

THE House of Assembly Debates

(OFFICIAL REPORT)

SECOND SESSION 1999 - 2004

HOUSE OF ASSEMBLY

Tuesday, February 3, 2004

HOUSE OF ASSEMBLY Pursuant to the adjournment, the House of Assembly met at 10.20 a.m.

PRESENT

His Honour I.A. ROETT, G.C.M., B.A., Dip.Ed., (Speaker) His Honour J. M. EDGHILL, J.P.,(Deputy Speaker) Hon. Dame BILLIE A. MILLER, D.A., B.C.H (Minister of Foreign Affairs and Foreign Trade) Hon. RAWLE C. EASTMOND, B.A.(Hons.), Dip. Ed., LL.B. (Hons.), L.E.C., J.P. (Minister of Labour and Social Security) Hon. GLINE A. CLARKE, B.Sc., Dip. Ed.,J.P. (Minister of Public Works) Mr. ROMMELL D. MARSHALL (Chairman of Committees) Mr. RONALD St.C. TOPPIN, LL.B. Mr. DENNIS St.E. KELLMAN Hon. Miss H. ELIZABETH THOMPSON, LL.B. (Minister of Housing, Lands and the Environment) Hon. Miss M.A. MOTTLEY, Q.C.,LL.B (Deputy Prime Minister, Attorney-General and Minister of Home Affairs, (Leader of the House) Mr. TREVOR A. PRESCOD, B.A. Hon. NOEL A. LYNCH, B.Sc., M.B.A., (Minister of Tourism and International Transport) Hon. ANTHONY P. WOOD, B.Sc., M.Sc. M.Phil., J.P. (Minister of Energy and Public Utilities) Hon. REGINALD R. FARLEY, B.Sc., J.P. (Minister of Education, Youth Affairs and Sports) Hon. Miss CYNTHIA Y. FORDE, J.P. (Minister of State, Ministry of Education, Youth Affairs and Sports) Hon. J.X. WALCOTT, M.B.,B.S. (Edin.), F.R.C.S.,J.P. (Minister of Health) Mr. R.D. JONES, B.A. (Hons.), M.A (Ed.), J.P. Dr. D.C. ESTWICK, B.Sc., M.B., B.S Mr. C.A. MASCOLL, B.Sc.(Econ.) (Hons.),M.A. (Public Finance), (Leader of the Opposition) Hon. D.D. MARSHALL, LL.B. (Hons.), L.E.C., (Minister of Industry and International Business) Mr. M.A. LASHLEY, LL.B.(Hons.) Hon. K.D. SYMMONDS, B.A., LL.B. (Minister of State, Ministry of Foreign Affairs and Foreign Trade) Dr. W.F. DUGUID, B.D.S. (Comm.), F.D.S., FDRCS., J.P. Mr. R.L. SEALY, B.Sc. M.B.A.

Prayers were taken by Reverend Canon Ivan Harewood.

Mr. SPEAKER: The House is now in session.

MINUTES

Mr. SPEAKER: This House is now in session. The Minutes of the meeting held on Tuesday, January 27, 2004.

Miss M.A. MOTTLEY: I beg to move that the Minutes for the Honourable the House of Assembly for its meeting of Tuesday, January 27, 2004, which Minutes have been circulated, be taken as read.

Hon. G.A. CLARKE: I beg to second that.

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

PAPERS

H19: 10.20

Sequence 2

Tuesday, February 03, 2004

PAPERS

Hon. Miss M.A. MOTTLEY: Mr. Speaker, I am commanded to lay the following

1.The Annual Report and Financial Statements of the Fair Trading Commission for the year ended March 31, 2002.

SUSPENSION OF STANDING ORDERS

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

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

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

GOVERNMENT BUSINESS

Mr. SPEAKER: Government Business is the order of the day. Order No. 5.

ORDER NO. 5 - SECOND READING OF THE FAIR TRADING COMMISSION (AMENDMENT) BILL, 2003

Hon. Miss M.A. MOTTLEY: Mr. Speaker, I rise in this debate to move the amendment of the Fair Trading Commission Act, which was initially passed by this House in the year 2000. Indeed, the Bill is

No. 31 of 2000 and let me say at the outset that the amendment is simple. It seeks to amend the First Schedule to that Act to empower the number of commissioners to move from seven, including the Chairman and Deputy, to eleven. This is to facilitate the capacity of the Commission to treat to all of its responsibilities, as provided by the various statutes in a comprehensive way, rather than being encumbered by a large number of claims, a comprehensive workload, and being limited in its capacity to meet that demand because of a limited number of commissioners.

Mr. Speaker, the amendment is perhaps useful, given the fact that this Commission has now had the opportunity to function for some time, just less than two and a half years. Indeed, Sir, I speak today, cognizant that I have just laid before this Honourable Chamber the first Annual Report ever filed by The Fair Trading Commission, in respect of its first year of operations ending 31st March 2002.

I also speak in the context that we have had the opportunity, over the last two and a half years, to see the functioning of the Commission and to recognise that there are certain things, for example, like expanding the number of commissioners, which would enhance its capacity to meet the workload that is currently before it.

Unlike other countries where the responsibility for competition issues, utility regulation or for consumer related issues may fall among three separate bodies, in Barbados' case and a number of other developing countries, it falls within the purview of one body. I say this cognizant that we took a conscious decision, pursuant to recommendation by consultants, particularly the study done by London Economics in October 1997, which recognised that the economies of scale in Barbados were such that to simply have an institution treat to one of these three issues, may not have given it the critical mass to justify the kind of expenditure that one would have to invest, in order to be able to get the best permanent advice, as well as the periodic advice which is necessary to treat to any of the three issues.

Sir, I want to cast this debate back in the original purposes to which the Government decided to bring a Fair Trading Commission Bill and other companion legislation and to establish such a commission at the beginning of the 21st Century in Barbados.

We felt, Mr. Speaker, that we needed an institution which would assist us in creating the framework for the new economy that would allow us to ensure that in matters of utilities regulation, we were capable of providing the most effect regulation, while seeking to liberalise sectors that had traditionally been monopolies.

Sir, we recognised that the Act which then governed utility regulation was legislation that had been passed in the late Rt. Excellent Sir Grantley Adams' first Cabinet in 1951-1956, when this Parliament passed the Public Utilities Board Act of 1955. Sir, between 1955 and 2000, there were substantial developments in our economy, meriting a comprehensive review of the manner in which we treated to the issue of utilities regulation.

We also felt that in terms of helping us to create a virtual market economy, we needed an institution such as the Fair Trading Commission to be able to treat to the issues pertaining to competition in particular, recognising that the development of this economy has been, one largely because of size and limited access to capital, by a few players who have predominated in areas of economic activity in circumstances, Mr. Speaker, that had not necessarily enured to the benefit of the country, or to

individual entities, be they legal persons or natural persons, from a macro-economic perspective.

Mr. Speaker, we recognised that the time had come for that, given the fact that we were already planning for an integration into a Caribbean Single Market and Economy (CSME) where issues of competition would become, a focal point for the planning and integration of that CSME and even more so, as we move into the wider hemispheric integration, in respect of the Free Trade Area of the Americas.

Indeed, Mr. Speaker, it is fair for me to say that the area of jurisprudence that I expect to grow most in the next decade, is the area of law pertaining to competition law, largely because of the framework we have set domestically, the framework to which we are committed by treaty, in respect of the revised Treaty of Chaguaramas, regionally, and the framework in which we are now negotiating, in respect of the Free Trade Area of the Americas.

Mr. Speaker, there is also the area of consumer protection and consumer regulation. Indeed, it is fair to say that this is an area which bedeviled successive Governments. I certainly remember that my entry to public life coincided with an attempt by the Democratic Labour Party Government throughout their tenure, 1986 to 1994, to bring to this Parliament consumer legislation. They hired a Trinidadian consultant, Dr. Osmund Rose, who had the responsibility of seeking to draft the framework for the Consumer Protection Laws of Barbados. Unfortunately, that project was fraught with all kinds of difficulties and it never saw the light of day, nevertheless, that did not mean it was not valid.

Sir, this Government committed itself to putting a framework in place, particularly recognising that once we made a determination that we are a service-based economy, there had to be a commitment towards ensuring the best framework for the delivery of services such, quality of service and quality of goods, if we were going to justify our need to become a high quality destination, in respect of commerce and trade in this part of the world.

House 19, sequence 3, 10:3014

Tuesday, February 03, 2004

Continuation of Hon. Miss M. A. MOTTLEY:

Mr. Speaker, that represented the understanding that an institution was needed to help the Government in respect of the restructuring of this economy, given the challenges we were facing domestically as well as in respect of our international trading relationships that required us to open our economy to competition, to be able to integrate into wider economic spaces and to be able to treat to other international trade negotiations that may have implications for domestic production in our economy.

Mr. Speaker, that, combined with our desire to be able to treat to issues that would put the consumer in the best possible position in which they could be financially, while at the same time ensuring a commitment to the maintenance and monitoring of high standards, reflected the motivation for this Government passing the Fair Trading Commission Act in the year 2000. It is fair to say at this time that we will continue to review how we have performed with respect to those objectives which we set

ourselves in respect of the establishment of this institution.

Sir, as is to be expected with the creation of any new institution, it takes time for the institution to be able to establish a culture which is respected by all and to be able to ensure that it meets the objectives as established in the legislation which created the entity.

Mr. Speaker, at the same time that we come to this Parliament to increase the number of commissioners from seven to eleven, the Ministry of the Civil Service has approved a request from the Fair Trading Commission to increase the number of officers by a further seven persons because we recognised that support staff is critical to the effective and efficient flow of work, information and advice to allow the commissioners to discharge their mandate provided for under the legislation.

Mr. Speaker, in many instances the public's perception of the Fair Trading Commission is that it only relates to telecommunications policy. The first point therefore that must be made in this debate is that because the Fair Trading Commission has been so consumed with the volume of work that is required in the liberalisation of the telecommunication sector, it is perhaps because of the limited resources thus far, but it has been able to treat to other aspects of its mandate with the level of speed and in the comprehensive manner that it would wish to do so. I speak of matters pertaining to the regulation of other sectors.

This Government has said that not only do we expect that those sectors that had hitherto been the subject of regulation should continue under the Fair Trading Commission but that it should be broadened to take in other utilities and other sectors in which there are monopolies operating. For example, we all know that the Barbados Light & Power Company was regulated under the Public Utilities Board Act, which continues, but the Public Utilities Board never treated in a serious and comprehensive way to the issue of service standards within the electricity sector or to the issue of competition within generation for the Barbados Light & Power Company. These are matters with which the Fair Trading Commission is charged.

Many of us in here may not know that at one point during the life of the Public Utilities Board, the transportation sector was regulated by the Public Utilities Board and that a decision was taken by a then Government to move that transportation section from the Public Utilities Board.

Mr. Speaker, this Government has made a judgment, and the Prime Minister has announced, that the day may well come when the Transport Board and its rates and quality of service may well become the subject of regulation of a Fair Trading Commission, equally, Mr. Speaker, the matters pertaining to natural gas and its exploitation and distribution. Sir, the Government is on record of saying that we are preparing the Barbados Water Authority to be able to come within the purview of the Fair Trading Commission to treat not only to issues pertaining to rate setting but also to issues pertaining to quality of standards, which indeed is highly topical in respect of this utility at this point in time. Mr. Speaker, that is utilities regulations.

In relation to competition, Mr. Speaker, the Fair Competition Act, which we passed in 2002, is a little more recent than the Utilities Regulation Act and the Telecommunications Act, both of which were passed in the year 2000. Therefore, the Fair Trading Commission is now getting on its feet in relation to its mandate as prescribed under that legislation. Mr. Speaker, suffice it to say that in our economy in

circumstances where you have a limited number of players, if not monopolies, in different aspects of the commercial activities of this country, this Fair Competition Act, in my view, will come to be the most important piece of legislation that would govern and determine the shape as well as the efficiency of the Barbadian private sector, as it seeks to integrate into a regional economy and ultimately a hemispheric economy.

It is one of those pieces of legislation I believe a hundred years from now will be looked upon as a landmark piece of legislation, not only in terms of its ability to help transform this economy but also in its ability to help transform the society as a whole, in terms of the consequences that would flow from it. Whether it is in relation to the desire to break a closed shop in relation to how business is conducted in this country, whether it is in relation to treat to issues such as the prevention of predatory pricing or vertical and horizontal control of markets or whether it is in relation to being able to open it up to give new business entrants a fair chance, recognising that they may not have access to the same levels of capital and expertise, but at the very least they deserve the opportunity to be able to pursue that business activity which they feel themselves either equipped, prepared or structured so to do, this piece of legislation seeks to create a level playing field in relation to the conduct of business activity in this country. It seeks to create the basis for us creating a level playing field particularly in relation to our efforts to integrate into a single market and single economy.

Sir, elements of competition are central to the revised Treaty of Chaguaramas, as we would continue to see, particularly in the early days of the interpretation of this Treaty, as companies seek to expand into other markets within the region and seek to be able to dominate markets in which, without this level of protection, they might otherwise be unable to do in an unfettered manner.

Mr. Speaker, I am of the view that this Fair Competition Act of 2002, will be regarded as a landmark piece of legislation in the restructuring of Barbados' economy at the beginning of the 21st century and equally in its impact on the wider society and on Barbados' role in a Caribbean Single Market and Economy as we move into building the same.

Mr. Speaker, I turn to look at the consumer aspect of the Fair Trading Commission. Mr. Speaker, as you know, we took a decision that saw us establishing the Office of Public Counsel because we recognised that in many instances where people have complaints they legitimately do not have the resources to be able to pursue those complaints even if they have a valid case.

Mr. Speaker, one of the things we did as a Government was to ensure that the Office of Public Counsel was created as a full-time job in spite of the fact that the London Economics Report recommending the establishment of the Fair Trading Commission only recommended and that we allocate one person within the Solicitor's General Chambers to treat to these issues when they come up or to assist interveners in utilities regulations hearings. The Government of Barbados said no because we believe that our responsibility is to establish a permanent Office of Public Counsel because we believe that there is sufficient work for such a person to be able to treat to the needs of individuals who do not otherwise have resources to be able to challenge the quality of goods or services for which they have paid money.

10:40 a.m.

Tuesday, February 03, 2004

Continuation of Hon. Miss M. A. MOTTLEY:

Mr. Speaker, that decision was also rooted in an understanding that while Barbados has a reasonably good Legal Aid system, its purview is limited in relation to criminal law, constitutional law and family law matters, particularly as it relates to the maintenance of children.

Sir, we did not have a legal aid system which stretched its arms into the private commercial sector and therefore, one needed to be able to ensure that the average Barbadian who might not have the resources, could go into the Office of the Public Counsel and complain about the quality of the car which he or she has purchased, in the same way that we have now seen the Consumer Claims Tribunal could issue its first two historic decisions in relation to a defective car and a defective concrete mixer.

Mr. Speaker, I believe that the public of Barbados deserves to know the facts and in relation to the performance of that Office, since it has been created. I believe it is one of the success stories of the Fair Trading Commission and its companion legislation which we brought in 2000.

Mr. Speaker, I can quote the Report which is before the Honourable House, which deals with the first few months of the Fair Trading Commission and the existence of the Office of the Public Counsel. Indeed, this report states during the period of the first year, 71 complaints and inquiries came from consumers. Out of those complaints, 14 related to telecommunications, six to electricity, and the others were of a general nature.

Mr. Speaker, in addition to that first year of operation, to date the Office of Public Counsel has almost treated 500 complaints or inquiries. Sir, the process is that the Office of Public Counsel tries to resolve those complaints which can be resolved but in circumstances where he is unable to reach a resolution in relation to those matters which are before him, would only refer such matters to the Consumer Claims Tribunal.

Mr. Speaker, it is significant that to date, out of those 500 complaints or inquiries, only 10 have been referred to the Consumer Claims Tribunal. Sir, I believe that this is for a number of reasons such as the Office of Public Counsel is hardworking and efficient in relation to the follow-through of complaints and inquiries and that business entities in Barbados are far more cognizant of the responsibilities which the law places on their shoulders, to ensure that good quality goods and services are sold to consumers. Therefore, these businesses might be more willing to treat to a request from the Office of Public Counsel without having to incur legal costs and lost of time from their businesses in order to be able to reach the same conclusion, which could have been had by way of a simple conversation and negotiation process, rather than going through a quasi legal process in respect to the Consumer Claims Tribunal.

Mr. Speaker, I believe that we would continue to see this pattern, where the majority of claims could be resolved or settled by reason of the good Office of Public Counsel but those which are intractable, difficult or unclear, would find themselves going before the Consumer Claims Tribunal for a resolution.

Indeed, it is fair to say that the Office of Public Counsel, in my view, has gained the public's confidence and I trust and hope that it would continue in that way. I hope too that the time might well come where we would have to expand the staff of the Office of Public Counsel, to meet the demands of the public, although the ideal situation is for the public of Barbados, both through the providers of services and goods and the consumers, to be able to manage their affairs, rather than to resort to this Office of Public Counsel or to the Consumer Claims Tribunal.

Mr. Speaker, in addition, the Office of Public Counsel has the responsibility of seeking to assist interveners who may be laypersons, who may want to participate in public hearings of utility regulations, recognising that those public hearings are formatted in a strict legal way, such that the lack of knowledge of the law or rules of procedure, may prevent them from being as effective as possible in those hearings.

Indeed, the Report by the London Economics recommending the establishment of the Office of Public Counsel and the Fair Trading Commission, speaks to the role of the Office of Public Counsel in respect of assisting interveners. We now have some limited experience in this regard and it is perhaps unfortunate that only two entities initially had sought to make use of the Office of Public Counsel in the preparation of their matters that are before the Fair Trading Commission. Sir, the Office of Public Counsel is not only giving legal advice but have been given funds to be able to procure professional and technical expertise, which would allow them to be able to meet the counsel of the utility providers, in respect of the quality of professional and technical expertise, which they are capable of bringing and adducing before the tribunal.

Mr. Speaker, to date there were the Barbados Consumer Research Organisation and the Council for the Disabled, which have requested the services of the Office of Public Counsel. I regret to say that there seemed to have been a break in the relation between the Barbados Consumer Research Organisation and the Office of Public Counsel and, therefore, the Office of Public Counsel is only representing now the interest of the Council for the Disabled. It would appear, and I am reliably informed, that break was triggered predominately by the desire of the particular consumers organisation to have its principal speak on his own behalf, in respect of matters before the tribunal.

The Office of Public Counsel continues to represent the Barbados Council for the Disabled, for example, in the current rate rebalancing hearing. Sir, I am also instructed that he has already received technical expertise relating to rate rebalancing, to help him in the conduct of his case and is currently procuring such similar expertise in relation to the confidentiality hearing, which is equally being conducted by the Fair Trading Commission, in relation to those matters which Cable and Wireless, in this instance, argue should remain confidential in the context of the public hearing.

Mr. Speaker, I believe that it is a good thing and that it enhances the quality of access to justice in this country for the establishment for the Office of Public Counsel. I believe that it gives people who may not otherwise be able to come to the table with legitimate complaints, the wherewithal to do so. I believe that it is consistent with our commitment to the kind of democracy that we would wish to build in this country where, irrespective of a person's background, a person should have access to justice and the pursuit of it, in relation to matters which he or she feels to be fundamental to his or her particular interest.

Mr. Speaker, this brings me to the issue of utilities regulation in general. Sir, as I said, the public's perception is that the Fair Trading Commission only deals with telecommunications. Perhaps that reflects the fact that liberalisation of the telecommunication sector is one of the key initiatives which this Government has determined must happen, in order for us to be able to build on the framework that we would wish to see for the new economy.

Sir, there is no secret that in the last two decades, Barbados has been moving effectively from being an economy which relied more on agriculture, industrial production and tourism, to one where we are going to be relying more and more on services, in order to generate the quality of returns, or to sustain the quality of life that we would like maintained in this country.

House No.19(5)10:50 a.m.

Tuesday, February 3, 2004

Continuation of Hon. Miss M.A. MOTTLEY:

Mr. Speaker, there is no secret within the context of the services sector that telecommunications, information and communications technology play a pivotal role in the types of entities that can be successfully established to be able to trade both domestically, regionally, and internationally, to ensure that our economy performance can be built upon that which we have seen thus far.

It is also no secret that this coincides with rapid technological developments within those same sectors that provide us with an opportunity that hitherto would have been a disadvantage in relation to other forms of economic production.

In the context of rapid technology development, size and geography no longer offer the same handicap that they did hitherto and countries like Barbados that are prepared to build on skill-intensive and service-oriented industries, maximising the opportunity and advantages created by technological development in telecommunications, information and other communication technologies, now have an opportunity to be able to maintain a level of economic performance that we could not have done probably since the beginning of modern settlement when sugar was king and in great demand throughout the rest of the world.

Mr. Speaker, this is our time and it is up to us how we so manage our policies and production potential to ensure that we, as a country, can maximise the returns from both, such that the quality of life we have can be guaranteed for a longer period of time and can be improved for those persons who are not yet the recipients of the improvements that have been made of this economy over the first generation of Independence.

Mr. Speaker, I say so deliberately because the returns which we need to be able to make that goal a reality, to be able to transition us from a developing country to a developed one, are considerably less because of the size of the country. Equally, the opportunities, in my view, far outweigh the risks that currently face us as a country in relation to those developments internationally and also in relation to the premium that is now put on knowledge-based intensive industries and the use of technology as a productivity tool to be able to remove the constraints of size and geography.

Sir, when we take that in context also with what we are trying to do to restructure our economic relations to ensure that our domestic market is no longer 250 000 people constrained by a GDP of about \$7 billion. Sir, we can now look forward to a market that is \$5 million with the Caribbean Single Market and Economy, that we can look forward to being able to treat to the rest of the Caribbean as the domestic territory, then we understand the critical importance of being able to competitive within this part of the Caribbean Single Market and Economy and also be further productive by utilising the resources before us, to be able to establish greater presence and a greater percentage of the market in relation to Barbadian businesses participating in other areas of the Caribbean.

Mr. Speaker, it is our view that the liberalisation of the telecommunications sector is one of the most significant policies to be pursued by this Government if we are to be successful in effecting the transition of our economy and be able to effect the seamless integration of the Caribbean Single Market and Economy, the Free Trade Area of the Americas, as well as to ensure the opportunity for further job creation and returns for entrepreneurs in this country in the early part of the 21st century.

Mr. Speaker, there is no secret either that Barbados is behind the curve in respect of other Caribbean countries in the liberalisation of the telecommunications sector. Jamaica and the OECS countries have completed the process. Barbados has taken longer to complete the process because it is a fact that Barbados had challenges that were not faced by those countries in respect of the nature and length of the monopoly in relation to the telecommunications sector.

Mr. Speaker, this Parliament in 1991, under a previous Government, brought legislation that gave Cable & Wireless the exclusive right to continue to maintain a domestic telephone sector, international telephone lines as well all new telecommunications technology that had been developed and that had not yet been commercialised.

Mr. Speaker, this legislation was passed at a time when other countries in the region like Jamaica were already readying themselves for the liberalisation of their telecommunications sector. Sir, while we were passing this legislation to bind Barbados' hands in an area that both political parties recognised as the area of growth over the next two or three decades of our economy, other countries in the region were beginning to plan the liberalisation of their sector. Sir, we in Barbados as a Parliament, were passing laws that would enshrine and cement the role of Cable & Wireless as a monopoly provider in this country.

Mr. Speaker, outside of Parliament in 1991, a previous Government which had fought so hard to be able to give employee shares in the same Cable & Wireless, saw the sale of those shares because of the economic difficulties into which this country was catapulted in 1991, otherwise referred to by most people as the most trying economic year this country had to face since Independence. In these circumstances we also saw a licence being granted to Cable & Wireless for twenty years from 1991 to 2011 as a monopoly provider in Barbados. Sir, this is what we had to face.

While the pace of telecommunications liberalisation has been quicker in other Caribbean territories, I have sought to explain what we had to negotiate ourselves out of and, what do I mean by that?

Sir, anyone who has an exclusive right to do anything, effectively has a property right. It is like if

you own a piece of land, house or shares and no other party can seek to unilaterally breach that monopoly or exclusive right. This Government was confronted with the task of negotiating Barbados out of the monopoly which Cable & Wireless enjoyed in the domestic and international telecommunications sector as well in new areas of telecommunications technology. Mr. Speaker, it was a property right which caused them in this last year as a monopoly provider to earn profits of \$25 million.

H19/11:00

Sequence 6

Tuesday, February 3, 2004

Continuation of Hon. Miss M.A. MOTTLEY:..

Mr. Speaker, I make bold to say that our ability to cause Cable and Wireless to surrender that exclusive licence eight years before it was due to be surrendered, has saved this country from seeing Cable and Wireless make profits to the amount of \$25 million as it made this year.

Sir, eight by twenty-five million equals \$200 million. At the same time we have seen them benefit from these kinds of profits but neither the individuals nor our economic sectors have benefited either from the improvements in technologies that are available to the rest of the region or to a reduction in prices which ought to have been made available to us because at the macro level, the rapid technological developments have led to reduction in the cost of the resource technology and hence there must be a concomitant reduction in what the consumer or the productive sectors are capable of sourcing that technology at.

Mr. Speaker, if there was one action that so affected and retarded Barbados' capacity to quicken the pace of telecommunication liberalisation in this country, it was the 1991 and the exclusive twenty-year licence which was granted to Cable and Wireless in 1991.

Sir, the Honourable Leader of the Opposition shouted across the floor of this Honourable House that what I said is rubbish but I would not expect anything other than that from an Honourable Member who said as recent as November 2003, in the Economic Statement debate, that we should extend Cable and Wireless' licence for a further two years as an exclusive provider for domestic telephones. Sir, when this Government is issuing a new domestic licence to Cable and Wireless that does not allow them to operate in the context of a monopoly, the Leader of the Opposition of Barbados would wish Cable and Wireless to have two more years as a monopoly provider in this country for domestic telephone services, only to be able to discern historical data collected to be able to treat to the question of rates.

Mr. Speaker, those who are seized with the knowledge of utility regulations know that you do not have to go through that exercise and that there are opportunities for benchmarking and all other types of methodology to be able to treat to the issue as to what is the appropriate rate or mechanism to regulate

the telecommunication sector in Barbados. Sir, perhaps, that may not be the position of the entire Democratic Labour Party because the look of shock on the faces of certain Honourable Members on the other side, suggests to me that the Leader of the Opposition may well not be able to command the respect of his team in this particular policy that he has put on the Floor of this Honourable House.

Mr. Speaker, I find it difficult to believe that, for example, the Honourable Member for St. Lucy, who champions the cause of the poor man and the small man in this country, would want to associate himself with a policy that will perpetuate a monopoly such that Barbados cannot benefit from the improvements of technology in the area of domestic telephone service or in the necessary reduction in cost in the domestic telephone service.

Sir, I am going to come to the Memorandum of Understanding. I am not phased by these matters because I genuinely believe that in the same way that the Democratic Labour Party took a decision that was detrimental, fundamentally, to the economic health of this country in 1991, that the Leader of the Opposition would want to repeat history and to perpetuate that monopoly which was then granted at a time when others were liberalising the sector in these circumstances.

Mr. Speaker, we talk about why Cable and Wireless would want to give up that exclusive monopoly and why we were able to negotiate the way out of this arrangement. Sir, I will quote the Memorandum of Understanding and excessively today. It is a public document since it was laid in this Honourable House in 2001, contrary to those who would wish to assert that it is a private document. Anyone who knows the rules of the House of Assembly, like learned journalists who have been around for a long time, would know that any document laid in this Chamber is a public document that is capable of being sourced by any citizen of this country, even those who are incapable of understanding such documents.

Sir, let me say for the record that this debate cannot be divorced from the international developments which were taking place in the telecommunication sector at the time. Mr. Speaker, since the late 1980s or early 1990s there has been a policy mantra, followed internationally, that the telecommunication sector ought to be liberalised. This was followed by the international financial institutions and it was propagated by almost every major economic grouping. Sir, what is even more significant is, that the General Agreement on Trade and Services (GATS) that was settled in the early 1990s, saw a development where countries like Barbados could not commit to the liberalisation of the telecommunication sector because of the monopoly granted to Cable and Wireless in 1991 for twenty years by the Democratic Labour Party Government and this was done at a time when other countries were capable of putting the telecommunication liberalisation on the table in the agreement.

Mr. C.A. MASCOLL: On a point of order. The Leader of the House is misleading this Honourable Chamber because she cannot say that an agreement entered into in 1991, could stop the liberalisation of the telecommunication sector in Barbados. In fact, in 1988, three years earlier, Jamaica entered into an agreement with Cable and Wireless for twenty-five years and hence since liberalised, so, to identify Jamaica as an example and now to suggest otherwise is nonsense.

Asides

Hon. Miss M.A. MOTTLEY: Mr. Speaker, I can truly understand why the Honourable Leader of the Opposition, within the first hour of Parliament this morning is as rattled as if he went through a

pounding for three days. Anybody who could seek to make a case for Cable and Wireless maintaining a monopoly in Barbados for another two years, not knowing whether his team, on that side, will support him, must be facing a future of gloom and doom in relation to the Democratic Labour Party.

However, I want to say that I never said that prevented Barbados from liberalising the telecommunication sector. I said that the twenty-year licence given to Cable and Wireless on an exclusive base creating a monopoly, ensured that Barbados could not commit to the liberalisation when they signed the General Agreement on Trades and Tariff in 1994. The Democratic Labour Party had ensured that their economic planning, as a Government, proceeded on the basis of a twenty-year monopoly that they gave to Cable and Wireless. I repeat it because the point that I was making is that at the time, internationally, when everything was moving towards the liberalisation of the telecommunication sector, we were going in the opposite direction.

Mr. Speaker, I want to go further because many of us remember the landmark decision of the Federal Communication Commission which also help to create the framework for further liberalisation of the telecommunication sector. Many of us would remember in the United States of America, 'the birth of the baby bells' because there was now the capacity with the liberalisation of the telecommunication market to see a preponderance of competition in those markets. We also saw the same thing happened throughout the industrialised world and we saw it start to happen in the developing world.

H19: 11.10 a.m.

Sequence 7

Tuesday, February 03, 2004

11:10 a.m.

Continuation of Hon. Miss M.A. MOTTLEY:

Mr. Speaker, the one thing that perhaps favoured us in the early days of seeking to bring the monopoly to an end was the very rapid technological developments, as well as the policy mantra of the World Trade Organisation (WTO) and the international financial institutions.

Cable and Wireless (C&W) started to recognise globally, and by extension in their respective entities, that they could no longer continue to operate in an environment that was not reflecting any form of competition. They had previously been in a monopoly situations through all the British colonies.

Mr. Speaker, Cable and Wireless hired as their Chief Executive Officer, an American for the first time, Mr. Dick Brown, I speak subject to correction. Mr. Dick Brown in the early 1990s, got Cable and Wireless, as a company, to begin to ready themselves to face competition in almost all of the markets. He told them that they had already seen their monopolies taken down in a number of countries and it was only a matter of time before they were removed in the other countries in which they still had monopolies, such as Barbados.

Mr. Speaker, therefore, the ability to be able to treat to Cable and Wireless to seek to bring them to

the point of recognising that as a matter of principle first;

1.that the Barbados economy could no longer sustain a monopolistic control of telecommunications, if we were seeking to build a new economy that could be sustainable in the future.

2.that in order for us to integrate into a Caribbean Single Market and Economy (CSME) for which the declaration had been made since 1989, by the same Democratic Labour Party Government which then turned around and put a monopoly in place in 1991, that a Caribbean Single Market and Economy should be established.

Mr. Speaker, this ran counter to what they were seeking to do, when they committed to the Grand Anse Declaration to commit to the Caribbean Single Market and Economy.

Mr. Speaker, the recognition by Cable and Wireless that it was simply a question of whether they met their profit of doom, their hangman, at six o'clock in the morning, eight o'clock in the morning, 10 o'clock in the morning or 12 Noon, that the days of monopolistic existence in the telecommunications sector globally, were coming to an end and it was simply a question of when it would go.

Sir, having said that they were prepared lose a battle to win the war, and they were prepared to give up their monopoly to be able to stay in business for the long run, to be able to see Barbados' economic health move to a point where we could truly benefit as a nation and have a sustainable growth pattern, that there were still property rights vested in them as a result of that monopoly.

Mr. Speaker, I know not of one individual who will just flippantly give up property rights, either in this House, or as an institution or a corporate entity, without the most careful examination of the consequences of so giving it up. Sir, this is not a puppy show or a child's play. These are investments of hundreds and millions of dollars that have been made over the course of this country's development.

Mr. Speaker, while we may be on the back-end of the curve in relation to telecommunications liberalisation, the investment in this country's development in the early and middle part of the 20th Century led to Barbados having a competitive advantage over its neighbours. This is so because of our investment in telecommunications, as well as helping to enhance and preserve our social fabric, because of the level of access to telephone services and other related services in this country, in circumstances where many of our neighbours were not able to see that kind and level of telephone density. We were able to see this, at an earlier time in Barbados, than most other countries.

Mr. Speaker, it is easy to make things the subject of cultural and political methodology in this country. As I said, it is unfortunate that many of the persons who refer all the time to the Memorandum of Understanding (MOU) did not remember that this Government never sought to hide anything. We made this a document of the House by laying this Memorandum of Understanding on the Floor of this Chamber. Sir, it is available, like every other document, since the 1650s that has been laid in this House, for people who are prepared to come and get a copy of it and research it.

Mr. Speaker, I became Attorney-General only a month before this was signed, so I came in on the back-end of the telecommunications liberalisation process. This document was signed on 16th October 2001, on behalf of the Government and Cable and Wireless. The Honourable Member for Christ

Church East was then Minister of Economic Development. The document was signed by both Cable and Wireless BET Limited and Cable and Wireless BARTEL Limited because you will remember that at the signing of this document, there were still two companies, C&W BET Limited and C&W BARTEL Limited.

Mr. Speaker, I want to carry you through this document and you will have to forgive me because I am going to take some time doing it. It is clear that nothing short of the most comprehensive distillation of the issues will suffice, both for this Chamber and for the wider public, in relation to what are the commitments.

Page 1 of the document, Mr. Speaker, treats to the recitals, clearly setting out that Cable and Wireless has been functioning in the Barbados economy, in relation to the two companies and, indeed, clearly reflecting the domestic license and the international licence given to these companies. It goes on in the recitals just basically to set the context, in which the MOU is being discussed. It refers to the other companies which were affected because you would remember that they had a cellular company at the time called, Cable and Wireless Caribbean Cellular.

Mr. Speaker, it also sets out the fact that both the international license and the domestic licence were not due to expire before the 30th September, 2011. This is not even the first decade of this 21st Century, but the second decade, having been given in the last decade of the last century.

It sets out, Mr. Speaker, that they started discussions on the 28th February 1999 with the Government of Barbados over the question as to the surrender of the licenses and a successive framework for the operations in this country.

Mr. Speaker, it took two and a half years of discussions before it reached the point of the Memorandum of Understanding. It sets out very clearly a schedule of activities in the first schedule, and the second schedule in relation to a transition timetable for the liberalisation of the sector, recognising that the liberalisation, as put by Government, would be done in three phases.

Mr. Speaker, in the first phase, we see the liberalisation of such things as equipment on customer premises and cellular equipment. We are about to see the full realisation of that liberalisation very shortly...

House 19, sequence 8, 11:2014

Tuesday, February 03, 2004

Continuation of Hon. Miss M. A. MOTTLEY:

Mr. Speaker, we will await the judgment of the Fair Trading Commission, as to what is the appropriate form of regulation. We happen to know that the Shorey and Sullivan Report which was prepared in 1996, has supported the adoption of incentives rate of return regulation. The technical committee which was established by the Telecommunications Unit, to help form a national telecommunications policy has rejected the rate of return regulation, and has settled on a price cap.

Mr. Speaker, we happen to know that from late last year, the Fair Trading Commission has hired consultants to start preparing the technical work and to determine the new form of regulation that would be employed by the Fair Trading Commission in the regulation of the telecommunication sector.

Mr. Speaker, there must be no assumption that because this is the form of regulation that would be used in the telecommunication sector, that it would be the same form used in other utilities across the board, whether it be water, electricity or gas, and that there is a commitment to be able to treat to what is the best form of regulation in relation to that particular sector.

Mr. Speaker, one of the reasons I say that is that when the United Kingdom started to liberalise its communication sector, it went to a price cap. They found that their providers of telecommunications and other utilities were able to achieve greater efficiency gains than they had anticipated and that because of that, with the price cap, the gains were not being passed onto the consuming public in the same way that it might had been, had they been using the incentive rate of return regulations where the gains were being shared with the public.

Indeed, there are those commentators who refer to it as a modified form of a social contract, meaning that as long as performance reaches a certain level, any gains and profits thereby arising from such, should be shared between the investor and the consuming public.

Mr. Speaker, when the utilities providers in the United Kingdom had seen greater gains than they had anticipated, it meant that they were able to keep the profits flowing from those gains, in circumstances of a price cap regime, as opposed to an incentive rate of return regulation.

Mr. Speaker, the reality is that there are advantages and disadvantages to both systems, and that would be a judgment which the Fair Trading Commission, with the appropriate technical expertise, will make. That is why we have set up the system because there is need for that level of technical expertise, in order to be able to make those decisions which would have significant implications for our economy and for our consuming public.

Mr. Speaker, the Memorandum of Understanding goes on from pages 6 to page 11, to give a series of definition for clarity. It then speaks to the amalgamation of the Cable and Wireless Companies. It says that the Government:

(a)“consents to the proposals for the amalgamation of the Cable and Wireless Companies;

(b)agrees to use its best endeavours to ensure that the Stock Exchange and the Securities Commission facilitate the approvals required for the amalgamation, including the listing of Cable and Wireless (Bartel) and the de-listing of Cable and Wireless (BET), in accordance with the Securities Act;”

Mr. Speaker, this commitment for the Government to use its best endeavours is because the Government cannot direct either the Stock Exchange or the Securities Commission but in a policy framework, can set out what the Government is doing with the liberalisation of the telecommunication sector and what the Government is hoping to achieve in relation to that liberalisation.

Sir, the agreement continues that Government:

(c)“agrees to use its best endeavours to ensure that the Fair Trading Commission facilitates the issue of shares by Cable and Wireless (Bartel).”

The Government has also agreed to use its best endeavours to ensure that the Fair Trading Commission facilitates the issue of shares in that one company because the Fair Trading Commission, as it has done with the Barbados Light and Power Company (BL&P), as reflected in this Annual Report, has the responsibility of approving the issue of shares.

Sir, in the year 2001 to 2002, for example, the Fair Trading Commission approved the issue of 45 870 common shares at \$6.80 each to employees of the Barbados Light and Power Company (BL&P) in lieu of their 2001 bonus. The agreement goes on to say that the Government:

(d)“agrees to use its best endeavours to ensure that the Cable and Wireless Companies are provided with all necessary consents and permissions which may be required from the Government for the amalgamation including the permissions required from the Barbados Central Bank and the Exchange Control Authority.”

Mr. Speaker, that is because what they were effectively doing was moving from the operation of four companies into one company.

Mr. Speaker, there are those persons who might wish to criticise it but suffice to say, this is a company which is giving up eight years of exclusive property rights and is asking the Government to do what is simply does for other entities that come into this country to operate within the context of this economy, in relation to facilitating their smooth transition or facilitating the transfer of assets from one set of companies to another, where there is no change in beneficiary ownership of the company.

Sir, on the other hand, the Memorandum of Understanding sets out that from the date of the amalgamation, Cable and Wireless will enjoy all of the concessions which were previously enjoyed by the four entities. Indeed, since 1984, Cable and Wireless has always enjoyed a series of concessions, which were renewed in 1991 by the Government of Barbados. Therefore, all that we have agreed to do is to give that single entity that would become the amalgamation of the four companies, the same concessions which are being enjoyed by them.

Mr. Speaker, we have also agreed that once the amalgamation takes place, any obligations assumed under the Memorandum of Understanding would then be transferred to the amalgamated company, and that it would enjoy these rights from the date of the amalgamation.

Mr. Speaker, on the other hand, Cable and Wireless, through the two Companies, BARTEL and BET have agreed:

(a) To make a recommendation to their shareholders that the various companies amalgamate into one company;

(b) If the amalgamation succeeds, Cable and Wireless will develop an accounting separation model, consistent with the New Telecommunications Act for review by the Fair Trading Commission and

which satisfies concerns about cross-subsidy between regulated and unregulated services.

Sir, what does that mean? It means that where there is one company, there must be the ability to disaggregate or to separate out the cost, so that one would know what cost has arisen as a result of a particular service, for example, if the cost is for providing cellular services, domestic or land-line services, paging services or international telephone lines.

Sir, the reason is that if one is moving towards a form of cost-oriented pricing or the price which the consumer pays which would reflect the cost incurred and the level of return, then one must be able to disaggregate and to attribute the cost in relation to that particular service.

There must also be the recognition that there might be an attached cost such as administration, which would relate to a number of services. Therefore, in those circumstances, the disaggregation would be done in accordance with specific models.

Mr. Speaker, this report of the Fair Trading Commission which is filed today, reflects a part of the initial major work in the first year of the Fair Trading Commission which, in fact, is the settlement of the Cost Allocation Model (CAM), recognising that Cable and Wireless has since developed another enhanced model which provides a greater level of details to allow people to be able to reach a judgment as to which cost that should be attributed, and to where.

House No.19(10)11:40 a.m.

Tuesday, February 3, 2004

Continuation of Hon. Miss M.A. MOTTLEY:

Sir, this Government ensured, when the Memorandum of Understanding was signed, that the issue of desegregation of cost was the primary thing on the table as an obligation of Cable & Wireless because we recognised that the consumer had a duty to benefit from it.

Mr. Speaker, this Government also recognised that all services were not regulated, that some were unregulated and we needed to see the extent to which this cost impacted on the consumer. The Memorandum of Understanding goes on to speak to those activities which the Government would use its best endeavour to do.

I want to ask the media of this country, particularly the print media to print the Memorandum of Understanding of the Government of Barbados and do so as a public service because it is being suggested that Government should pay to have it printed. Sir, perhaps, the Government Information Service can print it along with the print media and I ask that this be done with an explanatory note on each section and serialised over a period of time because there is no mystery or secrecy in this document.

Sir, Schedule 1 sets out a series of activities to be pursued by Government and a series of activities to be pursued by the Fair Trading Commission.

The activities to be pursued by the Government are:

- (a) To complete negotiations with Cable & Wireless and sign the Memorandum of Understanding.
- (b) Engage consultants to develop interconnection policy.
- (c) Provide the institutional strengthening for the Telecommunications Unit.

In other words, we have to ensure that the Telecommunications Unit has more staff and Government has done that.

- (d) Develop licences regime and new licences.

The Minister of Telecommunications has already issued the new domestic telecommunications licence in October and the new international telecommunications licence with the international carrier will be issued shortly.

- (e) Draft and implement the new Telecommunication Bill and Regulation under the resulting Act.

Mr. Speaker, the Telecommunications Act is there and this Parliament has approved in excess of twenty sets of regulations under the Telecommunications Act.

I will pause at this point to thank the public servants in the Telecommunications Unit as well as my ministerial colleagues who sit on the Telecommunications Subcommittee, chaired by me, for the tremendous amount of work that has been done in the course of the last two years in circumstances where other countries have ten or twenty times the resources to do the same volume of work. I also speak very highly of the work done by the Chief Telecommunications Officer and his support staff in bringing us to this point as well as to the current Parliamentary Secretary in the Minister of Tourism who did a lot of the policy work to bring us safe thus far before he became Parliamentary Secretary in the Minister of Tourism and International Transport.

Sir, Schedule 1 goes on to set out the following activities:

- (f) To agree to complete any legislative amendments to any of the legislation we have brought.

(g) Settle the technical standards and equipment type approval for deregulated customer premises equipment.

Mr. Speaker we have also done this. It simply means that as a customer you can buy your own phone and not have to pay Cable & Wireless any rental. However, ownership means that if the phone is not working you have to fix it yourself or replace it but the reality is that the majority of people prefer to own the phone rather than paying Cable & Wireless a monthly rental for our telephone. Mr. Speaker, for those who prefer not to own a phone, I am sure that a private sector entity would develop a business where it would rent phones and maintain them and this would become a new area of economic activity.

MR. SPEAKER: Honourable Member, I would prefer you not to get into certain matters which are

obviously sub judice. You are going along very well but please do not go into the matter of rentals.

Hon. Miss M.A. MOTTLEY: I apologise if Your Honour feels that I have spoken to a matter that is sub judice but I am not aware of any matter that is sub judice in relation to customer premises equipment.

Mr. Speaker, I would like to clarify for the benefit of the House and in response to comments heard sotto voce and say that for people who do not want the responsibility of ownership, this would be an area of economic opportunity for a small company to rent phones to people who prefer not to own or maintain phones. Sir, the Honourable Member for St. Lucy would relish that this is an area for a small business to be set up.

Mr. Speaker, in addition we committed to issuing the licences. We have already done so with the domestic lines and will do so shortly with the international ones. Sir, we committed to issuing licences to existing service providers who, for example, provide paging services and also to providing licences for the current internet service providers, Sunbeach, Cable & Wireless and Cariaccess because this is what the Memorandum of Understanding commits Government to do.

Sir, the Fair Trading Commission will implement a form of incentive-based regulation. I have said before that this Government, as a matter of policy, agreed that we move away from rate of return regulation as prescribed in the 1955 Act to a more incentive compatible regulation with cost-oriented pricing that relates better to being able to discern the cost incurred and the efficiency gains made by the utility provider and the benefits that can flow from the reduction of price or investment in new areas of activity by the utility provider that would inure to the benefit of the consumer.

Mr. Speaker, the Fair Trading Commission will review the accounting separation methodology by Cable & Wireless. I have explained that this is to break up the cost of the various services provided by the company even though it may not be immediately apparent and that they would also settle the issue of depreciation of the life of the various assets of Cable & Wireless because the old PUB did this as it was part of the laws of Barbados. It would also develop interconnection guidelines, because you cannot use another person's network if you do not know the terms on which it would be used. Sir, the interconnection guideline and policy sets the framework which says how to connect phones to the network and the cost of doing so.

The Fair Trading Commission will implement a regulation scheme to be used for international telecommunications services during transition to full liberalisation. In other words, it will take some time for them to settle what is the appropriate new form of regulations we would move to, but in the interim, until we settle whether it is price cap or an incentive rate of return we have to be able to set an interim mechanism that would allow you to operate

H19//11:50

Sequence 11

Tuesday, February 3, 2004

Continuation of Hon. Miss M.A. MOTTLEY:

Mr. Speaker, for example, in the report of London Economics, the Barbados Public Utilities Board's Strategic Options Report, this is the report that recommended the establishment of the Fair Trading Commission. In the report in October 1997, at Page 44, they recognised that, and I quote:

“In general it would be beneficial to introduce competition wherever possible. There are exceptions to this, for example, the incumbent should be given an opportunity to rebalance rates before international calling is open to competition to prevent competition purely on the basis on tariff distortion rather than cost.”

Sir, what does all that mean? It simply means that before we liberalise such that we are offered the opportunity to make international calls, the reality is, we have been operating in a system in Barbados where international calls have been subsidising the domestic telephone calls for decades. Mr. Speaker, at one time the split from the revenue was such that 80 per cent was transferred and 20 per cent kept, this was before the companies were amalgamated. I believe that it has now been reduced to 50 per cent of the money which was raised being kept by each of the companies.

Mr. Speaker, the implications of that kind of subsidy from international calls to domestic telephone providers may not be very great when you have a single player that is owned by the same entity but imagine when you have different providers of domestic and cellular telephone services, where you now have to work out the cost of access anytime one provider has to relate to the other provider, that is simple commercial principle. Therefore, it means that you have to ensure, especially since you are moving to cost-oriented pricing, that whatever is the cost of providing the domestic service has to be truly worked out, because that is the cost that would be the basis for the charging of other providers in the market.

Mr. Speaker, Perhaps I have to repeat because it appears to be complex but it is a very simple principle. If I am providing a domestic telephone service and you need to access my network, I have to charge you something for that service. Therefore, AT&T or Digicel would have to pay Cable and Wireless for the right to access their network to complete the telephone call to somebody who has a land line because Cable and Wireless operates land lines in Barbados. Mr. Speaker, in those circumstances when they pay those costs, we have to remember that the domestic and international monopoly will come to an end this year, it means that everybody has to know what their true charges are.

The practice of subsidising your domestic phone system with money from your international phone calls means that if you are unable to reflect your true charges for your domestic phone service and you are unable to reflect that when you have to charge-on to other providers in the markets who want to access your network.

Sir, this report recognises that there must be an interim mechanism and the phrase that is now commonly being used for it, especially in the media, is the “rate rebalancing mechanism”, to rebalance the rates between the international sector and the domestic telephone service sector. The other reason why it is in our interest to do it is, that Barbados' economic development has been constrained by high

level of international phone calls such that our competitiveness in the area of call-centres and a number of service providers in the international services sector is undermined because our costs are significantly higher than our competitors in this area.

The Honourable Member for St. Joseph would speak at length about this issue because he will tell you how many applications are pending, how many interests have been expressed to set up business in Barbados but because of the high cost of access to international rates for voice and data, Barbados has not been able to benefit significantly in this area. Mr. Speaker, all we are saying is that the cost must be borne by those who use it. If the cost is borne by the domestic sector, then the international rates should not have to pay for the domestic sector.

Mr. Speaker, I am going to come back to the issue of the rate rebalancing hearing as currently exists without going into the details of the hearing, which is before the consideration of another tribunal.

Sir, there were certain condition precedence which the Government has set out. I went through all of them to show the public that these were not activities that were in anyway nefarious, undermining or in any way sought to confer any special advantage against Cable and Wireless. Sir, I want to speak to that perception. In my role as Chairman of the subcommittee, as Attorney-General and in my other role as Minister of Home Affairs, I have had to issue very sharp and rough words to Cable and Wireless over the last two years. Honourable Members in this Parliament will tell you that on every occasion that Cable and Wireless sought to encroach upon, in my view, the best interest of Barbados, that this Government has left nothing unsaid in communicating that we will not put up with it. Mr. Speaker, when it came to the issue of Cable and Wireless trying to reverse a process where Barbadians had headed this company for decades and seek to restructure it and to bring non-Barbadians to head the company, we said to them that they have to advertise in order to satisfy that there is no Barbadian capable of heading a company that Barbadians have headed for thirty years.

Mr. Speaker, this is not a case of playing to the gallery, this is a case of a stance taken by us in relation to Cable and Wireless' attempt to bring in non-Barbadians, non-Caribbean people to head a company that was headed by Barbadians and Caribbean people for forty years.

Sir, when Cable and Wireless, having gone through a retrenchment process in 1999 and early 2000, told the Government that this was the extent of the retrenchment process, they came to me and the subcommittee and said that they wanted to lay-off another sixty-two people in this country. I told them that this matter cannot go forward like this and I referred the matter to the Prime Minister, the Head of the Labour Movement and the Head of the private sector agency.

H19: 11.50 a.m.

Sequence 12

Tuesday, February 03, 2004

12:00 Noon

Continuation of Hon. Miss M.A. MOTTLEY:

A Press conference was held, where the Prime Minister, Sir Roy Trotman as Head of the Labour Movement and Mr. Alan Fields as Head of the Private Sector Agency spoke in the clearest terms to Cable and Wireless, in respect of any plans to build upon the retrenchments that they told us were the sum total, when they brought them in the first place.

Mr. Speaker, Cable and Wireless readied themselves for quick flight from this country by selling their building and leasing it back. They retrenched hundreds of workers while pursuing a global strategy that saw it invest heavily into data and Internet type activities in North America, only to suffer from tremendous losses and had to revert to the reliance on Barbados, Jamaica and other such territories, as its core business.

Mr. Speaker, this is the reality. Many of us remember that Cable and Wireless share prices went from as high as £15 to as low as 50 pence, because their complete global strategy in data and Internet related services in North America, not failed but imploded. Sir, having been at that time ready to get rid of its monopoly...

Asides.

Hon. Miss M.A. MOTTLEY: The Government had a friendly environment that allowed us to be able to negotiate out of the monopoly. Sir, do you think that Cable and Wireless just gave up \$200 million of profits because they wanted to give it up or that they like this Government?

Asides.

Hon. Miss M.A. MOTTLEY: Mr. Speaker, as I said, we had a friendly international environment that supported telecommunications liberalisation. Sir, we had a concomitant shift in corporate strategy by Cable and Wireless to pursue other areas of new technological activity in other parts of the world, such that Cable and Wireless felt they could give up the monopoly operations in the former colonies.

Mr. Speaker, when that implosion came, all kinds of men started to cry, when their shares went from £15 over a period of time to nothing more than 50 pence and it led to restructuring. The new leadership of Cable and Wireless have now said, in the last six to nine months that they are going back to their core strategy, which is the provision of domestic and international telecommunication services. Sir, do you know what has happened in the interim?

Mr. Speaker, Barbados and Jamaica constitute perhaps the largest percentage, as countries, of Cable and Wireless' global profits. We are saying that this has happened at the expense of the economic development in this country, and that is why I am so vexed with the Democratic Labour Party for that 1991, 20-year monopoly.

Asides.

Hon. Miss M.A. MOTTLEY: Mr. Speaker, it has passed but I think we must ensure that it does not ever happen again.

Asides.

Hon. Miss M.A. MOTTLEY: I am vexed, Mr. Speaker, because the productive sectors of Barbados and the people of Barbados have had to carry on their backs, the supporting of extensive profits by Cable and Wireless, in circumstances where we did not see concomitant changes in technology. Could you imagine that everywhere else in the Caribbean, Mr. Speaker, has better telecommunications technology than Barbados, when Barbados has a higher level index of development? This does not make sense but the reality is that we continue to suffer from the fact that where we are paying a fixed rate for a fixed service, in an archaic, regulatory and monopolistic environment that the consumer and the productive sectors were not able to benefit from any of the following

innovations in technology

reductions in the cost of source technology

reductions in the cost of the delivery of new technology.

Sir, this has caused the retarded growth and the drag on our capacity for further economic development, and personal financial gains, on the part of the individual consumer.

Mr. Speaker, I say today that if there was one reason alone for the monopoly never to have been put in place, is because of the economic implications. Sir, we were fortunate that our approaches to the commission to take down this monopoly, coincided with Cable and Wireless' shift in corporate strategy which saw them concentrating upon data and new technology in North America.

We had an opening and we exploited the opening. I think the people of Barbados, and I am not separating Parties now, have benefited from that capacity to exploit that shift in corporate strategy, reinforced by the policy mantra of telecommunications liberation, that was taking place internationally, in the context of the World Trade Organisation and the International Financial Institutions and hence our being here today.

Mr. Speaker, I am begging the members of the media to take the Memorandum of Understanding and do the independent investigation as to whether in fact there was a policy mantra of telecommunications liberalisation for over the last decade, forced by the World Bank, forced by the Inter-American Development Bank, provided for in the General Agreement in Trades and Services (GATS), provided for in the World Trade Organisation (WTO).

Sir, they should do the investigation as to whether there was not a gentleman by the name of Mr. Dick Brown who headed Cable and Wireless and who sought to move Cable and Wireless from the reliance on monopolistic, archaic practices to restructure itself to participate in a competitive global environment and who said that what we would lose from the guaranteed returns in monopoly, we would more than make up by a shift in corporate strategy that allows us to concentrate on the new technological developments in data and in Internet communications.

Then, Mr. Speaker, the Internet bubble bursted, and with it not only were the new 'dot com.

companies gone or struggling, but Cable and Wireless corporate strategy was imploded, and all of a sudden they had to rely again on countries like Barbados and Jamaica.

Mr. Speaker, in the interim while they were out frolicking on new corporate strategies, we managed to negotiate before the new leadership took over last year and reverted to the core strategy. We managed to bring to an end, eight years ahead of schedule, an exclusive monopoly for domestic and international telecommunications.

Mr. Speaker, when you look at our stance in relation to the termination of the monopoly, when you look at our stance in relation to the hiring practices and the work permit practices that they wanted us to engage in, when you look at our stance in relation to refusing to be a conspirator in the further retrenchment of Barbadians workers, when you look at our stance in insisting that any hearings which took place in Barbados for rate re-balancing were public hearings open to the entire population of Barbados to participate and to follow, Sir, you see a Government that has not sought to confer any special advantage on Cable and Wireless but that has put first, and first alone, the national interest, in relation to the liberalisation of telecommunications.

House 19, sequence 13, 12:1014

Tuesday, February 03, 2004

Continuation of Hon. Miss M. A. MOTTLEY:

Mr. Speaker, it is simple, we have to liberalise or we would flounder in relation to our capacity to restructure this economy. In this country we have seen sugar production declined from a high of over 100 000 tonnes to a low of 35 000 tonnes in the last 20 years.

Mr. Speaker, as a result of commitments given in trade liberalisation in April of 1994, by the then Government, without preparing the domestic sector appropriately for the reform of the production mechanisms to meet the reductions in tariff commitments, we have seen the manufacturing sector begin to suffer under the reduction of those tariffs.

Mr. Speaker, at the same time we recognised as a Government that it is not in our interest to rely exclusively on 250 000 people, 166 square miles or a Gross Domestic Product of \$7 billion, but that in the context of a wider economic space we must now plan our future without the constraints of geography and size that had hitherto prevented us from moving forward in the past.

Mr. Speaker, we say to the public and to the Parliament that the three or four key things that must be done, the liberalisation of the telecommunications sector, the reduction in rates, the proliferation and the offering of a wide range of services to the Barbadians public are key to our impetus for further economic development in this country.

Mr. Speaker, I therefore ask the members of the media and the Members of the Opposition to take this Memorandum of Understanding, as I would require the Government Information Service to do, and share it because there is nothing nefarious about it. This Government has made no promises to Cable and Wireless that has given Cable and Wireless any preferred advantage in any respect whatsoever.

Mr. Speaker, the one thing this Government would not do is to strand investors who have invested hundreds of millions of dollars in this country and who the rule of law protects. We must ensure that they are entitled to be able to make a living in a fair and transparent way on a level playing field in this country. Mr. Speaker, we have not hid our mouths. We have said that we are liberalising and that we are bringing the monopoly to an end. Fortunately, we had a willing ear even if only for a short period of time.

Mr. Speaker, change is perhaps the thing that dodges any small society the most. Mr. Speaker, we have to perfect the art of managing change. In the absence of any single national issue that is gripping the country these things snowball themselves into a major problem, rather than us looking at them, dissecting the facts and determining how best we are going to deal with them.

Mr. Speaker, there have been tremendous debate, even calypsoes and perceptions of all kinds of positions, in this country as to metered rates or flat rates. Mr. Speaker, I want to state for the record that this Government neither support metered rates nor flat rates. This Government believes that the consumer must be given the choice to decide whether the option of metered rates or flat rates is better for him or for her. In essence that is what a liberalised market is about. It is not only to choose who should provide the service to you but what type of service you want and how you want to be able to pay for the service. Therefore, for those people who want to continue paying a flat rate because it is easier for them to budget, even if they do not use the telephone often but they want to know that come what may, come what will they will pay \$32.00 a month, which is a predictable amount for them, they should be free to do so. For those people who feel that they want to be able to choose which service they want, they do not want all of the services, they want this one but not that one, they want that one but not this one, and since they are choosing just as they go into the supermarket and pick up goods, they should pay for what they want to use.

All we are saying, Mr. Speaker, is that the market must be able to accommodate not only who is the service provider, but what type of rate you pay. What the Fair Trading Commission does is to ensure that the price which you are charged as a consumer relates properly to the criteria which they have set to ensure that there is no exploitation of either the individual consumer or the commercial consumer. Mr. Speaker, the Government's position is that they should be options and that is what the creation of a liberalised market is about.

I want to say for the benefit of Honourable Members that liberalisation of a market does not mean deregulation of a market. Liberalisation and deregulation are two completely different concepts, so even though we may liberalise the market, there is the need to regulate in terms of a whole host of things such as tariff structure rates and quality of service standards. Mr. Speaker, we completely defend the rights of the Fair Trading Commission to regulate the market. Mr. Speaker, I want to deal also with the issue of the perception of independence and the Fair Trading Commission. The Fair Trading Commission as it relates to the substantive issues that are before it has complete free rein to determine what is the appropriate methodology and how to settle the technical issues before it, but like with any other entity, it operates within the context of a policy environment.

Mr. Speaker, the law clearly sets out that the Government is responsible for setting the broad policy but thereafter, once policy has been set, the Fair Trading Commission has the right to determine in its

own discretion, after consultation with the public and after the receipt of technical evidence and reports, what is the preferred way of proceeding in respect of the particular matter before it. Therefore, I want to make it clear that the Government will not seek to tell the Fair Trading Commission how to exercise its professional duties as required under the Fair Trading Commission Act of 2000. Mr. Speaker, in that context let us go back to the law. The Fair Trading Commission Act sets out very clearly the duties and responsibilities of the Fair Trading Commission in respect of carrying out its functions at Section 4 which is to:

“(a)promote efficiency and competitiveness amongst; and

(b)improve the standards of service and quality of goods and services supplied by

service providers and business enterprises over which it has jurisdiction.”

Sir, the Fair Trading Commission does not defend the rights of the consumer alone, it defends the right of the service provider, the consumer and the national interest. It therefore performs a balancing act as it has a responsibility to do under the law. The law is simply settled policy passed by this Parliament.

Mr. Speaker, in the same way the high courts and the Court of Appeal of Barbados have to perform within the environment in which laws and settled policy exist, so does the Fair Trading Commission. So it is not the intention of this Government to be anything other than a Government that provides the policy environment within which the Fair Trading Commission can function. That is so, Mr. Speaker, because we had a Public Utilities Board Act that did not provide for the security of tenure of commissioners that the Fair Trading Commission Act provides for. We were advised that we should seek to provide that security of tenure for the commissioners and that they should only be able to be removed for malfeasance or misconduct, and we accepted that advice. House 19 Sequence 14

12:20 p.m.

Tuesday, February 03, 2004

Continuation of Hon. Miss M. A. MOTTLEY:

We were also advised that the appointment should not be for a period of three years because they might be subject to changes whenever a government or a minister changes.

Sir, what has happened? We have, instead, appointed them for five years and have put systems in place where they do not change whenever a minister changes, as one would have seen when the Honourable Member for St. Michael North resigned his post and the Honourable Senator, who ran the constituency of St. Philip West, was appointed Minister. Sir, the Commission has not changed.

Sir, I want Honourable Members of the Opposition to take this report which was the basis for the establishment of the Fair Trading Commission and read it in its entirety, perhaps then they might have a more comprehensive understanding as to the framework that has taken the Government to make such a decision.

Sir, we knew which decisions to leave and which to take. This report recommended that the Office of Public Counsel be on a part-time basis. We said no, that it was needed on a full-time basis. The report also recommended that there probably be elements in which Cable and Wireless would retain a monopoly and that there was nothing wrong with that. We said no, that the entire monopoly system must be dismantled. However, we took their advice on the security of tenure on the five-year appointments of the commissioners in the Fair Trading Commission.

Sir, therefore, this cannot be a Government that is accused of seeking to interfere in the internal affairs of the Fair Trading Commission. Our only concern is that the work of the Commission would be done in a comprehensive way and a productive manner that reflects a streamlining of procedures.

Sir, this report by the London Economics was occasioned by what was referred to as the 'regulatory paralysis' of the Public Utilities Board. One of the criteria that it has made very clear was that we needed a mechanism that had clear procedures that would seek to ensure that in public hearings, only matters of relevance would be addressed; that there would be time limits on the part of all participants, not only interveners but those persons who had a direct interest to be served by the public rate hearings; and that in the context of streamlining procedures, prescribing time limits for intervention requiring written submissions before hand, interrogatories questioning those written submissions, that there would be streamline procedure because ultimately, the cost of any rate hearing is borne by the consumer in this country because it is a legitimate cost of business for the utility provider.

Sir, I want to repeat that because in 1990, the rate hearing lasted for 37 days and cost the consumers of Barbados \$3.8 million. Therefore, though it was not paid for directly, it became part of the expenditure which went into the company's overall expenditure as a utility provider, for which they are entitled to use as the base amount on top of which to determine a rate of return. Therefore, it has an implication for the consumers' pockets.

Mr. Speaker, therefore, it is in the interest of the Government, to ensure that there is a streamlined process for the hearing of matters but not at the expense of those things to which we hold dearly, such as transparency and public hearings.

Sir, in other matters such as small value-added services, the Fair Trading Commission has already said that those can be done by written applications in a streamlined process which should not take them no more than four weeks but that on key matters such as rate hearings, rate rebalancing or quality of service standards, then in our view there must be public hearings to be able to treat to these matters.

Mr. Speaker, I have spoken long on this matter because I expect the Opposition to talk about the resignation of an Honourable Member of Cabinet. I am an Honourable Member of Cabinet and I do not know why the Honourable Member for St. Michael North, who ironically is on my border, has resigned but the Honourable Member has his reasons, and I respect them. If the Honourable Member chooses to share those reasons with the public, that is a matter for him.

Equally, there was the resignation of the Chairman of the Fair Trading Commission, and there is no secret that there might have been difficulties between understanding how quickly we should or should not have been moving forward, not in terms of the substance of any decision-making but in terms of

being able to move in a more expeditious manner.

Therefore, Mr. Justice King and others from the Fair Trading Commission, as well as ministers on the Telecommunications Liberalisation Subcommittee, have recognised that we needed to expand the number of commissioners, as well as to apply for the creation of additional posts, in order to allow the Fair Trading Commission to be able to do more work in a broader range of areas on a parallel track, without having to wait to do everything sequentially. That is what this Amendment is here about.

Mr. Speaker, I have no doubt that over the course of the next two to three years, we would be back here with other amendments. Sir, when we seek to create a new institution with the power that the institution has to regulate aspects of our economy, then it is imperative that as a Government, we are responsive to the legislative changes that are necessary to ensure an improvement of its performance, and of its capacity to fulfil its mandate as originally prescribed by the legislation that has established it.

Mr. Speaker, it may well be that we would come to amend all manner of things in relation to the Fair Trading Commission Act but that is what Government and governance are about.

Mr. Speaker, this is not my line Ministry but there are further details now being provided to me in terms of the exact number of cases that were handled by the Office of Public Counsel and the Fair Trading Commission in relation to consumers queries. It would seem that almost 500 complaints have been received, of which approximately ten has gone forward before the Consumer Claims Tribunal because the Office of Public Counsel and the Commission have said that they are not in a position to have these complaints resolved.

Mr. Speaker, I would wish to say that I hope the public of Barbados would become more proactive as consumers, in the defence to their rights. I hope the organisations which we have would stop having to fight for membership that they would get members of the public to become active or proactive in their rights as consumers.

This Government wants to see a vibrant consumer movement. This Government wants to see non-governmental organisations arguing and fighting vigorously. It wants to see persons engaging with members of the private sector and state providers of services and goods, to ensure quality of standards and the most efficient and competitive prices.

Mr. Speaker, if we could generate that kind of domestic environment, it becomes a catalyst for us to be able to enhance our competitiveness nationally. It also means that Barbadians would demand a quality of service and good, based on the best possible criteria. Sir, there are responsibilities to being in the vanguard of movements and that one simply does not complain for the sake of complaining but that one must be able to substantiate that complaint in a meaningful way.

If we could have that kind of creative tension informing the discourse of commercial activity, that is the supply of goods and services of this country, I believe that kind of constructive engagement could only enure to the benefit of this country by forcing, both at the levels of the service providers and the suppliers of goods, quality products of which we could be proud and which could hold their own in any other part of the world.

House No.19(15)12:30 p.m.

Tuesday, February 3, 2004

Continuation of Hon. Miss M.A. MOTTLEY:

We already suffer from the constraint of lack of size. Therefore, whatever we do, it is a significant constraint on our capacity to be competitive and those things which we can control we need to be able to do. Sir, if the consumers' movement could be developed with thousands of members, then we believe the country would benefit.

Mr. Speaker, I urge all Barbadians to take an active interest in what are their rights and obligations. I also ask the Government Information Service to continue to do a public education programme to reinforced the rights provided for under the Consumer Guarantee Act and the Consumer Protection Act to ensure that people know what their rights and responsibilities are as business providers and consumers.

Mr. Speaker, I say to the businessmen of this country that I know it is a difficult time because they are now facing new obligations that hitherto they did not have to face under the old Sale of Goods Act. In a sense, this transition is necessary for businessmen to ensure they can withstand all forms of scrutiny for the goods and services which they provide. Sir, part and parcel of the restructuring process to participate in a new economy also require their ability to be able to make that transition to ensure that the quality of service and goods provided can withstand scrutiny from all levels and that they relate to an efficient pricing structure.

Mr. Speaker, I have had the responsibility of treating to elements of the Fair Trading Commission work through being Chairman of the Subcommittee on Telecommunications Liberalisation. Therefore, this Government has put on the front burner that aspect of it. It has been contentious in public discourse for reasons that have been associated by those who wish to ascribe and prescribe motives to those who have resigned. Sir, these things happen in the course of public life. Cabinet Ministers and Chairmen have resigned before and while we may not want to see it happen that is a part of life in this country. I can name all the ministers in the 1960s, 1970s, 1980s and 1990s who have resigned. Indeed, the worst part was in 1990s when five ministers resigned but this does not stop the governance of a country.

Mr. Speaker, there is no form of governance without its own problems. I believe, given the challenges we face in establishing a new institution that has a historic and powerful role to play as the Fair Trading Commission that we have at least managed to steady the ship. The circumstances under which it operates has allowed it to continue to perform its job in a commendable way as it is doing now with the rates hearing and other hearings with which it has responsibility and we need to give them additional help and strengthen its hands. Sir, this legislation is about strengthening the hands of the Fair Trading Commission to do the work which the legislation expects of it in all of the various areas of activity in which it is empowered to take decisions.

Mr. Speaker, I believe others will speak on other aspects of the liberalisation process. I do not want to detain the House any further but others will speak on the steps we have taken in relation to locating of

antennae across Barbados, the fact that we have acquired co-location for 75 per cent of the antennae, the fact that the Chief Town Planner and the Chief Telecommunications Officer have set standards that in some instances exceed international standards by over three times to deal with any negative health consequence. We are told that there is likely to be no health consequence but everyone knows there is likely to be some concomitant consequence when dealing with radio waves.

Sir, there are safe standards which have been determined by the Federal Communication Commission international bodies in Europe and elsewhere but ultimately, the only one who knows whether there are risks to be faced is God and the best we can do as a Government is to ensure that strict standards are set and adequate mechanisms for monitoring those standards. We have provided that the Telecommunications Unit be required to do periodic checks on the antenna sites and other areas from which the cell companies will operate and that they also file reports. To the extent that they breach those conditions, sanctions will be employed to bring them back into line.

Sir, I can only assure you that all of the technical people have assured us as a Government that the standards insisted upon in relation to Barbados and antennae sites are three times what is required by international standards. In terms of distances from properties, schools and residential area, fencing, the level of transmission of the signal and the policy of forcing co-location on at least three quarters of the antennae across Barbados. They wanted to put up 150 antenna but it was brought down to about 80.

Sir, this is the price we pay for progress and the most this Government can do is to ensure that we know the risk, set standards to treat to that risk and ensure that there is a monitoring capacity to ensure that the standards are being complied with and that if they fail to comply with the standards that we have sanctions to treat to them.

The fact sheets issued by the Chief Telecommunications Officer and his unit are also available for the whole of Barbados to read because these are matters which are not private but available to the public for discourse and comment.

Mr. Speaker, I end the debate by saying that Government has sought to create an institution that will help us in the transformation of the economic welfare of this country, in the creation of a new economy and ultimately in its impact of the society as a whole and the quality of life we will enjoy.

It is recognised that this institution, at this time of our history, is critical to be able to create a virtual market economy to be able perform the role it would provide as a regulator and as an entity that would hear matters and determine them. At this juncture of our economic history, this is the institution which we believe would be pivotal in helping us realise our dreams of moving Barbados from a developing country to a developed one.

Sir, this amendment seeks simply to strengthen the hands of the Fair Trading Commission such that instead of waiting for them to have to finish their work in telecommunications that they can treat to issues of telecommunications liberalisation, other utility regulations, competition, work which is critical to us having given advance commitments on the Caribbean Single Market and Economy to be compliant this year as well as to consumer matters which have already started to enjoy the public confidence of the people of Barbados.

Mr. Speaker, Rome was not built in a day. I believe if we steer the course, strengthen the hands, create the appropriate policy environment and give the Fair Trading Commission the freedom to treat to the decision and determination as the legislation anticipates that we will look back upon these early years of the Commission and recognise that we have set an institution in place that would truly play a significant role in the transformation of this country.

Mr. Speaker, I beg to move that this Bill be read a second time.

Hon. Dame BILLIE MILLER: I beg to second that, Sir.

H19/12:40

Sequence 16

Tuesday, February 3, 2004

SUSPENSION

Hon. Miss M.A. MOTTLEY: Mr. Speaker, I beg to move that his Honourable House do now be suspended until 1.45 p.m.

Hon. Dame Billie MILLER: I beg to second that

The question that the House do now suspend was resolved in the affirmative without division and Mr. SPEAKER, suspended the House accordingly.

H19 : 12.45 p.m

Sequence 17

Tuesday, February 03, 2004

1:46 p.m.

RESUMPTION

Mr. SPEAKER: This Sitting is resumed.

Mr. C.A. MASCOLL: Mr. Speaker, I rise in this debate to make a contribution on a very pressing matter confronting the people of Barbados...

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. The Honourable Member is misleading the House. The Honourable Member for St. Michael North, as we speak, is in his seat. It

does not befit the office of the Leader of the Opposition to seek to mislead the House in those ways.

Mr. SPEAKER: You will have to withdraw those words and I will now ask that those words be struck from the records.

Certain remarks made were struck from the record.

Mr. C.A. MASCOLL: Mr. Speaker, I withdraw, but I took note of his absence that this morning, for the entire length of the debate. Anyhow, this is a very serious debate.

Mr. Speaker, I think that there is need for an independent investigation of the FTC to find out why it is that the former Minister resigned, followed by the Chairman of the FTC. I say that because there must have been some differences that would have given rise to the position taken by the former Chairman of the Board and the former Minister. One would have thought that the FTC, having been established and having to do the kind of important work required of it, not only now in the public hearing but in the future, that those two individuals would have been only too willing to serve in the public's interest on such an important commission.

Sir, to find that these individuals departed in the height of the public hearings on telecommunications, is certainly worthy of investigation to determine why it is that they did not stick around to do the kind of public work that they would have done for their entire lives, a retired judge and also a minister of Parliament, so that we need to look fully into the affairs of the FTC, but certainly to find out why.

Let me say that from the outset that, certainly, circumstances have changed, not only in Barbados but across the region and throughout the world, with respect to telecommunications.

House 19, sequence 18, 13:5014

Tuesday, February 03, 2004

Continuation of Mr. C. A. MASCOLL:

I therefore find it difficult to understand why there is constant reference to the signing of a document by a former Democratic Labour Party administration with Cable and Wireless in 1991 for a 20-year period. At that time there was a move not only across the region but around the world toward liberalisation of telecommunications. Even if one could accuse the Democratic Labour Party of having signed a 20-year agreement in 1991, at least it should be fully recognised now that was at a time of difficulty in Barbados.

However, when one looks at the sale of the Barbados National Bank and the Insurance Corporation of Barbados, one recognises that the sale of these entities happened in an environment when there was supposed to be plenty, therefore one really has to ask oneself what is the policy of this present Barbados Labour Party administration. There is justification in a period of difficulty in 1991, for extending the Cable and Wireless licence, but what is the present policy of the Barbados Labour Party administration with respect to the sale of performing assets in Barbados that have made substantial profit within the last several years and in the case of the Barbados National Bank a renewal of profit over the last two to

three years.

Mr. SPEAKER: Unfortunately, Sir, we are not debating those now, you have made your reference to them and that is enough, Sir, please.

Mr. C. A. MASCOLL: I take note, Mr. Speaker. I recognise the tone again because this morning the Leader of Government Business was allowed to move freely and apparently the tone has been set already for the afternoon session, but let me go on.

In 1984, the Barbados Labour Party administration signed a licence with the same Cable and Wireless when they were establishing BET for a 10-year period. What is most important is in 1988, just three short years before Barbados signed with Cable and Wireless for a period of 25 years, the Jamaican Government gave Cable and Wireless Jamaica a 25-year licence. That licence would have expired in 2013, whereas the licence signed in Barbados would have expired in 2011.

Jamaica has liberalised its telecommunications sector, but it was able to get benefits as a result of the liberalisation. They were able to secure installation of 60 internet terminals to allow members of the public access to the internet to be provided in post offices in the manner agreed between the Government and Cable and Wireless Jamaica. The Jamaican Government was also able to negotiate scholarships for the Caribbean Institute of Technology to the value of US\$16 million per annum for the first three years after liberalisation. So here is a Government that recognised the need for liberalisation but did not feel constrain or compel to adhere to the wishes of Cable and Wireless Jamaica. In addition, they were able to have Cable and Wireless make contributions in payments of goods or services provided in lieu of payment towards the refurbishment of the Good Year Factory in St. Thomas to the value of Jam\$90 million within the three-year period. The Jamaican Government was also able to negotiate other conditions as a result of liberalisation and was able to get payment of Jam\$80 million to the agency created to perform the duties of spectrum management as contemplated under the drafting instruction. All of these happened as a result of effective and proper negotiation on the part of the Jamaican Government. So notwithstanding the signing of a 25-year licence with Cable and Wireless Jamaica, the Government was still able thereafter to negotiate with that entity to secure benefits to the people of Jamaica.

In the meantime, the Government of Barbados, which is now asking the Press to publish the contents of the Memorandum of Understanding some three years later, failed to negotiate an agreement to the benefit of the people of Barbados. I say this because I do not understand how a Government, with so much money to waste, could now some three years later be asking the Press of Barbados to print as a public service to the people of Barbados a Memorandum of Understanding. I think that this is recognition that the Government has failed to educate the people on the contents of the Memorandum of Understanding that was signed way back in the year 2000 and is now feeling guilty and as a result feels the need, after it had been pressured by the Opposition, to ask the Press of Barbados to make such information available. Sir, in actual fact there are very outstanding members of the media who have been asking for copies of the Memorandum of Understanding up to two months ago and who were criticising the Opposition for not making the contents of the Memorandum of Understanding available to the people of Barbados when in actual fact it is a document signed between the Government and Cable and Wireless BARTEL and Cable and Wireless BET. To hear the Leader of Government Business now making a case for the Press of Barbados to carry such information some three years later

is perhaps an indication of the failure of this administration to do its work.

Hon. Miss M. A. MOTTLEY: On a point of order. It is unfortunate that the Honourable Member is misleading this House by misquoting what I said. I said then and I say now that the Memorandum of Understanding is a document that was laid in this House and is available to all members of the public as is the case with every other document that is laid here. I said that the Press was free as they are now to print the elements of Memorandum of Understanding and that the Government Information Service could assist if they wish. So there is no blatant request being made on the part of this Government for the Press to print at their own cost that which has always been available to them or any other interested party who took the time to make the request to Parliament.

Mr. C. A. MASCOLL: Mr. Speaker, in that vein the Opposition party is looking forward to receiving a copy of the Auditor-General's Report which was laid three weeks ago but which to this day has not been delivered to Honourable Members of Parliament. Since a document that is laid is available to all and sundry, we are asking the Government to make available to the Honourable Members on this side, a copy of the Auditor-General's report.

Hon. Miss M. A. MOTTLEY: On a point of order. The Honourable Member is misleading the House with the procedures of this House. The Leader of the Opposition knows that the Government has no role in publishing such a report. The report is laid in Parliament and it is the Parliament and the Auditor-General who are responsible for that report, not the Government. Perhaps he needs to take a course at the University of the West Indies in the Principles of Government.

House 19 Sequence 19

2:00 p.m.

Tuesday, February 03, 2004

Continuation of Mr. C. A. MASCOLL:

Mr. Speaker, no wonder I could hear such folly. Imagine the Honourable Leader of Government Business is telling me that a proper copy of the Auditor-General's Report was laid but that it is not the Government's responsibility to make sure there are other copies available to Honourable Members of Parliament. I find that strange to say the least because it is the responsibility of Government to make available copies of such reports to other Honourable Members.

Hon. Miss M. A. MOTTLEY: On a point of order. The Government has a responsibility for reports of statutory entities or Government departments. The Auditor-General's Report is laid in Parliament without even coming to the Cabinet of Barbados, and perhaps the Honourable Leader of the Opposition needs to go back and read the Constitution of Barbados and needs to understand that the Government is the Executive of the country, and that the accountability which the Auditor-General has is to the Parliament of the country, which is a separate arm of Government.

Mr. SPEAKER: Please, Honourable Members, just for information, the practice is that the Auditor-General would normally send one copy to Parliament and after that has been laid, the Auditor-General

would then have copies printed and distributed to all Honourable Members.

Mr. C. A. MASCOLL: Mr. Speaker, it is almost four weeks and I am saying that we are deserving in this Parliament of a copy of the Auditor-General's Report.

Mr. SPEAKER: For your information, no Honourable Member of Government has been able to have an individual copy of the Auditor-General's report. What we can do for all Honourable Members, is to contact the Office of the Auditor-General and try to find out when or how quickly we can have these reports available to all Honourable Members.

Mr. C. A. MASCOLL: Mr. Speaker, I recognise that the question of a Memorandum of Understanding being laid here but not being made available to the people of Barbados is not the responsibility of the Government.

Hon. Miss M. A. MOTTLEY: On a point of order. It is not true to say that the Memorandum of Understanding was not made available to the people of Barbados. Sir, not only was it laid here but copies were made assessable by the Government Printery to those persons who wanted them. It is a legal document and, therefore, if members of the public wanted to have read it, it was available to them. Therefore, for the Honourable Member to suggest that the Government has not made it available this to the people of Barbados is to mislead this Honourable House in a very serious way.

Mr. C. A. MASCOLL: Mr. Speaker, the Government has made a copy of the Memorandum of Understanding available to the people of Barbados but the people of Barbados do not yet understand its contents. Sir, in this debate this morning, the Leader of Government Business said that she would love to see the Press being involved in making copies available to the people of Barbados via the print media.

Hon. Miss M. A. MOTTLEY: On a point of order. The Honourable Member is misleading this Chamber by selectively quoting from what I have said. I said that I would love to see the media deal with a public education campaign of the Memorandum of Understanding, explaining each clause to the public, as was stated sotto voce by the Honourable Member of St. Michael South Governor of the Barbados Central at his side. At least the Honourable Member understands.

Mr. C. A. MASCOLL: Mr. Speaker, I am suggesting that the Memorandum of Understanding was brought to this Honourable Chamber three years ago and should have been made available to the people of Barbados in the form as was suggested by the Honourable Leader of Government Business.

Hon. A. P. WOOD: On a point of order. The Honourable Member for St. Michael North West is misleading the Honourable House. I do not believe that he is doing so intentionally but he has the date incorrect. The Memorandum of Understanding between the Government and Cable and Wireless was signed on October 16th 2001, and therefore, could not have been made available to the public three years ago.

Mr. C. A. MASCOLL: Well, there is a significant difference between two years and three years, as it relates to the availability of information to the public, so two years is still a significant time. However, this morning we heard that the Fair Trading Commission does not only defend the rights of consumers

but that it also defends the rights of utility companies. That is what we have been told this morning, and quite rightly so, because in the resolution leading to the establishment of the Fair Trading Commission, it speaks to the word fair, such as a fair rate of return and a fair price.

Sir, there was substantial debate on what should have constituted fairness because the commission is being asked to determine what is fair, not only to a consuming public of different kinds but also to a utility company. Therefore, the question of fairness is extremely important because the basis for determining the cost of the service to the people has to be from the rate of return to be delivered to the utility company.

Sir, that has always been the basis for determination of cost to the consuming public because we well know that Government seeks to regulate monopolies via the use of commissions or public utility hearings. Therefore, it has always been the case that a predetermined fair rate of return is the condition upon which a rate assessment is made. Sir, that is not difficult to understand.

Mr. Speaker, what is important is that in seeking to establish the Fair Trading Commission, the same person who was the lead witness for Cable and Wireless, was the chairman of the committee that sought to establish the Fair Trading Commission. Therefore, it is not difficult to hear that the Fair Trading Commission does not only defend the consumer but also the provider of the service.

Sir, that is in need of investigation because if an individual who, over the years, would have had an interest in defending the company that is applying for the increase in rates, now becomes the person who is the chairman of the committee that has established the Fair Trading Commission, then there is some degree of concern. Perhaps the Fair Trading Commission, as was clearly stated this morning, is not there to defend the interest of the consumer alone but that of the service provider, and that is supposed to be the case.

Hon. Miss M. A. MOTTLEY: On a point of order. The Honourable Member is misleading the Honourable Chamber yet again. The report that was chaired by the person to whom the Honourable Member is referring, who is the lead witness for Cable and Wireless in this rate rebalancing hearing, was in the 1996 report, which was prior to the recommendations of the 1997 October report by the London Economics for the establishment of a Fair Trading Commission. The recommendation for the establishment of the Fair Trading Commission came out of the London Economics Report for October, 1997.

Mr. C. A. MASCOLL: Mr. Speaker, am I to believe that it is only when the London Economics came to Barbados that there would have been consideration of revamping the Public Utilities Board and, therefore, that report that would have been written to have assessed the Public Utilities Board would have had no intention of seeking to revised the existing Public Utilities Board?

Therefore, we are being told that it is only after the London Economics came, that there would have been consideration for the establishment of the Fair Trading Commission.

House No.19(20) 14:10 p.m.

Tuesday, February 3, 2004

Continuation of Mr. C.A. MASCOLL:

We are being told that an assessment of the Public Utilities Board (PUB) would not have had a stated objective or the terms of reference would not have been in relation to trying to make the PUB better able to cope and deal with public hearings in the future. The 1996 Report delivered by the individual would have had no objective in terms of revamping the Public Utilities Board.

I have been described before and I feel that I now have to confirm my ignorance because I must be totally ignorant to believe that you would set up a commission to investigate a particular entity without any consideration of improving the quality of the service provided by that particular entity.

Sir, the Chairman of that investigated body, Mr. Wendell McClean, who would have made a substantial difference to this process now, had no remit at all to look into investigating the PUB. We will also hear from a member on the other side who was a major player in the PUB over the years as well and he will provide the evidence needed.

Mr. Speaker, the question of whether or not there is a difference between a flat rate and a metered rate has to be dealt with in this debate. Sir, the Democratic Labour Party is quite clear on its position. The Democratic Labour Party does not want metered rates in Barbados and this has been made quite clear in its Manifesto in last elections. In spite of the fact that there was the establishment of the Fair Trading Commission and the fact that there was supposed to be a pending rate hearing, the Barbados Labour Party Manifesto was silent on the issue on whether there should be flat rates or metered rates in Barbados.

This morning, I heard the Leader of Government Business reciting the contents. Sir, there is a difference between taking a document and reciting its content as opposed to explaining the contents of the document because anybody can take this document and recite from it.

Sir, I want to look at what is contained on page 18, item 6(1). The Leader of Government Business spoke to the question of cost-oriented pricing in Barbados but, Sir, all prices are determined by cost whether it be average cost or marginal cost. The Honourable Member spoke on the premise that overseas calls have been subsidising domestic call but no one has as yet proven this.

Mr. Speaker, no one has proven that overseas calls have been subsidising domestic calls in Barbados and until this has been proven the question of separating cost is a red herring being thrown across the trail because it is the major premise upon which this hearing will be determined. Sir, we need to establish that overseas calls have subsidised domestic calls in Barbados because this is the issue of the rate hearing.

Mr. Speaker, after careful consideration the Democratic Labour Party made a proposal. The argument advanced this morning for the separation of cost to determine how you would charge different users of telephones in Barbados is the same argument that the Party used to make the determination that Cable & Wireless would still be a monopoly especially in the delivery of domestic calls. Sir, this is with land lines and not the use of cellular phones because we know that the infrastructural development put in place to determine land line calls would remain a monopoly for quite a while. Sir, I cannot see

any other entity beginning to consider an investment in utility poles and wiring in this new technological age to be able to compete with Cable & Wireless in the provision of land line services. Therefore, the competition will come in the cellular services market because it does not require massive infrastructural, almost obsolete erection of poles and lines which we have throughout the length and breadth of Barbados.

Mr. Speaker, I am suggesting that the cellular phone consideration is difference in terms of the technological use and that is why we advanced that rather than go towards metered rates immediately there should be consideration of stalling the process to allow Cable & Wireless and the Fair Trading Commission to determine the allocation of cost across the difference services being provided by Cable & Wireless. We felt it made sense to separate out the services a two-year period, given the information that would have to be provided by Cable & Wireless. We would then be able to better determine the actual cost allocation across the various services at Cable & Wireless.

Sir, the Democratic Labour Party is not seeking to make Cable & Wireless a monopoly ad infinitum. We argued that because of the need to separate out cost there seems to be a lack of transparency on the part of Cable & Wireless in making that determination at the hearing. How could we, in the absence of such knowledge make the determination that there should be metered or flat rates immediately without there being the empirical data or evidence to support any position held. Mr. Speaker, that is the basis for the Democratic Labour Party suggesting that some consideration should be given, not to any maintenance of monopoly power on the part of Cable & Wireless with respect to cellular phones but with respect to land lines. This is now constituting the major debate with respect to the ongoing hearings.

H19/14:20

Sequence 21

Tuesday, February 3, 2004

Continuation of Mr. C.A. MASCOLL: Mr. Speaker, we were quite clear with respect to where we stood.

Sir, the issues in this debate and the public rate hearings are more complex and complicated than we thought. It is not a mere question of adding an increment to the cost of telephony. It is how do you adapt to an environment of liberalisation and how would it affect several areas of activity. Sir, that is where we started to investigate and to do our work because we understand that the use of a telephone in Barbados is not just an economic tool or has a financial component but there is a social component to the use of telephones in Barbados.

We are aware of the aging population in Barbados and we also know that there is concern with respect to the National Insurance provision of the ageing population of Barbados. We also understand that the elderly tend to use a telephone for social benefit and therefore it is in that regard that we considered that if you went towards metered rates, then you needed to look at the implication for persons least able to pay for a telephone. In one instant it is treated as a social good and in the other it is

an economic good.

I do not want to hear about any special provision for the old age pensioners because that is going to complicate the issue more. Sir, you have to get the price right first and then you can speak in terms of offering special benefits to the old age pensioners. However, to talk about treating old age pensioners upfront, going to disrupt the revenue requirement and you are not going to be clear on what you are seeking to deliver.

We also understand the implications of these cost for business generally. I can think in terms of legal services where a lawyer spends a considerable amount of time on the telephone on a daily basis. Could you understand the implications for the cost of delivering legal services if you go towards metered rates and the lawyer has to pass on such cost to the consuming public? In addition, to those costs you have to add Value Added Tax.

Sir, I can speak forever on these kinds of issues. In fact, you almost got a paper to say that I did speak for a very long time last year but I can be like you when I want to. I have to be guarded and guided.

Mr. Speaker, when we come to consider how we are going to put cost on telephones in Barbados we need to look at the various categories.

Therefore, I want to look at even the cost of to Government. When we come to do the Estimates, could you imagine the headache that a department of Government would have in making an estimate for a line item for the cost of telephones? Could you imagine the difficulty that public servants would have if they have to allocate to a line item for the cost of telephones in a given fiscal year, what it would be? There is no way that you can safely allocate that kind of cost in a public service culture where people are allowed to use the phones as they wish. In this new dispensation we have to put in the cost of telephones in the Estimates or we will get more supplementaries coming to this Honourable House.

Sir, I want Honourable Members to think about this process because it is not as easy as it appears to be. Even when we talk about metered rates, think about an individual going into a private room at the hospital and not knowing the cost of the telephone calls. I would like to know how the Queen Elizabeth Hospital that is so inefficiently run is going to put systems in places to be able to determine the cost of the use of a telephone by a patient in a private room for an extended period of time so that individual will pay his fair rate of the use of the telephone. How would Government who cannot allocate resources to kill mosquitoes, be able to do something as complicated and complex as that? There is no justification to date for metered rates in Barbados. In fact, I can tell you that the jurisdictions that have gone the way of metered rates have reconsidered their position. There has been considerable discussion in the United States of America on whether they should go fully towards metered rates or abandon them.

Mr. Speaker, the task of the Fair Trading Commission is a major task but we have to understand what the implications are for the people of Barbados, the Government of Barbados, the private sector and any other entity that wish to engage in the use of telephones across Barbados.

We have heard that there is going to be consideration to separate out-cost. Yet, Cable and Wireless was able, before the public hearing, to determine that persons who use telephones for less than 2 000 minutes should pay \$20 more for the telephone. How could Cable and Wireless, in the absence of

proper information, be able to determine before hand that a further increase of \$20 in addition the existing \$28, plus Value Added Tax is an adequate increase for the service being provided? Cable and Wireless was able to go further and separate the market by introducing the use of the telephone by minutes and predetermine what they are going to request the Fair Trading Commission to give them in terms of an increase. Sir, this is what is being done but when you query them on simple information, they tell you that the other person is going to deliver the information.

We are in a position where the Fair Trading Commission is saying that it does not protect the consumers alone but it also protects the company. However, the company is able to propose increases to the people of Barbados based on information that it has. There is nobody apart from the interveners who are looking after the interest of the consumers. I do not know why a government would not believe that the Fair Trading Commission should be looking after the interest of the consuming public more than the company, because it is the taxpayers money that is being used to establish the Fair Trading Commission.

Mr. Speaker, how could we have heard this morning that there are equal allocation and interest between the consumer and the provider of the service with respect to the Fair Trading Commission. I know...

H19: 14.30

Sequence 22

Tuesday, February 03, 2004

2:30 p.m.

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. I regret having to rise again but the Honourable Member is speaking fast and loose with respect to what was said in this Chamber.

Mr. Speaker, to begin with, we indicated that the Fair Trading Commission (FTC) has a responsibility to all stakeholders, as is required by the Act, which was passed by this Honourable Chamber and the Other Place in the year 2000. Therefore, all that the FTC is doing is complying with the legislative mandate which, in fact, mirrors the responsibility of other FTCs across the world.

Therefore, the Honourable Member is seeking to play to the gallery and to build a form of political mythology that is best suited for George Street and not the Parliament of this country.

Mr. C.A. MASCOLL: Mr. Speaker, when it suits the Leader of Government Business to put the public first, she does. Apparently in this instance, it does not suit her to put the consuming public first. All I am saying is that I believe, respectfully so, that in fact the FTC...

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. The Honourable Member is obviously not aware of the other pieces of legislation which also are utilised by the FTC in executing its mandate.

The Consumer Protection Act and the Consumer Guarantee Act, Mr. Speaker, ensure that the FTC puts the interest of the consumer first, in relation to those matters as specified by that Act, such as quality of service, quality of standards and, indeed, level of payment, in the same way that it puts the public interest first, in relation to ensuring that under the Unfair Competition Act that no company is capable of performing acts which are in breach of that Fair Competition Act.

Sir, he is misleading this Chamber, in seeking to suggest that the interest of the consumer is not being taken into serious account by the Fair Trading Commission. It is unfair because it is in direct breach of laws passed by this Honourable Chamber, and an office of the Leader of the Opposition ought to, at least, know the laws of the Chamber, for which he has a responsibility as Leader of the Opposition.

Mr. C.A. MASCOLL: Mr. Speaker, I also engaged in this debate in the Other Place when the Fair Trading Commission was being established. I understand the use of the word fair but I also understand that fair can be relative, so the question of being fair can be relative. Therefore, in this instance, whereas the company comes to the FTC for an increase and to justify it in giving information to the FTC, I am suggesting that even from the outset, the consuming public is at a disadvantage.

Certainly, the Honourable Member for St. Michael North would agree that the consuming public would not be in possession as the kinds of information that the company has. Therefore, it means that in spite of the fact that we are talking about a fair share to all, it means that there would be some disadvantage.

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. Once again, the Honourable Member is misleading the House. The consuming public's interest is protected by the Office of Public Counsel as provided for under the legislation.

I went further in my introductory speech, Sir, to say that the Office of Public Counsel receive funds from the Ministry of Commerce and Consumer Affairs to hire technical expertise to ensure that the interest of the consumer would not be at a disadvantage, relative to those resources available to Cable and Wireless as a company. Further, Sir, that he did in fact procure such technical expertise for rate rebalancing and was in the process of procuring similar technical expertise for the confidentiality hearing.

Sir, once again, the Honourable Leader of the Opposition is misleading this Chamber.

Mr. C.A. MASCOLL: Mr. Speaker, that is like saying that there is consumer protection legislation in Barbados.

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. Once again, the Honourable Member is misleading this Chamber. There must be a conduct and a level of behaviour that is required from Honourable Members in this Chamber. There is consumer protection legislation in Barbados.

The Honourable Member for St. Philip North is an Attorney-at-Law, perhaps he might want to advise his Leader of the Opposition who may not realise it, but there is a Consumer Protection Act and a Consumer Guarantee Act passed by the last Parliament of this country, when the Honourable Member

so well pointed out that he was a member of the Other Place when that legislation was passed.

Mr. C.A. MASCOLL: Mr. Speaker, that is exactly the point that I am making, that even if you have legislation on the books, as we have with consumer protection, that there is no guarantee that the consumer is going to be protected. I am therefore saying this with respect to this debate.

Sir, there are several persons in Barbados, who have, in recent times purchased cars that may malfunction and we do not have the kind of implementation of a policy or the legislation...

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. Again, the Honourable Member is really on a unfortunate trek today, because the one of two decisions that the Consumer Claims Tribunal has ruled on in this country relates to the purchase of a car.

The decision of the Tribunal, Sir, is that the person who sold the motor car to the other person was ordered to return the sum of \$5 500 to the complainant, along with a sum of \$350 to cover the cost of repairs undertaken, while the person had owned the car.

Therefore, the one instance, Mr. Speaker, in which he cannot seek to draw an example is in the purchase of cars that are not functioning because the Consumer Claims Tribunal has shown that it is already working and delivering justice to people who, under a Democratic Labour Party Government, in spite of spending all that money to hire Dr. Osmund Rose, would not have been able to get any form of redress for a car that was not worth its salt, for which the person had paid.

Mr. C.A. MASCOLL: Mr. Speaker, Ryan Hurley is a very outstanding batsman because he struck a four in South Africa. Sir, because there is one car that can be brought here as evidence of the power of the Consumer Protection legislation, we are hearing the Leader of Government Business suggesting that we have in Barbados, the strongest consumer protection legislation around the Caribbean and throughout the world

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. I will now make this a document of the House. It is a good thing that you do not play your full hand, Sir, when you start.

Status of complaints, as of the 31st January, 2004. The total number received of cases for total investigation and settlement were 401, and the total settled by negotiation were 359, in less than two and a half years, on behalf of the consumers of Barbados. This was never done before, Mr. Speaker, in the history of this country.

Asides.

Hon. Miss M.A. MOTTLEY: Mr. Speaker, it does not stop there. In progress, 34 cases sent for hearing to the Consumer Claims Tribunal, eight more cases were decided by the Tribunal. Sir, two cases, one to do with a defected cement mixer, one to do with a car are among the ones that have been settled. Sir, the cases that remain, may well include more cars.

Mr. Speaker, do you know what the other claims are? They were household appliances and equipment, information technology related products and services, and mechanical and related services.

House 19, sequence 23, 14:4014

Tuesday, February 03, 2004

Continuation of Hon. Miss M. A. MOTTLEY:

Mr. Speaker, the Office of Public Counsel has had 401 cases before it and has settled 359 of them. The ones it could not resolve were sent to the appropriate judicial tribunal, the Consumer Claims Tribunal, which has started to work.

Mr. Speaker, this is for the Honourable Leader of the Opposition. Mr. Clerk, carry this for him, please, because he might be able to read it and understand...Mr. SPEAKER: That, Honourable Member if you would take my advice, is more a point of elucidation. Is that what you are doing?

Mr. C. A. MASCOLL: You are now directing the Leader of Government Business, Mr. Speaker.

Mr. Speaker, I therefore hope that the Fair Trading Commission, with respect to consumer equipment where the responsibility has now been passed on to the user of the service, would recognise that has become a major burden to the people of Barbados. Before we had a situation in which persons were able to call BARTEL and BARTEL was able to offer services to the people of Barbados almost free of cost, but we have a situation now which I have already experienced as a user of a telephone in Barbados where a person came to repair a line that was damaged, spent an inordinate length of time, more than what was required, and then sent a bill for almost \$400. Do you think it is fair, Mr. Speaker, that in the pursuit of some construction a line is damaged that now you have to pay \$65 for that individual just to turn up. That individual can then make all kinds of determinations as to what is wrong and spends a very healthy length of time at your house only for you now to have to pay bills in excess of \$300. I have already experienced it, Sir. I am saying therefore that we have to be concerned about protecting the consumer not only by way of legislation but with respect to policy decisions that we make.

Mr. Speaker, I can really now begin to understand why the Honourable Member for St. Michael North resigned because he must have had a very difficult time understanding what is going to happen to local telephony in Barbados. We have been told here this morning that he has not provided a reason for his resignation but I would hope that one day soon he would have the heart to come and tell the people of Barbados why he resigned.

Mr. Speaker, when one looks at what is happening with respect to the liberalisation of telephones in Barbados, one has to be concerned about the implications of the liberalisation not only to the people of Barbados but also about the overall implications of liberalising telephones or telecommunications in Barbados. I am concerned, so too is the Honourable Member for St. Michael North and we must not forget the learned judge who departed and said that he would now have to rest comfortably in retirement because he underwent such pressure from this administration in order to accommodate Cable and Wireless within the Memorandum of Understanding.

Hon. Miss M. A. MOTTLEY: On a point of order. The Honourable Member cannot make allegations unless he brings the evidence to support the same. Unless he can bring evidence of that, I

am saying that he is misleading the House because I know of no such pressure which was levelled on anyone in relation to these matters.

Mr. C. A. MASCOLL: Let me go on to look more clearly now at the responsibilities of Fair Trading Commission. What we are seeing recently is an example of the kinds of complexities involved in delivering the services of the Fair Trading Commission. The principal functions of the Fair Trading Commission is to

- “(a)establish principles for arriving at the rates to be charged by the service providers;
- (b)set the maximum rates to be charged by service providers;
- (c)monitor the rates charged by service providers to ensure compliance;
- (d)determine the standards of service applicable to service providers;
- (e)monitor the standards of service supplied by service providers to ensure compliance;
- (f)carry out periodic reviews of the rates and principles for setting rates and standards of service of service providers; et cetera.”

Mr. Speaker, it must be quite clear to all and sundry that the task of the Fair Trading Commission is really a major task. However, the Fair Trading Commission can only function within a policy prescription of the Government of Barbados. Therefore, the Fair Trading Commission cannot be left to determine whether or not we can have metered rates or flat rates. The Fair Trading Commission can find the kind of information to be able to determine the principles for setting rates to be charged by service providers. That is what is established in the legislation.

To say to me that the Fair Trading Commission is going to have the responsibility to determine whether or not we have flat rates or metered rates is really an abdication of the Government with respect to policy because there is no way that the Government should give up policy setting in Barbados. It does not do it at the Barbados Tourism Authority. It does not do it at the Transport Board. It does not do it across the length and breadth of all of the statutory bodies. Therefore, how is it that in this particular instance which has the potential to damage so many users of the service that the Government is suggesting that the Fair Trading Commission now has the power to determine whether or not we go the route of metered rates or flat rates. I find that extremely difficult to digest.

If they are saying that they established a policy as a Government and then ask the Fair Trading Commission within its mandate or remit to determine on the basis of information provided by Cable and Wireless what kinds of rates should be offered to the people of Barbados, after which you make a determination on the revenue requirements of Cable and Wireless, of whether or not it is fair to the consumers or whether it is a fair rate of return of investment to the company and you then determine the policy framework after having had the evidence, then I can understand that. However, I cannot understand how in this particular instance the Government of Barbados is willing to give a commission established by a minister the power to determine the outcome of the rate hearing. I cannot understand it and I would never be able to understand it. I find that extremely difficult.

Mr. Speaker, I am saying that the policy of the Government should be clear from the outset. The Government should be able to determine up front where it stands with respect to telephone rates in Barbados and with respect to whether the rates should be metered or flat because ultimately the issue has to be what is the company getting in terms of its revenue requirement. Therefore, I have extreme difficulty in understanding it.

Mr. Speaker, I heard this morning much talk about a transition to a services sector economy in Barbados.

House 19 Sequence 24

2:50 p.m.

Tuesday, February 03, 2004

Continuation of Mr. C. A. MASCOLL:

Mr. Speaker, I am reporting to this Honourable House that today, under the Barbados Labour Party's administration, Barbados is more vulnerable than it ever was under the post-Independence period.

Mr. Speaker, I do not say this lightly because for years, I have accused this administration of not restructuring the Barbados economy. Therefore, this morning when I heard that we are now transitioning towards a services sector economy, I wonder whether or not I am still living in Barbados. Sir, I cannot believe that after ten years in Government, there is now concern about moving Barbados' economy towards a services sector economy, and that is the basis for the liberalisation of the telecommunication sector.

Sir, in the early 1960s and before, when sugar was king, we were fairly safe, now that tourism is king, there is going to be concern about one's environment.

Mr. SPEAKER: Honourable Members, please, not so loud.

Mr. C. A. MASCOLL: There is vulnerability where, for instance, an epidemic could cause this economy to go into a tailspin. Therefore, at this stage, we need to look at what is the best development strategy or approach that we could use for Barbados to go forward.

Sir, I wish it to be said that I do not want all of the economic eggs to be in the tourism basket. Therefore, therein lies the threat because when this administration took office, we had an immediate discussion about manufacturing and a member of a major organisation in Barbados, after a little relief was granted in 1995, said that it would have created 18 000 jobs in manufacturing.

Mr. Speaker, I also remembered the Honourable Prime Minister of Barbados suggesting that the international business sector would have become the engine of growth for the Barbados economy. Sir,

as I speak to you, the international business sector has declined in every respect such as employment, foreign exchange earning, Barbados' contribution to the tax net, et cetera. Therefore, over the last ten years, in addition to the fact that agriculture has been under tremendous pressure, and the fact that this morning we have heard that sugar would be a thing of the past, what we have seen is an over reliance of the tourism sector.

I am, therefore, suggesting that as a result of mismanagement, Barbados is now even more vulnerable as a country than it was ten or fifteen years ago, in spite of the so-called increase in economic growth.

Sir, it must be very evident to the people of Barbados that they are under tremendous pressure. It must be evident to the workers of Barbados that they are not being fully represented by trade unions. It must be very evident to workers in Barbados that they have cause for concern, as companies lay-off workers and could justify such lay-offs. Therefore, I would want to understand in what sense we are hearing about a transition towards a services sector.

Mr. Speaker, there is the need for a detailed discussion on where Barbados is going. What are the real issues that confront Barbados? What are the social and economic concerns in Barbados?

Sir, I am not convinced that the liberalisation of the telecommunications sector is going to lead to a dramatic turning-around in the international business sector; that it is going to make Barbados any more competitive in tourism; that the manufacturing sectors are going to benefit in any way from the liberalisation of the telecommunication sector, nor that this economy is any better off than it was ten years ago.

Therefore, we have a debate to enter into, that is, where do we presently stand as an economy, and whether or not this liberalisation is going to redound to the benefit of the economy or to any other sector.

Sir, as we speak there are some serious concerns. I have heard discussions about a public counsel but I hear daily among the people that they are not getting the kind of protection that is required in several areas of endeavour. Therefore, I do not know what has happened overnight to improve consumer protection.

Sir, in winding up, let me say that we have to be concerned that we are not putting unnecessary and undue burden on neither the consuming public nor the elderly people of Barbados. We have to be concerned that what we are doing, that is liberalising the telecommunication sector, is not going to hamper the Government sector itself. We have to be concerned that we are not putting Barbados in any better position to be competitive, as a result of anything that is happening. What is basically going to happen is that private sector individuals would see opportunities to invest, particularly in cellular services, and would get involved. Therefore, all that would happen is that the pie would now be divided among several other players. It does not mean that there is going to be any substantial benefit to the consuming public of Barbados and in the next year or so, we are going to witness it.

Sir, even those persons who are now coming to provide cellular services, who are now dangling the carrot in front of the consuming public, we wait to see whether or not there is going to be any major benefits to the consumers of Barbados, and as I speak, I cannot see any substantial evidence of this,

even with respect to making foreign calls in Barbados.

Asides.

Mr. C. A. MASCOLL: I would like to see how the tourism sector is going to transfer any such benefits to the tourists who come here, in terms of making overseas calls because even when one visits New York or other international destinations, one hardly gets any major benefits within the hotels by the use of the telephone.

I can say that it is a major cost in terms of making calls back to one's country, yet one hears about \$0.05 or \$0.10 per minute calls to the consuming public and therefore, I would like to know whether or not the Tourism Ministry is thinking in terms of passing on any benefits to the tourists who come here, in an attempt to make the Barbadian tourism product any more competitive.

Sir, it has been already said that Barbados is high cost and unless we could see major implications for the liberalisation of the tourism sector, then I wonder what is it that we are seeing with respect to liberalising the telecommunication sector.

Asides.

Mr. C. A. MASCOLL: Mr. Speaker, in the international business sector, we were told that heritage tourism would have become a landmark entity for Barbados but in the delivery of software services, what we have seen is a complete withdrawal of the so-called landmark heritage company. Therefore, where is Barbados really going? Is there any real evidence in train, with respect to repositioning the international business sector, the tourism sector, the manufacturing sector or the sugar industry of Barbados? Where can this Government say that it is taking Barbados with respect to our future economic needs?

House No.19(25)15:00 p.m.

Tuesday, February 3, 2004

Continuation of Mr. C.A. MASCOLL:

Every member on the other side must be concerned because Barbados is not being positioned to take advantage of regionalism or globalisation.

Sir, the manufacturing sector that was to become an engine of growth has declined. The international business sector has decline and the agricultural sector has declined.

Mr. Speaker, are we in this Parliament satisfied that we should put increasing emphasis on a single sector to carry forward the developmental strategy of Barbados?

Asides.

Mr. C.A. MASCOLL: Once arrivals increase, he will thump his chest but if you listen to the Vice

President of the Barbados Hotel Tourism Association, you will hear that revenues are not commensurate with the increase arrival and that there is lack of profitability in the hotel sector. When he was Vice President of the Barbados Hotel Tourism Association, he held the view that increasing arrivals would not redound to the benefit of the hotel sector.

MR. SPEAKER: Honourable Member, please.

Mr. C.A. MASCOLL: Mr. Speaker, it was said in 1999 that arrivals alone do not really indicate the performance of the tourism sector, that and we should not be bogged down by looking at arrivals alone and that we have to be concerned about the revenue requirements and profitability in the industry and the yield per room.

Mr. Speaker, my major point is that the economy, as I speak to you, is resting on the tenuous thread of the tourism sector. This is a concern for all Barbadians and therein lies the need for us to stop and evaluate where we truly are as a country. It is okay to mask everything under heavy borrowing, taxation and debt but when you look at the underlying structure of the economy, you must be concerned as a Barbadian.

Mr. Speaker, I end by saying that even in this debate on telecommunications, there has been no stated policy on the part of Government. Government seems to have transferred that responsibility to the Fair Trading Commission but the Fair Trading Commission is not a policy-making organisation nor can it determine whether we will have flat rates or metered rates in Barbados.

Mr. Speaker, to hear the Leader of Government Business saying that the Government is indifferent between flat and metered rates is testimony to the lack of direction being provided by the administration. Sir, this is a major concern. If the Government says it is indifferent whether there are flat or metered rates in Barbados, it shows it does not understand the market because it is so difficult to determine what kind of metered rate you can use as a substitute for a flat rate or vice versa. To say there is no difference is to really not understand what is going to happen in the telecommunications sector.

We have to be concerned because we have had flat rates for many years and we have to be concerned for its implication for the social side of this society. We cannot think in terms of giving Cable & Wireless its revenue requirement because there are severe implications across the board for the way we live our lives in Barbados, that is my major concern. This is not about ultimate figures or the revenue requirement. It is not about these things but about the underlying social fabric in Barbados and its implication.

Mr. Speaker, I end by asking the Government of Barbados to provide the leadership and guidance necessary in this affair because it has far-reaching implications not only for the economy of Barbados but for the society in which we live.

Mr. Speaker, I thank you.

Mr. D.D. MARSHALL: Mr. Speaker, I am delighted to have the opportunity to speak on the matter of the amendment to the Fair Trading Commission Act. While the amendment is small from the point

of view that it seeks to add an additional two Commissioners to the existing compliment, it is going to be far-reaching in terms of the effectiveness of the Fair Trading Commission in carrying out its work.

A comment made on a previous Sitting of this House by the Minister at the time, the Honourable Ronald Toppin, the Honourable Member for St. Michael North, spoke extensively about the significance of the Fair Trading Commission Act and pointed out that one of the great difficulties that had attended previous public utilities hearings was the volume of work involved, the amount of documents involved, the difficulty in dealing with witnesses and the expert evidence and the fact that the Public Utilities Board (PUB) at that time had no permanent staff. Sir, there was a crying need for this Government to completely transform the arrangements that had been put in place in the 1950s.

Certainly, as Barbados prepares for globalisation where competitiveness is going to be key, it was incumbent on us to do away with the old methodology that was attendant with the PUB at that time. It is a commonsense thing that in an environment where there are more commissioners available to do the work of the Commission, it would result in greater effectiveness in carrying out their duties and also allow the Commission to bring together a broader base of experience among its commissioners.

Sir, I want to say at the outset that I wholeheartedly support this amendment. It has come after we have been able to look and see how the Fair Trading Commission has been working with its current complement of Commissioners. It is a legitimate response of the Government, having seen the pressures brought to bear on the Commissioners, the amount of time put in and the personal sacrifices the various Commissioners must make in order to serve the public in this most noble endeavour.

Sir, the issues go beyond simply strengthening the Fair Trading Commission. Therefore, I am happy to speak particularly in the context of the sector for which I am responsible. I firmly believe that the liberalisation of telecommunications will lead to a more competitive Barbados, will bring more businesses to Barbados and will see a Barbados that is able to exceed past performance. Sir, when this Government recognises the importance of telecoms as being the key, it is on the right track.

Sir, I want draw reference to the fact that currently we have six call centres operating in Barbados. Last week I met with the representatives of a company called Abia. This company estimates that in the region of 450 000 call centres, are likely to come into the marketplace in the short term especially given the exodus of call centres from the United States of America.

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Continuation of Hon. D.D. MARSHALL: It is therefore considered that Barbados is in a prime position, given many factors, to attract some of these call centres.

Sir, last week some of the directors of various companies that had call centres came to Barbados on a fact finding tour. I want to reiterate what they represented to me in that brief meeting. They said that

Barbados has a lot going for it but we simply need to get the telecommunications liberalisation put through so that they are able to be competitive when they bid for work.

These companies told me that on all of the other indicators that Barbados is competitive. We are competitive in terms of wage rates. One analysis shows that the basic wage rate for a call centre staff in Mexico city is US\$3.20 per hour while in Barbados it is US\$3.50 per hour. However, when you get the loaded labour cost per hour, that is the basic labour cost, when you taxes, National Insurance and various benefits, only US\$.01 separates us from Mexico. To be precise US\$.01 lower. Sir, Barbados' hourly loaded rate as compared to Mexico is US\$5.05 per hour while Mexico's is US\$5.06 per hour.

Mr. Speaker, I raised the example of Mexico because it has been a popular domicile for call centres. In terms of our labour rates we are US\$.01 cheaper. Sir, what presents the difficulty for Barbados has always been the fact that the cost of telecoms', point to point, monthly fee was US\$19 698.00 per month, while in Mexico, for the same monthly fee, it was only US\$6 200.00. Their assessment was that on matters other than telecoms, Barbados was a competitive domicile but when it comes to telecom, it was our high telecoms cost that made it difficult to bid for work successfully.

Sir, I want to say that several companies that are operating in Barbados have reported to me that despite the fact that our telecoms cost is so much higher, they have been able to bring business to Barbados because of the other factors. For example, the way which Barbadians speak, the education that they have and our ability to be trained quickly into very complex issues. I would like to mention the company, Zeno Data Incorporated, which I would like to publicly welcome back to Barbados. Zeno Data started its operations in Barbados last year not as a call centre but as a data centre. It ran into some difficulties but they were committed to coming back to Barbados and returned to Barbados late last year, starting with a staff of less than fifty persons. However, a week ago I cut the ribbon at Zeno Data and they had increased their staffing complement to over three hundred persons. Sir, that is a stellar performance if ever there was one.

Sir, the principals of Zeno Data Incorporated have indicated to me that the reason they found Barbados attractive was because our workforce was trained and is easily trainable in an area that, for many people, would seem to be a very complex thing. The staff at Zeno Data has the responsibility of going through volumes of deeds, legal documents, and extracting from those documents critical information. For example, who the mortgagees and mortgagors are, the property being described, the stamp duty, the considerations and the kinds of encumbrances. Sir, these are things that lawyers do every day and the staff at Zeno Data Incorporated has been trained to do these things.

Mr. Speaker, the staff at Zeno Data is highly credited for what they do and as a result the Barbados operation is doing the more technical side of the business, while the data entry operations are being done in China. Sir, that tells you clearly that this particular company has seen the kind of staff capacity that Barbados has is enough to encourage them to come here to establish their business. The fact remains, if we are able to significantly reduce our telecommunications costs, many businesses if not all, would be able to bid competitively for many projects.

Mr. Speaker, I would like to point out to Honourable Members of this House that currently there are nine call centres in Barbados and the total number of employees in the call centre sector is 893 Barbadians. They do a variety of tasks, all of which they have been praised for by their employers. We

expect to provide employment for a maximum of approximately 3 000 Barbadian in the call centre industry withing the next five years.

Mr. Speaker, everything that Barbados has to do, except the completion of the liberalisation work in the telecommunication sector, has been done. We have been offering training courses to young men and women who are interested in working in call centres so that as the jobs become available, these companies have a ready and willing cadre of trained people that they are able to absorb immediately.

Sir, my Ministry is convinced that call centres represent legitimate business and good business activity that have great potential of employing Barbadians. We have come this way before and we must never be ashamed of it. Barbados was able to attract Intel in the late 1970s and early 1980s and not withstanding the fact that Intel left Barbados and we were a little concerned, they left Barbados and Barbadians with a tremendous degree of skills that we have been able to roll-over into the mainstream of Barbadian commercial activity and that it what we see happening again today.

We know that Caribbean Data Services has gone but they have left a large number of Barbadians who are well trained in data processing and who have been utilised by government departments and the private sector for the skills that they were able to amass while they worked in the sector. This Government continues to support it but we understand clearly that there is still that missing side of the triangle and that missing side of the triangle is bringing our telecommunications costs down.

The liberalisation that we are talking about is something that we are committed to but like all of the other Honourable Members of this Honourable House, on this side, I was completely shocked when I heard the Honourable Leader of the Opposition suggest that we should extend the monopoly for a further two years. In circumstances where this Government is fighting to ensure that our economy grows and to produce jobs for our citizens who are then able to maintain a decent standard of living, Her Majesty's Opposition wants us to take a retrograde step and maintain the status quo.

Sir, we have a greater vision for ourselves and a greater vision for our people than to allow ourselves to be forever trapped into an environment that does not lead to productivity and competitiveness. Liberalisation does not only mean reducing rates. It also means monitoring and maintaining quality of service. It means ensuring that new services come to the market in a speedy manner. It is about having an environment for commercial activity that is market driven.

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3:20 p.m.

Continuation of Hon. D.D. MARSHALL:

The Fair Trading Commission, together with our consuming bodies and the private sector and the private consumers, stand hand in hand in this endeavour. The Old Public Utilities Board dealt only

with rates. That was all they could do. That was all they have the legislation fiat to do, set rates and the utilities a reasonable rate of return. As Barbados has developed, we recognise clearly that we have come far past that and that Barbadians over the years have been crying out for better service, not just cheaper prices.

Therefore the Fair Trading Commission has a pivotal role in ensuring that the quality of service that Barbadians have come to expect to be entitled is now going to be delivered.

I have to join with my colleagues on This Side and laud the efforts of the Public Counsel. The Public Counsel is a creature established under the Utilities Regulation Act but functions across the entire breadth of the legislation that is supervised by the Fair Trading Commission. The Fair Trading Commission has to deal with competition. It has to deal with consumer protection, it has to deal with the Consumer Guarantee Act and in all of these pieces of legislation the Public Counsel has a critical role to play.

I think that Her Majesty's Opposition instead of 'down-crying' the work of the Fair Trading Commission, so far, should be lauding them for the fact that, of the 400 cases which have been brought before them, 359 have been settled by mediation.

We have an environment today where we see people are going to court about the slightest thing. Every thing they take into a lawyer's office incurs a lot of cost, and ties up a lot of court time and generally, they come away feeling empty and hollow, because they have not been entirely successful.

It is a clear feature of today's settlement of disputes, whether judicial or otherwise that the practice of mediation must play a central role. When the Public Counsel could settle, or cause to be settled 359 cases by mediation in the short period of time that he has been functioning, I think he deserves every credit from both sides of this House.

I see the fact that only two matters have actually gone to the Tribunal, not as a failure but as a success. I believe that more people need to approach the Fair Trading Commission on the various consumer issues that they have. The legislation is in place. It came into force in July of last year, I believe, and it is a modern piece of legislation, providing simple mechanisms for the settlement of disputes.

It is a piece of legislation that as a young lawyer I perhaps wish we had available to us many years ago because the Magistrate's Courts limit is \$10 000 under the Magistrates Jurisdiction and Procedure Act. The monetary limit of the Consumer Claims Tribunal is also \$10 000. Many of the matters that will go before Magistrate's Courts are for breaches of service contracts, they are for defective goods and so on.

Therefore, we now have a mechanism that is capable of speedy response that does not require any of the parties to retain a lawyer but that is able to produce and deliver to them an effective remedy, in a reasonable space of time.

Sir, those Honourable Members of this House who have spent any time in court, would know quite well that sometimes just bringing a small matter in court over a small product, something that might

cost \$500 or \$600 can take as much as a year and a half to two years, to go through the entire judicial process. This Tribunal is clear indication that the people of this country have signed on to the concept of mediation and have accepted with open arms, the work of the Public Counsel.

In fact, we may well find there may be a greater need to increase the staff in that department, as more and more people chose to go that route instead of going the route of approaching the courts.

Mr. Speaker, what we have in today's environment is a consumer that is insisting on good service, good return for his money, speedy determination on all of the matters, but it is also a consumer public, whose interest have now gone beyond the domestic issues because they recognise that Barbados has now entered into an environment where we now have to tackle things like dumping. We now have to deal with other issues of monopolies.

Monopolies are not only about rates of public utilities companies. There are other features of a monopolistic system where the consumer is disadvantaged. They therefore recognise that going far beyond product liability issues and service liability issues, there have to be mechanisms in place to protect the consuming public from other monopolistic practises.

This Government has worked very hard to ensure that the start of a new millennium sees the people of this nation well equipped with a legislative mechanism that is able to deal with all of these issues. As a law student the rule caveat emptor, let the buyer beware, was what was applicable, but we have gone pass that and our citizenry, because of the fine education that we have, now have far-reaching interest.

Therefore, when one company is able, because of its monopoly situation, not just to deal inequitably with the consumer, an individual, but also uses its market dominance to deal inequitably with a commercial entity, then the Fair Trading Commission is able to step in.

Therefore, this Fair Trading Commission of necessity has to be equipped to deal with the full gamut of issues that come before it. It simply could not exist without the additional complement of commissioners.

I am satisfied that the calibre of commissioners that are serving is unquestionable. I believe that the attention which the public has been paying to the public hearings demonstrates clearly that the process of liberalisation is one which this Government is committed to seeing maintains every attribute of transparency.

The hearings are under the public microscope in a way that they have never before been under the public microscope. In fact, again we have to come full cycle to the work of the Public Counsel because I remember participating in the Fair Trading Commission in the late 1980s and one of the serious issues was the fact that Cable and Wireless was able to hire two and three QCs but that people like Wendell McClean and other individuals who were objecting, simply could not afford to have any legal advisors.

These citizens fought spiritedly against the might of senior lawyers in Barbados but they simply did not have the benefit of appropriate legal advice when it came to the matter of putting forward the arguments. Sir, again, the role of the Public Counsel comes in.

Sir, the role of the Public Counsel includes working on behalf of objectors. I believe that as we see the proceedings of the Fair Trading Commission nightly on television, that you will see the sterling work that has been done on behalf of the various objectors from time to time by the Public Counsel.

It is a feature that is not novel, but certainly one that has served Barbadians well, in the past few months and one that, no doubt, will continue to serve us well as we go forward.

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Continuation of Hon. D. D. MARSHALL:

Mr. Speaker, as I said at the beginning, we have come a long way from the 1950s when our whole approach to liberalisation of telecommunications and to monopolies were vastly different. We have a lot more at stake today than we have ever had. Therefore, it is incumbent on all Honourable Members of this House, whether on the Opposition side or on the Government side, to sign on to the fundamental principles of competition and to the fundamental principles that industries such as telecommunications, natural gas, transportation and electricity have to come within the purview of the Fair Trading Commission in such a way that their functioning can be regulated for the benefit of all sectors of the community.

It is very easy for the Leader of the Opposition to say glibly that the international business sector has not grown. This Government accepts that there has been a levelling off in the short term of the number of companies that have been incorporated in Barbados, but the Opposition has to bear in mind, and this is something that this Government is quite clear on, that it is always easy to spout numbers but we have to look at the real activity that these companies have been engaged in.

The Honourable Members of Her Majesty's Opposition might not know that the Canadian Imperial Bank of Commerce (CIBC) largest global treasury is in Barbados. The Honourable Members of the Opposition may not know that big commercial banks are setting up captive insurance companies more frequently in Barbados, so we have gone beyond just playing that silly number game. That number game gives you an indication of how many people come to the fete, but it does not tell you how many people buy drinks at the bar.

The point here therefore is that we are interesting in attracting not just numbers but solid business for Barbados. All of the indicators demonstrate that solid business continues to be attracted to Barbados and that the cost of our telecom is just one part of it. So while we are committed to seeing a liberalisation of telecommunications because of the benefit for all players in this society, whether they are international business companies, captive insurance companies, offshore banks or just some plain small company in Bridgetown that has to deal with the headache of paying for eight or ten telephones bearing the cost of putting in a switchboard, we want to ensure that all of Barbados is able to benefit and that as we go forward to try to ensure that all of the benefits of a striving economy redound to all Barbadians. We go forward in the confidence that all of the other pieces of the puzzles that have to be put into the mix are there and are being put there by this Barbados Labour Party.

The environment ahead is one that perhaps we have not had to deal with before when we talk about things like dumping and fair competition. Certainly, I have confidence in the commissioners who are serving. I have confidence in their independent spirit. I have confidence in their sharp intellect and I have confidence in the fact that a system has been put in place that is transparent that allows the widest possible participation at the lowest possible cost and to the system that we have put in place with great care. We do not make this change today likely, we make it after observing what has happened in the past.

Therefore, I close by saying that I support this piece of legislation. I maintain that it is fundamental to ensuring Barbados' competitiveness in the years ahead and to securing a competitive advantage for this small but otherwise well-endowed nation.

Mr. D. St.E. KELLMAN: Mr. Speaker, I rise to speak on this amendment to deal specifically with section 2, which states that the Fair Trading Commission Act is amended by deleting the number "5" - I believe in this case when we speak of five we speak about five commissioners - appearing in paragraph 1 of the Schedule and substituting the number "9". I also believe that when we speak about nine, it deals with nine commissioners.

Mr. Speaker, this debate is about increasing the number of commissioners from five to nine. Mr. Speaker, let me pause here to make this point. There was a time in this country when we use to talk about the Barbados Light & Power Company and we use to say that any increase from the Barbados Light & Power Company would affect the whole country. I want to say today based on what is happening now the same thing occurs with Cable and Wireless. We have to understand that their cost now must be seen as input cost in the same way we see the cost from the Barbados Light & Power Company.

Mr. Speaker, I find it rather strange that we have five commissioners who are doing a good job who should be praised for what they are doing in this country, but the Government would want to increase them to nine. It is clear to me that the Government is not getting its way from these five commissioners and they have to increase them to nine to dilute the situation. Nobody can challenge that, Mr. Speaker. The five commissioners are making sure that they deliver the job they have been given by the Honourable Member for St. Michael North, but somebody somewhere is against what they are doing and have decided to pad the list by four more commissioners so that they can get the decisions they want.

I will watch, Mr. Speaker, to see what the new commissioners will bring to the table and if they will challenge the decisions in the same way these five commissioners have been challenging the decisions that were previously set before them. What is interesting, Sir, is that the Government policy and Cable and Wireless policy seems to be same, and I have something to say this evening that is going to shock Barbadians.

Asides.

Certain remarks made by the Honourable Member for St. Lucy were ordered expunged from the records by Mr. Speaker.

Mr. D. St.E. KELLMAN: What I would say is that when the 'one-arm bandits' were introduced in Barbados in the 1980s they robbed Barbadians and that when we are finished with this new agreement that we are now saying is better than the agreement that the Democratic Labour Party put in place in the 1990s, that the cellular phones in Barbados especially those that are working off the cards...

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3:40 p.m.

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Hon. Miss H. E. THOMPSON: On a point of order. It seems to me that the way in which the Honourable Member has sought to refrain his statement does carry pretty much the same intention. Robbery is a criminal offense, carried out with an intention to do an individual, the victim, harm. The nature of 'one-arm bandits' is such that they are machines which are placed at particular locations, where people choose to go to play them. In the case of robbery, there is no element of choice; there is an unlawful attack taking the individual's property. Therefore, to say that the 'one-arm bandits' are robbing people, is to carry the same import as the original statement, albeit, not to use the identical words.

Mr. D. St.E. KELLMAN: Mr. Speaker, what I am saying is that there is a new system that was introduced into Barbados which is called 'pay-as-you-go', which is very attractive and well-marketed...

Asides.

Mr. D. St.E. KELLMAN: Mr. Speaker, to be fair to you, an individual has to be at the point of sale to be able to understand the impact that the 'pay-as-you-go' cards has on people. I have been at the point of sale.

Hon. Miss M. A. MOTTLEY: On a point of order. This is a serious debate and unless the Honourable Member for St. Lucy is now accusing Cable and Wireless of robbery, as a result of 'pay-as-you-go' cards, and the Honourable Member is going to plead that he is a co-conspirator to that, this point has no relevance to this debate. The Honourable Member has admitted to selling those 'pay-as-you-go' cards to his constituents in St. Lucy, which he is complaining of now.

Mr. D. St.E. KELLMAN: Mr. Speaker, I am saying that the only reason I can now put a case on the behalf of the people of Barbados, is that I have been there and have understood the impact which it has had on the people of Barbados. Sir, had I not been there, I would not have understood the impact.

Mr. SPEAKER: If you had not sold them, you mean?

Mr. D. St.E. KELLMAN: Yes, and that is how I know, that is why I can put a case for the people of St. Lucy.

Asides.

Mr. D. St.E. KELLMAN: What? You would say that because you understand what is about to happen.

Asides.

Mr. SPEAKER: Please proceed.

Mr. D. St.E. KELLMAN: Mr. Speaker, what I am saying is that the cellular phone market, now being promoted by the Government, would do more damage to the people of Barbados than the 'one-arm bandits'. Sir, the reason is that the people of Barbados have limited disposable income, and that the attractiveness of the package has encouraged persons whose limited disposable income is to buy groceries or pay for other services or pleasure, would now find themselves spending some of that limited resources to buy 'pay-as-you-go' cards, almost on a weekly basis. Therefore, we have to understand the social impact that this is going to have on the country.

Asides.

Mr. D. St.E. KELLMAN: Mr. Speaker, I am surprised that politicians whom the 'buck' would fall, would not understand that because of this new crave, most people would be coming to them on a weekly or monthly basis, to lay their complaints.

Sir, it is good to speak about liberalisation of the telecommunications sector or about having a new market phase but that old, reliable telephone has kept more money in the pockets of the people of Barbados than this new crave because we now have two telephone bills to pay; the one in the house and the one that is in style.

Sir, as responsible politicians, we have to point out to Barbadians what is occurring and the fact that anybody who understands what is occurring, would understand that the food bill would now be replaced by the telephone bill, which is a very serious thing. In such a situation, we, therefore, would see a case where the Ministry of Social Transformation would be forced to assist such persons.

Asides.

Mr. D. St.E. KELLMAN: Sir, it has already been stated that if the Fair Trading Commission is not protected by the Opposition, it will not be a F-A-I-R commission but would be a F-E-A-R commission, and if we were to allow this amendment to go through, I am convinced that the

F-E-A-R is now about to be implemented fully.

I want to congratulate the Honourable Minister and the Chief Commissioner for being bold to have resigned because it was clear to me that both have understood their roles and have resigned on principle. They have also resigned because they saw what was about to happen. Sir, I want to tell the responsible Minister not to give into the pressures of the Government but to continue being a good rural person and not do like the other rural minister who had announced on the behalf of Cable and Wireless that they would not be carrying the repair bill for the telephones but that the people would now have to carry it.

Sir, what is interesting is that in the Memorandum of Understanding they said that the single lines were not to be affected, that it would be the other equipment. What is now clear is that all telephones are to be affected. Cable and Wireless is now giving the impression that they have done the consumers of Barbados a favour by allowing them to have telephones.

Mr. Speaker, it is better for the consumers of Barbados to allow Cable and Wireless to continue charging them the monthly fee that they used to charge because at least, consumers would have hardly noticed that charge. Now that consumers are given telephones, that charge becomes so evident because one repair bill is greater than a yearly cost.

Mr. Speaker, there are many people who have telephones in their homes which cannot be repaired because the repair cost is too high. Sir, Cable and Wireless has understood that the fee they were previously charging is more than the fee for servicing or for repairing the telephones, therefore, when giving up that service, they have actually given up a greater cost.

Sir, today the Honourable Member for St. Michael North East has made a very important point. The Honourable Member has said that when Cable and Wireless revenues increased, that it was shared among the consumers.

Asides.

Hon. Miss M. A. MOTTLEY: On a point of elucidation. I have chosen to help to correct the Honourable Member because he is misleading the Honourable House. I believe that the Honourable Leader of the Opposition and others would verify this.

What I spoke about had nothing to do with Cable and Wireless. I was speaking about the principles that informed both price-caps and incentive rates of regulation in particular. The point that the Honourable Member was going on to make relates to incentive rates of regulation, which is not yet a form of regulation that has ever been used here in Barbados.

Sir, I was pointing out that the United Kingdom used price-caps but that there is also an incentive rate of regulation where, when it goes beyond a certain allowable band and efficiency gains which would lead to higher profits, it would allow for those profits to be shared between the utility provider and the consuming public

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Continuation of Hon. Miss M.A. MOTTLEY: if they fall below the allowable rate of increase there is then an attempt to give the utility provider some element of his loss through a price increase.

Mr. Speaker, that does not in any way relate to Cable & Wireless or anything that has happen in the history of the governance of utility regulations in Barbados either since the 1955 Public Utilities Board Act or since the 2004 Fair Trading Commission Act. It is simply a sharing with Parliament of the

models of utility regulations that exists globally. Sir, I do not want the Honourable Member for St. Lucy to get himself into trouble and this is why I am seeking to do this on a point of elucidation rather than a point of order as I think it is genuine misunderstanding of what I said and I do not want it to reflect on him.

Mr. D. St.E. KELLMAN: I am glad that the Honourable Member has corrected the way in which it was put. Sir, we in this House do not support that type of policy because we feel that when revenue drops the consumers have to carry the burden so when they are benefits, the consumer should get the full benefit.

Hon. Miss M.A. MOTTLEY: Sir, I am not on a point of order. (1551)

Mr. D. St.E. KELLMAN: If the Honourable Member was a judge I would have to ask her to rule on this particular matter but since the Honourable Member is not the judge in this particular case, I have to explain that you cannot ask a company that was given a mandate and allow to make a profit to share in a loss. Cable & Wireless has been guaranteed a rate of return and has been given profitability so we cannot talk about sharing losses in this case. Sir, it is also clear that when there is a loss that there are compensating revenue for their losses.

Mr. Speaker, I would love to live in the climate of the 1990s rather than live with what is occurring now. It is clear to me that when we had the agreement in place, I had a low telephone bill and Cable & Wireless could not offer other services to attract the attention of Barbadian but because of liberalisation they want metered rates. They also want to give up all their expenses and introduce more services which mean they are extracting more money from the public.

Sir, Cable & Wireless have moved from £ 50 to 50 pence in their investment elsewhere but they have used Jamaica and Barbados as the two compensating countries to get back all the losses made elsewhere. They were happy to give up the contract previously set in the 1990s because they could not get the revenue which they could now receive in 2004.

Sir, I am putting it to you that this contract in 2004 is better for Cable & Wireless than the one signed with the Democratic Labour Party because previously they were tied to certain revenues but now they have unlimited revenue and reduced expenses.

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. I do not know why the Honourable Member is trying to seeking to adduce that Cable & Wireless has unlimited revenue. This is the highest court of this land and you cannot make wild and reckless statements without seeking to bring evidence to support them. There is no evidence of Cable & Wireless being given any unlimited revenue. Furthermore, Cable & Wireless is operating under a pricing arrangement that was settled in 1991 at the last PUB review hearing, not under one that has been settled by this Government. The Honourable Member is asserting that they are raping the public or whatever. But this was as a result of a settlement that was reached by the PUB on or about the time that the Democratic Labour Party was a Government.

Certain remarks made by the Honourable Member from St. Michael North East were ordered to be expunged from the record by MR. SPEAKER.

Mr. D. St.E. KELLMAN: Mr. Speaker, no one can tell us the true revenue potential of the cellular market. The only thing we know for sure is that there will be increased revenue in the cellular market. Mr. Speaker, if you doubt what I am saying, check the kinds of persons who want to get involve in the cellular market. Sir, the cellular market is a very attractive market.

Politicians want to give the impression that there is no monopoly for Cable & Wireless but that is foolishness because Cable & Wireless is now stronger. Sir, previously they controlled the consumers in Barbados but now, because of this new arrangement, they now control the consumers and the subcontractors and this make them stronger. They have not given up anything, they hands have been strengthened because no cellular player can operate without going through Cable & Wireless and every dollar they make, Cable & Wireless will get a part of it. Sir, the new players are carrying their services all across Barbados and the places where you could not use your cellular phone previously, these new players now have towers and can access more users within the cellular market which means more dollars for Cable & Wireless.

Sir, the service provided by Cable & Wireless is an input cost, that the Honourable Member for Christ Church East must understand this and also that if Cable & Wireless is not checked, it will increase the cost of doing businesses in Barbados which will be a negative.

Sir, I am calling on the Honourable Member for Christ Church East who understands these things to do something about. The Honourable Member was there before and understood quite well what was going on in that market. He has shifted to the Ministry of Education so that he could have a better understand of the particular market so that he could make a bold decision in the interest of the masses of people in Barbados.

Sir, I thank you.

Hon. A.P. WOOD: Mr. Deputy Speaker, notwithstanding the hoarseness of my voice, it would be remiss of me if I did not rise in this Honourable Chamber to make a contribution in this important debate. If I discount totally the contribution of the last speaker, then I am sure that all of

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Continuation of.. Hon. A.P. WOOD: ...all of us would conclude that those who spoke previously would have kept the debate to a fairly high standard and in so doing provide the right type of encouragement for all of us to want to make a contribution.

A few weeks ago I said that those Barbadians on the outside of this Honourable House do take the opportunity to listen to these debates now that we have a channel dedicated to broadcast these debates. Some of us in here, like the Honourable Member for St. Lucy do the Honourable House no favours in

standing on each occasion to make contributions that are characterised by the most reckless statements, statements that are not rooted in fact, imputing improper motives...

Mr. D. St.E. KELLMAN: Mr. Deputy Speaker, on a point of order. The Honourable Member is misleading the House by giving the impression that the facts I produced today are not relevant and not consistent with logic. If the Honourable Member wants to tell the Honourable House that he cannot relate to the facts, he must say that or shut up his mouth. He cannot come and challenge things that are statistically strong, especially when the Honourable Member is a statistician.

Hon. A.P. WOOD: Sir, for something to be statistically strong, one must provide statistics. I heard things like unlimited revenue and all sorts of statements being made but no statistics were produced. I want to encourage the Honourable Member that when he comes into this Honourable Chamber that the business of this House is to be taken seriously.

Mr. D. St.E. KELLMAN: On a point of order, Sir. This statement is a very serious one. If the Honourable Member is saying that when I come to this Parliament and point out the shortcomings of policies and how they affect the masses in Barbados that I do not have a right to be in here, then I think that the Honourable Member needs to tell the public that politicians must not come in here and speak on behalf of the constituents of Barbados. If the Honourable Member believes that it is his right only to come in here and speak on behalf of Cable and Wireless and not behalf of consumers of Barbados then he should say that but do not accuse me of not representing the people that I come in here and so ably represent.

Asides

Hon. A.P. WOOD: I rise to make my contribution firm in the knowledge of the very important and sometime time-consuming task of Commissioners. Sir, between the period of November 1994 and January 21, 1999 I was a member of the Public Utilities Board and that tenure was broken by my successful entry into elective politics.

Sir, we came here today to debate the amendment to the Fair Trading Commission Bill, seeking an increase in the membership from seven to eleven. I should remind the House, that when the decision was taken to make this amendment the number would have increased from six to the proposed eleven because of the untimely death of a previous Commissioner, Mr. Glyne Barker. Sir, when we compare the mandate of the Public Utilities Board then to the mandate of the Fair Trading Commission now we get a better appreciation as to why we want to increase the membership from seven to eleven.

The Fair Trading Commission, as the Honourable Member for St. Michael North East would have mentioned and St. Michael North West might have alluded to, has a wider mandate than the Public Utilities Board which had responsibility for the regulation of electrical and local telephone services.

During that time some of us used to lament that the Public Utilities Board had its concentration on local telephone services and the Minister with responsibility for telecommunications had a lot of administrative discretion in respect of the determination of the international rates. Sir, that was considered not the ideal approach that we should be going forward with. Sir, with the coming of the Fair Trading Commission and its expanded mandate we are in a position to deal with that particular

anomaly that existed .

Mr. Deputy Speaker, the mandate of the Fair Trading Commission, have in the process of time and within the context of the Utilities Regulations Act and the Consumer Protection Act and Fair Competition Act, would be made responsible for a number of things. We will appreciate that when the Commission is called upon to address are cases of complaints - the Commissioners who at the moment are heavily involved in matters pertaining to telecom, in trying to facilitate in a more expeditious way the programme of telecom liberalisation in Barbados, which this Government as a matter of policy said is important to the further development of this economy and in some way introducing elements of greater competition within the economy - that these part-time Commissioners by necessity, would need some help.

Sir, a number of panels would have to be constituted in order for the Commission to do its work. If the Commission is given this expanded role, it stands to reason that if the Commission is to have a number of panels sitting simultaneously, the current six members of the Commission would not have enough scope for constituting many panels to look after the various matters which would be brought before the Commission in the fullness of time.

I am convinced that this measure before this Honourable Chamber is timely and before we move any further into the life and work of the Commission, we need understand why we have set up this Commission, why we have given it such a wide mandate relative to the Public Utilities Board but more important, why is it that we need to give the membership of the Commission eleven persons as opposed to six, as is presently the case.

Mr. Deputy Speaker, let me respond to something mentioned by the Honourable Member for St. Michael North West. In seeking to defend the position taken by the Democratic Labour Party in 1991, that is trying to justify why the Democratic Labour Party would have given Cable and Wireless the exclusive license for a further twenty years.

H19: 16.10 p.m.

Sequence 32

Tuesday, February 03, 2004

4:10 p.m.

Continuation of Hon. A.P. Wood:

He used a fairly twisted argument. He sought to suggest that the Democratic Labour Party's action could be justified by the state of the economic health of the country at the time, that is, in 1991, the Barbados economy was not seeing very rosy times and things were hard. The explanation for the Democratic Labour Party taking such a stance back then was that the economy did not seem to be encouraging a movement towards liberalisation at the time.

Sir, my understanding of these matters which are not too dissimilar to the Honourable Member for St.

Michael North West, tells me that the aim is that of liberalisation, and we are seeing it, notwithstanding what the Honourable Member for St. Lucy has said, in respect of the growth of the cellular market and competition being encouraged in the cellular market, thereby allowing a significant reduction in the rates to the benefit of the consumers.

Therefore, the twisted argument used by the Honourable Member for St. Michael North West, obviously was a slip of the tongue. The best time to introduce competition in a system and to accelerate the pace at which the competitive environment is created and can be expanded, would be at a time when the consumers find it extremely difficult to access large sums of disposable income. I am saying that cannot be put on the table as a justification for the actions of the Democratic Labour Party in 1991, Sir, quite to the contrary. Sir, in 1991, if we had a very competitive environment in the telecommunications sector, it would have redounded to the benefit of the consumers at a time when things were not so good.

Mr. Speaker, the Honourable Member for St. Lucy - and I always have to keep mentioning his name because it is a fact that he is well known to me and he likes to compare St. Philip with St. Lucy giving the impression that we think alike but that would not be the case - sought to give the impression once again that the agreement, which he likes so much, that the Democratic Labour Party had with Cable and Wireless via the license renewed in 1991, prevented Cable and Wireless from introducing new services. It is only when we sought to break the monopoly stranglehold of Cable and Wireless on Barbadians that they would then have been given the opportunity to introduce new services.

Mr. Deputy Speaker, I would have read that agreement from 1991 and I am certain that the Honourable Member for Christ Church East and the Honourable Member for St. Michael North West would have read that agreement. Sir, nowhere in that Agreement was there any mention, even remotely, that Cable and Wireless during the period of the 20 years allowed for that license, would have been prevented from introducing new services.

Mr. Deputy Speaker, the only hearing I participated in, as a member of the Public Utilities Board was on the ISDN, which is a value added service, and Cable and Wireless was certainly seeking to introduce a new service. I do not understand where the Honourable Member for St. Lucy gets this thought from. It really is an airy fairy thought that over the period of 20 years that a company as internationally strong as Cable and Wireless, would not seek to introduce a new service in a country that is an advancing economy, and where for us to maintain a path of reasonable development, we would have to, by order of necessity, Mr. Deputy Speaker, seek to get engage in the application of technological innovations. How could we do that without a company like Cable and Wireless, having a stranglehold on the telecommunication sector in Barbados, not introducing any new services?

Mr. Deputy Speaker, let us examine the importance of the Fair Trading Commission to the Barbadian economy. When the Fair Trading Commission is in the position to give full expression to its mandate, all Barbadians would come to recognise and appreciate the true significance of this revolutionary approach to modernising the Barbadian economy and a society that the Barbados Labour Party has introduced.

Mr. Deputy Speaker, in 1999 the Barbados Labour Party's Manifesto spoke to this matter quite exhaustively. We know then, as was always the case, that in preparing to drive the economy forward, and creating a new and expanded economy in some sectors, it was vitally important for the

introduction of a body like the Fair Trading Commission. It was also just as important for us to move with some dispatch to liberalise the telecommunication sector.

One of the benefits of a body like the Fair Trading Commission, is that it provides for a proper ordering of activities and relationships between consumers, entrepreneurs and businesses, and in the case of the Fair Competition Act, between businesses themselves.

The work of the Fair Trading Commission can be construed as providing the necessary checks and balances to our economic system, so as to ensure that consumers are given a platform on which they can bring challenges against the quality of the services offered, and the nature and the time of the billing system used by companies. In so doing, once consumers are properly organised - and the wish, of course, of this administration is that they can get a very strong and unified body to participate in this very active process of consultation - and when consumers are given a medium through which they can put their cases, it stands to reason that businesses will be kept on their toes.

We in this country have recognised that it has become a national issue that productivity and efficiency is a concept that we have to discuss in a very serious way and the behaviour of consumers, within the context of what this Barbados Labour Party is encouraging, would help in raising the competitiveness and efficiency which we are all longing for in this country.

Sir, more important, we also have been hearing in recent times of the attitude of workers.

House 19, sequence 33, 16:2014

Tuesday, February 03, 2004

Continuation of Hon. A. P. WOOD:

Mr. Deputy Speaker, the more an organised consumer body complains in a very constructive manner and puts more pressure on businesses to respond in accordance with the framework which is set by the Fair Trading Commission, the consumers, who are workers, are challenging themselves to be more productive and to more be more efficient. That is one of the reasons we on this side are hoping that the consumer body will become stronger and more organised, because this is one way we can build some competitiveness and greater levels of efficiency in this country but it would be driven from the bottom up. So if I complain about the standard and the quality of the products and the services produced by the businesses, implicit in that complaint I am now putting pressure on myself to work harder and to improve the quality of the delivery of the company.

The presence of the Fair Trading Commission reminds me of the importance of trade unions in the development process in a country like Barbados. Could you imagine what this country would be like throughout times without the presence of trade unions? Could you imagine how our political, economic and social stability would have been jeopardised if we did not have strong and very reasonable trade unions functioning in this country?

Mr. Speaker, I am seeing the work and the worth of the Fair Trading Commission in bringing consumers and business persons in continuous contact with each other. I am seeing the work of the Fair

Trading Commission ensuring that the incidence of the anti-competitive behaviour in Barbados is reduced to a minimum. I am seeing the work of the Fair Trading Commission in respect of its regulatory functions as it relates to the telecommunications sector.

As the Fair Trading Commission is given this expanded mandate and entities like the Barbados Water Authority and the Transport Board are added... It caters at this point in time to the National Petroleum Corporation. This Commission once it has the correct institutional strengthening, the correct number of commissioners and the correct chairperson, will play a most pivotal role in sustaining Barbados' economic development. This is the crux of the matter. In the fullness of time Barbadians will come to appreciate and to accord a very high value to the efforts of the Barbados Labour Party in bringing these pieces of the legislation which informed the establishment of the Fair Trading Commission.

Mr. Deputy Speaker, let me draw attention to the telecommunications sector and to the liberalising programme that is ongoing. There is an entity, the Telecommunications Unit, that is part and parcel of the Ministry of Energy and Public Utilities that has been working assiduously to facilitate this liberalisation. I would be a hypocrite if I did not use this opportunity, like the Honourable Member for St. Michael North East, on behalf of this administration to congratulate those members who have participated very effectively at the level of the ministerial subcommittee on telecommunications, which is chaired by the Honourable Member for St. Michael North East, our Deputy Prime Minister, and includes persons like the Honourable Member for Christ Church East, the Honourable Member for St. Joseph, Senator John Williams and Senator Lynette Eastmond. That Committee is serviced by a number of public servants and officers from the Fair Trading Commission. We have worked long and we have worked hard. The members of the Telecommunications Unit have been very instrumental in providing the policy framework to which this liberalisation programme will proceed.

Mr. Deputy Speaker, flowing from the Memorandum of Understanding was the establishment of a new Telecommunications Act. Pursuant to that Act, a number of regulations were to be framed and gazetted. To date, through the unstinting efforts of the chief telecommunications officer and his staff, we have been able to have gazetted no fewer than 22 regulations. In order for the key elements of the Act to be given practical effect these regulations had to be gazetted. By the end of January 2004 another eight regulations will be gazetted, namely the private telecommunications; the undersea cable landing; television antenna; video shops; regulations pertaining to CB radios; radio control models; amateur radio and aircraft station.

Mr. Deputy Speaker, one of the very important pieces of work undertaken by the Telecommunications Unit within the last two to three years is the production of a national spectrum management plan. For those of us who might not be very familiar with spectrum, they can liken spectrum to routes in Barbados. The Licensing Authority has responsibility for assigning routes, so the Licensing Authority would try not to assign a particular route, however lucrative it might be, to too many operators for fear that would cause no end of confusion and interference and would not allow for the orderly conduct of the transportation system. So within the context of this national spectrum management plan, it is the responsibility of this Government through the Telecommunications Unit to ensure that the spectrum is allocated in such a way that the incidences of interference by any player who wants to participate is reduced to a minimum. Through some very detailed and careful analysis of the situation, the Telecommunications Unit has been able to provide this national spectrum management plan.

House 19 Sequence 34.

4:30 p.m.

Tuesday, February 03, 2004

Continuation of Hon. A. P. WOOD:

Mr. Deputy Speaker, one of the things that should not escape me in this delivery, is the fact that in accordance with the Memorandum of Understanding and the timetable of the liberalisation programme that we have set for ourselves, is that we have been able to issue mobile telecommunication licenses in August 2003 and a new domestic telecommunication service license on November 03 2003.

Sir, when I handed over the service licenses to Cable and Wireless, I said that it has marked a day of significance in the telecommunication in Barbados. It was on that day that Cable and Wireless would have surrendered its old domestic licence which was issued in 1991, to have lasted for a 20-year period, hence it would have been surrendered in 2011.

Sir, when I performed that act on November 03 2003, it pleased all Barbadians and me, that through a process of long, hard negotiations, we were able to bring to an end, that exclusive licence of Cable and Wireless, eight years earlier.

Sir, if it were the will of the Barbadian people to have allowed the Democratic Labour Party to continue in office, the hysteria that has now been created in the cellular market and the rapid pace at which the rates are falling, all to the benefit to Barbadians who want cellular phones and who want to be involved in faster ways of communication, it would have been the case where Barbadians would still be paying these very high rates. It would have been the case that competition would not have been introduced into the telecommunication market. It would have been the case that the telecommunications market would not have known anything about competitive requirements.

Mr. Deputy Speaker, this Government has remained faithful to itself and to the Barbadian people. In 1999, Government said that it was going to do a number of things in respect of giving consumers a greater voice, and of putting the right mechanisms in place for the orderly conduct of activity and behaviour in this country, and this Government has delivered.

We have seen the establishment of the Fair Trading

Commission, with a very expanded mandate. We have had a short time to assess the work of the Fair Trading Commission. This Government, recognising that this Fair Trading Commission would have turned out to be one of the most significant institutions that was created by the Barbados Labour Party during its tenure, which would be an extended one, that we have seen the wisdom in anticipating the increase workload of the Fair Trading Commission and quite recently, that we have moved to strengthen the Fair Trading Commission by providing it with additional staff members.

Mr. DEPUTY SPEAKER: Honourable Member, your time has expired.

Hon. A. P. WOOD: Sir, I would like to close on this point by noting that six additional posts were recently made available to the Commission a director of fair competition; a utility analyst; a warden; an economist; a senior clerk; an accounts clerk and a stenographer/typist. In addition, two posts have been upgraded, one from a legal officer to that of senior officer, and the other from an economist to that of a senior economist. Sir, the addition of those five members to the Commission would cost the Commission no more than \$6 720 in a full year, based on the fees that they pay per meeting.

Sir, the significance of the work of the Fair Trading Commission could more than justify why we would want to add a mere \$6 720 to Commission's bill. As I said, as long as it gets into other areas, the Commission would need more members, the panels would be sitting simultaneously because the nature of the work of the Commission is such that we would want matters to be dealt with more expeditiously.

I thank you.

Mr. R. L. SEALY: Mr. Deputy Speaker, the legislation before us is a Bill to amend the three-year-old Fair Trading Commission Act, and reading it on first blush, one must ask the natural question, why would there be the need to increase the members of the Board from seven to eleven but perhaps at the outset one should ask the question, how is it that if we have agreed that the mandate of the Fair Trading Commission is an expanded one, how was it that this simple fact was not recognised.

Mr. Deputy Speaker, in a very eloquent manner we have heard from the Honourable Member for St. Philip South, a former member of the Public Utilities Board, that the mandate has been expanded enormously. Therefore, if the Public Utilities Board, had a very narrow remit and one investigative officer, surely when the Fair Trading Commission was being established and was given such a wide mandate, not only dealing with utility regulation but with matters relating to anti-competitive mergers, other unfair practices in terms of the provision of goods and services in Barbados; anti-competitive practices; predatory pricing; discriminatory pricing and price-fixing, why was it not recognised at the beginning that a Public Utilities Board, only marginally larger by two members, would have been adequate at that point in time?

Mr. Deputy Speaker, we have to ask this question because we want to be clear that in seeking to bring these four new members onto the Commission, that there is not going to be any attempt to change the complexion of thinking of the Fair Trading Commission to suit any particular Party's interest.

Mr. Deputy Speaker, I am only paraphrasing the concerns expressed by the former minister with responsibility for the Fair Trading Commission in his contribution during the recent budget debate.

Mr. Deputy Speaker, we, therefore, have to be clear on that. It is simply not a matter of a concern over a particular philosophy that the board might carry but we have to look at the Fair Trading Commission as an entity. It is an institution which, in all honesty, has really struggled, to some extent, to assert its relevance in this country.

House No.19(35)16:40 p.m.

Tuesday, February 3, 2004

Continuation of Mr. R.L. SEALY:

I have already spoken about the founding father of the Fair Trading Commission who resigned but as The Honourable Member for St. Michael North East said ministers resigned all the time so we do not need to make heavy weather of that but some comments made by the Honourable Member since he resigned should concern all of us as the consuming public of Barbados. Mr. Deputy Speaker, it does not end there, the Government of Barbados produced a Green Paper on telecommunications policy six months after the Fair Trading Commission was established in December 2000. This document calls for the Fair Trading Commission to play a minimal role in terms of the liberalisation of telecommunications sector. If we accept that the Fair Trading Commission is not a yahoo board. It is a quasi judicial body and surely, it must be like Caesar's wife, above and beyond reproach.

Mr. Deputy Speaker, it does not end there. The Chairman of the Fair Trading Commission also resigned suddenly. As other commissioners were waiting for him to chair a meeting, a note arrived that he had resigned and he did not give a reason other than he was unhappy in having to resign.

Sir, the Chairman had served many years as a magistrate, prosecutor, Court of Appeal Judge in an acting capacity and there must have been much pressure to move a man like him. I am told by Attorneys who had to face him in court that he was not an easy person to move so he had to be receiving a lot of pressure which I do not think came from Cable & Wireless but it was coming from the Government of Barbados.

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. Unless the Honourable Member can produce information buttressing what he has just asserted then he has to withdraw it. He cannot impute improper motives, talking about pressure coming from the Government because that is not the case.

MR. DEPUTY SPEAKER: Honourable Member, please withdraw the statement.

Mr. R.L. SEALY: Sir, I withdraw the statement. I, however, I want to rephrase it. Mr. King said when he resigned that he was unhappy about doing it and that they were overwhelming challenges that led to him having to resign. Sir, those challenges did not come from Cable & Wireless and the people of Barbados can work out where they came from.

Hon. Miss M.A. MOTTLEY: Mr. Deputy Speaker, on a point of order. He is now imputing improper motives to both Mr. King and to the Government. The Honourable Member is a member of this Parliament which is governed by Standing Orders. If he wishes to participate in a debate, he is under a duty to produce the evidence of every thing that he asserts. If he is asserting that no pressure came from Cable & Wireless and that it came from Government, he has to produce the evidence. Sir, Mr. King never stated that he was under overwhelming challenges or pressure from the Government of Barbados.

The Honourable Member must learn the rules of this House and comply with them. Mr. Deputy Speaker, the Honourable Member is duty bound under the Standing Orders of this House to produce the evidence to support his assertion that the Government placed pressure on Mr. King in circumstances when Mr. Justice King has never made that assertion.

Mr. R.L. SEALY: Mr. Deputy Speaker, a guilty conscience is a 'hell-of-a-thing'. I never said that the Government put any pressure on Mr. King. Honourable Member Mr. King said he had overwhelming challenges. He said those words to Neville Clarke. The less than efficacious manner

Hon. H.E. THOMPSON: Mr. Speaker, on a point of order. As far as I was aware, Mr. Neville Clarke is a journalist. If in fact the Honourable Member is quoting from a newspaper publication, that is also in breach of the rules of this House and the statement should be withdrawn.

MR. SPEAKER: Honourable Member, are you quoting from newspaper? If you, you have to withdraw the statement.

Mr. R.L. SEALY: No, Sir, I am not quoting from the newspaper and I withdraw the statement made about Neville Clarke.

Hon. H.E. THOMPSON: Mr. Deputy Speaker, on a point of order. The rules are clear that the Honourable Member cannot quote from a newspaper or journal. If in fact he is not quoting from a newspaper and is seeking to quote from another document authored by Neville Clarke, he has to lay the document on the floor of this House in order to be able to continue in that vein.

Sir, the rules of the House are clear. The Honourable Member will learn them or he will be silenced in here because every week, repeatedly, he is breaching the rules, cursing people, making insulting remarks and it must come to an end today.

MR. DEPUTY SPEAKER: Honourable Member, if you do not have any document supporting what you have said about Mr. Neville Clarke, please withdraw the statement.

Mr. R.L. SEALY: Sir, I withdraw the statement.

MR. DEPUTY SPEAKER: I think you need to learn and understand the rules of this Honourable House. Please proceed.

Mr. R.L. SEALY: Sir, the less than efficacious manner surrounding Mr. King's departure still requires and explanation from someone. The Fair Trading Commission is an instrument of this Parliament and we are reminded constantly that it is the highest court in the land. Therefore, the highest court in the land needs to hear something about the resignation of Mr. King. We have a solid duty to our citizens to tell them something about it.

Mr. Deputy Speaker, the Fair Trading Commission also had to withstand a broadside....

H19/16:50

Sequence 36

Tuesday, February 3, 2004

Continuation of Mr. R.L. SEALY: The Fair Trading Commission also had to withstand an assault, a broadside from the office of the Prime Minister while addressing a Party conference at the Alexandra School, when he referred to the players in the telecommunication sector in the effort at liberalisation, they had to “cut out the crap” and he called the Fair Trading Commission by name.

Mr. Deputy Speaker, that does not do anything to inspire confidence or to improve the work ethics of give a young organisation, and one which we are told will impact seriously on the economy of Barbados. It is not fair or right. Sir, when I speak about the tough time that the Fair Trading Commission has had getting off the ground, we have to look at all of these different issues that the Fair Trading Commission had to deal with. Sir, as if that was not enough, we had a Government minister sitting shoulder to shoulder with the CEO of the chief protagonist of Fair Trading Commission, at the moment Cable and Wireless, announcing on behalf of Cable and Wireless, with almost pride, that they are going to be charging for the cost repairs to customers for telephone equipment. All of these things have made life very difficult for the Fair Trading Commission and that life has been made difficult, not necessarily by the intervenors, not by Cable and Wireless but by the Government of Barbados.

It is my humble submission that the Government has to take the blame for the difficulty that the Fair Trading Commission is having. While I hope that it would emerge and become, that entity that it has the potential to become impacting on making life easier for the consumers, not only in terms of utilities but generally speaking goods and services, it seems as though Government is determined to control the Fair Trading Commission and to subtract from its independence, that is the impression that one has.

Hon. Miss M.A. MOTTLEY: On a point of order. Mr. Deputy Speaker, the Honourable Member is misleading this Chamber. If he is going to assert that Government is seeking to control the Fair Trading Commission that is a serious allegation because the only thing that Government is empowered to do under the law is to give policy direction. Therefore, if he has evidence of that improper conduct, he is duty bound to present it to this Honourable Chamber. This is not a verandah on which Honourable Members can just simply repeat idle gossip.

Mr. R.L. SEALY: Mr. Deputy Speaker, there is also another serious issue. The Fair Trading Commission has been without a Chairman since December 2003. Sir, you cannot have an entity like that of such importance, headless for so long. In fact, the Fair Trading Commission legislation calls for a Chairman who has at least twelve years of experience as an attorney-at-law. The Acting Chairman...

Asides

Mr. R.L. SEALY: The Acting Chairman is an accountant. The point is, you have an accountant acting as Chairman and probably doing her best but we have already seen rulings that suggest that, perhaps, her lack of legal training has affected the running of the Commission. I am saying that it should be a priority that a Chairman is appointed. We are hearing about increasing the number of members of the Commission but we are not hearing about a new Chairman or any efforts at trying to rectify when we will get a new Chairman.

Sir, if we are going to look at the empty seat and we accept that a mistake was made at the inception, when it should have had a larger board, and if we accept what the Honourable Member for St. Philip

South said, that the number of Commissioners is important, I have a simple question about the institution itself.

I understand that they are trying to reach critical mass, that was the terms that the Leader of Government Business used when she introduced the legislation, but I am wondering if the mission of the Fair Trading Commission is not being watered down. The Fair Trading Commission is a judicial institution and not an executive one.

Hon. Miss M.A. MOTTLEY: On a point of order. The Honourable Member is misleading the House. The Fair Trading Commission is not a judicial institution nor has there been an attempt to water down the work of the Fair Trading Commission because the work and the mandate of the Commission remains as outlined in the Fair Trading Commission Act, 2000. The Honourable Member is therefore misleading this Honourable House on both counts.

Mr. R.L. SEALY: I am just suggesting that even the issue of complaints which are not only taken to the office of the Independent Council but according to the report that was laid in Parliament today, there have been seventy-one complaints, during the one-year period, laid before the Commission. These are in relation to the Barbados Light and Power Company and Cable and Wireless and others of a general nature. Perhaps, these complaints could be made elsewhere and that the Fair Trading Commission be given a chance to do what it should be doing.

Sir, Fair Trading Commissions all over the world are seen predominantly as quasi-judicial organisations.

Asides

Mr. R.L. SEALY: I am just suggesting that we do not want to go beyond critical mass and have so large an organisation that it loses track of what it should be doing.

Mr. Deputy Speaker, I would only say on this matter that a lot has been said about the telecommunication situation. I have alluded to it earlier that the Fair Trading Commission's ability to adjudicate on this matter has apparently been fettered by the agreement between the Government and Cable and Wireless, a matter that is before the courts...

Hon. Miss M.A. MOTTLEY: On a point of order. Once again, the Honourable Member is imputing improper motives to the Government. The Honourable Member cannot suggest that the Fair Trading Commission's ability to administer matters before it, has been fettered by the Memorandum of Understanding between the Government of Barbados and Cable and Wireless. The Honourable Member needs to first say what grounds of the Memorandum of Understanding he is relying on so that we can address it and show that what he saying reflects it. There is nothing in the Memorandum of Understanding that constrains the Fair Trading Commission's capacity to administer any matter that it is required to under law.

Mr. R.L. SEALY: Sir, forgive me. You are quite right. We are all honourable men and women in this Honourable House.

Mr. DEPUTY SPEAKER: Honourable Member, there are no honourable men or women in this House. There are all Honourable Members.

Mr. R.L. SEALY: The Green Paper speaks to the minimum level of regulation that the Government will require the Fair Trading Commission to exercise, those are the words stated in the Green Paper. I am just suggesting that it was not in the best interest of the Fair Trading Commission for the Government to agree to something like that because obviously it would have...

Hon. Miss M.A. MOTTLEY: On a point of order. Sir, the Honourable Member is again misleading the Chamber. The Government of Barbados has not agreed to anything with any party.

H19: 17.00 p.m.

Sequence 37

Tuesday, February 03, 2004

5:00 p.m.

Continuation of Hon. Miss M.A. MOTTLEY:

First of all a Green Paper is draft policy as I intimated in my speech this morning. There has been no White Paper of settled policy produced in telecommunications. It is a discussion paper. What the Government then did, Mr. Deputy Speaker, was to pass legislation which empowers the Fair Trading Commission to regulate on almost every aspect of the operation of utilities in this country, buttressed further by those things contained in the Telecommunications Act.

Therefore, it would be improper for the Honourable Member to say in this Chamber that the Fair Trading Commission has a minimalist role, in relation to regulation of the utilities sector, far less telecommunications. Those roles are set out specifically in the Fair Trading Commission Act, the Utilities Regulation Act and the Telecommunications Act. They allow for a full and comprehensive role of regulation, such that he can properly refer to the FTC as a regulatory body as advised by his Honourable Leader of the Opposition.

Mr. DEPUTY SPEAKER: Honourable Member, I would like you to rephrase the last statement that you made.

Mr. R.L. SEALY: Mr. Deputy Speaker, it is draft policy. I am not sure if I am supposed to interpret from what the Honourable Member for St. Michael North East is saying that the Government is disavowing the policy that was put in a Green Paper. It was the Government's draft policy. It is there in black and white, a document of this House and obviously...

Hon. Miss M.A. MOTTLEY: Mr. Speaker, on a point of order. Let me explain that the draft policy was superseded by the legislative framework which this House passed. Legislation, Mr. Deputy Speaker, is only settled Government policy, so that to refer to a draft discussion document is irrelevant. He is misleading this Honourable Chamber and really and truly, I believe that the Honourable Member

ought to know better.

Mr. R.L. SEALY: I will rephrase the statement.

At the time the draft policy was written it still reflected badly on the Fair Trading Commission. I accept it may have been superceded, but the point is that it was written in black and white. I am reading from the draft policy. I am not making up anything.

Mr. Deputy Speaker, as I have said, the Fair Trading Commission has had a number of obstacles which it had to overcome that have been placed in its way. While we want to see that the Fair Trading Commission is given every opportunity to become the effective mechanism for leveling the playing field, and addressing persons who have had unfair practices in conducting business in Barbados, I remain unconvinced that increasing the number of members of this Board of the Commission, is simply for the administrative reasons that I presumed would have been recognised in the very beginning.

I have my doubts and for that reason, I would question the Government and ask them to say more about this new institution that it seeks to put in place with such power. There is nothing wrong with the resources being put at its disposal. Perhaps, Mr. Deputy Speaker, they should continue with the exercise of increasing the staff which the Honourable Member for St. Philip South spoke about so eloquently. Maybe, that is the area that they need to focus on. On that basis, I have sufficient difficulty supporting this amendment and I, therefore, have no trouble with associating myself with my colleagues, in terms of their serious concerns and problems that we have with this piece of legislation.

I thank you, Sir.

Hon. N.A. LYNCH: Mr. Deputy Speaker, this amendment really does speak to a day of both exposition and indictment for the former Government of Barbados.

My commendations first, Mr. Deputy Speaker, to the Government for the amendment, and the swift way in which this administration has sought to identify the challenge before us in what is really a very dynamic environment.

The Government should be commended, Mr. Deputy Speaker, for the swift way in which this Government has attacked this particular problem, and sought to bring Resolution in what will continue to be a very dynamic environment, in which changes and amendments of this kind are foreseen in the future.

First of all, Sir, the need to enhance the capacity of the Fair Trading Commission to meet the workload is in itself laudable, and to fully look after the consumers of our country in a very positive way, in terms of protecting their interests, not only in issues related to the regulation of utilities and telecommunications, but overall, Mr. Deputy Speaker, looking after the welfare of all Barbadians through this particularly important administrative body.

Mr. Deputy Speaker, what is more frontal in this debate really is how the Fair Trading Commission is going to be utilised to really build us a new economy in the future. I believe, Sir, that the Fair Trading Commission may be the most critical agency in Barbados in the building of this new economy.

In addition, the concept of building a virtual economy in an environment which already has very few players and has a historical background of being led by numerous monopolies, it is important that the Fair Trading Commission and all the laws and legislation which the Fair Trading Commission will administer...It is important that we see it, in terms of creating this new competitive environment that is so important for Barbados in moving us from being a small developing economy, into being a developed country.

Sir, competition is critical to our economy and future as well because of the new trading arrangements in which we are now caught. Our competitive basis will form the platform for new investment in Barbados. Sir, how competitive we are within this new economy, is really going to set the stage for how Barbados attracts new and continued investment in the future. Critical to that, Sir, must be the concept of not only how we protect consumer rights within this society, but how we ensure the delivery of proper goods and services to a populace that is so much in need of them, Sir, who, prior to this administration, never had the opportunity to do so.

I believe, Sir, that it is even more critical that as we move away from our historical past of being an agrarian society into a service led economy, with tourism leading the way, it is important that we do have proper competition. This is why the FTC is even more necessary in this economy.

Sir, we can talk forever about this administration seeking to control the FTC, and all of the other things I heard this evening, but we have arrived at this point when we start to deal with the issues of telecommunications, simply because, as has been said in here more than once today, that the Democratic Labour Party signed an agreement in 1991 which gave Cable and Wireless an opportunity to expand upon their profit base in Barbados, and to continue to reap profits at the expense of working class people in Barbados down to 2011.

House 19, sequence 38, 17:1014

Tuesday, February 03, 2004

Continuation of Hon. N. A. LYNCH:

Sir, I think it is about time that the Democratic Labour Party administration recognised and acknowledged that they have been the ones that have caused most of the pain and suffering for the people of Barbados during the past decade leading up to 1994.

Sir, we need to explode the myth in this Parliament about the Democratic Labour Party being the party of the poor man and all that is constantly touted because the evidence in most of the things they have done have never borne out the same and every single Act they have put in place in this country during that 1986 to 1994 period exposes the true nature of what is in their hearts which could not be to help the poor people of Barbados survive. That particular act of 1991 is another one of those acts that was destined to savage the people of Barbados even further. This act can be included with the salaries cuts and all of the other acts that the Democratic Labour Party Government committed on the people of Barbados between the years of 1986 and 1994.

Today is a day of exposition, a day of indictment and a day of conviction for the Democratic Labour Party because that is why we have come to this stage. The Democratic Labour Party signed an agreement in 1991 to lock-in a powerful global entity like Cable and Wireless on the poor people of Barbados when everyone else around us were moving to the concept of liberalisation. Mr. Deputy Speaker, you do not have to be a Solomon to figure this out, because it is a very simple matter.

People have things like the Sherman Act and the Clayton Act. Since the early 1920s people in the United States of America have been talking about the issue of consumer rights and liberalisation but the Democratic Labour Party in 1991 sought to lock us into an agreement with a multinational entity as powerful as Cable and Wireless to savage the people of Barbados for another decade.

Asides.

Hon. N. A. LYNCH: Mr. Deputy Speaker, this particular act in 1991 shows the disdain and the insensitivity for our public particularly the poor members of our public. **Mr. R. L. SEALY** On a point of order. Mr. Deputy Speaker, if the Honourable Member for St. Michael South is going to talk about all of these awful things that were associated with the Democratic Labour Party on locking-in Barbados with Cable and Wireless, he should also talk about the fact that in 1984 a Barbados Labour Party Government also locked us in with the same Cable and Wireless. He has to be consistent, Sir.

Mr. DEPUTY SPEAKER: Proceed Honourable Member.

Hon. N. A. LYNCH: Mr. Deputy Speaker, I will repeat the point. At a time in our history and in the history of the world when administrations were concerned about consumer protection and consumer rights as they relate to monopolies and were seeking to liberalise, the Democratic Labour Party administration of the day sought to lock us into an agreement that would have continued to savage the people of Barbados for another decade. Mr. Deputy Speaker, that shows the disdain and the insensitivity for our public particularly the ones at the bottom of the ladder.

Mr. Deputy Speaker, is it senseless to compare us with Jamaica or with the Organisation of Eastern Caribbean States at the time. I heard the Leader of the Opposition say today that during the process of liberalisation in Jamaica that Jamaica locked them in for another 25 years and they still got out faster than us. Mr. Deputy Speaker, anyone who knows the telecommunications environment and understands what has been happening in the Jamaican environment and the Organisation of Eastern Caribbean States environment at the time could not sensibly compare Barbados with them. First of all, the penetration of fixed lines in Jamaica is so minuscule as compared to the number of overall telephones or people who wanted telephones in Jamaica at the time that it would have been easy to create a basis for re-balancing and for being able to get out of an agreement.

We have a deep penetration of fixed lines in Barbados, over 70 per cent, so there is no way that you could compare Barbados with Jamaica or the Organisation of Eastern Caribbean States. What was different in the Organisation of Eastern Caribbean States is that they were almost at the end of their agreement which was coming to an end in 2002. Sir, not only had they locked us in but the environment was totally different, so you could not compare Barbados with them.

Sir, this debate is not about telecommunications or about the resignations of ministers or chairmen.

Ministers and chairmen resigned every day. This debate is about consumer confidence in a body called the Fair Trading Commission which is what we have to bring the debate down to.

Sir, we must be clear and fair about how we deal with the politics of Barbados and with the protection of our people. It takes time for our public to respect, to understand and to create full confidence in a body like the Fair Trading Commission. I heard the Honourable Member for St. Michael South Central say that the Fair Trading Commission has struggled and all types of rhetoric like that. Mr. Deputy Speaker, do you believe that in an environment in which you are seeking for the first time to create entities and administrative concepts like the Fair Trading Commission, which is an overnight success, in terms of getting people to understand and to respect such an agency... I heard some things in here that I cannot believe Honourable Members would want to proffer in a sensible and serious debate.

Sir, confidence is already growing in the body that is the Fair Trading Commission. Sir, a lot of people would like to reduce the Fair Trading Commission's work and its existence only to issue relating to the liberalisation of telecommunications and that is not what the debate is about. The debate has a lot to do with how we deal with the protection of people rights in every aspect of their lives in Barbados as it relates to business and business entities.

Sir, there is much greater public understanding of the functions of the Fair Trading Commission and much wider understanding as well about the issues of telecommunications and how telecommunications affect people livelihoods and businesses. There are also wider utilities concerns outside the area of telecommunications.

Sir, most of the Honourable Members of the Opposition side who spoke tried to bring this debate into a very narrow band of dealing with the liberalisation of the telecommunications market, but it is wider than that.

House 19 Sequence 39

5:20 p.m.

Tuesday, February 03, 2004

Continuation of Hon. N. A. LYNCH:

Mr. Deputy Speaker, I believe that the Honourable Leader of the House would have spoken to issues such as transportation, natural gas and water. Sir, the issue is not about rate-setting but about the quality of service and standards which Barbadians must seek to apply and which must be regulated.

Sir, it is interesting to note in the concept of a free society like that of the United States of America, that for example, areas such as the New York Stock Exchange, even though it is so open and wide, it is maybe one of the most controlled and regulated areas of business.

Sir, in terms of protecting consumers rights, it must be clear that the service, quality and standards being offered to the consumers, must be of a very high standard and, therefore, the Fair Trading Commission regulates the Fair Competition Act 2002. I believe that in an environment with a few

players and with traditional monopolies, the Fair Competition Act might be the key piece of legislation and might be the key law in moving Barbados from being a developing country towards a developed one.

Mr. Deputy Speaker, its basic objective is that of consumer protection but the law also gives us an assurance of having a truly competitive economy, which I believe is at its centre. It is clear that the laws might not be readily applicable in the same manner in all industries and under all circumstances but I believe that the body of law that would be substantially influenced by the Fair Trading Commission, gives them the opportunity to have an influence over how that body of law would develop in the future.

I believe that the Honourable Leader of the House would have spoken to the fact that if there is one area of Caribbean jurisprudence that would be most expanded in the future, would be the area of competition and how the law would be applied. Sir, the issue of having a dynamic Fair Trading Commission contributes to how that body of law would be formed in the future.

Sir, one of the important things is that as one looks and compares our jurisdiction with others, for example, the United States of America where the Federal Trade Commission has discretion in interpreting and applying the laws even though the court has the final jurisdiction, we must, therefore, have a dynamic and a competent set of commissioners, to influence the laws that they seek to administer, and how those laws would be applied in the future.

Asides.

Hon. N. A. LYNCH: Sir, I believe it is important that we understand how these laws are rooted. For example, as we go on throughout the entire hearings in relation to the liberalisation of the telecommunication sector, there is still more work to be done under the Fair Trading Commission. The work of the Fair Trading Commission is not only about dealing with public hearings, to which all of us pay such serious attention but to a number of other anti-trust legislations that come up constantly.

There are also some known practices in Barbados that we need to be able to deal with as we go along. The Fair Competition Act and the other law speak to areas with which we in Barbados need to deal and to pay attention, such as price-fixing, price discrimination, the control of assets or stocks in another corporation, whether or not that corporation might be in competition, et cetera. Therefore, the probable effect might be lessening competition and the tendency to create more monopolies of commerce in Barbados.

Sir, among the number of issues to which we have to pay attention, there is also that of interlocking directorship in agencies in Barbados, and while we seek only to debate areas that are related to telecommunications, there is a lot going on in our society, to which the Fair Trading Commission needs to pay serious attention.

Sir, that is why this particular debate cannot be locked only into areas of telecommunications but there are some very serious anti-trust practices that are going on in this country that need to be looked into. Sir, there are other examples such as that of a tying clause, where a consumer has to purchase an accompanying item in order to get the original item that the consumer would want, for example, where

a consumer has to buy peas in order to get corn. There is also the concept of sales and how long they go on and the concept of predatory pricing where artificial means are used to force or to drive prices down.

Sir, these are all areas that the Fair Trading Commission must look into and must be concerned with, and that is why I commend the Government. I commend those persons who have been forthright in exposing and bringing to the fore the point that we do need to be able to deal with issues relating to the Fair Trading Commission and the fact that we do need more commissioners.

Sir, I am not at all supporting any concept that Government is seeking to control... I think that the Honourable Member for St. Lucy has said that the four members of the Commission were doing their job but now we want to move it to from five to eleven, so that we could control the Commission, et cetera.

Sir, these are shameful statements and indictments on this Government, both in this Parliament and on the outside. I say that the Fair Trading Commission has got its work cut out for it and that we need to pay more attention to it.

Mr. Deputy Speaker, there are a number of things of which the Honourable Leader of the Opposition might have said. Sir, for example, the Office of Public Counsel being there is a step forward because it offers consumers the protection and assistance that they have never before had. The Office of Public Counsel is already reaping many successes, as has been explained by the Honourable Leader of the House when speaking about the number of complaints that have gone before the Consumer Claims Tribunal.

Sir, I believe the Office of Public Counsel is already winning Barbadians over, and that Barbadians are already convinced that they now have a reputable and fair body to which to appeal.

Sir, I wish to address the issue about Government having a set and fixed determination on the issue of fixed or metered rates. Sir, for the life of me, I will never understand why it is not possible for certain Honourable Members of the Opposition to understand that the Government is seeking to give the consumers of Barbados the best possible opportunity to make a choice within the two bands and that as a consumer, one has the right to determine whether or not one's rate should be fixed or metered. I am trying to figure out why this particular element of choice, with which the Fair Trading Commission has to do its work, is not acceptable to the Honourable Members of the Opposition. I believe that if I were to use my telephone one day or one night per week, for ten minutes, that I should be allowed to pay for the use of that telephone.

House No.19(40)17:30 p.m.

Tuesday, February 3, 2004

Continuation of Hon. N A. LYNCH:

The Fair Trading Commission should be allowed to do their work in terms of determining what the fixed price should be, given a certain number of calls et cetera. I do not understand why the Opposition would want to remove from the people of Barbados the concept of having a choice.

Sir, most of the acts committed by the Democratic Labour Party between 1986 and 1994 have savaged the people of Barbados. They now want to tell us that they are speaking in the interest of poor people in Barbados. We on this side speak in the interest of poor people in Barbados and we say that the concept of choice must prevail.

We have exposed the myth that the Democratic Labour Party is the Party of the poor people because it is not. Sir, the Party of poor people and the one that the people of Barbados depend on, is the Barbados Labour Party.

Sir, I thank you.

Dame BILLIE MILLER: Mr. Deputy Speaker, I wanted to make two major points in this debate. I am glad to see that the younger members in this Chamber are doing their homework and speaking in an informed manner to this debate. I am also glad that Honourable Members on this side are speaking to the responsibility and the process which this administration continues to relentlessly pursue in readying and retooling Barbados for the enormous challenges which face us in the early years of this 21st century.

Mr. Deputy Speaker, in a globalising world, liberalising economy and business environment such as ours where competitiveness, nimbleness and reciprocity are the compelling imperatives, a Fair Trading Commission is a necessity. It is fair to say that the Fair Trading Commission has made an excellent start. Sir, the Annual Report and Financial Statement for the year ended March 31st was laid in this Parliament today. It makes good reading and I recommend it to Honourable Members because it is not in order to come into this Chamber and speak off the cuff. Honourable Members must do their homework, research and read the Order Paper because this is how we can learn. All of us learn on the job in some respects and I think that the Fair Trading Commission deserves the applause of Honourable Members.

Sir, the Act before this House for amendment today, in my opinion, was strictly drawn up at the time but this was not a bad thing. The Fair Trading Commission was a new enterprise that was properly drawn up in 2002. Four years later, we are here amending in a specific manner the size of the Commission. I heard some uninformed comments coming from the Floor of this House. I regret that some of them came from the Leader of the Opposition who I thought would have had a different view. Sir, since the inception of the Fair Trading Commission its remit has increased and it will continue to do so. Perhaps Honourable Members might like to look at page 6 of the report which deals with the role of the Commission which is to safeguard the interest of consumers and to regulate utility services supplied by service providers. The Honourable Attorney-General also spoke to the role of the Commission which is also to monitor and investigate the conduct of service providers and business enterprises and to promote and maintain effective competition in the economy and for related matters.

The remit of the Fair Trading Commission and the volume of its work has already begun to take off in such a way that we literally need a larger Commission. I am advised that the Commission separates itself into panels to decided on matters before it. This allows for the commissioners to be more effective, efficient, to move with greater speed and as the workload increases there is obviously a need for more commissioners and, in future, we may need to have more commissioners to deal with this

matter.

Sir, some of these matters are highly complex and will require the Commission to be of a composition where many of the skills which would well inform the deliberations be found in the Commission itself. Sir, the fact that our commissioners are not employed on a full time basis but be taken into account as the majority of them are professionals who have their own commitment and travel outside of this jurisdiction from time to time so it is imperative at this time that we increase the number of commissioners so that the work of the Commission does not back up.

Sir, more commissioners will mean that more panels which can sit simultaneously which will allow for speedier termination of the matters before the Commission.

Mr. Deputy Speaker, this is what happens when an economy is thriving and growing. If the economy of Barbados were not thriving and growing, we would not be in here today dealing with this matter to increase the size of the Commission because the Commission would have so little work to do. Sir, this is another indicator that this economy is growing and thriving particularly looking at the work before the Fair Trading Commission where the quality of life is improving and uplifting Barbadians on a consistent basis.

H19/17:40

Sequence 41

Tuesday, February 3, 2004

Continuation of Hon. Dame Billie MILLER: It is found necessary to increase the size of the Commission and I will lend my support to it and would like to urge other Honourable Members to do so. It needs to be able to improve its capacity to make speedier decisions. If it were not, we would be hearing complaints from the Barbadian public and from the other side that it takes a year and a day to get a matter heard and disposed of before the Commission.

Mr. Deputy Speaker, I am expecting that on another occasion, on the Floor of this Chamber, that another amendment would come and I would like to see that amendment come very soon. I am hoping that when that amendment comes, it would address the matter of the First Schedule to the Act. The First Schedule requires the Chairman of the Commission to be an attorney-at-law for at least ten years or one who has held high judicial office.

Asides

Hon. Dame Billie MILLER: I looked at the Act earlier today, so I know what I am speaking about. I believe that the time may well have arrived or is going to arrive soon for this requirement to be widened in order to allow us to draw upon an enlarged pool of disciplines and skills, a growing feature of our human capital base.

Mr. Deputy Speaker, the Commission already has a legal advisor and legal officers. In my judgement,

there is no particularly good reason that I can think of why an accountant, an economist, a captain of industry, an actuary or an engineer might not be able to do the job of Chairman of the Commission with great competence.

In fact, we are seeing today that the Deputy Chairman is presently doing, in my judgement and I believe in the judgement of many Barbadians, an excellent job. I do not think that people are concerned about whether that person is an attorney-at-law or not. I think that we are limiting ourselves unnecessarily.

Sir, if the late Wendell McClean were here today, I do not think that anybody would have any difficulty in suggesting that he would have made an excellent Chairman for the Commission. It is a little bothersome for me. Sir, by definition I do not think that the Fair Trading Commission can afford to be discriminatory. I would wish to urge early consideration of a further amendment.

It is in my view that the Chairman of the Commission needs not be qualified in anyway. Sir, anybody should be able to be Chairman of the Commission. You would be very selective and careful because you know what it is that you required. I do not think that lawyers have any specific prerogative, I am one by profession but I think that we have to be broader in our view. The post of the Chief Executive Officer of the Fair Trading Commission is not constrained in this way and I do not think that a judicial disposition is peculiar to lawyers. A professor of law who is not a practising lawyer and a lot of other people could have a judicial disposition and this advice is already available to the Commission.

Sir, I believe that the qualification clause in the Act which applies to Commissioners applies equally to the Chairman. I have been further advised on this matter because I wanted to see what was happening in other jurisdictions and I thought that a comparable analysis might be helpful. I am advised that in Jamaica the Fair Trading Commission, established under the Fair Competition Act, does not include any provision for qualification for the Chairman or any other member.

In a piece of legislation, the narrower you draw yourself, the more difficult it becomes when you want to be more inclusive and wide-ranging and more frequently you find yourself coming the House for amendments.

Sir, in Australia, the Australian Competition and Consumer Commission, established under the Trade Practices Act, Section 7, provides the appointment as a member or a Chairperson, that the Minister must be satisfied that the person qualifies for appointment because of knowledge in a number of areas but does not make it a prerequisite or a qualifier in a sense that our Act actually does that.

Sir, in New Zealand, the Commerce Commission, established under the Commerce Act, provides for an appointment of at least one person who is a Barrister or a Solicitor of at least five years standing on the Commission but it does not constrain the appointment of a Chairman in that way. Again, you are looking for knowledge in a number of areas, industry, commerce, economics, accounting, law, public administration, consumer affairs, et cetera. This is the balance that we look for in the composition of our commission, and that is the matter that is before this Honourable House.

It is good that we have had this wide-ranging debate and long may it continue. It allows us to look at a number of areas which now occupy the attention of the Barbados public and the Commission. The

matter before the House is an amendment to increase the members of the Commission.

I want to invite a further opinion on this matter. In the United Kingdom, I am advised that the Enterprises Act, 2002, establishes the office of Fair Trading. There is no provision in that country for qualification for membership of the Board. The office of Fair Trading was established as a corporate entity here, interesting to note that as well. I understand that in the United Kingdom they have recently undertaken institutional restructuring.

In Ontario, Canada, there is no provision in the Ontario Energy Board Act of 1988, for members of the Board to have specific qualifications in order to become members. There is great freedom which will vary from country to country as to how people want to see skills and disciplines structured within the commissions.

Sir, in the United States of America, in the Federal Communication Commission or the Federal Trade Commission, there are no qualifications required.

I think that, perhaps, out of an abundance of caution, I am not criticising it, I was here and I supported it at the time but I think that the Fair Trading Commission has come of age, so to speak, and it is at a place where, perhaps, the Minister would wish to consider freeing up this part First Schedule in order to allow ...

H19 : 17.50 p.m.

Sequence 42

Tuesday, February 03, 2004

Continuation of Hon. Miss B.A. MILLER:

...for a commission which could be led by whomever is the best person, irrespective of the discipline from which that person comes.

Frankly speaking, Mr. Deputy Speaker, there is only one post that I can think of, in the whole of Barbados where we would have to insist that such a person would have to be an Attorney-at-law and that is to be found in the Constitution of Barbados.

Sir, the late Garfield Sargeant used to say that you can hold up the Constitution of Barbados, but do not quote from it. I am prepared to quote from it today, and it is interesting how it is actually put. Sir, the Constitution only speaks to the appointment of a Prime Minister, an Attorney-General, a Leader of the Opposition, and a Cabinet which may have five or more members.

In the case of the Attorney-General, it is even put in parentheses, at clause 72: "Provided that one such other Minister (who shall be styled Attorney-General) shall be assigned the function of Principal Legal Adviser to the Government."

Do not let us circumscribe and, particularly, in an area like this, Mr. Deputy Speaker, unnecessarily. I

really do invite other Honourable Members to support the point of view that I am putting forward. I hope that it finds favour with the Minister.

The other point I wanted to address, Mr. Deputy Speaker, has to do with a matter which the Leader of the House touched on when she introduced, so ably this morning this matter, is a matter which is exciting some comment in the public domain in Barbados. This is, the multiplicity of towers which have been erected in Barbados, in respect of new directions that telecommunications is going for cellular purposes. They are lovely, if I might be allowed to put it that way, Sir, but there is a feeling in some quarters and in others, a perception that the radioactive waves can constitute a danger to health.

Sir, these towers are to be found everywhere in the world. They are to be found out in the desert, they are found in populace city centres, and they are found in rural districts because everybody wants to have a cellular phone.

Indeed, we may well find that land lines may disappear in our time, Mr. Deputy Speaker. It is the way of the future. As the learned Attorney-General put it, it is part of the price we pay for progress but it is the business of a Government to satisfy itself that it has done and will do everything in its power to protect the general health of the Barbadian public.

Therefore, we are assured by the Chief Town Planner and by other agencies that great care has been taken. The height is a consideration here which speaks to safety and location and distance from human habitation is also a factor that has been taken very seriously into account.

We are also assured that the number may not proliferate as much as we had thought because location is now being entertained, and that more than one business entity will share the use of these towers. In many countries the towers are camouflaged so that they do not appear to be scars on the landscape of which they are. I was not at all happy to see in a photograph in one of the newspapers today, Sir, that at the beautiful east coast that there in the landscape now staring at us is this tower. They have warning lights for low flying aircraft but aircraft really do not fly that low. If they do, then, they are in bad trouble. Sir, I do not think that low flying aircraft and helicopters would pose much of a danger, but still, there is a warning light, as you would find on many other towers.

Mr. Deputy Speaker, it is important and the Government is mindful of its duty and I take a particular interest in this matter. As a Parliamentarian of long standing, I well remember assurances being given in the past about all kinds of structures that were put on the ground in Barbados. We just have to be sure that we have taken steps, as a Government, to protect human health as far as is humanly possible in all of its circumstances.

I am particularly reassured by the fact that not only have criteria been established but that the Telecommunications Unit will monitor these towers on a regular and consistent basis, so that they will not be allowed to deteriorate or people would not be allowed to manipulate them in such a way that they do not conform to the criteria set by the relevant agencies and departments of Government.

Therefore, Mr. Deputy Speaker, I would wish to urge upon Honourable Members their support of the amendment to the Act which is before the House. I would urge Honourable Members to be supportive of the Fair Trading Commission.

The Fair Trading Commission needs to feel that it is responding to its remit and that Barbadians feel that it has taken off well and that it is doing a good job. This is the encouragement that every person needs and every organisation needs. I think this is not an occasion for beating up. I am glad that most Honourable Members who have spoken in that kind way, so that the Commissioners will feel encouraged, because as has been said and has been said so often in here, this is the highest committee in this land and we have to be responsible about these matters. It does not mean that we cannot have partisan views or that we cannot have our political and other differences but at the end of the day, this is an important institution which is being put on the ground in Barbados. It has a critical job to do and we need to be uplifting and giving encouragement to it and not tearing it down.

Therefore, I would like to give my support to the matter before the House and to urge upon other Honourable Members support for this. I would hope that some of the suggestions I have thrown out, would find favour with Honourable Members and indeed with the Minister.

Mr. Deputy Speaker, I am much obliged to you.

Hon. Miss M.A. MOTTLEY: Mr. Deputy Speaker, I beg that this Bill be suspended for further consideration next week when this House meets.

Hon. R.R. FARLEY: I beg to second that, Sir.

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

ADJOURNMENT

Hon. Miss M.A. MOTTLEY: Mr. Deputy Speaker, this brings us to the end of Government's Business for today's Sitting and I beg to move that this House be adjourned until Tuesday, February 10, 2004 at 1000 a.m.

Hon. R.R. FARLEY: I beg to second that, Sir.

The question that this Honourable House be adjourned until Tuesday, February 10, 2004 at 10:00 a.m. was put and resolved in the affirmative with division and Mr. SPEAKER adjourned the House accordingly.

House 19, sequence 43, 44, 18:0012