there too long. We seem to believe that we are the only ones who can say let us go but they have the right to tell us to go too, especially since we want to assert our independence. What would we do then? I can find no better phrase than that used by the Right Excellent Errol Barrow, who, while discussing the issue of Independence said that we must stop loitering on colonial premises.

Mr. Speaker, that is in essence what this Debate is about today. It is, in fact, commencing the second phrase of our Independence process. There are some who may regret that it has taken 36 years to come but it is upon us. I trust that this Parliament would speak in unison, whether in this Chamber or in the Other Place, on this defining act of Independence in respect of our judiciary.

Mr. Speaker, I want to take the opportunity to brief the House on some of the key elements of the structure and the provisions establishing the court. The court, as you have heard on many occasions before, would be a court both of original jurisdiction and appellate jurisdiction.
5.00 p.m.

Its appellant jurisdiction for us emanates from the fact that it will be the final Court of Appeal of Barbados. Appeals will lie from our Court of Appeal in some instances as a right when they relate to constitutional matters, when they relate to civil matters over a certain value or when they relate to capital matters. In other instances it will be available with the leave of the Court of Appeal particularly when it believes that it is a matter of great general or public importance that merits consideration by the final Court of Appeal of the land. It will also be a court of original jurisdiction seeking to interpret measures pertaining to the revised Treaty of Chaguaramas which establishes the Caribbean Community including the Caribbean Single Market and Economy.

Mr. Speaker, as a Government we have spoken to these issues on many occasions because once you have a common treaty and community there must be a dispute settlement mechanism. There must be an entity that can resolve disputes between contracting parties to the Revised Treaty of Chaguaramas, between contracting parties to the agreement of the court itself and it should be noted that individual citizens can also bring matters before the court in its original jurisdiction, on matters that pertain to benefits that ought to have been conferred on citizens as a result of the Treaty, on matters pertaining to prejudices that may have been experienced as a result of the Treaty, forms of discrimination and generally on matters pertaining to how the Treaty relates to individuals.

The Caribbean Court of Justice will have original jurisdiction to hear matters from an individual person or an individual company. This is a significant point that

is going to require substantial public education because if you are conferring new rights upon persons once the Revised Treaty of Chaguaramas becomes the law of this land by an Act of Parliament then it will confer rights and benefits upon different categories of persons who will upon the inauguration of the court have a right to carry the matter straight to the court. It will also act as an appellant court from our court in relation to matters which go before it in that regard.

The court shall be comprised of a President and nine other judges. The President will be appointed by the Heads of Government after consultation and the nine other judges will be appointed by the Regional Judicial and Legal Services Commission. The composition of that Commission bears repetition in this debate. The President shall be the Chairman of the Commission. Two persons nominated jointly by the Organisation of Commonwealth Bar Association better known as OCBA and the OECS Bar Association. A Chairman of the Judicial Services Commission of one of the countries but the first one will start in the English alphabetical order and then a Chairman of a Public Service Commission starting in reverse alphabetical order of those countries which are signatories and have ratified the agreement.

Two persons from civil society nominated jointly by the Secretary General of CARICOM and the Director General of the OECS and two distinguished jurists nominated jointly by the Dean of the Faculty of Law of the University of the West Indies, the Deans of the Faculty of Law of any other universities within the region. Of course, we have the University of Guyana and the Chairman of the Council of Legal Education. They will consult and recommend two jurists. Then there will be two persons nominated jointly by the Bar or the Law Associations of all the countries that have ratified the agreement.

Mr. Speaker, that is as broad based a commission as you could ever want. Persons who have the right to appoint are effectively either legal institutions, the Bar, the persons in charge of CARICOM or OECS and what is left for Heads of Government to appoint is effectively only one post, that of the President, who can easily be outnumbered in any vote. We have, therefore, satisfied the concerns of insulation of the commission such that it is not viewed as stepping over political boundaries in respect of the appointment of the judges of the court although in each of our jurisdiction, the heads of our judiciary are appointed by the political directorate.

The only thing we need to do to fail as a region is not to believe in ourselves. We must not have the types of doubts that will cause us to remain steadfast in our tracks and not to advance as a region.

Mr. Speaker, the agreement also provides for the fact that while the court will have a permanent headquarters, in this instance the Government of Trinidad and Tobago have offered to accommodate the court, that the court may travel. I spoke earlier on about justice being accessible at an affordable rate and it takes on a completely different meaning because the court will be itinerant. In effect, Article 3 of the Agreement states that as circumstances may warrant the court may sit in the territory of any other contracting party.

We look forward to the day when the court will be sitting in Barbados, Jamaica or St. Lucia, when the court has the capacity to come to us instead of us having to go to them as we had to do with London. You will appreciate that the costs associated with having to travel to London as opposed to having to go to Coleridge Street are of fundamental and significant difference.

I believe this will assist in helping us to attain our objective for justice to be brought to the ordinary man and woman in this country.

It also is our intention to be able to conduct even more public education in relation to the court because there is no use the court coming to you because people have to know their rights, what the law allows and what the court through its rules allow. While there may be lawyers that can help in the process I believe that citizens have a right to a certain level of information that can allow them to at least make basic decisions.
5.10 p.m.

I believe, Mr. Speaker, that the public may be aware that over the course of the last two years, we have spent considerable sums of money through the staging of seminars and public education programmes on the media, to ensure that the Caribbean public recognises elements of what we are trying to do with the establishment of this court.

Sir, we recognise that even with that, the process will be a continuing one for sometime because that is just the nature of how you treat the creation of new institutions because it has to become part and parcel of the cultural landscape before it is fully accepted.

I should say to you also, Mr. Speaker, that the agreement specially provides that three of the nine judges and the president must be persons who have specialised specifically in international law or international trade law. This is clearly to be able to help it to deal with the original jurisdiction, particularly in the interpretation of the Treaty and in the interpretation of community law. That may raise other questions which may be better dealt with under another Bill that is coming before us today, establishing the revised Treaty of Chaguaramas as part of our law. But suffice it to

say that we are going to have urgently to treat to the issue as to what is the appropriate entity that can make treaty law or are we going to have to come back to each and every one of these countries through their Parliament separately, in order to be able to develop the framework that will govern the Single Market and Economy and indeed the relations between citizens and entities in the region.

Mr. Speaker, I do not intend to detain the House long today, but I simply just want to make the point that there is a role that the judges will play in educating the Caribbean public through the interpretation of the Constitution and through the rendering of their judgments. Sir, that role is as important as what we say and do in this Parliament, in understanding the governance of our countries and an understanding, Mr. Speaker, of how we continue to advance that system of governance.

They will, no doubt, have a significant role to play in the constitutional reform exercises, that in my view, will take place in almost every Caribbean country, on what I call the second generation, the second phase of Independence. We can do it with a Sitting Caribbean Court helping us to reflect on the obligations and the responsibilities imposed upon us as citizens, are things that we should welcome. Because we know then, that they will not have a doctrinal disposition that will be motivated by values and mores that are alien to the people of this region.

I believe, Mr. Speaker, that we have a fundamental responsibility to the people of this nation and to those who will come to ensure that elements of our governance are as reflective of our personality, and identity, as is possible. If I were to reflect on the motto of the original federal compact, namely, to dwell together in unity, then, it would seem to me that this institution would be to the region what the University of the West Indies has already done. I daresay what the West Indies' Cricket Team barring recent performance, would otherwise have been. It will allow us to contemplate a future and to develop an imagination that is reflective of whom we are, rather than one that is inspired by the colonial experiences.

I can find no better way to end this debate today, Sir, than quoting, as Sir Fred Philips did in his recent book, *Freedom in the Caribbean*, from the felicitous words of **Gerald Montes de Oca**, a West Indian who, indeed, was committed to the integration process, when he said,

“He was poet, painter, lover,
He was master, sculptor too,
He never, ever tired when faced work he had to do
He was peerless, princely, priceless,
With unbounding zest for living from Herculean depths
He lavished all his priceless thirst for giving.”

“Sir, on his last night on earth, he picked Jasmines as he strolled and then dining with his friends, rang his laughter clear as gold. Then his gallant lusty troubadours sang his last most rousing song, before painting on his canvas, through the predawn hours long.”

“Can West Indians match this ardour, can they find a kindred zeal, so that somewhere, somehow, sometime, they might right their vessels' keel? Can they learn that work, unflinchingly, sweated brow and honest toil are the one necessity to produce a fertile soil? Can they turn their backs on leisure, as Pablo turned his back on Spain, seek to make their islands stronger, less they be plundered once again? Can we turn our blue Caribbean where our fore bearers lived as slaves, into pathways proud with purpose where we all can live braves?”

Mr. Speaker, I believe that the Caribbean Court of Justice will help all Caribbean people, to contemplate one day, the existence again, of a Caribbean nation. If this step today brings us closer to that reality, then that will be the ultimate prize, but if in not attaining that reality, it can afford the average man and woman of this country, the confidence that legal justice in our part of the world is akin to social justice, then we too would have attained and achieved the objective that we set out to do today.

Mr. Speaker, I am obliged to you.

Mr. D. J. H. THOMPSON: Mr. Speaker, I will be very brief. I speak from the point of view that I do not think my Party has expressed any reservations or any opposition to the establishment of the Caribbean Court of Justice. I think on previous occasions in this Chamber, even when our numbers were larger, that we spoke in support of efforts to get the process of the Caribbean Single Market and Economy going, and that obviously would have required, the establishment of conflict resolution mechanisms, as well as a court which had the jurisdiction to deal with disputes under the Treaty.

It will be well nigh impossible for us to proceed at all any further, without having such an institution in place. Having said all of that, I would say that much of the criticism that has been directed at the court's establishment from outside of the Caribbean, originated from unfortunate statements made by persons who purported to be in the know, and some who were actually in the know, including the current Chief Justice of Barbados and former Attorney General, who in a fix of political exuberance, often truncated a full expression of the ideal of a Caribbean Court of Justice but that has always been his want.

Sir, the Honourable Member for St. Michael North East sought to place the Caribbean Court of Justice at a much higher status, a more idealistic approach to its

existence, one with which I would support, both on the philosophy of establishing it and also on the basis that not only in that area, but in several other areas. We need to move beyond the words and establish the institutions and get them up and running.

5.20 p.m.

We also have to recognise that you have to adopt the Gamaliel policy from time to time and see how the institution is functioning first because all of the idealism with which we establish it, as was the case with CARICOM and the idealism that attended its establishment, and our independence and the idealism and the enthusiasm that supported that initiative, sometimes take a long period before the institutions work in a relevant and satisfactory way in the interest of the people. So even though we may have ideals, it is also possible that those ideals may be shortchanged by teething problems and other issues that will arise. We need to be practical about the potential for those kinds of things to happen and to prepare ourselves for them because having regard to the history of the Caribbean region, you cannot point to that many organisations established in a spirit of idealism and also in a practical sense which have survived the pressures of financing, of staffing and even of local domestic partisan politics, all of which have had their impact on those institutions from time to time.

We must be careful in establishing the Caribbean Court of Justice that we do not pull back from ensuring that we establish an institution of the highest standard, insulated not only from political pressure in the sense of the influence of politicians, but also insulated from the kind of criticism particularly where it is justified that gives the impression that the institution is not, at the end of the day, independently and impartially serving the interest of the people and that the persons who are appointed to it do not feel in any way that they owe anything to those who appoint them. Since it has nothing to do with politicians in terms of the actual appointment, it may be other persons who they feel obliged to defend and support. So we have to be practical and set up the institution in the best way possible.

I have not heard the kind of explanation of its existence in Barbados that I have heard today. I think we fell far short of the mark in explaining to people why we needed it. It was always put over against a background of concerns about the Judicial Committee of the Privy Council.

Asides.

Mr. D. J. H. THOMPSON: Yes, we have concerns about them having an impact on social justice in the Caribbean, but that cannot be the only basis on which we are establishing a Caribbean Court of Justice. The very CARICOM project alone which has nothing to do with the Judicial Committee of the Privy Council in England is justification enough. Even if you started there and over time

build an institution – you cannot do it now, it is too late – but even if we had that and were moving to that stage, that in itself would be sufficient justification. So this is a project that has taken a long time in coming. I am glad that the technocrats in CARICOM as well as the other persons involved in the process have identified solutions to the way in which this Court can be set up so that it will not be underfunded and so that appointments can be insulated from individual territorial pressure and that we can find a way to work together as a region to the advantage of all of our people.

Even in adopting the Gamaliel policy you may find that an institution may fall short from time to time. We have had disappointments in the West Indies cricket team, we have had disappointments at the University of the West Indies and we have had disappointments in many regional institutions, but overall as long as the persons involved in the process are committed to those ideals, I believe it can work. It is in that sense that it cannot but attract the support of the vast majority of people in the Caribbean.

As I said, I hope that its existence would find a firmer footing in Barbados than it has had so far which in itself has led to criticisms inside and outside of the region that it is viewed as a court being put in place to reverse the trends by the Judicial Committee of the Privy Council in relation to cases involving the death penalty. That criticism to some extent is sticking and we need right away to work on ensuring that our court is not established on that basis and that we can identify very clear and cogent reasons for its existence and that collectively we can mark it and articulate those views to our people.

I thank you.

Mr. T. A. PRESCOD: Mr. Speaker, I just want to speak on this matter of Caribbean jurisprudence although I cannot speak as a specialist as the two previous Honourable Members who spoke. Being attorneys-at-law obviously they will understand the perspective of the law and the instruments that are responsible in the circumstances.

I want to compliment the Honourable Attorney-General especially as a consequence of the explanations that were given which were relatively explicit. I am little concerned about the lack of knowledge in the public domain in relation to the importance of the Caribbean Court of Appeal.

Sir, one of the fears which I have is that Caribbean people seem not to have reached the level of cultural maturity to have respect for the new formations in the new institutions within the Caribbean, in the same manner in which they had and have respect for the institutions which derive out of a colonial birth.

I believe that we have to be concerned with the level of consciousness of our people. Therefore, it is an imperative that in the introduction of these new formations especially at the level of the judiciary that we ensure that the confidence of the Caribbean people exists in the establishment of these particular institutions.

There are on the streets of this small country, in the rum shop and underneath the tamarind tree, lots of questions in relation to the nature of the Caribbean Court of Appeal. Whether Caribbean people can conduct such an institution without having the ordinary people in the street being suspicious of the institution or whether justice will be derived as a consequence of the establishment of the institution, are some of the questions that need to be answered.

5.30 p.m.

We cannot answer all of them here but I am making a call for a public educational programme, using electronic media, spending more time in the schools and churches and in the various institutions so people understand the importance of the change from Judicial Committee of the Privy Council. This is not as a consequence of the rulings coming out of the Judicial Committee of the Privy Council but as a clear indication that the Caribbean people are moving towards a new level of cultural consciousness and have taken it to the level of the Caribbean jurisprudence at this point.

We have spoken about sovereignty and of independence but if the legal instruments and the administration of those legal instruments could only function with any credibility, providing that they are linked to the colonial masters, then something is wrong with the psyche of the people who are responsible for administering the affairs of state.

We have reached a level at present where we are boasting about our education, that we should be proud to know that Caribbean people can set up their own institution and have confidence in those institutions to administer the affairs of this country and to give justice at the end of the day. I think all the debates, even among attorneys-at-law, point directly to that fundamental point. Can we have the same judgments? Although we are saying the Judicial Committee of the Privy Council is not making decisions that are not as reasonable as they ought to be, attorneys in their private conversations indicate their reservations on whether the new court could be assured that reasonable decisions would come out of the Caribbean Court of Appeal. This is because of the lack of consciousness and maturity. These are realities and we have to face them.

Therefore, I would hope that as a consequence of the reputation of the persons who would be appointed as judges

and because of the assurance that they would give, that there is no fear amongst the professional class and moreso, no fears amongst those who would have to seek the assistance of the Court of Appeal in order to bring justice to their concerns.

I would hope that some of the concerns and answers would be highlighted more and more by the Attorney-General and those persons who are responsible and who are considered to be legal luminaries in this area of concern.

I hope that we would see at least clear and logical reasons being given for the *ratio decidendi* and the *obiter dictum* which derive from decisions of the court.

Sir, I am looking forward to seeing these new formations in the Caribbean arrangements working in the most fruitful way for the common good of the Caribbean people. That is my small contribution to this debate.

Hon. N. A. LYNCH: Mr. Speaker, in my own way, this is a short intervention to bring a different slant to this debate, which I consider to be a rather critical and important one in the history of our development in this country.

First of all, my commendations and congratulations to the learned Attorney General and to the Government. Sir, I believe this is an historic moment in our Parliamentary life and, indeed, in the development of our nation. I think it is, for me, certainly a proud moment to be a lawmaker at the passing of such a ground-breaking piece of legislation, which I believe would be around, to which people would make reference for many years to come.

Sir, though the debate on the surface seems to be one that is couched in a legal sense, I believe this is much more than that. It might be more of our sociological and collective psychological development as a nation, as it is about our jurisprudence. I believe this initiative is critically important to our development as some of the other ground-breaking pieces of legislation that might have been passed in this Parliament.

Sir, constitutional arrangements such as independence were fundamentally ground-breaking and serious in terms of the development of our nation. I believe this legislation goes a long way towards completing the process of our independence as a people in Barbados.

I believe that at that time, it might have been misunderstood but we now acknowledge it to be the right thing to have been done and that it was the best thing for our development. I believe that this step, out of ignorance in some ways, is really misunderstood and commented upon in many circles in the realm of ignorance.

I have heard some persons argue that this is a strange step and that it might be more prudent than fear to have one's final Court of Appeal be judged by those who are totally disconnected from the issue and not connected to what is going on within the jurisdiction.

I have heard persons making reference to issues such as hanging and capital punishment. I strongly disagree with both notions. In my opinion, the issues that relate to justice, by their very nature, must be about the sociological impact of the law. They should not be just about following an exact set of procedures but also about the sociological impact of how things are done.

Sir, when I was in the university, I had the opportunity of being a student of Immanuel Kant. I was much driven by the concept that law in essence is a sociological institution and was created by both the experience and conscious acts. The social purposes of the law, in essence, are more important than sanctions, therefore, it is important. What better way of ensuring the same than by having the law grounded in a cultural context?

Sir, I find it strange that in a world of globalisation and one in which we need to create a different type of Barbadian and Caribbean citizen and in which we must proceed much more surefooted than we have ever done in the past, that we do not see the vital importance of having our last Court of Appeal and the concepts of justice being dispensed by those who not only look like us but who are grounded culturally in the things that we do on a daily basis.

Therefore, this Act like the issue such as our Head of State, is fundamentally important to being able to complete our independence as a country, to complete our individual independence as Barbadians but also in a collective sense, to be able to get the right type of psychological grounding to take us into becoming a developed society.
5.40 p.m.

Therefore, these Acts are symbolic of who we need to be and what we need to become in terms of practicality and pragmatism. These are fundamental Acts that deals with psyche of our people in as much as it deals with issues relating to passing and making laws, hanging and the like. These are more important that we sometimes give credit to.

The institutions that we create in the next decade must inspire confidence in our people. It is important that they are about being sure that the people of Barbados and the region emerge within an age of globalization and what you do individually will be important, there are a set of principles that you easily relate to.

It must be a difficult thing within a society that is class conscious to have to deal on a daily basis with issues of

uncertainty about who you are as a people, where you are going, in what set you are compartmentalised and not being able to go about your daily business with a sense of confidence about who you are and that all the institutions relate to that. I believe it is more than important that this step be taken at this time in this development.

I agree with the Honourable Member for St. Michael East that what is necessary for Barbadians to complete the step is to have a clear understanding of what this particular Act is all about because much ignorance surrounds the whole issue of the final court. Not only about the legal aspect of it but being able, through the media to have a relationship with the people that will go a long way in terms of explaining all of the issues relating to this court.

I believe that much of what is said in the society about this Act in terms of negativity is because people do not understand the sense and purpose of the Act.

This is an important step in terms of our development as a people and one that I want to commend to all the people of Barbados and the region. As the Attorney General said, it is about the perception of our sovereignty and individual about our development as a people. This is one of a continuum of Acts that we need to put in place in order to complete our independence as a people.

Sir, I am obliged to you.

Hon. Miss H. E. THOMPSON: Mr. Speaker, I wish to make a brief intervention, congratulating the Honourable Member for St. Michael North East, our learned Attorney General of Barbados on this measure. When I came to the study of law I could not help but be amazed that in a matter as fundamental as this we retained a right of appeal to a foreign entity. I could not understand it in the context of our national sovereignty. I could not understand it in the acts of 1966 where we sought to develop a Constitution to govern ourselves, where we adopted symbols of nationalisation like the anthem and flag and where we tried to develop things Barbadian, how on a matter as fundamental as the application of the rule of law and the governance of a society we could have let a foreign entity from which we sought to break the colonial link retain control.

While I commend and support all of the rationale given by the Honourable Member for St. Michael North East in respect of this matter, it rests for me on two fundamental considerations. At this point of our social and political history, are we still prepared as a people to say that as part of our national governance when it comes to matters relating to criminal cases, where there is a right of appeal with leave to the Privy Council and on a matter of civil cases, where any matter value 500 pounds sterling or more can be taken to the Privy Council, where on issues relative to law and order and

social justice, we are prepared to vest our solutions and guidance with the colonial powers at this case.

If you frame it that way, you will begin to recognise that something has to be fundamentally wrong. The way law operates in any society is fundamental to the structure of that society. The relationship of man to man, the relationship of man to the institutions of society and the relationship of man to the society itself rely on the principles of law.

In the Caribbean we have used law for social engineering. If we want to take ownership of this society then we have to exhibit confidence in ourselves to solve our own legal matter and accept that the right of appeal at the highest level must be to ourselves, that we have an understanding in the Caribbean of what our social justice should do, that we are able to take control not only of the emblems of state but of the regulation of all matters relating to the state and its citizens.

So fundamental to the issue of sovereignty is the question of who is and will be our head of state, on whom and to whom will rest the final right of appeal. Until we resolve these issues, the reality is that we are continuing to give our sovereignty to the former colonial masters. Insofar as we are making that concession then they will continue to be our masters rather than we being masters of ourselves. In my mind, the resolution of the issue of sovereignty takes place today certainly in respect of matters of law. There is yet one final matter on the issue of sovereignty yet to be resolved.

I hope that as I stand here in this historical movement and participate in this process of fundamental change that would return yet to this Chamber and participate in a process which does sever the final ties that constrain us in respect of matters of sovereignty and self-governance.

The second issue relevant to the importance of this court was mentioned by the Honourable Member for St. Michael South. It has to do with the whole question of the role of law in society. Recently, the respect of the average individual and the man in the street had been raised because of the decisions made by the Privy Council in respect of hanging and for them the debate on a Caribbean Court does not turn on issues of sovereignty or finance or anything else but turns on whether in the Caribbean we will hang people or not. Sir, we have to understand that this is part of the social reality with which we have to deal. The man in the street feels that the Caribbean Court will give them justice because they equate justice and hanging. It is critical therefore for us to recognize, and I do not think many people do, that with a right of appeal to the Privy Council, every time a case goes up the appeal ladder and there is a process, the chance of success diminishes. So that often cases go to the Privy Council but you would find that only a small percentage of

those cases which go to the Privy Council result in the favour of the accused.

5.50 p.m.

Sir, what we saw recently with the decisions of the Privy Council relative to hanging really in my view is one of the most powerful arguments of why we need a Caribbean Court of Justice. The reality is that a court which is eight hours plane ride away from a society does not understand the cultural values and mores of the society. It does not understand the man in the street. So that when it sees on record that a black belly sheep was behaving in a particular way, it does not know what you are talking about. It is so disconnected from the culture of the Caribbean. One cannot make an effective decision, in my view, about a society with which you have very little connection or on whose shores you have never stood, whose land you have never seen except perhaps on television or with which you have had little connection outside of one week or two weeks holiday. That was part of the challenge, in my view, with having the Privy Council as our final Court of Appeal. It is the disconnection between the society and those seeking to deliver justice to the society.

Sir, the people in Trinidad and Guyana understand kidnapping and murder in a way that people sitting on the Privy Council do not. The people who live in Barbados understand that fear is generated in the society when someone is shot at randomly. This would stop Mrs. Bishop and all the other little old ladies from going to church at night. It makes people afraid to go to the bus stop. Crime in a small society can terrorise a society in a way that it does not terrorise somebody who lives in a big country who sees crime only as statistics, because the real crime may be far removed from their home. A person who knows that Reed Street is really not that far from Prior Park or that Haynesville and Prior Park really are within a stone's throw from each other, understands the culture and texture of the challenges that the people in the society are facing.

Sir, a court must reflect that society. It must be part of the bosom of that society. It is in fact to give good guidance because law does not operate at the level of theory or the textbook. Law operates at the level of the society, so the people who give justice must be part of that society and they must understand it.

We have experienced this disconnection between law and society before in different ways. We have on our statute books laws inherited from the United Kingdom that spoke about bastardy in a society where 76 per cent of people were born out of wedlock. So they are bastardising a whole society and that is the danger again of having a court or a justice system that is removed from the society that it is attempting to rate. You cannot have 76 per cent of people who were born out of wedlock and have legislation on the statute books that talks about bastardy. You are really stigmatising a whole society.

Sir, a person born in England cannot see a common-law union or a person born out of wedlock in the same context that we would see them here as part of our culture in the Caribbean. Hence, if they have to make a pronouncement on it, they cannot make the same kind of pronouncement as a person who has lived that social experience would make. The same thing applies to crime and, in fact, it applies to all other issues of law. Law is about the regulation of the society and the people in it. You can best do this regulatory process when you are part of the society.

Sir, for me those are the two issues. Are we going for our sovereignty in respect of a right to regulate ourselves? Secondly, are we going to accept that our own Court of Appeal must be a court of ourselves who understand the society and the culture from which the decisions and cases emanate? Part of the irony of retaining the Privy Council as the final Court of Appeal can be seen in the fact that we have our own University of the West Indies, Law School, jurists in the Caribbean who are recognised as some of the most eminent in the world. We have persons of the level of the representative for Christ Church West who sits on the International Court of Justice. We also have people at the level of the Honourable Oliver Jackman. All of these persons sit on international law bodies and make decisions on other people all over the world. Yet, by not having our own Court of Appeal at that level we were saying to them by implication that they were not good enough to make judgment about us as a people.

Sir, we have all these well-trained jurists all over the Caribbean whose decisions are appealed against people in England and yet in many cases when we read the judgments a flaw cannot be found in the decisions of the Caribbean jurists. I am not saying that the decisions of the Caribbean jurists have not been overturned. Of course, they have but that does not mean that a Caribbean Court of Appeal would not have taken the same decision as that of the Privy Council. We must not be afraid of taking this step towards self-governance on matters of law.

I am very glad, Sir, that the Honourable Member for St. Michael North East in her presentation was so frank because many people have been concerned about a number of issues and she spoke to them. One, the financial sustainability. I must tell you, Sir, that was my greatest fear because the reality is that the Caribbean has been consistent in its support of nothing. The University of the West Indies which is our most training institution in the Caribbean is owed money by Caribbean governments. Every regional institution from agriculture, environment and to every other subject area is owed money by the governments of the Caribbean countries.

6.00 p.m.

Sir, every regional institution from agriculture to the environment and every subject area is owed money by the

Governments of the West Indies or by the Caribbean countries, including regional airlines. Everybody is owed money by the Caribbean Governments. I am glad to see that, cognizant of our weakness in this regard, the framers of the legislation have taken steps to ensure that the Court does not fall prey to the weakness of Caribbean Governments, not to support regional institutions faithfully.

It would have been a disgrace to see the Caribbean Court of Justice collapsing for want of financing, and addressing that issue was one of the critical ones for the success of the court. I trust that Caribbean Governments would Honour the arrangements which have been put in place. Otherwise, we would come in this matter of jurisprudence to a very sorry past.

Again, concerns were raised about an old boy's network, the quality of decision and compromise of the judiciary by the political directorate all over the Caribbean, because, let us face it, there have been certain challenges in some places.

Sir, I believe that we have, within us, the ability to let the Caribbean Court of Justice function in the way that it should. I also believe that there are legal scholars and jurists in the Caribbean, who will want to first populate the court and therefore to define its character and its future.

Sir, those persons who sit on this court and form the first judges of the court will have a difficult and historical role. They will determine its failure or its success because people will be looking to the quality of their decisions. People will be looking to the manner in which they conduct themselves to make a decision about whether the court is a serious one, or whether it is akin to a banana court, a kangaroo court, since the Aussies are in town, we can talk about a kangaroo court, I support, or a court that we do not treat with any degree of seriousness.

Asides.

Hon. Miss H. E. THOMPSON: I am one of those persons who believe that Caribbean people have served with distinction all the over the world and that we will rise to the occasion, our jurists will rise to the occasion for this court to be the flagship Caribbean institution, which it needs to become.

Because ultimately the man in the street, the man in Haynesville, the man on the ZR van going to the Pine at this moment, the man walking in the Bayland, the man on the Four Roads Minibus, the man who is heading on to Blenheim now to dumb football, they are the people who must have confidence in the Caribbean Court of Justice. They must feel that when they have an issue with a fellow citizen and their matter is referred to the Court of Appeal of the Caribbean that they can get justice.

Caribbean people must feel confident about the court and they can only do so if it is insulated from political interference, if we chose jurists of the highest quality and ignore the old boy network. Sir, there is an old boy network operating at a very high level in the Caribbean. I think that is perhaps true all over the world.

In the United States of America, it might be those who meet on the Green, who make certain decisions. You know, you have the school time kinships and so on but this Caribbean Court of Justice must be a court in which jurists of the highest standard, of the best traditions of jurisprudence and the finest intellects of the Caribbean, must sit and affect justice between individuals.

There will be, I am sure, in the course of the next few weeks and few months, many issues to get iron out because in conceptualisation and implementation, one always finds that there is some issue that has not been thoroughly addressed or adequately dealt with, but I would hope that the Caribbean countries and those charged in the Caribbean with responsibility for overseeing the establishment of the court, will work with one another to help to create the kind of institution of which this region can be proud. Also, to free it of the speculation and some of the worse kinds of allegations that have attended the arguments of those who do not support its establishment.

Sir, we pass legislation in this Chamber all the time, that does all kinds of things but there are not many occasions on which we fundamentally change history. This, Sir, is one of those occasions where we fundamentally change history, where we will fundamentally change how the rule of law is dispensed in the Caribbean. I believe that we are making a change, Sir, for the better and I am really very fortunate to have been a part of this historical moment.

I am much obliged to you, Sir.

Mr. SPEAKER left the Chair and Mr. DEPUTY SPEAKER resumed the Chair.

Hon. R. C. EASTMOND: Mr. Deputy Speaker, I must confess that initially I had not proposed to intervene in this debate but the quality of the last three speeches being what such quality has been, has more or less drawn me out.

Mr. Deputy Speaker, I always had reservations, having learnt that we became Independent in 1966, in respect of how come we were granted an anthem, and a flag and was given full responsibility for our external affairs and such like and yet, two institutions which were non-envision and which smacked of the old Colonial Order, still persisted.

What I am saying, Mr. Deputy Speaker, is that in my respectful view, even though we attained Independence in 1966, the existence of the Monarchy, as constitutional and titular head of Barbados, as well as the existence of the

Judicial Committee of the Privy Council as the final Court of Appeal, in my view suggested that the process of decolonisation had not been completed.

I want to repeat that point, a point brilliantly made by the speaker who just sat. How true can it be, Mr. Deputy Speaker, that the process of decolonisation has been consummated when two major institutions, namely the Monarchy and the Judicial Committee of the Privy Council could still assert themselves as holding pivotal places in our Independence Constitution.

Mr. Deputy Speaker, I must say that within the discipline of jurisprudence and by jurisprudence, I mean legal theory, there are those who speak to this whole question of the connection between the culture and the legal system, a point made by the Honourable Member for St. Michael East.

The legal philosopher, Savigny indicated that ultimately, the law and the legal system must reflect the voice piece, the spirit of the people.

Mr. Deputy Speaker, to have a foreign court, foreignly constituted preside over a culture and a quality unpronounced could very well lead to decisions, more reflective of the quality in which such a foreign court functions, than the actual quality over which the decisions will be handed down. 6.10 p.m.

For example, in the famous case of Thorne versus Redman here in Barbados, the court had to adjudicate as to the meaning of the word blackguard. We in Barbados use the word blackguard and we know and understand what blackguard means. Unfortunately, that case did not go before the Judicial Committee of the Privy Council for them to impart or impose an English definition on blackguard. In that case Thorne versus Redman in Barbados, it was held that to blackguard somebody in Barbados is to equate that persons with the dreads of society.

One lawyer commenting on that case sought to suggest that the word blackguard was a kind of poor man's libel, but a Barbadian court reflecting the spirit of our culture, held in the context of Barbadian culture and Barbadian language, that blackguard meant to equate a person with the dreads of society. I am happy that the Judicial Committee of the Privy Council did not had to adjudicate on the meaning of that word. The word blackguard is still in our law. It appears in the Highway Act. In the Highway Act, it says that it is an offence to blackguard somebody on the highway or on the road.

Mr. Deputy Speaker, I agree with the view that where a culture is sufficiently mature to be sure of itself, then it has to take charge of all of the major institutions within that culture and within that polity.

Mr. Deputy Speaker, we can also use the benefit of empiricism to booster arguments in favour of a Caribbean Court of Appeal. Empiricism has shown, in very real cases, that the decisions by the Judicial Committee of the Privy Council in civil cases differ from the decisions of the courts in the West Indies. In fact, to divert a bit, there are Honourable Members in here who have to be reminded that that country formally British Guiana broke from the Judicial Committee of the Privy Council and their judicial system has not been compromised in consequence. Guyana, a place that can boast of outstanding jurists broke free of the Judicial Committee of the Privy Council without regret and the decisions handed down in the Guyanese Courts, whether in civil cases or in criminal cases, have sometimes even been remarked upon with favour by judges of the Judicial Committee of the Privy Council.

Mr. Deputy Speaker, in this world there are several independent nations. I will not enter into the debate as to whether some cultures strive to bring themselves in clashes or conflict with other cultures with the aim of taking them over. Let us assume that each country has its own distinctive culture, we can then invoke the words of another legal theorist, a man called Hans Kelson who spoke of a situation where in each culture there is a thing called the ground norm. Clearly, Mr. Deputy Speaker, if Britain, England and Barbados differ, the ground norms of Britain and Barbados must be different. The ground norm of Britain saw them legalising homosexuality, but such a ground norm here would hardly favour such an introduction or a reform of the law in that direction.

Mr. Deputy Speaker, the norms of this Barbados as far as our legal system is concerned, as said by Hans Kelson, seem to all spring out of the ground norms. Some people say that our ground norm is our written and certain constitution, a document, with which we are going to have to do something today to accommodate this particular transformation in the law.

Kelson was of the view that where you have polity 'A' and culture 'A', polity 'B' and culture 'B' and polity 'C' and culture 'C' that each of those had their own distinctive standards coming out of a basic fundamental norm out of which all other norms are sprung and all other norms owe their existence to this.

Mr. Deputy Speaker, in recent times the attitude and conduct of the Judicial Committee of the Privy Council have, as I indicated particularly in civil cases, not differ. It is only if very serious issues were at stake would you get a difference. For example, the Don Blackman case, is a case we can use coming from this jurisdiction which went to the Judicial Committee of the Privy Council and a learned decision was handed down in favour of our principle which

again if you take into account our culture and our norms, we might shudder very much to want to accept. One of the principles emerging out of the Don Blackman case was that Cabinet decisions are subject to judicial review. Before this case, Cabinet deliberations were considered to be very confidential and almost sacrosanct, but the Don Blackman case laid down by the Judicial Committee of the Privy Council indicates that Cabinet decisions are now reviewable. I trust that such a case would stand alone and trust that we could get back to the types of norms to inform our *modus operandi* in Government before that case.

Mr. Deputy Speaker, there have been litigants from the Caribbean who have taken their cases to the Judicial Committee of the Privy Council who found that the cost in doing so was prohibitive. There is the case of Indel Thomas, a Tobagonian policeman, who face disciplinary proceedings in Trinidad and Tobago and who wanted a ruling that public officers have a constitutional protection so long as they are appointed. Such a ruling came and 20 years after that case the litigant who lost the case was still paying court cost to the Judicial Committee of the Privy Council.

The cost in civil cases of going to the Judicial Committee of the Privy Council are frightening and are prohibitive. There are a couple cases in our legal system that went as far as our local Court of Appeal which if our local Court of Appeal had resided in England would no doubt have gone to the House of Lords because of the relative cheapness in taking a case from the English Court of Appeal to the English House of Lords, but when litigants – and this is a very important point – who really wanted to hear the opinion of the final court, resident in England, realised the risk they were running of incurring enormous cost without any guarantee of victory, they backed down. So it is possible then that logically speaking an argument can be made out that the distance of the Judicial Committee of the Privy Council from Barbados and the concomitant cost of all that have deterred Caribbean litigants, so rather than prosecuting and pursuing their cases to the ultimate end, they stop short because of that disincentive which originated out of the whole thing of cost to go.

6.20 p.m.

Mr. Deputy Speaker, it is a fact that **Endell Thomas** who is still alive can say that he took a case to the Judicial Committee of the Privy Council and won a pivot victory where a ruling was laid down that public officers who are appointed, cannot be dismissible at pleasure. Lord Justice Diplock delivered judgment in that case and I do agree and concur with that judgment.

In that case it took the litigants over 20 years to pay court cost and, therefore, when word of that spread, many a prospective litigant, wishing to go to the Judicial Committee of the Privy Council did not go.

Another thing is that though counsels and lawyers based in the Caribbean have rights to an audience before the Privy Council, counsels realising the cost of their involvement, often referred cases to the British lawyers or barristers, to do the cases in court.

Sir, let us imagine a British lawyer who has never been to this culture, one who has to interpret evidence with a lot of our unique and distinctive cultural vernacular *et cetera*, having to represent a Barbadian from the Ivy, St. Michael or Rock Dundo, St. James, who expresses themselves a certain way and having to put their evidence before a court of final appeal. Sir, this lawyer would run the risk of reciting something with which he or she was not entirely familiar.

I accept the arguments advanced by those who have spoken. In the context of the ultimate responsibility of Caribbean Governments to ensure that this court works, I would like to associate myself with the views expressed by those Honourable Members who have preceded me in this debate, that if we are going to take pride in this court and get it to work, then each country that has a financial responsibility in meeting the cost of making the court work, each country should be so diligent and conscientious in providing the funding, that in the future, we do not have the spectacle of an institution of great importance failing because member states that are supporting this institution have been delinquent in providing the necessary finances for it.

I am also fascinated when considering the matter of the Caribbean Court of Justice as to the originating jurisdiction, what such a court would have in respect of the interpretation of the CARICOM Treaty. This is, in many respects, jurisdiction with which those of us who love the law would want to look closely. As we move towards intensifying and strengthening the whole system of integration in the Caribbean, there are bound to be disputes from time to time, then I am very much interested and attracted to this originating jurisdiction which this Caribbean Court of Appeal would have in respect of the interpretation of what it is going to be CARICOM law.

Mr. Deputy Speaker, I said earlier that a people who are sure of themselves do not have to look out of their domiciles to succor support or for guidance. I also said that the process of decolonisation was not complete. I said that in respect of the fact that where we boast of Independence and present a flag and an anthem but still has to look elsewhere for a court and for a particular head of state, then clearly the question arises as to how truly independent are we really.

Mr. Speaker, this question of a Caribbean Court of Appeal has been around since 1946. At such time, the debate which has continued over 50 years about this court, cannot be a debate where we are establishing the court expressly to execute the death penalty. It is a question of ultimate independence. It is also a question of ensuring that culturally

we would not be dependent upon a former metropolitan colonial master. It is also a matter of bringing the court closer to our people. If the legal system is supposed to produce justice, then every court within the system must be accessible to the people.

If a poor man with a wrongful dismissal case is very sure that the Judicial Committee of the Privy Council can now give him a ruling superior to the local court of appeal but he cannot meet the cost of the ultimate court, then I would have to say that court is inaccessible to that poor man and ultimately, he would be denied justice.

In England, people take pride in seeing the courts as being accessible to them. Even though a former prime minister of this country cautioned people to keep from the law court. One of the reasons why that was said was that one of his political opponent's name used to be called three or four times per day. The hard fact of life is that inevitably, a certain number of disputes between citizens and citizens or state and citizen, would arise and there must be a dispute resolution mechanism that is respected and binding.

Therefore, I would want the Caribbean Court of Justice to be one to earn respect. The best way in which we can respect such a court is to advance the best legal minds who are independent and fearless, even of Government, who are willing to give judgments according to the rules of law, who are sure that their security of tenure is intact.

We do not want a court where because there are rumours that funds would dry up, to see its judges become wimps and wonder how secured their tenure would be if the court collapses because of an absence of funding.

We do not want a court that is mocked and scorned worldwide as being a court that is always accepting sympathy with Government. The independence of the judiciary will have to be preserved in such a court.

Sir, finally, we do need a court of final appeal which would ensure that the spirit of the people and the thinking within a culture which is peculiar to people, are so understood, that when justice is being dispensed, it will be so done, not only consistent with law but with all that goes with the dispensing of justice.

Mr. Deputy Speaker, I was drawn out by the Honourable Members for St. Michael South, St. Michael East and certainly, the enduring Honourable Member for St. James South. I am obliged to you.

Mr. D. St. E. KELLMAN: Thank you, Mr. Deputy Speaker, I want to say from the outset that if we are to entertain the Caribbean Court of Justice, it must first be a court where the masses of people within the Caribbean

should be able to feel they can take their matters and that justice will be delivered.

There is no doubt that the financing of this court will come from the resources of the masses of the people and, therefore, cannot be seen as only a court for the elite. It must be seen as a court where anybody who has a case can be assured that he can take his case through the process, through to the Caribbean Court of Justice and that when that case is there, there would not be the belief that because he is fighting a particular person, he would be denied justice because the person they are fighting has what it takes and can have the best lawyers or that person knows the presiding judge.
6.30 p.m.

I am asking that we in the Caribbean make sure it is not a court of cliques and that it delivers justice for all and that anyone from any country in the Caribbean will be able to take their matter before this particular court.

We should not believe that there will be no problems in setting up the court. In the initial stage, instead of going full steam ahead, we should allow both systems to operate so that people who feel they can get justice within the English system are free to do so and those who feel they will get justice in the Caribbean system will do so.

I want people to understand that I am a total Caribbean man but I am cognisant that within the Caribbean there are many cliques and we have to make sure that these cliques do not affect the court system of the Caribbean.

I want the planners to understand that this is going to be a costly affair because previously we operated partially out of the cost of the British system but we now have to bear the total cost of running this particular court. I want Caribbean leaders to understand while formulating their budgets that each year the amount of money must be set aside to run these courts. I do not want to hear that this court will be operated like some of the organisations in the Caribbean where you hear that the Government of Barbados has to pick up cost of other Caribbean countries in order for these systems to operate.

Now that we are setting up the Caribbean Court of Justice, I want to know that there is a permanent commitment by Caribbean leaders to make sure there is a yearly charge to finance the expenses of this particular court. If this is not done, it will be embarrassing to the Caribbean players because the Privy Council is financed by someone else and we do not have to carry the cost but we will have to carry the cost of this particular court and we must find the finances to do so.

Sir, if we are not ready, we must say so. We should not pretend we want our own because the English system does not allow us to do the things we want to do but that myth

cannot be proven. We must make sure that it is a court of justice and not for certain players within the legal system to operate to prove a particular point.

Sir, there must be some provision to allow the underprivileged to make sure that justice is there for one and all. This cannot be seen as the rich man court where people believe that because they have substantial sums of funds, they can be used to take a case that could be solve in the High Court but take it to the Caribbean Court of Justice simply to deplete the funds of the masses of people of Barbados.

One spokesman said that the late Right Excellent Errol Barrow warned the masses to keep away from the law courts and this is true but at the same time he told them to seek justice. Seeing that we are pushing hard for this court it must allow the masses justice that could not be previously obtained.

Sir, you will appreciate that there will not be the high rate of accommodating lawyers in hotels or paying airfare as when you went to the Privy Council and the cost of justice in the Caribbean should be lower than going to England.

I hope that the setting up of this court is exactly what my comrades stated and it is not set up to deal with cases which we could not deal with before because we have a strong belief that we must implement certain measures.

Sir, I thank you.

Hon. R. St. C. TOPPIN: Mr. Deputy Speaker, I am honoured to be part of this historic debate this evening. I want to begin by thanking the Honourable Attorney General for bringing this legislation before Parliament and this demonstrates once again that this Government is committed to bringing pieces of legislation to this Honourable Chamber which will have far-reaching implications and benefits for the people of Barbados and on this occasion today, for the people of the region as a whole.

I want to say that we have to admit that over the years the Judicial Committee of the Privy Council, which this legislation is designed to bring about a replacement for, has in fact made a contribution to the jurisprudence of the region. As contradictory as it may sound, it is a fact that good and useful decisions over the years have been rendered by the Privy Council.

I also believe there comes a time in everyone's life when you have to move on, take full control of your own identity and destiny and that time has certainly come for Barbados. Today, we are here to address the issue to ensure that hence forward that we in Barbados once the court is

established will be able to establish our own identity and take control of our destiny in relation to judicial and legal matters.

Apart from the fact of the issue of cultural synch that the Privy Council might not possess in relation to our matters an important point has to do with the fact that there is undeniably the question of cost associated with doing business with the Privy Council. Mr. Deputy Speaker, you cannot speak of guaranteeing fundamental human rights to individuals or ensuring the fair and effective dispensation of justice to individuals and then those fundamental human rights which we espouse are being denied because of the costs associated with trying to pursue those rights in any court.

Quite apart from the issue of high legal fees there are also the costs associated with going physically as far as the United Kingdom to do business to ensure that justice is served. Undeniably, the argument is well made for the establishment of this court.

Mr. Deputy Speaker, the truth is that we cannot speak of a Caribbean Single Market and Economy and there not be a Caribbean Court of Justice. It simply would not be realistic. When we speak of a Caribbean Single Market and Economy, we are talking about a group of states in the region, banding ourselves together to deal with issues relating to globalization, combining our resources to ensure maximise benefit for all of us, bringing about rights of member states, the right of establishment and free movement of capital *et cetera*. All of these things are going to be brought about because of the establishment of the Caribbean Single Market and Economy.

6.40 p.m.

Sir, I recently in this Honourable Chamber last year brought a Bill which resulted in the passage of Fair Trading Competition legislation which outlawed behaviour of business enterprises such as abuse of dominant positions, collusion, price fixing, exclusive dealing and a number of unfair trading practices which will apply to member states in the region, as between one company in Barbados and another company in Barbados. All of this is brought about because of Article VIII of the revised Treaty of Chaguaramas which deals with the prohibition of unfair trading practices. Now invariably, Mr. Deputy Speaker, issues are going to arise from time to time because of the enactment of the establishment of the Caribbean Single Market and Economy in relation to the behaviour of these member states and the issues that I have just outlined.

Once issues arise and disputes have to be placed before some entity, it is obvious that it has to be an entity with the competence and more important an entity that exists to be able to deal with these matters that are going to arise at the regional level. Hence, there is the clear need for a Caribbean

Court of Justice. As it stands now, there are a number of instances where member states do not comply with a number of their obligations pursuant to the current treaty. This is prior to the amendments. One thing that was always felt was the absence of any regional judicial body to mediate in those circumstances to resolve the issues that were being raised on the alleged violations of compliance with the various protocols and conventions.

This is really critical, Mr. Deputy Speaker, that we have a duly established regional Court of Appeal to adjudicate in these various matters. It is also important that the court be competently staffed and in that regard I really believe there is no room in the appointment of the judges to this Caribbean Court of Justice for any petty insular approach. There simply is no room for that. We have to ensure that the best people are placed to do the job.

Sir, I have had the honour and privilege working in Barbados on some cases for higher duty and I was able to work with some senior lawyers in Barbados who were in fact working in association with a number of senior attorneys from other countries in the region, and I was able to see the quality not only of the local attorneys here but also the quality of the lawyers from the other countries in the region. You only have to take up any of the reports in the region dealing with the reported cases and you would see the competence of the lawyers who have appeared before various courts. You can see the competence of the judges who have presided over the various courts in the region and you would have to recognize undeniably that there is a very high level of competence among persons in the region who are involved in the area of lawmaking and law enforcement. I am now looking at it from a judicial level and we have no reason to fear that there will be any shortage of available competent persons to man this institution. But it must not be made subject to any petty insularity where one country feels that it must have a right to have more of their judges than any other country sitting on this Caribbean Court of Justice. There must be total objectivity and impartiality in the appointment of the judges to this court.

Sir, the last point that I wish to make relates to the issue of members honouring their financial obligations. Some other members have made the point before this evening but I do believe that it is critical that countries in the region understand and appreciate the integrity associated with honouring their financial obligations. Once this court gets going, there is no room for accommodating the collapse of the court. The collapse of a court is a very serious thing and that would have devastating consequences for matters that are outstanding before it and the ultimate dispensation of justice. The Honourable Member for St. Lucy tried to make this point but as usual he made it in a garbled sort of way. But it is a fact that we have to ensure that members understand their financial obligations in relation to this court.

We have seen too many cases in the past where we talk regional in the formulation of policy, but at the end of the day I have seen that too often Barbados ends up being one of the few countries that continues to honour its financial obligations while a number of other member states do not honour their financial obligations. Barbados has an approach to integrity which is to be admired and we stand out in the region. Barbados is known as a country that, when it gives its word on a matter regionally, this is its bond. We have never reneged except in 1994 when the last Democratic Labour Party Administration reneged on the head taxes on the cruise liners. The Democratic Labour Party put a blur on our integrity in the region.

Sir, we have always been known in the Barbados Labour Party dispensation as a country to honour our financial obligations and all of our commitments, promises and pledges. Therefore, I would urge at this time that member states realize that we are not playing around now. An agreement dealing with one or two matters perhaps may not be honoured and not have disastrous consequences, but the collapse of a court not only sends the wrong signal about your seriousness with justice but it can also have devastating consequences on persons interacting with the court.

With those few comments, Mr. Deputy Speaker, I want to say once again that I fully support the measure before us and I am proud and honoured to be a part of what will go down as a very historic debate. Thank you, Sir.

Mr. DEPUTY SPEAKER: The Honourable Member for St. George South.

Mr. L. R. TULL: Mr. Deputy Speaker, I noticed that you and others are taking a glance at the clock, but I will be very brief on this occasion which is a little bit out of character for me. This debate is so important that it would be a dereliction on my part if the annals of this Parliament should show in the future that the creation of a Caribbean Court of Appeal and I did not lend my voice to it. 6.50 p.m.

I did not hear all the contributions made earlier, since I was not here but from what I have heard, Sir, I could easily say that I endorse those views expressed on our Side and could adopt them as my own. However, having myself played some part over the years, in the days when I was Attorney General, because they were talking about this court for a long time. The gestation period has been inordinately long but if at the end of it, we are able to succeed in what we have set about to do, Sir, the wait would have been well justified.

Now, in the whole period of the integration of the Caribbean, Sir, there have been difficulties at one stage or another. Quite often, decisions are made as we hear there are laws implemented by some countries, sometimes we go

forward and then we step backward, but in all of this, there have been a number of very significant regional successes.

I do not know what the debate said so far, but if you take the UWI and CARICOM itself, Sir, I need not go into all these because I would talk about agriculture, health, meteorology and air transportation and the works. I do not want to do that because I said I am going to be very brief.

Sir, a lot of good things have happened, but what is always amazing is that before these good things happen, there is always a lot of doubt. There are those who are so reactionary, they feel that to change something they have grown accustomed to is not on.

Sir, the UWI was not easily accepted by a large section of the people in the Caribbean, because as far as they were concerned the university was something from Oxford, Cambridge and London, not from the Caribbean. Who are we to think that we could have a university. One of our promised institutions is the UWI and everything we have done. We met that reaction.

Sir, there is still some resistance in the Caribbean against the establishment of the Caribbean Court of Appeal. Leading political parties across the region are still holding their position, in reserve. They are not stepping forward. They have their doubts. They say they are worried about the integrity of the court, the integrity of the judges, the cost and all kinds of things you are hearing. Sir, underlying a lot of it, is the age-old problem of insularity.

Sir, we have no doubt, a responsibility, despite these negatives, to continue to develop our own jurisprudence. We have done very well in the past. An enormous amount of legal learning that has been published in this region, demonstrates the level at which our scholarship in law has advanced. We have the scholars in this region to make the best of the Caribbean Court of Appeal and make it something of which all of us can be proud.

Mr. Deputy Speaker, we had Caribbean judges, including the Chief Justice of Barbados who sat with the Privy Council in London in hearing matters in the Commonwealth. Not only matters relating to the Caribbean, but matters relating to other parts of the Commonwealth, so it is not new. We have had judges sitting with the Privy Counsellors when the Privy Council is sitting as a Court, that is, in dealing with matters.

We have now, Sir, in the Caribbean, a judge on the International Criminal Court that has just been established. We have had more than one Caribbean jurist who has sat on the International Court of Justice so we have the talent in the region, and it is important that we now harness all this talent that we have and bring it to bear on this new venture in our regional integration exercise.

Sir, I want to say quite quickly, that in relation to the role of the Court, under the amended Chaguaramas Treaty, where it will be having a Court operating as a court of original jurisdiction to hear disputes involved in the contracts, between states and individuals that fall under the Treaty, that perhaps this is the catalyst for greater facilitation of the decisions being made, all through the years by the Caribbean Trade Ministers and the CARICOM. Many of these decisions not being Honoured. I hope that this then will be the catalyst for a greater adherence to Treaty obligations, as they apply to trade matters under the Treaty of Chaguaramas.

I also want, Sir, to mention the whole idea of the political influence that is being touted. You hear that a number of the islands do not want to be involved at this stage because they are fearful of political interference, influence, tampering as they call it, in the judiciary of the Caribbean Courts.

I have studied the documents and I have seen the reports that have emanated out of a series of meetings by the Caribbean law Ministers. I am satisfied that all the loopholes that are necessary to be plugged to avoid that situation, have been met.

I had an occasion recently to sit in on one of the meetings and hear the discussions going on between the Caribbean Attorneys General which was chaired by the Attorney General of Barbados. I am satisfied, Sir, about the seriousness which the decisions will be taken in this regard and I believe that this is going to prove to be one of the initiatives in the region that will be of long-lasting credit to the whole Caribbean region.

I want at this point to lend my voice to those who have given their congratulations, not only to the current Attorney General, who has done a lot of work on it, but the one before her, because they have been the leaders, Barbados through them, have been the leader, in the past two or three years, in getting the whole movement towards this day being reached. They have done a lot of the donkey work, Sir, in bringing all these things to conclusion.

Sir, as I said, I do not want to delay, and speaking as the Honourable Member for St. Michael North ...

Asides.

Mr. L. R. TULL: ...he says, no, he never talked for a short time yet, but I did not want to go on too long this afternoon, but I did feel it was necessary for me to put it on record that I could not allow a piece of legislation of such historical importance, to pass this Parliament at the time I am a Member, without posterity having to say that Tull also took part in this debate.

I am grateful to you, Sir.

Hon. Sir HAROLD St. JOHN: Mr. Deputy Speaker, I am very much like the last speaker, in that I appreciate the very worthy contributions that have been made by the previous speakers. It would be quite easy for me just to say that I endorse their remarks. However, there are one or two points which I would like to underscore in this debate. It is, Sir, that we are dealing with this institution which has finally come before this Honourable House after a considerable period of debate in the territories of the Independent Caribbean.

This institution, Sir, has an important role to play in the shaping of the integration movement or the movement for closer association or the movement to nationhood. Its functions are well set out in the Treaty and they are basically two. For those countries which wish to use this institution as its final Court of Appeal, it will be the final Court of Appeal for domestic law, on decisions that have been made by the existing Court of Appeal.

In respect of its original jurisdiction, it will be the final arbiter of the interpretation of the rights and obligations that have been undertaken in the international law by the states themselves. In addition to that, it will have an expanded role to play with respect to the interpretation, refining and in some cases, the creation of community law.

7.00 p.m.

Experience has taught us that when you give to the Court the power of interpretation, whether it be of a piece of domestic legislation or any other international legalisation or international law, that is a very important power which, in the hands of creative judges, can be used for the purpose of creating law.

I have absolutely no doubt that is what will happen with this Court because it would be impossible for this Court to exercise its original jurisdiction in accordance with the mandate given to it, the interpretation of the statute and the interpretation of the treaty not to make decisions which would be regarded by lawyers as being lawmaking. That happens in federal constitutions, it happens in confederal constitutions and it also happens in integrated institutions such as the European Economic Community upon which our Treaty of Chaguaramas is partially modelled, so there should be no illusion about that.

We are fortunate that in respect of the original jurisdiction, we have been able to persuade Guyana to accept as its final Court of Appeal, the Caribbean Court of Justice. As has been said before, Guyana has previously abolished appeals to the Judicial Committee of the Privy Council. I think that is a good thing for the Court. Guyana has a long record of producing, like the rest of the Caribbean, a number of distinguished jurists. I think that in the Caribbean it is important that the pool from which our judges are selected be widened. There is no scope for petty insularity, for insolent nationalism and things of that kind, which have bedevilled

the integration movement and our relationships for so many years, to continue in a force in relation to this matter.

For those who have doubts, and there are some people in some countries that have doubts, I would like to point out that my own experience over the course of the last 50 years as a lawyer practising in these courts has been that the Caribbean is capable of producing judges of the right calibre to man this Court. There will make a significant contribution to the jurisprudence of common law countries as they have done already. In the interpretation and in the fashioning of the integration movement which is not a federation or a confederation I have no doubt that they will make a contribution in that sphere also.

As others have said, Caribbean people have migrated to many parts of the world. They have been able by the sheer quality of their work to find themselves being appointed not only to international institutions but also to judicial institutions in the countries which they have emigrated. Many judges in Canada and the United States of America, in the State Courts, have their origin in the Caribbean. Indeed, a distinguished federal Chief Justice of Canada is of Caribbean origin. In the international field, as others have said, the Caribbean has had the honour of providing a number of judges, so I have no doubt about that.

The points that have been made about judicial independence and about the need for self-financing have been uniquely taken care of because this group of judges when they are appointed will have the comfort of knowing that there is a very large sum of money which is provided for their pay. That US\$100 million is not likely to run out in the lifetime of anyone who has been appointed there, so they have the comfort of knowing that independent provision has been made for their salaries and their conditions of service.

If there is a criticism of the Caribbean judiciary, particularly in the Barbadian judiciary, one must constantly remind judicial aspirants that it is no use applying for a judgeship or a presiding officer who has to make decisions if they do not have the moral fibre to make the decisions. It is *sine qua non* of a judgeship that you must have that kind of moral fibre to make the decision.

The point in this respect has been well taken in some countries and there is a kind of judicial, ethical standard that is being promulgated as being indispensable for judges to understand that if they become a judge they must follow.
7.10 p.m.

In his book on Caribbean Constitutions dealing with judiciary and judges, Sir Fred Phillips, after a comparative survey of the machinery for disciplining judges, pointed out how in the rest of the Commonwealth and other parts of the world they are groping towards the kind of oath that a judge must take when he becomes a judge. Implicit in that oath is a statement of these principles so that in the future, if they are

broken, there is no question that it can be claimed that he or she ... I must say 'she' too because in today's world there is no office that women do not aspire to and if one looks at the office in Barbados one sees that there are few offices that women have not achieved. Therefore, the position is that in our discussion on the court, we must put on record that we expect certain standards of behaviour in relation to the judicial process by those who have the honour to be appointed.

I am one of those persons who believe that our democracy in these territories and in all small territories suffer because in other countries, their size, the quality of their journalists and the quality of their media, are such that many of the things that we complain about without remedies, are actually remedied because of what is known as public opinion. There is too much fear in these territories in expressing what we know to be right.

I want to put on record that with all of my 50-odd years' experience as a lawyer, there are legitimate areas of concern, not for judicial independence, not for political interference but that litigants do not have any legitimate remedies in relation to judges who do not adhere to the fundamental tenets of a judge, which is that he must make up his mind and give a decision.

Sir, the process for disciplining those judges is cumbersome. Not so long ago there was a judge in the Court of Appeal in the United Kingdom who took a long time in making a decision and the Press went after him. So strong was the Press that after a number of editorials, nobody had to go through any long judicial process because the judge took the hint and without delay, resigned.

We do not have that here and, therefore, we have to look for these conventions or standards of behaviour and express them – and we are not supposed to express them after this Bill is passed in Parliament. In looking at our Rules, it says that one must not, except on a substantive motion, discuss the conduct of judges.

I want to say that I am glad for this opportunity because we are not creating the post for judges in this area. I would like it to be known what other members of the public and I feel are the essential characteristics of a good judge.

There would be problems in the future, no doubt, with which the court has to grapple, in the interpretation of the Treaty of Chaguaramas. When we come to a debate I would like to point out a number of things in that area because this is a unique exercise in which we are indulging.

The law that is made here to be administered, I understand is going to flow from the Treaty of Chaguaramas and its interpretation. There also would be other laws that would flow from the contemplation of the obligations in the

Treaty of Chaguaramus but the details of that would not be known because we do not have a law-making body.

One of the unique things about this court that it would have to grasp or grapple with, is that it would have to be interpreting law which would be made by agreements between independent sovereign states that have not delegated to any body, the power to set up a rules and regulation of what the states themselves mean by the words they use in the Treaty. It is a unique thing.

A simple illustration is going to be that the Treaty, I believe, is going to guarantee the right of establishment. What is content of the right of establishment? Where would one find it? The judges would have to interpret it and, therefore, this is going to be an interesting exercise.

There are two other points I wish to make before taking my seat. One is, I think it is a mistake to restrict the retirement age to age 72. I think that is wrong. It should be older. The United States of America do not have a retirement age. For many years, the British never had a retirement age for their judiciary.

In today's age, to restrict a person to age 72 – and I have no claim that I have reached that stage already – it is to me, a little restrictive in the context of the development of modern medicine and the development and change in the demographics of our population.

Mr. Deputy Speaker, as you would know, at the age 70, there are many people who would like to think that they are fit and well to undertake burdens, responsibilities and activities, which one thinks should not be restricted to that age.

Sir, the other issue relates to those who do not want to be separated from the Judicial Committee of the Privy Council. I would like to say that at the time of the Constitutional Conference in Barbados for the Independence of Barbados, there were two things that the Barbados Labour Party put on the table from early. One was that we felt our Constitution should contemplate that within the Caribbean, we could share a Court of Appeal with the other territories so that our Constitution is peculiar in that we did not entrenched our Court of Appeal.

The second thing we had was that the Judicial Committee of the Privy Council was not to be enshrined in the Constitution forever. There is a specific clause that says that until other arrangements are made, the Judicial Committee of the Privy Council shall be the final Court of Appeal.

Presently there are only a few survivors of that Constitutional Conference. There are the Honourable Member for Christ Church West, the former Honourable

Member for St. Michael North, the former Chief Justice and myself. The former Chief Justice was one of the legal officers who have spent a considerable period in the United Kingdom putting the agreements that were reached into legal form.

7.20 p.m.

When we speak of the contemplation of the framers of our Constitution, I can distinctly speak with authority that it was always contemplated that at some time in the future both our Court of Appeal and our final Court of Appeal could be removed from Barbados and that we could share it and on this occasion we are dealing with the final Court of Appeal and replacing it. I had no doubt that it was possible at that time and all of those who feel that it is a major leap forward I wish to say it is not major because it has always been the contemplation of the founder fathers of this Constitution that the day would come where we would have alternate arrangements. My only regret is that it has taken so long.

Sir, I am grateful to you.

Mr. DEPUTY SPEAKER left the Chair and Mr. SPEAKER resumed the Chair.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I would like to thank all Honourable Members from both sides who contributed to this debate. In particular I want to thank the Honourable Member for St. George South for the perspectives shared and the Honourable Member for Christ Church South who have brought an abundance of wisdom and experience as they spoke which all of us can benefit from. I also want to thank the non-lawyers.

Mr. Speaker, the wide range of persons who have spoken with such conviction on this Bill clearly indicates to me the extent to which there is a level of acceptance that Barbados and the Caribbean have no other choice than to do what we are doing now. If ever I were to disagree with the Honourable Member for Christ Church South, it would only be in the perspective of whether the Bill is major or not. The mere fact that it has taken over 31 years since the Fraser Report for a Caribbean country to bring legislation to establish the Single Market and Economy and there not be a Caribbean Court of Justice is indicative of the serious difficulties that are confronted in seeking to bring about consensus on a matter as fundamental to our sovereignty as this.

I want to say for the record again that this court is being established to start the process of completing our second phase of independence. This is a court that will also admit of an original jurisdiction such that the terms of the Revised Treaty of Chaguaramas can in fact be given full effect because there must be a dispute settlement mechanism. This is also a court that Caribbean jurists will be able to develop Caribbean jurisprudence in its fullest sense.

I am told that our own eminent Sir Roy Marshall was a member of the Commission and I would like to say that most of us forgot that he had responsibility for setting up the law faculty at Cave Hill when he was Vice Chancellor of the University of the West Indies.

Persons within the region, in my view, have the ability to be able to establish some of the finest jurisprudence to be found any part of the world and it will come under the umbrella of Caribbean jurisprudence. Mr. Speaker, I believe that this is an idea whose time has come and it is a distinct privilege and honour to be a member of a Government who has the self-assurance and confidence to lead the effort to make this a reality for millions of Caribbean people. The future is now the present and I trust that we could carry with us in due course all of the other countries who are not yet signatories to the agreement but who will understand that the confidence which we show in establishing this court is well justified.

I am obliged to you, Sir, and I beg to move that this Bill be read a second time.

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

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

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. Miss B. A. MILLER the House resolved itself into Committee, Mr. D. CARTER in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is now in Committee.

Clause 1 was called and passed.

Part 1, Clauses 2 – 3 were called and passed.

Part 2, Clauses 4 – 12 were called and passed.

Part 3, Clauses 13 – 18 were called and passed.

Part 4, Clauses 19 – 27 were called and passed.

The Schedule became the Schedule to the Bill.

On the motion of Hon. Miss M. A. MOTTLEY, 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 the separate motions of Hon. Miss M. A. MOTTLEY, seconded by Hon. Miss B. A. MILLER, the Bill was read a third time, passed and cited as the Caribbean Court of Justice Act, 2003.
7.30 p.m.

ORDER NO. 8 – THE CONSTITUTION (AMENDMENT) BILL, 2003

Hon. Miss M. A. MOTTLEY: Mr. Speaker, I would have indicated when we debated the Caribbean Court of Justice Bill that there would have been consequential amendments to the Constitution. This Bill simply provides for them and I therefore do not intend to resume the debate all over again, but simply ask that this Bill be now read a second time.

Hon. R. C. EASTMOND: I beg to second that, Sir.

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

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. R. C. EASTMOND, the House resolved itself into Committee on the Bill, Mr. D. CARTER in the Chair.

COMMITTEE

Mr. CHAIRMAN: This Honourable House is in Committee.

Hon. Miss M. A. MOTTLEY: Mr. Chairman, before Clause 1 is called, in respect of the enacting formula, I would wish to amend it to insert after the word, “with” on line 4, insert the words, “the provisions of ” so that it would now read,

“Enacted by the Parliament of Barbados in accordance with the provisions of section 14 of the Constitution as follows”

Instead of how it is written there.

I beg to move, Sir, that the enacted formula be amended as stated.

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

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

Clauses 1 to 12 inclusive, were called and passed.

On the motion of Hon. Miss M. A. MOTTLEY, 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 the separate motions of Hon. Miss M. A. MOTTLEY, seconded by Hon. Miss B. A. MILLER, the Bill was read a third time, passed and cited as the Constitution (Amendment) Act, 2003.

The question was put.

A Division was called for.

The bell was rung.

Ayes: Rt. Hon. O. S. ARTHUR, Hon. Miss B. A. MILLER, Hon. Miss M. A. MOTTLEY, Hon. R. C. EASTMOND, Hon. R. N. GREENIDGE, Hon. G. A. CLARKE, Hon. A. P. WOOD, Hon. R. R. FARLEY, Hon. R. D. MARSHALL, Hon. N. A. LYNCH, Hon. Miss H. E. THOMPSON, Miss C. Y. FORDE, Hon. Sir HAROLD St. JOHN, Mr. L. R. TULL, Mr. M. Z. WILLIAMS, Rev. J. J. S. ATHERLEY, Hon. H. F. LASHLEY, Mr. T. A. PRESCOD, Mr. D. T. GILL, Hon. R. St. C. TOPPIN, Mr. G. W. PAYNE, Hon. Sir HENRY FORDE, His Honour J. M. EDGHILL, Mr. D. CARTER, Mr. D. J. H. THOMPSON, Mr. D. St. E. KELLMAN.

Noes: None.

Mr. SPEAKER: *The results of the Division, 26 Honourable Members voted aye, and no Honourable Members voted no, the Bill is therefore now passed and so cited.*

7.40 p.m.

ORDER NO. 4 – THE CARIBBEAN COMMUNITY BILL, 2003

Rt. Hon. O. S. ARTHUR: Mr. Speaker, it is my very high honour to introduce into Parliament the Bill that would in essence make legal provision for the enshrining into the Laws of Barbados the provisions to create a Caribbean Single Market and Single Economy.

This matter has been widely canvassed. Its conception has stretched two administrations and I will therefore not tire the House with a long exposition but briefly set it in historical context. We are completing a process of Caribbean Integration that started in 1965 when the initial steps were taken by three countries to conceive of a Caribbean Free Trade Association.

In 1973 the effort to build an economic movement in the Caribbean was further advanced when the Caribbean Community (CARICOM) was called into existence. Whereas the 1965 effort enshrined in the 1968 Caribbean Free Trade Association (CARIFTA), only made provision for the freeing of trade, the 1973 Treaty of Chaguaramas made provision for the creation of a limited version of a Caribbean Common Market, for the continuous freeing of the movement of goods and for the direction of a common external tariff, but it made only very limited provision, as one would have had to do for a common market, for the free movement of factors of production.

Indeed, the 1973 approach to integration only made provision for the movement of capital, the movement of services and the rights of establishment to a very limited degree. By 1989 it was clear that the benefits from interregional integration of that limited scope were too narrow and that a great leap forward had to be made to better integrate the entire Caribbean economy into the emerging global economy by bringing into our integration sphere new disciplines that were becoming current in the relationships between countries.

Mr. Speaker, the original Treaty of Chaguaramas of 1973 made provision only for a limited common market as then envisioned. As a result therefore, to give effect to the 1989 Grand Anse Declaration, the Treaty of Chaguaramas has had to be rewritten and revised to make provision for a single market and single economy since there has been no legal provision for anything of that nature to date.

Since 1989 the entire region has been mobilised to develop the law to make a single market and single economy a live experience of the Caribbean. The revised treaty that this House is being called upon this evening to enshrine into the laws of Barbados has been the result of intellectual work embracing the entire Caribbean, the public sector, the private sector and all the institutions of the civil society.

The revised treaty, if I may be brief, sets out new instruments for managing a single market and single economy. It obviously attends to the deficiencies of the 1973 approach where there were no provisions for the movement of capital in the past, but it now makes provision for that and where there was no scope for the provision of services, it attends to this. It goes beyond that as well and enshrines a common external trade policy as part of the effort to build a single market and single economy. It incorporates specific provisions for the harmonisation of approaches and a common regional outlook and development thrust towards the development of all of our key sectors, the agriculture and tourism industries. It incorporates a regional transportation policy. It also addresses itself to distributional issues in the single market by having special provisions to deal with the needs of specially disadvantaged sectors, regions and industries. It spells out a new competition policy for the region and most important it enshrines new mechanisms for the resolution of disputes and for the movement of people.

Mr. Speaker, the provisions in the revised Treaty of Chaguaramas impose upon the entire region, once the law has been passed, the responsibility to translate the provisions in the revised treaty into various pieces of legislation in respective member countries. It is to be envisioned that once this Treaty is incorporated into the law at least 400 pieces of legislation across the region will be affected and therefore there will be great and ample opportunity for this Treaty in its component parts to continue to engage this House.

The revised Treaty itself, however, imposes a duty on each member state to enact the Treaty into the national law. This evening, I am proud to be part of a Parliament that is the first Parliament in the Caribbean to enact the revised Treaty of Chaguaramas making legal provision for a single market and single economy into the domestic law of this country.

I am obliged to you, Sir.

Mr. D. St. E. KELLMAN: Mr. Speaker, even though I support the concept of it, I would have preferred that we would have moved to a free movement of people within the Caribbean first because it is one thing to speak about markets and economies but it is another thing for the people of the Caribbean to be able to move freely within the Caribbean to be able to source those products that they think are in their interest.

We cannot continue to limit the market to a few groups. We must open up the Caribbean so that the people of the Caribbean can be aware of what is being offered within the Caribbean. I do not honestly think that the fruits of the Caribbean should be limited to a few groups then to be passed on to the masses.

In order for the Caribbean Single Market and Economy to work, the masses of people of the Caribbean must be able to access the markets and economies so that they can have a better judgement of what is being offered within the Caribbean.

I think it is also regrettable that we are now at this stage. I honestly believe that we should have been more advanced with this particular point. Now that we are battling globalisation, we should not now have to worry about a single market and economy within the Caribbean region, we should now be playing test cricket and not Shell Shield cricket.

I thank you.

Hon. Sir HAROLD St. JOHN: This is a very important piece of legislation because it seeks to do something that is unique. It seeks to create an institutional framework among sovereign independent states who have decided that they are going to order their affairs in relation to trade, in relation to services and in relation to external trade policy in accordance with some duties and obligations enshrined in the Treaty of Chaguaramas.
7.50 p.m.

It is not generally understood how difficult this attempt will be. As I previously said, what we are trying to do here is to conduct ourselves within the disciplines of the Treaty. We are expecting that the citizens in these countries will have rights and obligations in relation to the respective state. We have created the judicial machinery to settle disputes amongst

the states and, in my opinion, this is an exceedingly difficult exercise and for two reasons. Nowhere are we saying there will be institutional framework to police, even to make suggestion, as to the consequential legislation necessary to carry out the objectives of the Treaty.

Secondly, nowhere are we saying this new framework will be independent of transfers from these states. This is really an exercise of deep faith, that is how I would explain it because nowhere else among other states have they tried the level of cooperation and integration that we want, without two indispensable things. One is, the devolution of some aspects of lawmaking to a body. It does not have to be an elective legislature. Secondly, an independent financial mechanism is indispensable for the proper working of this.

Sir as long ago as the time for action when the Ramphal Commission was holding public sessions in Barbados, the then Leader of the Barbados Labour Party, the Honourable Member for Christ Church West and a number of us gave evidence. A paper was then presented which pointed out that this was a big defect, and that situation is still there.

I know the Governments in the Caribbean jealously guard what they regard as their ultimate powers but I think they have to face reality in this respect if they want it to work. I believe that in Protocol II, they have made significant progress to the decision-making process over the course of the years and the obvious obstacles to the creation and implementation of these decisions.

Sir, in my opinion, it is a good thing that there is talk now of corporate governance and the indispensable requirements of corporate governance for an integration movement as deeply integrated, as is contemplated. Not so long ago in Port-of-Spain, the beginnings of the analysis of the implications of having an integration movement to carry out these objectives was discussed. I am told that the discussions will continue in Jamaica. That is a very good place for it to continue because the reality of the experiences... I hope that the academics and others become very vocal of what we have. No proper sophisticated analysis of the comparative experience of other countries would fail to reveal that we are indulging in an exercise which might well be futile because we are not endowing the movement with some of the institutional machinery that is indispensable for its proper functioning.

Sir, that is my contribution. I believe that the analysis of Europe and of the old Articles of Confederation of the American States before they came a Federation, will reveal that an essential part of any law is a sanction. There has to be a body to make law and sanctions to that law. We cannot have bodies that are charged with the carrying out of functions without finance and that finance must be independent of the generosity of the member states.

These matters are still in the air and by the time the conference in July comes, I am hoping there would be a greater debate. I am one of those who believe that we have to discuss these matters over and over again before they can sink into the minds or the consciousness of the people.

I believe the people are ready for a greater advance. I am emboldened and by a recent poll, not because of the results of the foregone conclusion which we all knew before the poll but the fact is that it was confirmatory of some of my own experiences where I have been constantly saying that, in my own constituency, I have seen developments of integration to the extent where a large number of people from other parts of the Caribbean have been integrated in the community, particularly in the construction industry and other areas of activities, without any hostility.

That poll, as I understand it, indicated that approximately 70 per cent of Barbadians have accepted the fact that there has got to be the liberalisation of the movement of the people within the context of the integration movement.

I also know because the people have moved forward to a tremendous extent, where like this last weekend, there was a tremendous amount of movement both into Barbados from Barbados to the other islands.

Sir, I look forward to a different capacity than the one in which I am because I am going to spend a lot of time studying the legal implications of this Treaty of Chaguaramas. I want to be one of the participants in the exercise of ensuring that these rights that we are granting in the Treaty, are, in truth and in fact, rights now that we have the Caribbean Court of Justice. I am going to be looking forward to making submissions as to the meaning of what is the Treaty.

This is the position. I am glad to have participated in this Debate. The reason I am making this speech is that for 40 years, I wanted to see the deepening of the integrated movement. I never gave up hope. This is another step but the step is too short for me. I feel we have to go further to make it work. That is my position.

Sir, I support what we have here because it is an advanced Bill and it is better than what we have had.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, I wish to thank those Members who have spoken. It gives me an opportunity to speak to a few broader principles that need to be spoken about.

The Caribbean Single Market and Economy in the Caribbean, like that of Europe, will never appear as a finite, finished product at any one point in time. Even in relation to this Treaty of Chaguaramas we have incorporated into the

Treaty of Chaguaramas by way of special articles, a built-in agenda, to develop a protocol in areas where there are no real policies such as government procurement, along with five other areas.

8.00 p.m.

At the recent Heads of Government conference I required that a Protocol dealing with the rights of those in the informal sector must become a part of the Treaty. Equally, Mr. Speaker, the process of giving a governance structure to this Treaty and to our efforts to build a Caribbean Single Market and Economy will never appear as one final finished product or process as has been the case in Europe but it will evolve.

If I start from that perspective, it allows me to address the issue of governance as raised by the Honourable Member for Christ Church South. As the Prime Minister in charge of the Caribbean Single Market and Economy, I have gone on record many times saying that the extent of integration implied and expressed in the Caribbean Single Market and Economy requires the Caribbean for the first time since 1961 to address issues of regional governance.

I say that because in 1973, Mr. Errol Barrow, Mr. Williams and Mr. Burnham conceived of a relatively limited form of economy integration and also a form of regional governance appropriate to that limited form of economy integration. Since integration was essentially to involve removal of restriction on goods but no harmonisation of general economic policy of the building of a single economy, they conceive of a political form for integration where the Caribbean Community was to be one of sovereign states and nothing where each member country retained its sovereignty but no aspect of national sovereignty was transferred to any supranational institutions to be responsible for implementation of decision nor the development of the community law in relation to integration *per se*.

CARICOM is a form of political integration. We are a community of sovereign states with each state exercising a domestic jurisdiction and a comprehensive sovereignty in relation to whether it carries out the provisions of the regional integration process and the form in which it carries out.

Sir, as we go deeper and deeper into economic integration I would have to express integration not in the form of the removal of structures at the port but to embody integration into common economic policies and to reach a stage where integration can only be effective if it is embodied in the domestic laws of the respective countries and in the evolution of a body of community law that is to be interpreted by a single market and economy. If there is no Caribbean Court of Justice and there is no transfer of sovereignty to supranational institutions, it then become inappropriate as the mechanism by which integration should be given effect.

A group of Heads, including myself, acting upon the recognition that in the same way that political integration followed economic integration in the European Union so we in the Caribbean must conceive of a form of political integration and the governance relating to that political integration that can suffice to enable us to implement the provisions of a Caribbean Single Market and Economy on the scale and with the complexity that those require.

Sir, it is wonderful to speak idealistically about how fast we should go to any form of integration beyond that which was conceived in 1973. Any new form of governance for our Caribbean integration process must be based upon a consensus that makes it possible for all entities including Jamaica to stay on the path of integration as it has been conceived.

Therefore, the Heads have constituted themselves into a task force to look at the forms of governance that will allow us to transfer parts of our domestic sovereignty to supranational institutions such that authority can be devolved to those institutions to oversee the implementation of the provisions of the Caribbean Single Market and Economy.

The point that is being made by the Honourable Member for Christ Church South is being well recognised and the existence of a task force of Heads to treat to issues of governance is already recognised as part of the effort itself to move the Caribbean Single Market and Economy from just a legal entity to being a live experience.

Sir, Europe evolved a Parliament and a Commission and a single market was implemented by supranational institutions having the authority to issue directives and to have them embodied directly in the domestic jurisdictions of the countries concerned. In the Caribbean we will have to evolve supranational institutions of our own to implement the Caribbean Single Market and Economy.

This is uncharted territory for the whole world because there is no other region in the world that has ever contemplated of a degree of economy integration as deep or broad as the Caribbean. However, we are not seeking to replicate the European Union economic integration process neither can we replicate the form of political integration that Europe has put in place to underpin a single market and economy. The Caribbean Single Market and Economy is different from Europe and cannot be compared with any other integration process of any other country in the world. We have to define for ourselves a form of political governance in the Caribbean that takes into account our own peculiar circumstances.

Sir, I want to stress the point that there is no other region in the world that has conceived of, or has a legal arrangement for a single market and economy other than Europe. I make that point to come to the issue by the Honourable Member for St. Lucy.

Sir, Europe started in 1957 to give thought to the kind of economic integration it could create. It has taken them over 50 years and the concept of economic integration is still evolving. By 1985 Europe should have had a single market and economy in place but they had to go through a number of White Papers and as I speak to you now, it is still evolving. There is a tendency in the Caribbean to sell our achievements short. The concept of a single market and single economy was conceived in 1989. We have reached the stage in the Caribbean today where just 10 years after all the technical work for the single market and single economy was done. In three years time, the legal drafting of nine protocols to be agreed to by 15 countries through the instrumentality of an inter-governmental task force was undertaken. This should bring us to a point of specific legal provisions for a single market and economy to be agreed to and incorporated into this document that is almost 400 pages in itself.

8.10 p.m.

Sir, we have also gone beyond the stage of representing the single market and single economy in a legal form. The programme for the phasing out all of the restrictions on the movement of capital, provision of services and rights of establishment of people has been agreed to. That programme has been set now in what can be accomplished in the medium term and in the long term extending to December, 2005. So that by December, 2005 not only will the single market exist as a reality in a document, but the countries are required to put into their domestic jurisdiction the law that will allow them to carry out the agreed programmes for the removal of such restrictions that now presently exist.

Sir, some Caribbean countries that are in a position to do so such as Barbados, Trinidad and Jamaica have agreed that we are going to phase out our restrictions at an even faster rate than is required for the purpose of a single market and single economy being completed by the year 2005.

Now there are some folk, and the Honourable Member for St. Lucy has echoed the point, who are of the view that it should have been created long ago. To them I say, Sir, that once we have entered into our single market provisions of arrangements whereby we grant ourselves in the Caribbean faster, deeper and broader liberalization in every sphere than we grant the Americas under the Free Trade Area or we grant the rest of the world under the WTO, the single market and economy will continue to be a strong positive force in Caribbean affairs for many years to come.

Sir, this brings me to the issue of skills. There is no other integrating mechanism in the entire western hemisphere that has any provision for the movement of people with skills apart from that built into the Caribbean Single Market and Economy. In fact, Mr. Speaker, one of the issues that is raised internationally pertains to the fact that globalization makes provision for free movement of capital, goods and whatever else, but it makes no provision for the movement of people.

As regards our own arrangement of the single market and single economy, this provides for at least four broad categories of people. Protocol II allows for non-wage, self-employed people the rights of establishment and the rights to move freely in the region. It also makes provision, Mr. Speaker, for graduates. I strongly share the perspective of the Member for St. Lucy that the region should seek to institutionalize a reality, Sir, that long before there was a single market and economy, the ordinary people of the region have been moving freely and finding work in this region wherever that work existed without that right and practice being incorporated into their domestic lives. The people of Barbados have been moving for more than a century. I believe that the governments of the region should trust the people.

In Grand Anse when the single market was instituted, there was the fear that if you allowed everybody to move freely all at once that the low income wage earners would concentrate in a few areas in the Caribbean and would cause difficulties for the social sectors of those countries where there was the concentration. My judgment is that within the Caribbean population some will move but people have commitments in their communities and there will not be an irrational movement of the Caribbean people. That is the point. In point of fact, Mr. Speaker, there are some of us in the Eastern Caribbean including Barbados and Prime Ministers who have been the beneficiaries of the willingness of Caribbean people to move and find work even when the law says that they should not be in those places.

Sir, the Government of Barbados is in the process of bringing in the legislation and there will be many changes to the legislation but one of them will be the Immigration Act. We propose to go beyond the requirements of the revised treaty in the provision that we make for the movement of people. This country has benefitted particularly in its agricultural sector, construction industry and in other parts of our economy from the fact that we have been able to access a new skills gene pool coming from the rest of the Caribbean that has helped us to keep particular industries going in our economy.

Sir, I share the view and I have expressed it before, that we cannot have an elitist approach in operation where we have provision for graduates, musicians, journalists, sportsmen and self-employed people to be able to move freely but we say that the rest of the Caribbean people cannot. I also share the view that we should go as far as possible but it will mean two things. One is that we have to make certain arrangements for the affordability of Social Security arrangements, that would have to be in place but we also have to learn from Europe. We need for us to have in the Caribbean access to social cohesion funds such that we can lift up the entire region so that it does not really come to matter where people live.

Mr. Speaker, the key to Europe's integration was the use by Europe of its Regional Development Fund and especially creating its Social Cohesion Fund to really make substantial investments in countries like Ireland, Portugal and Spain such that those countries' growth was accelerated much faster than the rest of the European Union and it did not matter. What we have today is a situation where a country like Ireland that was at the very bottom of the round about 10 years ago, is a place where rather than people leaving, people are now flooding back to Ireland.

Sir, the House would have been aware that in recent times a group of us in the Caribbean have been trying to get the region ready for a single market and single economy by addressing this issue of the stability of the most unstable and poorest countries and putting forward the case for a transformation fund. That case, Sir, is still valid. In the same way that Europe could not have made it without treating the issue of social cohesion and treating to the needs of the least developed members, the Caribbean will have to do this or it will not make it. I need to say that, Sir, because sometimes when the Government of Barbados, as we have done, makes provision to help Dominica to keep our regional airlines going, it invites this unwanted criticism that we want to be involved in a reckless generosity.

Sir, we are at this stage in our history, and I made the point earlier today, that for the future Barbados must see these forces of regional hemispheric and global integration as giving us a unique history and opportunity. What is that, Sir? Throughout our history hitherto our development has been confined by the fact of our having to carry it out within a small market, small land area, small population and a small income. Participating in a single market and single economy is an historic opportunity for Barbados. Hitherto, Sir, the forms of regional integration have focused upon the freeing of the movement of goods but largely to Trinidad's benefit. It is not by surprise that Trinidad is the most competitive country in commodity production and it has benefitted by right, but once you liberalize services and the movement of capital, Barbados stands to benefit in a very extraordinary way from the next step in Caribbean integration.

8.20 p.m.

Equally, Mr. Speaker, to participate in a hemisphere in which the historic and cultural barriers that have stood in the way of our selling our services to a market of eight million people, Sir, is so rich and exciting that all of us must see ourselves as now, for the first time, being able to plan a country's future, not constrained by limitations of market size or geography and that the prospect of full economic development is within our reach.

Barbados, therefore, cannot doubt itself in relation to the purposes nor the benefits of these integration processes, although there will be costs. If from time to time the Government commits itself to helping the rest of the Caribbean, it is because the purposes that we are seeking

can only be achieved if we carry the rest of the Caribbean with us.

Essentially, Mr. Speaker, that is my response to the Honourable Member for St. Lucy's query about our lifting up our neighbour, Dominica. We have to help to lift up St. Vincent and the others. Barbados has a vested interest in this matter, those countries have been the only countries in the world with which we have always had a trade surplus. Our making them stronger, always makes our prospects for economic growth and development stronger.

The whole region must come together and find the resources to make sure that regional integration gives rise to equality in the pattern of distribution of income in the region, such that eventually it comes to matter not, where people in the region live. Sir, until you put those systems in place, matters of migration will continue to be an issue.

Mr. Speaker, this merely sets the legal framework. Over the course of the next 18 months, there will be an intense effort to translate this from a revised treaty into 400 pieces of legislation scattered across the region.

There is now a single market and single economy unit functioning in Barbados, being paid for by the Government of Barbados, and to some extent I share the point of view of the Honourable Member for Christ Church South, that we have to find a way of having the effort of creating a single market and a single economy, have access to resources that are bigger than the generosity of some individual countries.

Sir, we also have to be realists. Economic integration will impose on some small Caribbean countries that are to date, finding it difficult to pay their bills for their employees, the obligation to build a new tier of governance. Any structure of financing that we put on these countries has to be one that realistically bears a relationship in the capacity to pay their way.

I respond to that point, Sir, by saying that we need to have regional institutions that can sustain themselves. It is well recognised by the leaders of the process, Sir, but those of us who are in a position to help to advance the process, as Barbados can, should do so until we get a stronger region that can carry the full weight of an integration process of the kind that others have called for the region.

My point, therefore, Sir, is that the Government of Barbados that has lead responsibility for a Caribbean Single Market and Economy, will not allow the process to falter at this crucial junction in Caribbean history now that we have brought the process itself, to a point where we have the single market existing in the law. But we now have to embed it into the operation of our domestic economies. It is the price we are paying, but we think it is a price that is worth paying, because it is all in support of a worthy cause.

The House will have more than ample time in the future to deal with the 400 pieces of legislation. Some of them will be substantial. In Barbados we are going to have a new Immigration Act. We need to revise the Companies Act. We are going to have to change the Customs Act. We have to change a whole raft of legislation to bring the single market into existence.

Sir, I want to say on behalf of all those, starting from 1965, whose benign ghosts are with us here to their expense, who conceived us, like Europe, treating to the issue of our integration, with a view to the positive long term. I sense, Sir, that they are with us here today, and that they would want to commend this House for agreeing to be the first Parliament in the region, to do that which is required of us as an historic necessity, to embed in our domestic law, the provisions for the creation of a single market and a single economy, in the belief, Mr. Speaker, that those who struggled in the service of a great cause can never fail.

I am obliged to you.

Rt. Hon. O. S. ARTHUR: I beg to move, Sir, that this Bill be now read a second time.

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

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

On the motion of Rt. Hon. O. S. ARTHUR, seconded by Hon. Miss B. A. MILLER, the House resolved itself into Committee on the Bill, Mr. D. CARTER in the Chair.

COMMITTEE

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

Part 1, clauses 1 and 2 were called and passed.

Part 2, clauses 3 and 4 were called and passed.

Part 3, clauses 5 to 12 were called and passed.

The Schedule became the Schedule to the Bill.

On the motion of Rt. Hon. O. S. ARTHUR, seconded by Hon. Miss B. A. MILLER, the CHAIRMAN reported to His Honour the SPEAKER the passing of Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Rt. Hon. O. S. ARTHUR, seconded by Hon. Miss B. A. MILLER, the Bill was read a third time and passed and cited as the Caribbean Community Act, 2003.

ORDER NO. 6—RESOLUTION TO APPROVE IN ACCORD-
ANCE WITH SECTION 5 OF THE CROWN LANDS
(VESTING AND DISPOSAL) ACT, CAP. 225 THE
VESTING IN THE NATIONAL HOUSING COR-
PORATION OF PARCELS OF LAND SITUATE
AT UPTON, KENT AND COVERLEY IN THE
PARISH OF CHRIST CHURCH IN THIS
ISLAND FOR USE BY THE CORPO-
RATION IN ITS JOINT VENTURE
HOUSING PROGRAMME
WITH THE PRIVATE
SECTOR

Hon. G. A. CLARKE: Mr. Speaker, this Resolution before the House seeks permission to vest 21.74 hectares and 11.18 hectares of land at Coverley and Kent, respectively in Christ Church in the National Housing Corporation. The two sites, Mr. Speaker, will provide 348 lots. At Kent, 198 lots for upper, middle income and lower earners and at Coverley, 150 lots for lower and middle income earners.

With those remarks, Mr. Speaker, I am obliged to you.
8.30 p.m.

Mr. D. St. E. KELLMAN: It is mentioned in the Resolution that this would be a joint venture between the National Housing Corporation and another company. What is interesting is that we are constructing a large number of houses, but at the same time we as a Parliament are using our legislative power to limit the draftsmen of Barbados in being able to contribute to this particular project.

If we are serious about dealing with the housing needs of Barbados we cannot at this time be limiting the draftsmen of Barbados. What we must do is to open up the market so that we can be able to make sure that the large number of lots that the Government have in its land bank can be fully utilised. We cannot be limiting the resources of Barbados or sharing those resources within a small group.

We are in the age of trade liberalisation, but we must also be in the area of services liberalisation. On one hand we are speaking about liberalising certain things and on the other hand we are limiting the resources of Barbados.

I regret, Sir, that I was not here last week to deal with another matter and you know I cannot deal with it now.

Mr. SPEAKER: I am glad you realised that, Sir.

Mr. D. St. E. KELLMAN: But I can deal with joint ventures, considering that the Honourable Member for Christ Church South has always call for us to have houses higher

than one storey, because if we are going to be building up, we cannot be going up and at the same time limiting the resources of Barbados. So I support the draftsmen of Barbados because I feel they have a right to share in the cake of Barbados especially when we are talking about expanding the number of homes to be constructed in Barbados. We are always hearing from the Minister of Housing and Lands that we do not have the technocrats, but yet we are trying to limit some of the technocrats who can cash in on this housing project.

I thank you.

Hon. G. A. CLARKE: Sir, I want to say that I support some of the views and the comments of the Honourable Member for St. Lucy and beg that this Resolution do now pass.

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

The question that the Resolution do now pass was put and resolved in the affirmative without division.

RECOMMITTAL OF NOTICES

Hon. Miss B. A. MILLER: I beg to give notice of the Occupational Pension Benefits Bill, 2003.

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

FIRST READING OF BILLS

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. R. N. GREENIDGE, the following Bill was read a first time:

Occupational Pension Benefits Bill, 2003.

ADJOURNMENT

Hon. Miss B. A. MILLER: Mr. Speaker, I beg to move that this House be now adjourn until Friday, April 25, 2003 at 11.00 a.m. in the morning.

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

The question that the House do now adjourn until Friday, April 25, 2003 at 11.00 a.m. was put and resolved in the affirmative without division and Mr. SPEAKER adjourned the House accordingly.
8.35 p.m.

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