
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 2003 – 2008

HOUSE OF ASSEMBLY

Tuesday, April 12, 2005

Pursuant to the adjournment, the House of Assembly met at 10.13 a.m. on Tuesday, April 12, 2005.

PRESENT

His Honour J. M. EDGHILL, J.P. (Deputy Speaker)
Rt. Hon. O. S. ARTHUR, M.Sc. (Econ.) (Prime Minister, Minister of Finance and the Civil Service)
Mr. D. J. H. THOMPSON, LL.B. (Hons.)
Hon. Dame Billie MILLER, D.A., B.C.H. (Senior Minister and Minister of Foreign Affairs and Foreign Trade)
Mr. G. W. PAYNE, LL.B.
Hon. R. C. EASTMOND, B.A. (Hons.), Dip. Ed., LL.B. (Hons.), L.E.C., J.P. (Minister of Labour and Social Security)
Hon. G. A. CLARKE, B.Sc., Dip. Ed., J.P. (Minister of Public Works)
Mr. R. D. MARSHALL (Chairman of Committees)
Hon. H. F. LASHLEY (Minister of Social Transformation)
Mr. R. St. C. TOPPIN, LL.B. (Hons.)
Mr. D. St. E. KELLMAN
Hon. Mrs. H. E. THOMPSON-McDOWALD, 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. T. A. PRESCOD, B.A.
Rev. J. J. S. ATHERLEY, B.A., B.Sc., J.P. (Parliamentary Secretary to the Attorney General and Minister of Home Affairs)
Hon. N. A. LYNCH, B.Sc., M.B.A. (Minister of Tourism and International Transport)
Hon. A. P. WOOD, B.Sc., M.Sc., M.Phil., J.P. (Minister of Energy and Public Utilities)

Hon. R. R. FARLEY, B.Sc., J.P. (Minister of Education, Youth Affairs and Sports)
Hon. Miss C. Y. FORDE, J.P. (Minister of State, Ministry of Education, Youth Affairs and Sports)
Hon. J. X. WALCOTT, M.B., B.S., F.R.C.S. (Edin.), 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 Rev. Canon Ivan Harewood.

ABSENCE OF SPEAKER

The CLERK: Honourable Members, in accordance with Standing Orders No. 5(1), I announce the absence of His Honour the Speaker. In the circumstances, His Honour the Deputy Speaker will preside over today's Sitting.

Mr. DEPUTY SPEAKER: The House is now in session.

MINUTES

Mr. DEPUTY SPEAKER: The Minutes of Tuesday, March 14, 2005 and Monday, April 04, 2005.

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, I beg to move that the Minutes so cited be confirmed subject to any observations, omissions and/or corrections.

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

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

ANNOUNCEMENTS BY HIS HONOUR THE DEPUTY SPEAKER

Mr. DEPUTY SPEAKER: I am to report that I am in receipt of the Accounts and Statements for the month of November 2004 from the Accountant-General.

PAPERS

Rt. Hon. O. S. ARTHUR: Mr. Deputy Speaker, I am commanded to lay the following:

1. Duties, Taxes and other Payments (Exemption) (Coronation International Golf Club Limited) Order, 2005;
2. Special Development Areas (St. Lawrence Beach Corp.) Notice, 2005;
3. Annual Report and Financial Statements of the CRL Limited for the fiscal year January 01 to December 31, 2003.

Hon. A. P. WOOD: Mr. Deputy Speaker, I am commanded to lay the following:

1. Telecommunications (Transition Timetable: Phase III) Order, 2005;
2. Telecommunications (Delegation of Powers and Duties) Order, 2004;
3. Annual Report of the National Petroleum Corporation for the financial year ended March 31, 2003.

Hon. N. A. LYNCH: Mr. Deputy Speaker, I am commanded to lay the following:

1. Annual Report of the Barbados Tourism Investment Incorporated for the year 2003;
2. Audited Financial Statements of the Grantley Adams International Airport (GAIA) Incorporated for the year ended June 30, 2004.

CONGRATULATORY AND/OR OBITUARY SPEECHES

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, tomorrow will be two weeks that Gertrude Eastmond was

laid to rest bringing to an end a life spanning some 81 years and a life reflecting a commitment to service, to country, to community and to family.

Mr. Deputy Speaker, many of us fondly remember her as simply Gertz. Indeed, the range of activities she engaged in throughout her life indicated that this was a tremendous woman who was filled with determination and who had a vision for what was possible at a time in Barbados when women were not known to aggressively become involved in formal structured business activity.

Mr. Deputy Speaker, it is clear that throughout our history with a strong matriarchal society, women have always been the underbelly in terms of making sure that much of the society and much of the activity that has held us together remain there. The formal steps to become involved in areas of activities which even black people on a whole were not largely involved in, were areas which she dreamed of participating in and which, true to form, she and her husband were able to lay a foundation such that she could provide a better life for her family and open the vista and possibilities for other women, particularly black women, in this country.

Mr. Deputy Speaker, her involvement in commerce was not her only mark. Indeed, there having been only one woman to have sat in this Parliament, she took a decision to become involved in active politics.
10.20 a.m.

Mr. Deputy Speaker, I think I am the only woman in this Parliament who can boast of having served in a constituency previously served by a woman. Indeed, I serve now as the representative for St. Michael North East but when I came on the scene, many of the residents of that constituency did not find anything unique about my offering myself into service because they had already known what it was to have been served, and to have been served well by a woman in the early 1970s; a woman who also was fearless in what she said and in what she believed, so much so that she was prepared to take on the Right Excellent Errol Barrow, at the height of his political power in this country, at a time when all others were receding into darkness, in relation to their fear to differ from him and to dissent from his views in public.

Mr. Deputy Speaker, I am too young to say that I had attended the famous meeting that was called in Bush Hall Yard Gap but I could not tell you that I did not know about it because from the time I started to canvass in Bush Hall in 1989, almost every household reflected that moment in time when they felt that they had a representative who stood up to the leader of this country, at the height of his power.

Mr. Deputy Speaker, that took extraordinary courage, in my view, and whether or not one agrees with what she stood for, the reality is that there are many who dissent with political leaders throughout political history but who do not have the courage to rise and to stand for their conviction. The fact that Gertz could have done so, reflects the same courage and indomitable spirit that also led her to be a path-blazer in relation to these other areas of activities which included politics, commerce, and her wide involvement in all areas of Barbadian society.

Mr. Deputy Speaker, Gertrude Eastmond was a woman who became a Director of the Barbados National Bank, at a time when it was not common to have female directors in corporate Barbados. She was a woman who became a President of the Barbados Employers Confederation, and even now that is not a common occurrence. She was a woman who recognised that her views should not be limited to politics and commerce but understood the need to preserve the heritage of this country. She was able to rise above political partisan concerns and in spite of the fact that Tyrol Cot was the residence of the Right Excellent Sir Grantley Adams, she played an integral role in seeking to have that building restored. It is true that it was part of her former constituency, as it is now mine, but in spite of her affiliation with the Democratic Labour Party, which persisted up to 1990 when she joined the National Democratic Party – because many have forgotten that – she became involved in an activity from which others shied away because they felt that the restoration of Tyrol Cot was a means of further elevating the imagery of the Barbados Labour Party. These were not things that constrained Gertrude Eastmond. These were not things that prevented her from doing her duty to her country as she saw it.

Mr. Deputy Speaker, I believe that kind of understanding as to what is our national duty, over our partisan political considerations, is absolutely critical to this country, should be reflected in all of us who come to public life today if we are to carry on and to preserve the legacy which has been handed to us by previous generations.

Mr. Deputy Speaker, I am not going to subscribe to the very unfortunate comments which came from the mouth of the Honourable Leader of the Opposition in Trinidad and Tobago, who said that professional integrity cannot come above politics, and that politics have its own morality. I do not agree and I want formally to dissociate myself and I believe the majority Members of the Barbados Labour Party, from that statement. That has not been how we have conducted our affairs on Both Sides of the House in this country and the day we believe that politics has its own internal morality and that integrity cannot come above that, would be the day when we can shut up shop and go home.

Mr. Deputy Speaker, Gertz Eastmond reflected, in my view, the best understanding that while you may organise yourself in political parties to advance the execution of the task, that there was merit in finding common ground to advance national interest and to bring about national development.

Her involvement led her to become a member of the Child Care Board, which reflected her commitment to children. One can easily say that her own experience of having borne six children would have made that an easy activity for her. Sir, from my own knowledge of the family, children and grandchildren, I know that they meant everything to her, and in spite of her involvement in public life, she made time to keep her family together. She also came across very much as the dominant force, the glue, that held all of those persons together in relation to developing an identity that was strong and that is reflected in her children and her grandchildren. Indeed, some may even say that both her sons-in-law and daughter-in-law, also reflected that influence that she brought to bear, not only on her children but on the extended family.

Mr. Deputy Speaker, she was a member of the Barbados Family Planning Association; the Barbados Horticultural Society; the Barbados Museum and Historical Society; the Dorcas League; the Soroptimist Club; the Mayfair Bridge Club and a patron of the Barbados Land Ship. Indeed, Mr. Deputy Speaker, she was truly a renaissance woman, ensuring that her interests were dedicated, not to one particular area as is so much the case in modern Barbados but reflecting a breadth of interest that caused her to become involved with so many people, from so many different backgrounds, which reflected that sense of responsibility to the society which gave her much in relation to her being able to achieve for herself and her family.

Mr. Deputy Speaker, anybody who knew her, knew that the personality was effervescent and that once she entered a room, one could not help but pay notice and feel that here was a woman who was truly affable and who was capable of influencing others by reason of her infectious spirit.

Mr. Deputy Speaker, I believe that politics is a harsh activity and if one were to look at her five years in politics, one would not get a sense of who Gertrude Eastmond was. Sir, it is that total range of activities, coupled by her unswerving commitment to her family, that gives us a better sense of who and what she was.

Mr. Deputy Speaker, she had to suffer the indignity of being a victim of crime in this country and in spite of that, she was able to rise and to show that her character was such that there was an inner strength that allowed her to continue with fortitude and with faith.

I believe, Mr. Deputy Speaker, that we owe a debt of gratitude for the life of Gertz Eastmond, to one that is well-spent but one that reflects a contribution well beyond the precincts of this Parliament, and one that must cause us to reflect as to whether the values and characteristics which she reflected, are not those that need to be more emulated and more respected in the Barbados of today. I think she was truly a woman of her time. I think that not only her courage, her vision and determination but her empathy and passion, will stand to be characteristics which reflect her.
10.30 a.m.

Mr. Deputy Speaker, her family all came together, large as it is, to pay their final respect to her. I believe it would be appropriate for this House to send a Resolution of Condolence to her six children, who in turn will communicate with her grand children. I believe in so sending that we give thanks for a life well lived and for service well rendered, not just to the Parliament of this country but to the people of Barbados, the people of St. Michael North East and to the women of this country for showing us what is possible.

Mr. Deputy Speaker, it is ironic in reading this CV that I see so many things that mirror the participation of the Honourable Member for the City, who equally is not confined in her breadth of interest to this Parliament but reflects a commitment to the building of the broader society and community. I hope and trust those of us who have come to public life could continue to reflect that breadth of vision, determination, courage and resoluteness to do what is right rather than what is in one's self-interest.

Mr. Deputy Speaker, I am obliged to you.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Michael South Central.

Mr. R. L. SEALY: Mr. Deputy Speaker, it is with sadness that this day is here and I totally want to associate myself with the Resolution of Condolence moved by the Leader of Government Business. Certainly, Gertrude Eastmond was a strong committed member of the Democratic Labour Party. It is true that she had her tribulations but, as the Honourable Member said, she was not only courageous but had the ability to forgive and forget and perhaps that is why her political career had those ups and downs in terms of her relationship with the Democratic Labour Party.

Mr. Deputy Speaker, beyond that, the fundamental point heard this morning and at the funeral service two weeks ago when she was eulogised, was that there was so much more to this woman. She was truly a woman for all seasons, she was a trailblazer in the genuine sense of the

word, taking on activities not previously envisaged, not only by women but by Barbadians of that particular type of background.

Mr. Deputy Speaker, she was born in St. Philip of humble origins and was able to start the first modern supermarket we know of in Barbados which bore her name, GERTZ for many years. The building still stands and still houses a supermarket but it was the first modern supermarket in Barbados. Sir, she was able to make a meaningful contribution in several different areas of her national endeavour sometimes concurrently. She was able to be a businesswoman, a family woman and a politician at the same time.

Mr. Deputy Speaker, we are told that if you are involved in business at a certain scale that you cannot be involved in politics or if you are going to be a family woman that you cannot have a career in politics but she was able to effectively dovetail these two. Recently, I heard an Honourable Member on the Other Side complained how difficult it was to be a mother and politician at the same time. This is not unique to Barbados but it is a concern in several other jurisdiction. Sir, she did all the above with six children, several grand children and a few great grand children.

Mr. Deputy Speaker, we need to look at her as being a genuine renaissance woman as the Honourable Leader of Government Business described, someone who was able to make this impact right across the board. It is not surprising to find out that her personal interest was so wide-ranging also.

Mr. Deputy Speaker, I heard that she was a patron of the Barbados Land Ship but I never knew she was so keen on bridge and horticultural activities. It was also known that she was active in the National Trust and that she had a wide and varied interest.

Sir, I have interacted with her a few times and what was said earlier is true, that when Gertrude Eastmond entered a room, it was transformed. She was truly a magnetic person and full of advice for young people. I was on the receiving end of some of her advice, some of it made in jokes. I remember her volunteering information on one's life in terms of relationships. Sir, she always had an opinion on everything to help to make young people better people. Mr. Deputy Speaker, her impact in her constituency was felt during her entire time. It was known in the Democratic Labour Party that she took her salary and gave it to her constituents. Sir, she was a generous woman. One would argue that since she had a successful business that she was in a position to do this but I hasten to add that where her business was

concerned, and while she had no political responsibility for the communities that surrounded the supermarket, Collymore Rock, Brittons Hill and so on that her good heart and sense of public spiritedness was very much felt in those communities also.

Mr. Deputy Speaker, she was a woman who would give willingly and her impact was felt even after she got out of active business. It was a known fact that if you went to her house which was situated just outside of the supermarket, you could be on the receiving end of some type of generosity. This is why it hurt so many people when she had the unfortunate incident which change her life, being the victim of a violent crime.

Mr. Deputy Speaker, in spite of that she never once relented from her love of the community where her home and business was located and the community of Barbados generally. She was truly a good spirit who took those same values and carried them on the national stage.

Mr. Deputy Speaker, she was head of the Barbados delegation to the first world conference on women held in Mexico City in 1975. She understood her work as a trailblazer would not have meant anything unless she was also able to pave the way for others to come. I am sure she would be thrilled that a woman now sits in the seat she once held, St. Michael North East. I suspect she would be happier if she was on This Side but, nonetheless, I am sure that she is quite happy that her work has made it easier for other womenfolk to not only excel in politics but in business and to have lives which are meaningful in the total senses.

Mr. Deputy Speaker, we heard over and over again that she was a good family person, that she was compassionate and strong-willed. Sir, she was definitely a woman before her time and I think that in addition to this Resolution of Condolence if there is anything else that we, as a House, can do to truly be faithful to her memory and legacy is to continue the good work of seeing that women are given an opportunity to excel in the various areas of national activity but all those Barbadians who we may not normally associate with big businesses or other activities, they too could make it and it does not matter whatever their circumstances are. 10.40 a.m.

Mr. Deputy Speaker, we on This Side fully associate ourselves with the Resolution of Condolence.

I am grateful to you, Sir.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Michael West Central.

Mr. R. D. MARSHALL: Sir, I would like to associate myself with the Resolution. I also want to associate myself with the remarks made by the two previous speakers.

Sir, I first met the late Gertrude Eastmond in the 1960s and at that time I was a young salesman. The Honourable Member for St. Michael South Central mentioned that the late Gertrude Eastmond lived adjacent to the supermarket but I guess that he is very young. I remember Mrs. Eastmond living upstairs operating her first supermarket downstairs thus having ample opportunity to spend a lot of time in her business.

Sir, when her staff left on evenings she would be there at night working on her own. She commenced business at a time when there were very few supermarkets like hers, for in those days they were people like John Simpson, who operated and owned Simpson Supermarket. There was also the Village Mart, in Christ Church, Rostrevor and the Goddards Supermarket. These were big business people and here was a small supermarket in the catchment area of Collymore Rock, Pine Gardens and The Pine catering to persons in those areas.

Mr. Deputy Speaker, in those days Gertrude Eastmond worked very hard and during that time she competed with the Red Rose Supermarket and the Excel Supermarkets. The late Gertrude Eastmond was a tower of strength in the 1960s and 1970s where business was concerned.

Sir, Gertrude Eastmond was a great family person. I knew that she was married since I visited the supermarket on a regular basis. I would sit and talk with her at length about her business and children. She was very proud of her children. There were five girls and a boy. Her only son is now a very prominent dental surgeon in this country. Sir, Gertrude Eastmond was a beautiful person and produced a daughter who won a Beauty Queen competition in Barbados.

Mr. Deputy Speaker, Gertrude Eastmond worked hard with her children, although she was married and her husband worked in the Customs Department. She was the tower of strength with her children, not only raising these children but working hard to provide for these children.

Sir, she is the only politician that I would say I was close to as a politician as a young man. As I said I would always visit her supermarket, talk to her since she was involved in the Democratic Labour Party and in politics. When she won her seat I felt as happy as though one of my family members had won a seat.

Sir, we heard the Honourable Member for St. Michael North East speaking eloquently about her achievements and we also heard the Honourable Member for St. Michael South Central speak about her achievements. I believe that there are other Members in here, probably the Honourable Member for the City of Bridgetown who would have known her extremely well, at a personal, business and political level.

Sir, Gertrude Eastmond when making her contribution she did not mix words. She said what she had to say as we heard from the Leader of the House that she even took on the great late Errol Barrow and that is history.

Mr. Deputy Speaker, on behalf of my family, the constituents of St. Michael West Central and the Barbados Labour Party, I do convey our sympathies to the family of the late Gertrude Eastmond.

I thank you.

Mr. DEPUTY SPEAKER: The Honourable Member for the City of Bridgetown.

Hon. Dame Billie MILLER: Mr. Deputy Speaker, the Honourable Member for St. George South, who is not now in his seat, and I, would be the only persons sitting now in this House of Assembly who sat in this Chamber when Gertrude Eastmond was a Member of this Parliament. She was the second woman to be elected to this Chamber, the first being the late Ermy Bourne.

Sir, women first received the vote in Barbados in the year that I was born and I like to think that was propitious. It was still at a time, we did not yet have adult suffrage, when you had to own property in order to have the franchise, then in 1951 adult suffrage came to Barbados and Ermy Bourne came to this Parliament.

Mr. Deputy Speaker, when I came into the House of Assembly in May 1976, I came through a by-election for the City of Bridgetown. There was a by-election earlier in the year on February 26, 1976 in St. Philip North which was won by David Simmons now Chief Justice of Barbados. It was clear that after fifteen long years in Opposition that the writing was on the wall.

Sir, when David Simmons came into this Parliament he was well-greeted. I was in the Gallery and men in here fell on his neck as though he was a long lost son and he was well-received. Three months later when I came in here I was received in silence. No one greeted me except Gertrude Eastmond. By that time she had, quite sensibly, recognised the need for her to distance herself from her Party and I would speak about that.

Mr. Deputy Speaker, she was sitting on the Other Side but at a distance. She had removed herself from her Party. She got up from where she was sitting and came over to me and personally welcomed me as a woman into this House of Assembly and I thanked her. I will never forget it as long as I live.

Sir, Gertrude Eastmond was a woman, like so many of us who have come to this Parliament since and some who will come after our time, who paid a high price. She was a pioneer in this Honourable House. Her courage has been spoken of. She was a sensible and a very stylish woman and there is a lot to be said about that.

Sir, she did not come in here peeping up under herself and as her Party Leader said, she did not come in here in a box cart. She walked proudly up those steps and came in here and made a lot of women proud. I was one of those women. I did not know her before she became a Parliamentarian. I was one of those persons if you passed her on the road would say, that is Gertz Eastmond. She was somebody that you wanted to know. She was a sensitive woman and she understood the importance of welcoming another woman, irrespective of Party affiliation, as a Member of this House.
10.50 a.m.

We have heard it said and it bears repeating that she represented a brand of Barbadian womanhood. She was a mother of several children, who are proud today that she was their mother, and they have made varying contributions to life in Barbados and for Barbados, even though they live outside of this country.

She was a businesswoman, and the Honourable Leader of the House made the point, at a time when it was not usual for black women to have a leading role as a business person in Barbados, not that black women did not work. I laugh when I hear people talk nowadays, people who do not know any better, clearly, and do not understand the social, political and economic history of this country, about how things began to get bad when women went out to work. Women have always worked in this country. Working-class women were 'heading' canes in this country and every other island, it is the women who cut the canes and the men who head them. Only in Barbados was it the other way around.

Women carry all kinds of burdens in this country, and Gertrude Eastmond was one of those. It could not have been an easy road for her. She was a woman with a community conscience we have heard and I can testify to that but she, the way I like to think of it and the way I put it today, Sir, was a woman who made ground for other women to run and walk on in politics in Barbados.

There are some who thought that she was better as a businesswoman than she was as a politician but I want to speak to her contribution, to what Barbados is today and what role women play in our Parliament today because Gertrude Eastmond once sat in this Chamber.

Sir, as a Parliamentarian she was not well-treated by her party. Do not let us beat about the bush. A lot of sanctimonious stuff is going to come from the Other Side, well there is only one of them sitting over there, that is the hallmark now of Parliament every Tuesday in here. We were lucky that they came in late, but we are lucky that somebody is sitting over there, but she was not treated well by her party but then that too is the hallmark of the Democratic Labour Party.

Sir, even now, they do not know how to treat the women in their party but Gertz Eastmond rose above it. It must have taken enormous strength of character and strength of purpose because she was a woman alone in here at the time. I sat in here for 19 years, the only woman in here and I know what it must have been like for her in those four and a half years when she sat alone in here, disrespected by her own party.

Sir, she was brought into public ridicule in this country, not by those who were her opponents, because we admired her and we respected her but by those on her own side. This is why I said and I say it time and again, Mr. Deputy Speaker, and I speak with great emotion on this, that she paid a high price. She paid a high price in respect of her family. She paid a high price in respect of her business and she paid a high price so that persons like the Honourable Member for St. Michael North East, like the Honourable Member for St. James South, like the Honourable Member for St. Thomas and I can sit on the Front bench today.

She knew that she had to distance herself from a party which had lost its way, Mr. Deputy Speaker, and her party had still not found its way, even today, in the way that it treats its women. Therefore, that kind of sanctimonious stuff I am hearing from the Honourable Member for St. Michael South Central, I excuse him but you need to do your homework. I keep telling the young Members in here to do their homework before they come in here because *Hansard* will record this for generations to come and do not mislead the House.

She had a better understanding of what her duty was as a woman who was a Parliamentarian than her party did. She brought her broad experience as a business person, as a community person in Barbados, a community activist, you could have called Gertz Eastmond in her time. She brought that to the political process. She understood sacrifice as women in politics and men too, but she understood sacrifice. She made business sacrifices and she made family sacrifices.

She was left for dead in Barbados in more than one way. We have heard it said that she was the subject unhappily of a vicious criminal act and she was left for dead and she rose above that and lived to the ripe old age beyond 80 years. She was left for dead by her own party as well but

she rose above that too, Mr. Deputy Speaker, and I am proud to have known her.

I am proud that I sat in this Chamber, even though it was only for a short period of time because by September of 1976, the writing having been written so large on the wall, a general election was called and Gertrude Eastmond, together with those who had been so slow, if at all, to understand the enormous contribution that she had to make were all swept out of this Chamber.

Sir, not a lot of people get to remain in here for a long time. It has been noted that the greater majority of those who came in here in 1986, by 1994 were no longer in here and that is the nature of politics.

Sir, the full extent of Gertrude Eastmond's contribution to politics will not be written perhaps in our time. It may well be written at a time when there is a larger appreciation of what a woman of her background and a woman who was prepared to make the sacrifice that she has brought to politics in the mid-1970s in Barbados. We do not yet fully appreciate the enormity of that contribution.

Mr. Deputy Speaker, women bring their own eloquence and, if I may say so, indeed, robust and distinctive perspective to the development process and I do believe that we are now somewhat diminished by the passing of Gertrude Eastmond because her contribution, as we are hearing, went beyond what she did while she was a Member of Parliament and beyond whom she was even, as a Parliamentarian. She was a woman of her community.

Sir, this is something that those who aspire to come in here in the future and those who are relatively recent in here need to understand. When you go to somebody's house because, happily, house to house campaigning is still a feature of politics in Barbados, and you ask somebody for the vote, that person is entitled to say to you, why should I vote for you? What have you done in this community that would lead me to believe that you could be a person worthy of to have my vote? Gertrude Eastmond would have passed that test very easily in her time. She would not have had to 'butt about' and she would not, like some, had no record to say that she was a boy scout or something in her community. Gertrude Eastmond would have had a fine and fulsome record.

11.00 a.m.

Mr. Deputy Speaker, it has been said in here that she was not afraid to face up to her leader. That is not a small thing, Mr. Deputy Speaker, because the style of politics in the Caribbean, even though we describe our leaders as the first among equals, is becoming more and more presidential. Some leaders were perhaps more approachable than others. I have worked through several Prime Ministers. Some were

more generous to their party colleagues both on and off the Floor than others. Some had large reputations. Therefore, for Gertrude Eastmond to have answered back to the late Right Excellent Errol Barrow at the time that she did and in the way that she did speaks volumes not only for her but for women in Barbados especially women in politics.

Mr. Deputy Speaker, I am very happy to say that none of the women who sat in this Parliament, including those who sit in it today, was or is 'a yes woman'. I grew up hearing talk in my father's house about who is 'a yes man' and who was not 'a yes man'. That is an animal that still exists today. Sir, I would like to think that there are none on This Side. That is a good old time Bajan phrase, I cannot find any better way to put it. There is no woman who has come to this Chamber up to this time, and I would like to think that it is never going to happen in the life of this Parliament, however long it is, who could be described as 'a yes woman'.

Mr. Deputy Speaker, Gertrude Eastmond was her own woman. She knew of her own experience, some of it harsh, who she was. More often than not she had the goodwill and the respect of the people of Barbados even when she may have thought that she was in her most difficult of times as a parliamentarian and a politician and retained that until the end.

Sir, I am proud, as I have said, to have known her and I want to give my support to this Resolution of Condolence. I wish her children to know that their mother was a woman of her time. Sir, it is not true to say that she was before her time. She was very much a woman of her time and for her time. Therefore, I only wish that she could have stayed in here a little longer than she did, but such are the fortunes of politics.

Mr. Deputy Speaker, it would not have been a bad thing for this House, if after 1976 she would have been sitting on the Opposition benches because her party had gone deep into Opposition at that time, because I believe that she would have brought a dignity and an understanding to the fact that there are times when you are in Government and times when you are in Opposition, sometimes for a very long time. On This Side we know that. Happily now, we know what it is to be in Government also for a very long time.

Mr. Deputy Speaker, all of the women who sit in this House and all those who will come after us owe a great debt of gratitude to Gertrude Eastmond who must be described, when history writes of her, not only a woman as of great courage and great sensitivity, but that she was a woman who served her country well and that she was a woman who, as a parliamentarian, must be regarded as a pioneer who women of all kinds, whether they are in Parliament or not in Barbados, would look back and say that this was good woman.

I thank you, Sir.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, I rise to take part in this debate. I have been in Parliament now for the last 11 years and I would like us to continue in the role that we have always seen obituary and congratulatory speeches. We always tend not to make them political and this morning I would not make my speech political. Mr. Deputy Speaker, some things were said that I would have to address, but I would not do it this morning in this Chamber, I will address them elsewhere.

Mr. Deputy Speaker, there is no doubt that the late Gertrude Eastmond was a foundation builder. Many people would have a lot to say about the Democratic Labour Party and how it dealt with its business in the past. However, one thing that cannot be said is that the Democratic Labour Party was not the party that first elevated women in high positions in Parliament because the late Gertrude Eastmond was the first person to serve in the capacity of what we would call a junior minister.

Mr. Deputy Speaker, it could easily be said that she laid the foundation for Dame Nita to be the first female Governor-General after first serving as the first Parliamentary Secretary in the Democratic Labour Party administration.

Mr. Deputy Speaker, there is no doubt there was some divide between the two, but I do not believe that this Chamber is the best place to speak on those matters on this particular occasion.

Sir, knowing my background, I would always have a great appreciation for her because she was a woman, a businesswoman and a politician. Therefore, knowing her background and her achievements, it is very difficult for anyone in these Chambers to try to measure the progress that has been made by this lady.

A point was made that she had a business and that she lived in the business. People who are aware of the shop keeping life would know that it can be very demanding of you. Sir, I watched my grandmother who also had a business who lived within that business. When others are sleeping, you cannot sleep because somebody would always be knocking on the shop door making some request whether it is going to be paid for or on credit. Sir, when one thinks that she was a politician who had her children to look after, one can even appreciate her much more.

Sir, her contribution has given lie to those who believe that public life cannot be for women. She has shown that you can combine public life and business life and can stand equal to men and demonstrate that you have the capacity to

deliver in more than one field. Therefore, I want to thank those who gave her the opportunity of displaying that skill and building that foundation. Mr. Deputy Speaker, I was very grateful to hear the Honourable Member for the City of Bridgetown admitting that it was because of Gertrude Eastmond's entry into politics, and an admiration of her, that she, the Honourable Member for the City, was able to build a foundation and an admiration and that it gave her some impetus to enter politics. Therefore, I want to congratulate those persons who have encouraged her to come into politics because it was a rare thing to see women in politics. Sir, the mere fact that she was invited to enter politics and that she was also protected and encouraged, is a significant contribution which cannot be denied.

11.10 a.m.

Mr. Deputy Speaker, we were also fortunate to see another lady, Sybil Leacock, and when one looks at the two, the best comparison to the late Gertrude Eastmond would have to be her. Gertrude Eastmond was a businesswoman, Sybil Leacock is a businesswoman. Gertrude was a 'grass root' person, Sybil is a 'grass root' person. Both have offsprings and were able to combine all three aspects of their lives. In addition, if one were to look at the political lives of these two women, one can almost say that their political lives were identical. It is true that I said I do not want to enter certain things in this debate, and I will deal with that at another level, but it must be appreciated that based on what was said this morning, both women have followed on the same track.

Mr. Deputy Speaker, I want to say that the Honourable Member was correct when she said that she had the privilege of serving with the late Gertrude Eastmond, even though it might have only been for a few months because the record will show that the by-election was not too far away from the general election, and maybe it might have been a good thing if the Honourable Member had entered Parliament in 1971, when Gertrude Eastmond was here. Sir, seeing that the late Honourable Member Gertrude Eastmond had so much influence, I can understand what a dominating force the Honourable Member for the City of Bridgetown would have been. I can also understand how she would have been able to appreciate not to bring political issues into discussions such as these.

Asides.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, I want to say to most women in Barbados that they are privileged and that this foundation was laid by Gertrude Eastmond. I was also very glad to see that the Other Side has appreciated the point that it was Gertrude Eastmond who set the foundation and that she was a very independent person. If I had to describe Gertrude Eastmond, I would describe her as being one of the most independent female politicians in

Barbados because of the fact that she stood up for what she believed in, which is something I would like to see more politicians doing. Sir, there are many people who would praise her for those virtues but when the time is right, they will not deliver those same virtues. I am, therefore, saying to those leaders of the Democratic Labour Party, who had the foresight to encourage her to enter politics, that they have laid a good foundation on which others in these Chambers can now brag.

Mr. Deputy Speaker, I thank you and hope that this debate would continue to be one of being a non-partisan debate.

Mr. C. A. MASCOLL: Mr. Deputy Speaker, I rise to make a contribution in this debate, recognising that we are, to some extent, honouring the life of a lady who was born on 12th November, 1924, at Six Roads, St. Philip. This which would indicate that she would have almost made 81 years in her lifetime. She would have spent just over four years of that lifetime in this Parliament, which would indicate that just about 5 per cent of her life would have been spent in this Honourable Chamber.

Mr. Deputy Speaker, it is therefore somewhat unfortunate that so much emphasis was placed on that period of her life, by a previous speaker in this debate, and there is a time and place for everything. The important thing to note is that she was the mother of six children, a grandmother of eleven, and a great-grandmother of three. She would have had the opportunity to be educated at St. Michael Secondary School. She would have gone on to develop herself in public speaking and in marketing, having taken conversational classes in French and, therefore to a large extent, would have been preparing herself for any future endeavours that she would have encountered.

Mr. Deputy Speaker, it has been said and it is known that she was a pioneer in those early days and under very difficult circumstances in the 1970s, when she established a supermarket of the calibre of Gertz Supermarket which was comparable to supermarkets in much larger countries. She was the proprietor of that supermarket for her entire life and would have made outstanding contributions in the business arena of Barbados. Sir, I am simply suggesting that of her 80 years, a mere four would have been spent in politics.

Mr. Deputy Speaker, she was tremendous because to be a woman, to be married, to have children, and then to get involved in politics, is perhaps the most demanding task that anyone could ever contemplate. It is known that constituents are like children themselves and require considerable attention, time and efforts. It is also known that everyone expects to see politicians on a weekly or monthly basis. I am sure that every Honourable Member of this House is told

frequently how he or she is not being seen by his or her constituents because of the question of time. Therefore, to be able to allocate time to so many different parts of one's life and to be so successful in doing so, would have been a tremendous achievement, particularly for a woman in the 1970s.

Mr. Deputy Speaker, I hope I do not offend anyone by saying that the women who are currently involved in politics do not have the problems of child bearing or child rearing at this point in time. There is no evidence, whatsoever on the Other Side. Sir, that is not to bring anyone down but it is to demonstrate the pressure that women will undergo in trying to marry a life of politics with a family life, involving offspring and having children to take care of as well.

Asides.

Mr. C. A. MASCOLL: Mr. Deputy Speaker, I am not saying that there are not some. There are, but it is common when you look across the Other Side to see those with whom we are satisfied and we admire them, but that there is that one component that runs across individuals involved at this stage.

Mr. Deputy Speaker, I am reemphasising, therefore the difficulty that a woman would have in trying to bring along a political career with that of a family career and all the other responsibilities that would attend female ministers. I would wish for them to understand and to appreciate the depth and the extent to which Gertrude Eastmond would have had to sacrifice in order to produce for this country in order to provide for this country. In political experience, she acted as Minister in the Ministry of Health and she was Parliamentary Secretary in the Ministry of Health and Welfare. After losing her seat, she became a Government appointed Senator under the Democratic Labour Party between 1986 and 1990. Again, it puts into context what I regard as the political emphasis that was placed on her life with respect to a fallout with the Democratic Labour Party.

11.20 a.m.

Mr. Deputy Speaker, the evidence is clear that between 1986 and 1990, she was a Government appointed Senator. It is known that she joined the National Democratic Party in 1990. As part of her political achievements, she was Head of Delegations at numerous overseas conferences between 1971 and 1976. She was head of the Barbados delegation at the first world conference of women held in Mexico City in 1975. She was the director of the Barbados National Bank, President of the Barbados Confederation for two consecutive terms.

Sir, to even begin to contemplate the life of Gertz is to perhaps see no parallel to anyone who would have been involved in the politics of Barbados since independence. I

am not talking about the length of stay in Parliament, I am talking about the complexity involved in marrying politics with business, family, children and with all the other things she did during her period on the face of this earth. It is a remarkable achievement even to have contemplated being so involved in so many different aspects and facets of life.

Mr. Deputy Speaker, she was a life member of the Barbados National Trust, a member of the Child Care Board, a life member of the Barbados Family Planning Association, a life member of the Barbados Horticultural Society, a member of the Barbados Museum and Historical Society, a member of Dorcas League, a member of the Soroptomist Club, a member of the Mayfair Bridge Club and a patron of the Barbados Land Ship.

Again, while respecting the contributions that women have made and continue to make in this country, it is fair to say that she has no parallels, not from the point of view of measuring or trying to quantify her contribution at the national level but in trying to understand how she could have engaged in so many difficult activities while being a businesswoman, married woman, a woman with children and all the other things she got involved in at the point in time.

Mr. Deputy Speaker, this woman was also formed by her experiences in her youth because she was involved in dancing, loved lawn tennis, gardening, cooking and like most women enjoyed traveling. Again, you cannot even begin to understand how one individual could, in fact, have engaged in so many different cultural activities and hobbies while being involved in so-called politics.

Mr. Deputy Speaker, therefore, she was a family woman who believed very strongly in the upbringing and upliftment of her offsprings and devoted considerable time to the progress they would have made in their lives even in instances where they were not physically present, her presence was very much there in spirit and in direct contact frequently either by writing or on the phone.

It is known that she was a pioneer and was able to take risk at a time when risk-taking was not even associated with blacks but more so associated with minorities and whites in this country with respect to the level of involvement in business. Not only did she take a chance to become an entrepreneur but here was a woman who was black which was not also usual getting involved in a business of such size and calibre in the 1970s.

Mr. Deputy Speaker, she can therefore be described as a risk-taker not only in the sense of financial risk but gender risk. There is no doubt she was an excellent businesswoman. She was compassionate but strong-willed.

Sir, most people who are strong-willed, when you dig deeper are indeed compassionate. While it may be true to say that someone is strong or hard, in many instances, those same individuals are very soft in heart. There is no contradiction between being compassionate and yet being strong-willed or believing in something.

Mr. Deputy Speaker, it is known that in her short tenure as a representative of the people that she provided all that she could. Mr. Deputy Speaker, you have a constituency and I want you to begin to imagine what it would be to be able to devote the kind of time required to be regarded as an excellent representative of the people while being divided up into a family person, a business person, a politician and involved in several other endeavours in your life. It is truly a remarkable example of life for any woman or man willing to become involved in politics to consider. Sir, it is mind-boggling to begin to understand how one individual could have so divided herself up in this way.

Mr. Deputy Speaker, it is believed by those who were very close to her that she was a little naive in politics. I think what might have happened, is that as a pioneer, not only in business but in the political arena and as a woman fighting for particular rights or believing in the further upliftment of the gender that there might have been a collision. In that sense, some on This Side might feel that she was ahead of her time. They would be correct in believing that a woman at that time, fighting for such a cause might have been regarded as being on the periphery rather than in the core. Therefore, she could have been misinterpreted by males at the time who might not have respected the extent to which an ordinary baradian woman, born in very humble circumstances could now be challenging a more elitist type of male at that time who may have been rooted in the classics, trained in England, be a lawyer and, therefore might have seen it as a contest with an ordinary woman not having that kind of fabric.

Mr. Deputy Speaker, it is known that most politicians at that time would have been trained either here or overseas and would have come with a certain type of fixation as to how this society could have been developed and when challenged by a woman springing out of the bosom of the ordinary class might have seen it as an offence in some regard. Therefore, one could understand the confrontation of the views held by this person who lived on the ground and who understood the life of average baradians and someone who might feel that the course ahead ought to be charted in a different way. That is where the collision came and that is, perhaps, where the belief that the naivety might have located itself.

11.30 a.m.

Sir, I, therefore, rose to make this contribution because it is necessary that the records of Parliament reflect what Gertz was, not for four years but what she was for almost 81

years of her life. Therefore, to confine her life to the time period which she spent in Parliament is a tempting thing because it also describes, perhaps, an era in which there was collision between a political party and the views of the softer gender. It may suit some on the Other Side to describe that period within the context in which it was described because it may suggest that the institution still is labouring under that kind of pressure that started as far back as the 1970s.

Sir, that view is being held, that view was espoused but that view is not a view that ought to be attached to the life of Gertz and to be seen as the single most important thing that would have emanated from her political experience in these Chambers during that short four-year period.

Mr. Deputy Speaker, I am therefore saying that this debate is not a debate simply about a four-year period. It is a debate about a woman who lived to the ripe old age of 80. Sir, she was a woman who made outstanding contributions to her family, a woman who made outstanding contributions to the development of business, a woman who made outstanding contributions in other areas like the Land Ship, Soroptimist, Bridge Club, the very diverse life that she lived and a woman who should be remembered not by four years of representation in Parliament but by the character that she was and by the fabric that she brought to politics, hoping that she would have started a process which eventually will contribute to change and which we can say has contributed to change in this country.

Sir, while it is tempting to put it into a partisan perspective, we have to understand that in those earlier times, that kind of tension and resistance between gender may have been as a result of the perception that women were lagging behind. They are no longer lagging behind in this society, they are, in fact, now front-runners in this society. Sir, you only need to check the enrollment at the tertiary institutions in this country to recognise that it will not be long before women control this Parliament in their numbers as well and that the proportions which you now currently see in this August Chamber will be completely reversed in the next 20 to 25 years in Barbados.

Sir, it is a process that has started and it is a process that will reflect itself in two decades or so away from this current time period. In that regard, the life, therefore, of Gertz would be truly understood because it would have been her contribution and resistance to a male dominated political environment, that might have given rise to a future Barbados dominated, and rightly so, by those who make the best of the available opportunities to enhance themselves and who would ultimately govern and run this country called Barbados.

I thank you, Mr. Deputy Speaker.

Mr. DEPUTY SPEAKER: The Honourable Member for St. James North.

Hon. R. C. EASTMOND: Mr. Deputy Speaker, while the late Gertrude Eastmond served as President of the Barbados Employers Confederation, it had not yet become fashionable to speak of a social partnership because the concept of a social partnership in line with the thinking of International Labour Organisation came approximately 10 to 15 years after she served as a representative of the employers.

Sir, it is still significant that she was able to head an organisation consisting of employers at the time she did. If you go back and review the history of business and commerce in this country from the early days of the establishment of the Barbados Chamber of Commerce, when she emerged as principal leader of employers, she would have doubtless been a pioneer. Every indication is that she served ably in such a way that the employers reposed their confidence in her and it was only when she wanted to leave that she yielded the position of President of the Employers Confederation.

Sir, it must also be said that as an employer in her own enterprise, there is no word in this country that she did other than do her utmost for those under her charge. Sir, she treated workers with respect.

Mr. Deputy Speaker, while we today record with praise and acclamation the single contribution she has made, permit me to isolate two institutions to which she was attached, institutions, which when she served were not yet fully mature in Barbados or did not have the resources that we would have wanted. The Soroptimist, as we know them now, had been a fledgling when Gertrude Eastmond started to work for them. In time we have seen this great body of females develop, emerge and assert themselves as persons who are dedicated to serving this country and humanity.

I would like to say, having a very close relationship with the Soroptimist of Jamestown, that her example to the Soroptimist not only persuaded others to join the movement but, indeed, to encourage the movement to set up additional branches. It was also her spirit of wanting to serve, putting others before self, that led her to work in the Dorcas League.

Sir, the Dorcas League has been associated with a person called Mr. Gooding-Edghill. He ensured that persons of like mind would work with him to bring relief to the suffering of the poor and Gertrude Eastmond did not hesitate to work with Mr. Gooding-Edghill to launch out on a non-governmental organisation, which did not have a lot of resources but its principle remit was to produce a programme of poverty alleviation. History must record that institutions

like the Dorcas Leagues, as non-governmental organisations did a lot in this country in a former period of history and all those, including Gertrude Eastmond, who worked with it must, indeed, receive encomium.

Sir, I first became aware of the earthly existence of this fine lady when her daughter, known as Hazel, won a beauty competition in this country. When Hazel won that beauty competition in the 1960s, I immediately became aware of Eastmonds from an area other than the north of this Barbados and from that point I went on to follow the careers of these people.

Sir, in time I learnt that Gertz had relatives known as Springers and Alleyne, who were known to me. Sir, people like Margaret Alleyne-Fenty and Rosemary Alleyne are persons who belong to this family.

I also want to say that when we evaluate the contributions of particular individuals, even when we do so in a detached way, we have, like what the Honourable Member for St. Lucy said, to look at those who have really put this country first.
11.40 a.m.

I associate myself with the remarks of my friend, the Honourable Member for St. Lucy in saying that in substantial measure, Gertrude Eastmond lived a life almost identical to that of Sybil Leacock. Both of them were attracted to politics after a while. Both of them will not necessarily go down as long-standing, long-serving Parliamentarians but in terms of what they have done for people, they have performed immeasurable service. One area outside of politics that I would like to feature, is her involvement in the Barbados Land Ship, the Barbados Museum and Historical Society and the Barbados National Trust.

Mr. Deputy Speaker, I am identifying these three agencies deliberately because if you put the life of Gertrude in context and look at the time when she worked with the Land Ship, the Museum and Historical Society and the National Trust, we in Barbados were the victims of much ridicule coming from other countries which bragged, while trumpeting their own cultural achievements, that Barbados had no culture.

Sir, it galled me when I was an undergraduate at the University of the West Indies between 1970 and 1974 that persons of other countries laughed at us Barbadians and said we had no culture. I therefore have time for any person who at that difficult period in our history, could make a contribution to our cultural development and side with agencies which have been able to make an important contribution to our heritage.

When Gertrude Eastmond worked with the Landship, it would have been perceived by some as a group of ordinary working-class Barbadians, not only in need of a patron but who were seen to be performing antics. Today we know that what they were doing was making an outstanding contribution to our cultural heritage. Gertrude Eastmond was not afraid to be seen identifying with the Land Ship Movement, which has been able to survive and with God's good graces, will survive.

I write her name, Mr. Deputy Speaker, in the Annals of our Cultural History, precisely because at a time when other countries lamented the fact that Barbados had no culture, she and many other persons, like Janette Layne, as she then was, Timothy Callender and Elton Elombe Mottley were not afraid to stand up in this world, along with Gertrude Eastmond and work, so that Barbados could be seen as indeed having a culture.

Gertrude Eastmond had no difficulty working with the Barbados National Trust, which has over time done well, in terms of producing programmes for the preservation of our heritage.

Gertz also serviced in the Barbados Museum and Historical Society, so when we say that she worked with the Barbados Land Ship, served in the Barbados National Trust, and made a contribution to the Barbados Museum and Historical Society, what we are saying is that this lady was a veritable avatar of culture and I would want cultural historians to accord her, her rightful place in history.

Sir, she played many other parts as well. I recall in 1971, her following the election campaigns of every party that took part and like Mr. J. Patsy Springer, Gertrude Eastmond had a distinctive platform style. You could not hear her speak and remain bored. If you were bored when she first came to the podium, such boredom was immediately relieved. She had a matter-of-fact, down-to-earth language which allowed her to present her party's case in a manner that attracted the people of St. Michael North East to support her in 1971. She made it to this Honourable House of Assembly before the current Honourable Member for St. George South.

The Honourable Member for St. George South as he is now, actually lost the 1971 election but because of a former Member for Christ Church South, the late Sir Harold Bernard St. John, the Honourable Member for St. George South was appointed to the Other Place between 1971 and 1976.

Therefore, the Honourable Member for the City of Bridgetown actually got into the Lower House before the current Honourable Member for St. George South. Of course, Gertrude Eastmond got here in 1971 before the

Honourable Member for St. George South, and some four years before the Honourable Member for the City.

I was attracted to what the Honourable Member for the City said about when she came here and was warmly welcomed by Gertrude and was the recipient of adulation and support. It must have been, Mr. Deputy Speaker, in an era of classic male chauvinism for a female to grace the precincts of this place, among persons not of the same gender, many of whom were seized of particular iconoclastic idiosyncrasies, not in support of the equality of the sexes.

It must have been a very lonely experience for Gertrude to serve in this Honourable House between 1971 and 1976, and lo and behold by 1975/1976, she had come to a stage in her political career, where confronted by a political Goliath, as he then was, she had to tell him that I know the facts of life. Her words to that great political Goliath were: "I know the facts of life. Sir, you cannot teach me the facts of life."

Sir, she parted company with the Democratic Labour Party and formed an organisation called the United Peoples Party, (UPP) of whom a prominent member was a well-known person called Mr. Calley Mottley. I am not sure if he was the Deputy Leader but he certainly contested an election for the United Peoples Party with Gertrude being the leader. This represented a political schism, a break from her party of first choice and the development of a totally new party in this country. Time is going to honour her for having stood up for her convictions.

Sir, eventually, there was some healing between her and the Democratic Labour Party and she served in the Other Place for some time. Her service there was by no means undistinguished but she would, I believe in moments of total sobriety, have reflected that there were one or two incidents in that Other Place, which once again tested her fortitude and which once again saw her, sensitive as she then was, to ideas of justice and ideas of injustice.

Mr. Deputy Speaker, hers has been an outstanding contribution. One need not grace the walls and precincts of the House of Assembly and the Senate for very many years for one to go down in history of having truly done one's country proud.

I was very impressed that the doyen of teachers, a former Principal of St. Michael School, not only kept Gertrude's friendship, but was able to observe her many qualities.

I am heartened that today, Mr. Deputy Speaker, we as Parliamentarians can pay homage to a person whose life has been a shining example, to a person for whom success came as second nature, for a person who was multifaceted, if you

permit me to use such a term, and whose contribution was in the area of commerce and enterprise and in the area of politics.

I am deliberately stressing that her contribution to culture must not go unnoticed, when it is placed in the context of persons mocking Barbadians between 1965 and 1980 and claiming that we had no culture. She contradicted them by serving with organisations that have not only worked to prove that we have a culture but have very much preserved our culture to such a degree, Mr. Deputy Speaker, that the Corporate Registry of Barbados, the Registrar of Companies can tell you that the fastest growing businesses, as far as registration of new companies go, are businesses connected with culture. That must be a definitive tribute to the outstanding work of Gertrude Eastmond.
11.50 a.m.

Mr. Deputy Speaker, on behalf of the people of St. James North and indeed the people of St. James and my family, I tender sympathies to her sorrowing relatives.

May light perpetual shine upon her.

Thank you very much, Mr. Deputy Speaker.

Mr. DEPUTY SPEAKER: This Chair associates itself with the remarks made by Honourable Members and on behalf of my family, I extend condolences to the family of the late Honourable Member.

The House, by acclaim, declares the passing of this Resolution and declare that the usual Resolution be prepared. I now ask this Honourable Chamber to stand and observe one minute silence.

One minute silence was observed.

ORDERS OF THE DAY

SUSPENSION OF STANDING ORDERS

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

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

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

GOVERNMENT BUSINESS

ORDER NO. 5 – CARIBBEAN COURT OF JUSTICE (AMENDMENT) BILL, 2005

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, in speaking to this Bill, I wish to indicate to the Honourable House that there are two other companion pieces of legislation which we would treat as one for the purpose of this debate since they are all interrelated.

This Bill and those two pieces of legislation seek to tidy up our legislative framework for the operation of the Caribbean Court of Justice both as the final Court of Appeal of Barbados as well as a Court of Original Jurisdiction interpreting the Revised Treaty of Chaguaramas, which was incorporated into our domestic legislation in April 2003.

On the occasion of that debate of April 2003, I would have indicated to this Honourable House that we were not proclaiming it at the time and that we would be awaiting the work of the Proprietary Committee establishing the Caribbean Court of Justice, which I have the honour to chair having succeeded the now Chief Justice of Barbados who was its first chair.

Mr. Deputy Speaker, we have now come to the juncture where the Caribbean Court of Justice is a reality. Indeed, as we debate this Bill in this Honourable Chamber, we do so with the full knowledge that within less than seven days, on Saturday, April 16, 2005, to be precise, the Caribbean Court of Justice would be inaugurated in a formal ceremony in Port of Spain, Trinidad and Tobago. It is hoped that Members of this Parliament, particularly the Right Honourable Prime Minister and the Leader of the Opposition would be in attendance at that inauguration. Originally, I had planned to be there, but unless the process in relation to the transition of prisoners from Six Roads to the Harrison Point facility is completed, I will not be attending. Suffice it to say, Mr. Deputy Speaker, this House, on Both Sides, would be represented at that inauguration ceremony on Saturday.

Mr. Deputy Speaker, initially Barbados and Guyana would be the only two countries that would seek to have the Caribbean Court of Justice as their final Court of Appeal, bringing to an end more than 170 years of linkages with the Judicial Committee of the Privy Council. Mr. Deputy Speaker, today is not the day that I would repeat what was said in that original debate, but suffice it to say, that it brings us closer to the point where we shall forever enter a phase where we would be responsible for our own destiny as it relates to the handling of the judicial arm of Government.

Mr. Deputy Speaker, those who had the opportunity to frame our Constitution back in 1966 contemplated that this day would come. They recognised then, both in terms of the nature of the Order that was passed on November 22, 1966, as well as in the language of Section 86 of the Constitution, that while the Judicial Committee of the Privy Council would be our final Court of Appeal on the settlement of the Constitution, that a day would come when we may want to become responsible for our own circumstances in relation to the handling of judicial matters and that we may want to do so either individually or through some form of association with Commonwealth courts.

Mr. Deputy Speaker, among Commonwealth Caribbean countries, Barbados is unique in having a section like Section 86 in its Constitution. Therefore, the difficulties that were faced by countries like Jamaica in the recent Judicial Committee of the Privy Council judgement, would not have been faced by us largely because of that empowering section that we would have passed in accordance with the two-thirds majority required by section 49 of our Constitution, which is an entrenched provision. Therefore, on both grounds, ours would not be the fate of Jamaica in relation to the judgement which it received from the Judicial Committee of the Privy Council at the end of January this year.

Mr. Deputy Speaker, we have deliberately seen a position thus far, and I am confident that it would continue today, that in spite of the fact that different political parties in Barbados have had the responsibility when in Government of advancing the process toward the establishment of this court, that there remain unanimity and support for the court across political parties in Barbados in a way that other Caribbean countries cannot reflect.

Mr. Deputy Speaker, I feel fundamentally that this is a good thing and that it is one of the things that should cause us to feel proud as Barbadians that on this matter there has been, determined across political parties, a national interest which we must continue to hold to because the average Barbadian cannot access the Judicial Committee of the Privy Council in London largely because of the cost.

Mr. Deputy Speaker, apart from the reasons of sovereignty, the inability to be able to appeal to that court, is one that would cause us to believe that access to a Caribbean Court of Justice in the conduct of appeals in civil matters, in criminal matters, in constitutional matters and in family law matters, is a thing that would make a significant difference to Barbadians who would want to be able, on occasions, not only to test the judgement of a high court once but indeed the judgement of a Court of Appeal in a higher court. It is unfortunate that this common approach across political parties, has not been seen throughout the Caribbean and, in my view, it is partially responsible for why there continues to be some level of cynicism in the wider Caribbean

population with regards to the Caribbean Court of Justice. There is no doubt that there is merit in some of the concerns as they relate to whether sufficient attention has been paid to all aspects of the justice sector in the region. Indeed, yesterday the Chairman of the National Commission on Law and Order said it better and more elegantly than I could ever say it, when he said that across the region there has been little attention paid in the first generation of Independence, to the reformation of the justice sector, not because we did not want to reform it but because there were other competing areas which occupied the attention and the funds of governments, as they sought to build new societies coming out of Independence.

12.00 noon

The reality, however, is that on the cusp of this first generation of Independence, there has been a recognition that the justice sector is not only key to the maintenance of democracy but that it is key to the maintenance of economic and social advancement among our people. Very often the dichotomy between social justice and legal justice continues to bedevil people across societies in the region and people's sense of social justice not necessarily being reflected by the decisions of courts, continue to cause a lack of faith in the legal institutions which have responsibility to the settlement of disputes and interpretations of law.

We have a duty as those responsible for developing the framework of governance, to ensure that from the point of view of legislation, we also seek to bridge that gap and enable judges to be more responsive to the needs of the wider Caribbean population, without undermining the values and mores of our society as we move forward.

Sir, however much we pass legislation, the function of judicial interpretation is still key, and I believe it is for that reason that Lord Hoffman, a distinguished member of the Judicial Committee of the Privy Council and, indeed, the one who delivered the famous dissenting judgment in **Neville Lewis v the Attorney-General of Jamaica**, in addressing the people of Trinidad and Tobago within the last 18 months, would have delivered himself of remarks that may have sounded more as if he were a citizen of the region, seeking to establish a Caribbean Court. He said then that it was his view that it was important for judges to have an intimate understanding of the societies over which they preside in relation to the courts, and that the inability to appreciate the values and mores of those societies, can put judges at a significant disadvantage in being able to render decisions that are not only in accordance with the law but decisions that resonate because they reflect the perspective of the various societies.

We, however, have seen the converse of that being argued in some Caribbean territories, where people have argued that they want people who have no knowledge and no

relationship with these societies. This reflects a cynicism about our own ability to resolve issues among ourselves. It is therefore an unfortunate development that has come about in the region, particularly in the last decade.

Sir, the quickest route to failure is for a person to doubt himself. If one starts with self-doubt, one cannot end by successfully completing the task. Sir, it is unfortunate because the region has produced, and is still producing jurists who are serving at the highest levels in the international court of justice, in the special tribunals that have been set up to deal with war crimes in Rwanda and other parts of the world, and in Hague Maritime Law of the Sea tribunals. These are people who were born in the Caribbean and whose scholarship and intellect continue to draw respect, not only from Caribbean people but from people across the world, particularly with the knowledge of jurisprudence and the law.

Mr. Deputy Speaker, I say to you that in these matters, I believe that the general frustration and cynicism that may sometimes be associated with the ordinary Caribbean person, has led to that level of self-doubt in some territories. Gratefully, I think that the Opposition has reflected an approach in this matter that has not allowed that to take serious root in Barbados, along with the approach of Government. Sir, equally, when this party was in opposition and the Democratic Labour Party was the party that signed and agreed to the original decision in 1987 in Antigua for the establishment of the Caribbean Court of Justice, there was no divisive position expressed by this party as the Opposition of this country.

Mr. Deputy Speaker, that ability to have that unified approach, in my view, staves off the cynicism and self-doubt of which I speak that is occurring in other Caribbean territories. We have also come to this juncture, cognizant of the fact that we have done our best to put a system in place which insulates the Caribbean Court of Justice from the executives of the various Caribbean countries, by ensuring through the agreement itself, through the rules and the various protocols and most importantly, through a source of independent financing, that it is not dependent on Caribbean Governments in order to play its role or to exercise its functions in accordance with its agreements and its rules.

The reality is that in February, 2002, when meeting in Belize, the first task I had to undertake as Chairman of the PREP-COM, was to be able to find a means by which the Caribbean Court of Justice could be financed. Therefore, along with fellow Attorneys-at-law sitting on the PREP-COM, we determined that rather than an annual subvention, even if paid five years in advance, we would opt for a trust fund, such that our contribution would be made once to the

Court, settling the trust fund and that the Court would finance its annual expenditure from the interest of that trust fund.

Sir, to put it simpler, we would borrow the money, give it to the Caribbean Development Bank to be able to hand over to the Caribbean Court of Justice Trust Fund. Our liability, therefore, is not to the Court but to the bank. Therefore, should a country default on its payment, the Court is completely protected because it would have received all of its funds, US\$100 million, last Friday and, therefore, is no longer dependent on Caribbean Governments for any financing. Therefore, when it inaugurates on Saturday, it has its own money and does not have to go to any Minister of Finance, any Head of Government, or any Attorney General, to make representation in relation to the need for funds. This is a unique formula, one that is not practised in the UK, one that is not known in the United States of America, one that is not known in Australia or other countries of the Commonwealth and, therefore in a sense, we have provided for the Caribbean Court of Justice, a greater degree of financial independence and judicial independence than any other region setting up a court. Yet, there are those who still doubt its independence. I say that those doubts would only go with the passage of time.

12.10 p.m.

Mr. Deputy Speaker, in a sense, it is now for the court to function and show its worth such that persons who keep these lingering doubts, would over the process of time, understand how it can function independently from Governments and how it can deliver itself of a task that would reflect high scholarship in the formulation and advancement of Caribbean jurisprudence. In a sense, the passage of time must be the balm in relation to those who continue to doubt its capacity to be effected.

Sir, Barbados is being brave. We believe that we cannot doubt ourselves. Just as Guyana believed that in 1973 when they delinked from the judicial committee of the Privy Council. They were unique among Commonwealth Caribbean countries because they made a determination that their Court of Appeal should be the final Court of Appeal. Upon the inauguration of the Caribbean Court, they are prepared to have that court become its final Court of Appeal.

Mr. Deputy Speaker, there are other countries that have signified a deep desire to come. There are myriad reasons why they are not here at the beginning in its appellate jurisdiction which will cause us to be emphatic but not to stop or pause the process to wait on them. Mr. Deputy Speaker, parallel to the exercise of the appellate jurisdiction, is the exercise of the original jurisdiction. Some

two years after agreeing that there should be a Caribbean Court of Justice as the final Court of Appeal, the Heads of Government of the region, while meeting at Grand Anse in Grenada, recognised that in order for Caribbean citizens to benefit and be able to live better lives that we needed to be able to change the structure of how our economies related to one another and that we needed to be able to create a larger economic space without the hindrances that currently restrain the movement of capital, people, services and the inability to allow for greater economic activity within the region as opposed to only looking northwards as was our historical experience.

They agreed that the establishment of a Caribbean Single Market and Economy was a necessary step in order to be able to increase the opportunities that were available to Caribbean people to improve their plight and living circumstances. Sir, you can only have this larger economic space if it is governed by rules that are transparent. Therefore, the Treaty of Chaguaramas has to be amended to be able to allow for these new rules to come into place. Once you have rules, Mr. Deputy Speaker, there must be an entity capable of interpreting these rules when there is a division of opinion as to what the rules truly say or do not say.

Hence, the court which was agreed to in principle by the Heads of Government of the region purely for the reason of completing the process of sovereignty and for the reason of being the individual states final Court of Appeal, became now a court that could interpret the rules that would help us create a Caribbean Single Market and Economy. It is ironic that for the majority of the region even though the appellate jurisdiction was what caused the Heads to agree to its establishment in the first place, that for the majority of the region, its use and relevance will be in its original jurisdiction to help interpret the Revised Treaty of Chaguaramas and the rights it confers upon the states of the region and the citizens of the region.

Mr. Deputy Speaker, I made these points because those two decisions came in 1987 and 1989, some five and seven years respectively before the decision of Pratt and Morgan which was the first decision where the Judicial Committee of the Privy Council started to reflect a doctrinal disposition against capital punishment and the use of capital punishment as a sentence of the court under the law in respect of Caribbean Commonwealth territories.

Mr. Deputy Speaker, it is important to make that point yet again because there are those, not so much in the region, but outside of the region who continue to assert that we in the Caribbean want to have a Caribbean Court of Justice only for the reason of being able to allow it to be a hanging court. It is absolutely nonsense and it stains the debate and what would otherwise be a worthy and dignified process in which we are engaged to complete the process of sovereignty

and to amplify the economic opportunities available to the citizens of this region as we seek to improve our lot and the lot of future generations.

Mr. Deputy Speaker, I would love the journalists in Barbados to do some research on it. When one looks at the Georgetown Declaration of 1996 where the judges of the region met with other judges from the Commonwealth or the 1989 Judicial Colloquia held in Bangalore, you begin to see a pattern of behaviour where judges from the wider Commonwealth countries, those in particular who belong to the developed world, as seeking to have all the judges across the Commonwealth begin to subscribe to political principles, some of them laudable, but not necessarily reflective of the laws of the countries in which they sit as judges.

Mr. Deputy Speaker, we have therefore a situation emerging where there is the potential for real conflict between the judiciary and the legislature, the executive, in relation to what should be the law. We, who have come up in a system of constitutional governance where the separation of powers, as is written in the Constitution of Barbados states that it is the Parliament who has the responsibility for making laws for the peace, order and good governance of this country may find that through the approach of judicial activism as reflected by the Judicial Commission of the Privy Council, laws are changed not as a deliberate act of a legislature but through an amplified...liberal approach taken by judges as they seek to interpret existing law.

12.20 p.m.

Mr. Deputy Speaker, this is why the Barbados Government fought the matter in the Privy Council last year as aggressively as we did because we were not only seeking to defend the mandatory death penalty but we were seeking to defend the right of this Parliament to determine what the appropriate penalty should be.

Sir, it may well be that a Parliament of Barbados may change its mind one of these days but it is the right of this Parliament and not of the judiciary to be able to make that determination and we guard jealously that right. Sir, when you read the Declarations from the Georgetown Declaration in 1996 and you read the Declarations coming out of the Bangalore Judicial Colloquia, where they are saying to judges that they must start to interpret the law in accordance with international developments, there is almost a sub-text that would suggest that any interpretation of Constitutions and domestic laws must be given that expansive, purposive approach that allows the influence of international political developments in the interpretive process.

Mr. Deputy Speaker, in my view it is a dangerous thing and I hope and trust that as we establish these courts that we

recognise that we are not trying to fight human rights, we are not trying to fight the death penalty, we are not trying to support a political cause but we want a court whose responsibility is to interpret the law and to interpret it in a way that reflects the values and mores of the societies within which we live.

Sir, there is a dangerous development as well because we had to defend our right to determine penalties via Parliaments of our countries, the international community in particular, a very small group of people, have tried to put it abroad that we stand against the development of human rights in this region. I do not know of anything that can be further from the truth and I daresay that the Commonwealth Caribbean has a better human rights record than any other region any part of this globe. Sir, what has happened is the interpretative process has gone beyond that which we have agreed to as sovereign nations upon signing treaties. In other words we signed and agreed to something but then the judges in these tribunals do not meet regularly or function like domestic courts because they are different. I am not deprecating them but they have an approach that, in my view, goes beyond that which is allowed by the Vienna Convention of the Law of Treaties, which is the Treaty governing the interpretation of Treaties.

I believe that the envious position which the Caribbean has found itself in the last decade has been as a result of persons exercising and reflecting a political perspective in interpreting these treaties that are inconsistent with the obligations which we accepted upon signature.

Sir, some countries in the region have dissociate themselves and have come out of the treaty network which really does speak to broader human rights obligations than the death penalty. It speaks to democracy and a host of things which our record is very good on. We as a country have said that we will remain within for now and fight through the system and, hence, the matters that we have before Inter-American Commission and now the Inter American Court, which are taking up an inordinate amount of our time in being able to treat to.

Sir, what is at state fundamentally is this, that a country in good faith signs a treaty, it does not change its system or the Treaty does not change but all of a sudden the country is in breach. We have a problem with that, Mr. Deputy Speaker.

Sir, the reality is, Barbados is now the only country from the CARICOM region that submits to the jurisdiction of the Inter-American Court. It may well come that at a point in time we may have to review it but we will continue to play according to the rules and fight within the system as far as we can. At the same time there are only four countries that

are signatories to the American Convention on Human Rights and therefore, willingly submit to the Inter American Commission. It therefore means that in spite of the fact that the Caribbean has one of the best records in relation to compliance with universal human rights norms, there is an absence of an appropriate human rights framework that now governs CARICOM countries.

I am going into all of this because I believe that within the next few years there must be the conclusion of a CARICOM human rights convention that allows us to be able to reflect to the rest of the world, as we do being signatory to the International Covenant on Civil and Political Rights, that we believe that there are certain fundamental human rights norms that should not be veered from.

Sir, when you start to expand what is the definition of human rights to include things that may be desirable but may be outside of the reach of a developing country, then you set those developing countries up for a fall because you are still constrained by limited resources in the governance of your territories.

Sir, I therefore say that I believe that within CARICOM that we have to be able to settle a CARICOM human rights treaty, so that we can show the world that we are not against human rights but we are against the beliefs of a few people that they can come in and dictate through the judicial backdoor of international tribunals what our Parliaments have refused to do as a deliberate act of our Parliaments.

Mr. Deputy Speaker, once you set up a convention you are going to need an interpretative body and a court such as a Caribbean Court of Justice is perfectly placed, once inaugurated, to be able to allow us now as Caribbean territories to contemplate the conclusion of a CARICOM human rights treaty.

Mr. Deputy Speaker, I look forward to us being able to see that addition to the jurisdiction of the Caribbean Court of Justice beyond the two limbs that currently exist now.

Sir, most people who are under the age of 40, myself included, would not have had direct experience, obviously, with the Federal Court of Appeal but those who did, continue to remark that of all the institutions of the Federation, the Federal Court of Appeal was the one that, perhaps, distinguished itself most. The scholarship, the advancement to Caribbean jurisprudence was such that in the early years of Independence, the task of Government and governance became that much easier because of the role that they played in being able to define for us how we should

proceed in the exercise of public duties and how we should treat to the settlement of issues that were reflected both in law and in social justice.
12.30 p.m.

I hope and pray, Mr. Deputy Speaker, that this Caribbean Court of Justice to this generation and future generations will be what the Federal Court of Appeal was to those persons who had the privilege of seeing it in operation. I am conscious that there is a view across this society and the region that in almost every area of endeavour, standards have fallen. Mr. Deputy Speaker, standards can only fall, if we allow them to fall. In the same way that we want to demand more of ourselves and of different groups in our society, we must demand more of those who also have responsibility for the management of our justice sector.

Last month, I indicated that my Ministry will be leading a national encounter with the justice sector to treat to the administration of justice. It was hoped, in fact, we were planning for it to be at the end of April but recent events have caused us to delay the staging of this national encounter. I trust and hope that we can get it done during the month of May.

I do believe that separate and distinct from whatever else we are doing, we must have the ability to bring all of the various players of the justice sector into one room for us to identify what are those things that we agree absolutely to as imperative, in terms of the maintenance of standards, in terms of the maintenance of process and what are those things we believe to be critical to be introduced to improve how we do our business and what are those things that divide us, in terms of our perception as to who is not pulling their responsibility to the fullest.

I do believe that if we can get this court right, in spite of all of what is said by the nay-sayers, this will be the single most important contribution to the advancement of regional integration that has come in the last few decades, since the conclusion of the original treaty of Chaguaramas.

Mr. Deputy Speaker, I trust, hope and pray that the approach which we have taken in separating it from partisan interest and placing it on a national level that this approach, ultimately, will be reflected in every Caribbean territory, which is signatory to the agreement establishing the Caribbean Court of Justice.

I recognise that people's comfort levels will come at different times. Therefore, I do not reflect negatively on the fact that some countries may want to wait to see how it works before coming in, but I simply say that I hope we do so in a fair manner and allow the court to function, such that it can allow us to begin to contemplate that we can have a

better region when we have the development of Caribbean jurisprudence that is reflective of what Caribbean societies feel and how they relate to one another within those societies.

As I said, this is a lot of housekeeping in terms of the actual Bills. There were a number of protocols signed in Montego Bay in July of 2003. There was a protocol on the Status, Privileges and Immunities of the Caribbean Court of Justice. There was a protocol to the Agreement, establishing the court, relating to the tenure of judges, the rules of the court, the financial arrangements and the withdrawal from agreement and that was signed here in Suriname, on the 17th February, 2005.

Mr. Deputy Speaker, what we are trying to do, is to amend the Caribbean Court of Justice Act to incorporate those Protocols that have been signed specifically, as Schedules to the Act in the same way that the Agreement itself, is a schedule to the Caribbean Court of Justice Act.

We are also, Mr. Deputy Speaker, going to have to amend the Caribbean Community Act which a protocol was also signed here in Suriname on 17th February, 2005, which effectively was done to allow countries like Jamaica, still to come in on the original jurisdiction, without feeling as though in any way, it would conflict with the Judicial Committee of the Privy Council's decision.

The reason for this is that under the original jurisdiction, there are four limbs by which you can get there. A conflict between two countries, a conflict between a country and a Caribbean community organ, an interpretation of the Treaty provision referred to by a domestic court, or a breach of a right, conferred on a company or a citizen of the region that was conferred by the revised Treaty of Chaguaramas.

There are those in Jamaica who felt that because of the Privy Council's decision and because of that being read with an earlier decision of Hinds and the DPP, a late 1970s decision which is commonly known as the Gun Court Decision, that there may be some level of difficulty.

Therefore, what we are doing is amending the revised Treaty of Chaguaramas, as well as the Agreement establishing the court, to say that while countries may seek to incorporate the domestic legislation to reflect original jurisdiction, they should not do so in a way that conflicts with their own national Constitutions. This is all that the Caribbean Community (Amendment) Act seeks to do here today, to incorporate the protocol which amplifies the ability of countries to treat to the original jurisdiction, but in a manner that is definitively consistent with their national Constitutions.

There will be an amendment when we reach Committee, because there is a slight difficulty in relation to the dates and we will deal with that in Committee. Suffice it to say, that the formal date upon which Barbados will be linked from the Judicial Committee of the Privy Council will be settled by Order. While we are not in a position to state that date today, we anticipate that it will be sometime before the end of May because there are matters that we need to resolve internally before we formally set that date, beyond which no appeals shall lie from the Court of Appeal of Barbados to the Judicial Committee of the Privy Council. Therefore, we will not be coming back to Parliament for a formal debate but that date will be set by statutory instrument, pursuant to the legislative framework that is here.

Obviously, we will be embarking upon a strong public education programme, such that the citizens of Barbados will know what their rights are, in relation to what matters they can take to the Caribbean Court of Justice. Sir, suffice it to say, they are virtually the same that would have gone to the Judicial Committee of the Privy Council on, but of course, because few people went to the Judicial Committee of the Privy Council, most people do not know what those areas, upon which they could have appealed are, because it was never a question because you could not afford it, Sir.

Sir, now that it is going to be a Caribbean Court of Justice that is sitting next door in Trinidad and that will, on occasion, be sitting in Barbados, because it is an Itinerant Court, I fully anticipate that the citizens of Barbados will use access to that second appellate tier in a greater way, than we have seen the use of it in relation to the Judicial Committee of the Privy Council.

In relation to our contribution, Mr. Deputy Speaker, for US\$12.7 million, Barbados will have the right to have a final court of appeal, as well as a court in original jurisdiction in perpetuity.

Asides.

Hon. Miss M. A. MOTTLEY: Under BDS\$25 million or just over \$25.4 million.

Earlier this year, I would have brought a Supplementary to this Parliament asking them for just under \$500 000 which was added to some \$200 000 or \$300 000 to be able to finance just three cases in London. Therefore, Mr. Deputy Speaker, you would understand that even the cost which the Government would have to carry would be substantially diminished per case. Ultimately, you may spend more because you are dealing with a wider and larger number of cases which means that you are affording a greater degree of access to justice to a wider band of people in the country.

12.40 p.m.

Mr. Deputy Speaker, the per capita cost of going to London is far, far greater than it would be in treating to lawyers within the region or going to Trinidad and Tobago or having the matters argue here when the court sits as an itinerant court in Bridgetown.

Mr. Deputy Speaker, given the historic nature of the event which is taking place this year, it is the view of the Government that later in the year there would have to be an official ceremony in Barbados when the court first comes as an itinerant court, in recognition that this is the court that is now the final Court of Appeal of Barbados and that this brings to an end over 170 years of activities that would have caused our court to be located in London.

Mr. Deputy Speaker, two weeks ago I was told by a member of our local Bar, who appeared in the Judicial Committee of the Privy Council within the last month on a matter pertaining to the Judicial Committee of the Privy Council sitting as the final court of another Caribbean territory, that when he finished arguing the case and asked for cost, British counsel on the other side jumped up and said that Caribbean counsels have no right to cost before the Judicial Committee of the Privy Council. At that point Lord Hoffman intervened and said that she should keep quiet because she was out of place in making those remarks. After the case, she tried to suggest that she was only talking about the cost of travel across the Atlantic.

Mr. Deputy Speaker, I could only say that it would serve us right that somebody in this day and age could be telling us that about a court that is our final Court of Appeal. Mr. Deputy Speaker, what she should have been asked is on what basis she appeared in the final court of this Caribbean territory when she has no right of audience in the high court or the Court of Appeal of the same Caribbean territory.

Mr. Deputy Speaker, I could find no better way to reflect on these matters than to remember the words of the late Right Excellent Errol Barrow in his statement that we should not be caught loitering on colonial premises. Two years ago the United Kingdom Government gave notice to all of the world that it was seeking to change the administration of justice in that country and bring to an end a system that was in place for over 500 years by removing the House of Lords from being the final court in the United Kingdom and establishing a Supreme Court.

Mr. Deputy Speaker, there is a lot of talk in the region about the separation of powers, but people do not recognise that judges in the United Kingdom sit in the equivalent of our Upper House in Parliament and that there is therefore not the clinical separation that we demand of ourselves in the United Kingdom. Yet, Mr. Deputy Speaker, there are those who would want us to doubt ourselves and our integrity.

Mr. Deputy Speaker, I hope that this Parliament of Barbados could speak today with one voice, resolute and committed, to completing the task that was started in 1966, when those who accepted the Constitution of Barbados, having negotiated it through the Ordering Council, insisted that we should have the power to become a part of any other court within the Commonwealth that we deem appropriate or as this Parliament may prescribe. Mr. Deputy Speaker, some 39 years later, the definitive transition takes place as a result of this Parliament indicating, not just to Barbadians and the rest of the Caribbean but to the rest of the world, that we cannot become a developed country unless we accept responsibility for certain aspects that are fundamental to our development and governance.

Mr. Deputy Speaker, the administration of justice is one of those things that is inextricably linked to the structure and composition of Government and to the nature of governance.

Mr. Deputy Speaker, I really do hope that I might be afforded the opportunity of joining my colleagues in Trinidad and Tobago this weekend, but I am sure that the country would understand and agree with me that the ceremonial presence in Trinidad and Tobago cannot outweigh our continuing to handle the situation here on the ground. Nevertheless, for us in this country, Saturday, April 16, 2005 will be a significant day in the historic development of Barbados as it relates to matters pertaining to the governance of our country.

Mr. Deputy Speaker, I ask all Honourable Members to unanimously support the amendments which are here particularly the amendment to the Constitution which will also reflect the changes in the protocols which would require the two-thirds majority and let us send a signal to Barbadians, to the rest of the region and the rest of the world.

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

Hon. Dame Billie MILLER: I beg to second that.

SUSPENSION OF SITTING

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, I beg to move that this Sitting be suspended until 1.45 p.m. today.

Hon. Dame Billie MILLER: I beg to second that.

The question that the Sitting do now suspend until 1.45 p.m. today was put and resolved in the

affirmative without division and Mr. DEPUTY SPEAKER suspended the Sitting accordingly.
12.48 p.m.

RESUMPTION

Mr. DEPUTY SPEAKER: This Honourable House is now resumed. The Honourable Member for St. Michael North West.

Mr. C. A. MASCOLL: Mr. Deputy Speaker, it is indeed my privilege to participate in this debate, and from the outset I want to encourage Barbadians from all walks of life, that they need to support the establishment of the Caribbean Court of Justice.

Mr. Deputy Speaker, the concept of establishing the Caribbean Single Market and Economy started at Grand Anse in 1989, and it must never be forgotten that Sir Lloyd Sandiford, the former Prime Minister of Barbados, was very much involved in the architecture of the Caribbean Single Market and Economy. Therefore, the Opposition has a vested interest in seeing that the process is successful.

Mr. Deputy Speaker, I also wish to state that the establishment of the Caribbean Court of Justice is a necessary step in reconditioning the psychological makeup of the Caribbean people. I see it as an imperative that we move towards becoming our own people, that we move towards establishing institutions to help us to realise and to fashion what we would become in the future.

Mr. Deputy Speaker, in this regard, it is therefore necessary that the message reaches the ordinary folk, such that they can tune into what I would wish to call (WIIFM), what's in it for me. It is very critical in putting together the Caribbean Court of Justice, to get the average Barbadian or Caribbean person to understand 'WIIFM'. Therefore, in so doing, it increases the integrity of the system because it would not be confined to just a few intellects or politicians who are conceptualising a framework for the future of the CARICOM region.

Mr. Deputy Speaker, I would also wish to state that the integrity of the Caribbean Court of Justice must never be questioned by the people in the region. The change must, therefore, be very convincing. It goes hand in hand with the concept of asking the question what is in it for me. It is also important for us in putting new institutions in place across the region, to appreciate that the initial implementation or establishment of the institution, is indeed the most critical part.
1.50 p.m.

I well recall when the region moved towards CXC and there was a lot of groaning with respect to why we should move away from 'O' level and why we should have the Caribbean Examination Council. The integrity of CXC has now reached the stage where it is more than a useful replacement for the British Cambridge Examination which the people in the region took.

Mr. Deputy Speaker, we must also guarantee that the money spent to finance the Caribbean Court of Justice is money well spent and offers the average Caribbean man an opportunity to believe that a chance to pursue justice is within his domain and that such justice can be pursued cost effectively. It is in fact necessary to offer such a guarantee to the average Caribbean person and to ensure that the guarantee is kept in a way that the long-term integrity of the system of justice in the region can be realised.

Mr. Deputy Speaker, we must always seek to implement and monitor the performance of the Caribbean Court of Justice and justify its coming into being. It is not only critical for us to allocate \$100 million and allow the Caribbean Development Bank to manage the proceeds such as to remove the tendency to believe that Governments will have a say in the execution of justice in the region, taking it always from any Governmental agency and resting it with the Caribbean Development Bank. Sir, it is necessary in doing so that we put systems that would allow us to monitor whether or not the move away from the British Privy Council can be justified by the establishment by the Caribbean Court of Justice and can, therefore be seen as money well spent.

Mr. Deputy Speaker, I also wish to suggest that like firms that can settle trade disputes between the Caribbean Court of Justice that average citizens across the region feel that the benefits of the Caribbean Court of Justice can be personalised and that they can feel that when services are required by them that they can be had cost-effectively. It is a critical component of the process to personalise the benefits of the Caribbean Court of Justice in a way that would accommodate the expectations of the average Barbados or Caribbean citizen. Therefore, that has to be an objective of establishing the Caribbean Court of Justice as well.

Mr. Deputy Speaker, I also wish to suggest that it is critical that member states not only sign documents as happened at Paramaribo in Suriname but that they operationalise the move towards ensuring

that the Caribbean Court of Justice becomes the final appellate court for them because there is concern that as we look toward the inauguration of the Caribbean Court of Justice next week that only Barbados and Guyana have effectively put legislation in place to accommodate the Caribbean Court of Justice in a way that can be satisfying to us in Barbados. For several other Member States not to have reached that level of organisation and expectation is, in fact, a source of concern not because it compromises the establishment of the Caribbean Court of Justice which only requires three signatory members for it to be established but it is important that all countries in the region be seen as truly part of the process of establishing the greater good, which is the Caribbean Single Market and hopefully the Caribbean Single Economy.

Mr. Deputy Speaker, this legislation is intended to formulise the process of making the Caribbean Court of Justice part of the laws and Constitution of Barbados in a way that can be justified. Sir, as has been known in the earlier years of signing the treaties to CARICOM, while the International Monetary Fund was part of the Constitution of Barbados, it was not so for the similar organisations within CARICOM.

Mr. Deputy Speaker, what is particular noteworthy about the Caribbean Court of Justice is that it is a court of our own making within the region. This is the sense in which I thought the psychological upliftment that can be occasioned from establishing the Caribbean Court of Justice would be critical for the Caribbean man to finally begin to feel a certain level of advancement, self-belief, awareness and a level of self-esteem that can justify for us as a region and not to believe that our destiny has to be charted from beyond the Seas of the Caribbean and rest within the British Privy Council.

Mr. Deputy Speaker, there is no doubt that the Caribbean Court of Justice deserves to be the region's highest appellate court if only for the reason that it gives us in the region a belief that we have reached a point of psychological development for which we can feel proud as a people.

Mr. Deputy Speaker, the other critical concern arising out of the Caribbean Court of Justice is the whole question of the pursuit of sovereignty within the region. Sir, several Caribbean States in the early to mid 1960s would have attained political independence from the British. Several Caribbean States would have pursued their own economic

destinies over the last several decades but for us to be now in charge of the judicial part of our existence is another honour that would be bestowed on the region if the Caribbean Court of Justice fully becomes the highest appellate court for member countries in the region.

Mr. Deputy Speaker, the second important thing is that the Caribbean Court of Justice will be a central institution of regional governance and integration. Only recently, I started to give thought to the matter that when the Caribbean Court of Justice is established, it is quite possible that if the Caribbean Court of Justice rules against homosexuality, hanging, prostitution abortion, against them being unconstitutional then, such decisions can begin to influence the overall moral value of us in the region. Therefore, when the Caribbean Court of Justice comes home and becomes the final court, any decision which it makes on constitutional matters will, by extension, become part of the Constitution of each and every country that is part of the Caribbean Court of Justice.

Sir, imagine the influence that the Caribbean Court of Justice has in influencing the morals and values across the region, because decisions and rulings by the Caribbean Court of Justice on any matter pertaining to any of these so-called moral issues should have influence across the entire set of CARICOM States.
2.00 p.m.

Sir, it never dawned on me before that, in fact, a ruling by the Caribbean Court of Justice coming out of a case in some other Caribbean country could have implications for the way in which our Constitution treats a particular issue such as homosexuality, abortion and hanging. Therefore, is it going to be the case that any such ruling made by the Caribbean Court of Justice ought to become part of the law of all countries who are signatories to the Caribbean Court of Justice? That is a fundamental issue that has to be addressed because imagine the power that the Caribbean Court of Justice would carry in making decisions and determinations about matters which are grave with respect to whether there are moral issues or whether there are issues pertaining to law or the Constitution. As it stands now, we are not certain whether it is the case.

Mr. Deputy Speaker, I have been reading one of the authorities on the Caribbean Court of Justice and I quote, "We have collectively constituted the Caribbean Court of Justice. The ruling is for all. Therefore, the real question raised about repealing the law

criminalising homosexuality is a constitutional question as to whether the State has the authority to criminalise behaviour between consulting adults. The question as to whether homosexual behaviour is a sin, is a theological question but that does not determine the constitutional question. The constitutional question determines whether the State has the authority to criminalise such behaviour." He goes on to say that in such events if decisions are made in any one country within the region, it certainly, under a Caribbean Court of Justice will have implications for the conduct of other Caribbean countries as well.

Sir, that needs to be looked at. I am not a lawyer and, therefore, I am not sure about the validity of such claims but certainly it makes some sense to suggest that if the Caribbean Court of Justice is supposed to be the final appellant court across the entire region, then you cannot have differences in law within each individual Member State. Therefore, it constitutes a major area for discussion as we develop.

The Caribbean Court of Justice will not only influence morals and values across the region. It will arbitrate trade disputes within the Caribbean Single Market and Economy. If the Caribbean Court of Justice has the ability to arbitrate trade disputes within the Caribbean Single Market and Economy, you can begin to understand the influence of the Caribbean Court of Justice above and beyond what might have been anticipated initially because any dispute between a set of firms or a firm and another entity across the region could go to the Caribbean Court of Justice for settlement. Therefore, by extension, depending on the ruling of the Caribbean Court of Justice, you can have situations in which the Caribbean Court of Justice can influence the balance of trade between countries depending on the decisions made in settling the trade disputes.

I am suggesting that the Caribbean Court of Justice is going to be a very significant institution within the overall integration movement in the region and also as it pertains to the moral and social values that can be, in fact, realised across the region, not just in any one Member State. This, therefore, makes the establishment of the Caribbean Court of Justice an extremely important and critical point in our history because in thinking beyond the whole concept of the Caribbean Single Market and Economy and in thinking more about the social development of the regional countries, one can begin to see the kind of influence that the Caribbean Court of Justice can exercise over the overall social fabric of the region by way of being able to influence Constitutions of Member States.

Sir, if it succeeds in influencing the Constitutions of Member States, you can then begin to see the gravity of the Caribbean Court of Justice in not only dealing with matters pertaining to trade but also in dealing with matters pertaining to the social values within the region. Sir, this institution, therefore, has tremendous political influence, this institution also has tremendous economic influence and this institution has the potential to also influence the social fabric of this region.

Mr. Deputy Speaker, the Caribbean Court of Justice is also to be the final adjudicator on all matters relating to the interpretation and application of the Revised Treaty of Chaguaramas. The Revised Treaty of Chaguaramas is the basis upon which we are seeking to establish the Caribbean Single Market and Economy. Therefore, we begin to appreciate what the Caribbean Court of Justice is, when it is required, not only to understand but to interpret all of the treaties pertaining to the establishment of the Caribbean Single Market and Economy and it can then make judgement and apply its judgement to any treaty and any protocol. It, therefore, has tremendous influence in determining the overall character of the Caribbean Single Market and Economy in the future.

Sir, I remember, when I was in the Other place, we had debate on the whole question of the Caribbean Court of Justice. We had considerable discussion within the Lower House on the whole question of what the Caribbean Single Market and Economy is about and the role that an institution such as the Caribbean Court of Justice would play in the establishment and formation of the Caribbean Single Market and Economy.

Mr. Deputy Speaker, therefore, the Caribbean Court of Justice character has been debated before, how it will be established, how it will be financed and how it will be staffed. All of these issues have been discussed in both Houses in Barbados. It has been stated before that while there has been some difference of opinion with respect to the Caribbean Court of Justice across the region, in Trinidad and Jamaica, there has been consensus as to how we approach the whole question of the Caribbean Court of Justice so that there is no political divide.

Sir, I think that it is critical at this stage for us to recognise that this entity is far more powerful than possibly anticipated in changing the entire character of the region, not only politically but socially and economically.

I think that it is in that context that there is need to look at what we are debating here today and what we are seeking to establish as the highest appellate court within the region and what the implications are, not only for the economic future of the region but certainly for the social development and change that would occur across the boundaries or borders of CARICOM States.

Mr. Deputy Speaker, to begin to understand and appreciate the depth of this institution, we have to see it within the global environment that it is occurring and the changes that are occurring as a result of globalisation. Sir, globalisation is the interaction of economic, cultural and technological changes, things that we never anticipated before or expected would have impacted on us as significantly as they have over the last five years and will do even more so in the coming decade.

2.10 p.m.

Therefore, we must begin to appreciate the extent to which the Caribbean Court of Justice will have to function within an environment which character will change, not only because of the changes that are required across the region among Member States, but because of the changes that will occur across the western hemisphere and changes that have already started to occur in other parts of the world.

Sir, in actual fact, the whole process of globalisation and what it portends will have severe implications for the ability of the region to change its character in the way that we anticipated, and the way in which our institutions can begin to respond and react to the pending changes that will derive from the new global environment in which we find ourselves.

Sir, there are trade disputes that will possibly have to be settled in the future. To what extent do we have the environment for resolving those disputes, given that we are now entering the arena and the complexity of these problems that will arise?

Mr. Deputy Speaker, I am hoping that the experiences we will gather from having to deal with trade disputes within our own region will, in fact, allow to grow in such a way that we ultimately will have to contest some of the other kinds of disputes that can result, coming out of the World Trade Organisation and globalisation as a whole. Therefore, we may be better prepared as a country and a region to handle the prospects of difficulties resulting from this changing new global environment.

The other thing, Mr. Deputy Speaker, is that while we appreciate the need to establish the Caribbean Court of Justice (CCJ), there is going to be a time when there will have to be a parallel running of the affairs of the CCJ and the British Privy Council.

Again, I am not a lawyer but I can well understand that in matters pertaining even to personal injuries in Barbados, we have still to cite British law and to quote, Kent and Kent to determine to what extent we can invoke something that might have occurred in some other jurisdiction on the circumstances pertaining to Barbados.

Sir, until we can build up enough experience and expertise in those areas, then it will take an awfully long time for us to establish within our own region, the kind of environment that will allow us to rely on our own circumstances, rather than having to invite in foreign law or foreign decisions to be imposed on top of circumstances that exist within Barbados and even within the region.

Mr. Deputy Speaker, as I said from the outset, there is no real divide with respect to the establishment of the Caribbean Court of Justice. Sir, from the inception, under its leadership then, the whole concept of the CSME originated within the bosom of the Democratic Labour Party.

It is also well-known that over the years, all Barbadian leaders have played a tremendous part in the whole integration process and would have been very much in the forefront of bringing the region together.

It is well-known that they were striving to achieve a higher level of sovereignty across the region and that even though it might have failed in the 1960s, there were still efforts made to ensure that there was a coming together of the region in several ways. What we now have is a more effective realisation and structure for it to happen.

Therefore, it would not be wise on the part of the Opposition to simply object on the basis of the fact that the Other Side has now assumed responsibility for the execution of the single market and economy, so we do not see the need to tangle at that level. However, we must appreciate, Mr. Deputy Speaker, that just to introduce law, just to put things into law will not bring about the kinds of benefits that we anticipate.

We also have to anticipate differences. We have to anticipate problems. We have to anticipate that to introduce anything new at anytime will cause us to look at the possible consequences, both positive and negative. Therefore, any attempt to analyse any new phenomenon must be understood within the context of having to look and confront something that you have never confronted, which can give rise to several problems that you never quite anticipated.

Mr. Deputy Speaker, I thought that today's contribution by me will be in that kind of context, not in an adversarial way, but in a way that is requesting of the Government to understand the needs of, not only Barbadians but people in the region, to understand that they need to find a way to get people in Barbados and the region to tune into the whole concept and establishment of the Caribbean Court of Justice. Sir, for them to find a way to personalise the benefits that can be derived from the CCJ, which will allow Barbadians and others in the region to get on board, as well as for them to find a way to request action on the part of the average citizen to guarantee that the integrity of the Caribbean Court of Justice is, in fact, realised and can be effectively implemented in the interest, not only of themselves but the wider Caribbean region.

I thank you, Mr. Deputy Speaker.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Joseph.

Hon. D. D. MARSHALL: Mr. Deputy Speaker, I must first offer my compliments to the Leader of the Opposition. I enjoyed listening to his measured presentation and his balance. I am pleased today to be speaking in a House where, clearly, there is no philosophical divide.

Sir, my research in a debate of, I think 2003, demonstrated that when the matter of an amendment to the Constitution was on the Floor of this Honourable House and a division was called for, all of the Members present, including the Honourable Member for St. Lucy and the Honourable Member for St. John voted resoundingly for the consequential amendments to the Constitution.

Today, I believe we are standing in this Parliament, having thoroughly canvassed all of the issues relating to the CCJ, but recognising that for us in the region, this is a new institution and there would always have been a built-in agenda. Therefore, we are in Parliament examining the further work that has been done since the CCJ Bill was passed in this House.

Mr. Deputy Speaker, I refer to it as a built-in agenda simply because, on the last occasion when the CCJ Bill was passed, it was recognised that there remained further critical work to be done by the various regional committees, so as to vest this Court with all of the attributes that it needed, in order to be able to function effectively as a supranational entity.

Mr. Deputy Speaker, it must be a cause for concern to all Caribbean people that today, after we have all embraced the CSME, we have failed to embrace a vital organ in the success of the CSME. We must ask ourselves as a region, how is it that we are able to clamour for regional integration at an economic level, which is built on a foundation of a revised Treaty of Chaguaramas but we fail to clamour in the way, in my view, that we should for the speedy implementation of a Caribbean Court of Justice. While I am pleased that Barbados and Guyana are going to be immediately able to have recourse to the court, I believe that there is a collective embarrassment that must reside in all of our bosoms that are so fundamental an issue as the Caribbean Court of Justice that the Caribbean remains divided. Mr. Deputy Speaker, it may be that the division is not necessarily philosophical but may be due to constitutional impediments. Therefore, we need to move speedily toward the full establishment of the Caribbean Court of Justice.

2.20 p.m.

We also need to have an environment where all of the countries in CARICOM see the Caribbean Court of Justice as being at the top of their judicial pyramid.

However, Mr. Deputy Speaker, it seems to me that any lingering uncertainty about the rightness, wrongness or the appropriateness of a Caribbean Court of Justice must rest in the fact that too often we seem to mistrust ourselves when it comes to such things as sovereignty whether it is establishing a Barbadian as our Head of State or creating a court staffed by Caribbean people to replace the Judicial Committee of the Privy Council. Sir, I would not want to linger on this point too long because I am sure that it has been canvassed. I also remember us discussing this particular element in the Other Place.

Therefore, it should not come as a surprise, Mr. Deputy Speaker, where Opposition Parties in other parts of the region have stated, on their own platforms, that should they be successful to win an election that they propose immediately to ensure that their countries do not follow through with the Caribbean Court of Justice. Mr. Deputy Speaker, it is symptomatic of a lingering and an abiding mistrust that

Caribbean people seem to have for themselves and their institutions.

Mr. Deputy Speaker, other parts of the world have moved to regional courts. Sometimes they have been super-supranational courts, born out of tragedies such as the Nuremberg trial, that dealt with the inhumanities arising out of Iraq. We have all signed on to concepts of the supranational court arising out of those circumstances.

The European Union has their own court which has been established by all of the sovereign nations of the European Union so as to adjudicate on matters, some municipal and some involving trade disputes. Sir, while it may not have been a success in every aspect, it certainly is a good beacon to indicate to CARICOM that we can move in other directions. Perhaps, it is that we are so eager to follow other people when it comes to things that are negative and not follow other countries when it comes to things that are positive.

However, I am optimistic that this court, peopled by students of law and teachers of law who have all been burnished in the crucible of the University of the West Indies and other recent institutions, will come out of these difficult times where there is uncertainty on the eve of the inauguration of the court and demonstrate to regional people once and for all that we can place our faith and our trust in a regional judicial institution.

Mr. Deputy Speaker, the people who are crying out that the judiciaries in the Caribbean are weak are the people who comprise that judiciary. The judiciary is not chosen from chemists, teachers or engineers. The judiciary in the region is chosen from among the ranks of the lawyers. If the lawyers are bold enough to say that the Bench is a weak Bench then it must follow that the Bar must also be a weak Bar.

Mr. Deputy Speaker, that does not mean that the profession must not criticise itself or its institutions. However, I am not one of these people who believe that we have a weak Bench across the region. We have outstanding legal luminaries across the region who have contributed much to the jurisprudence not just of the Caribbean islands but internationally. We have judges at first instance who have been upheld by Her Majesty's Judicial Committee of the Privy Council. In fact, it is a little known fact that many chief justices of Caribbean countries are also members of Her Majesty's Judicial Committee of the Privy

Council. The last one from Barbados would have been Sir William Douglas. There are others in the region who also sit on appeals from Her Majesty's Judicial Committee of the Privy Council.

Mr. Deputy Speaker, if we feel that the regional Bench is weak or that the regional judiciary is not up to the task of dealing with these matters, then how could we explain a situation where members of the regional judiciary find themselves on what is now our final Court of Appeal.

Mr. Deputy Speaker, if we place such faith and trust in the Judicial Committee of the Privy Council and if we loudly acclaim that our own judges are lacking, but the Judicial Committee of the Privy Council is rightly the final Court of Appeal because those judges are of sound intellect, the mere fact that Caribbean judicial minds are sitting on that Bench, then surely we must acknowledge that within the bosom of the Caribbean jurisprudence and Caribbean judiciary there are legal luminaries who are more than up to the task of hearing the kinds of appeals that would come to this court.

Mr. Deputy Speaker, I want to call from this position on the Frontbench for all of our lawyers to start to prepare themselves for what is coming. It is one thing to prepare yourself for a civil appeal... All the lawyers have all done civil appeals in the Court of Appeal, some have been around long enough to have done them in the old Divisional Court, and so a civil appeal may not present any novelty. Many Barbadian lawyers, Queen's Counsels and others, have argued cases before the Judicial Committee of the Privy Council. The areas in which we need to prepare ourselves are those new areas that the Caribbean Court of Justice would have to adjudicate on.

Mr. Deputy Speaker, the Leader of the Opposition spoke, in my view, admirably on the new challenges that this court would pose when it has to adjudicate in its original jurisdiction on trade disputes. At this time, Mr. Deputy Speaker, there is no regional judicial body which is able to adjudicate on trade disputes which might arise amongst Caribbean nations. As a result of that, there is likely to be a paucity of legal expertise when it comes to dealing with matters like dumping, anti-dumping and subsidies, the whole raft of things that are now canvassed in the World Trade Organisation by big law firms out of the United States of America, Europe and Canada.

Mr. Deputy Speaker, this represent a new opportunity for lawyers in the region to seize on the new areas of law that are going to be emerging so that as a Bar they are able not just to prepare themselves for new areas of practice but also to prepare themselves to argue the same kinds of cases in the World Trade Organisation.

There was a judgement last week, I think it was, in a matter in the World Trade Organisation between Antigua and the United States of America. Obviously, the lead for the United States of America counsel would have been an American, but I am reliably informed that the lead counsel for Antigua was not a Caribbean person. In fact, the entire litigation team, I am informed, was not a Caribbean legal team. So this represents a new opportunity and all of the professionals must prepare themselves. Mr. Deputy Speaker, it does not just call for attorneys-at-law to prepare because the truth is that attorneys-at-law argue based on information that is often prepared and presented into evidence by other experts. Attorneys-at-law do not have to be specialist in medicine and I am sure that many of them would have called engineers, doctors and other professional people into evidence.

2.30 p.m.

Therefore, we are in a situation where there are other service providers in the region, who would not previously have had the opportunity to look into the economic or commercial issues which would arise in dumping, anti-dumping, subsidies, *et cetera*, and if we are going to say to the world that the judiciary and the Caribbean Court of Justice is going to be able to adjudicate on matters that are being argued by Caribbean lawyers, then it must follow that we have to have a cadre of professionals in the region who understand the economics and accounting issues behind subsidies, dumping, *et cetera*. Therefore, it would require not just a preparation of our societies in areas of law but a preparation in all of our societies in the forensic skills that are required, to be able to present evidence before this supranational court, which would allow a court to make a ruling on international trade law issues.

Mr. Deputy Speaker, I firmly believe that we are more than up to the task. We seem constantly to doubt ourselves and so as of Saturday when the Court is inaugurated, it will only be in a position to receive appeals from Barbados, Guyana and perhaps from a number of other countries in its appellate jurisdiction, but we are more than ready for the task. We have, in fact, been preparing for this professionally for the longest time. I believe the one area in which we have not prepared ourselves is that which rests in our psyche which says to us that change can be a good thing and that it can bring about positive results.

Mr. Deputy Speaker, therefore, in so doing, we train our Caribbean citizens to be the most brilliant in mathematics, physics, chemistry and in every area. We send them off to work in all areas of the world and in all new endeavours, and we are proud every time to hold them up as being gems of the Caribbean who have excelled in other places but somehow it alludes us to be able to make that same bold statement, or to take those same bold steps, when it comes to regional institutions.

Mr. Deputy Speaker, I believe that the University of the West Indies is the crucible in which most of us in here would have been fired, burnished, molded and shaped, and if we are not able to create and maintain lasting regional institutions, then the truth of the matter is that the University of the West Indies would have failed. It would not have failed in delivering a fine tertiary education, it would have succeeded in that but the true test, in my view, of a University of the West Indies, is to be able to allow Caribbean citizens who have sat side by side in classrooms on the various campuses, to emerge, not just as leaders of our nation, but also as those people who are able to frame our fortunes in regional institutions.

I believe that in the same way in which Honourable Members of this Parliament can stand with pride and can say that we have governed our own affairs for over 300 years, that it should be an easy thing for us to seize the opportunity to forge our affairs in that next tier of activity, whether it is in the Caribbean Single Market and Economy or the Caribbean Court of Justice, or whatever supranational institution that it may be.

Mr. Deputy Speaker, I fear that if in 2005 we cannot take an opportunity like this and make this Court a living entity which is able to benefit all regional people, then the university would have failed in its quest for creating a West Indian citizenry that sees the region as being more important than our individual nations.

Mr. Deputy Speaker, this Caribbean Court of Justice (Amendment) Act, 2005, seeks to make part of the domestic law of Barbados some administrative arrangements in relation to the Court. While a cursory examination of them might suggest that there are trite matters, I would venture to say that they are not. Therefore, for any supranational entity to exist and to function efficiently, it must operate in a way that is akin to the operation or functioning of diplomatic offices in our jurisdiction. Therefore, these three protocols that are before this Honourable House today as appendices to the Caribbean Court of Justice (Amendment) Act, are protocols which serve to create certain privileges and immunities in the Court.

Mr. Deputy Speaker, it might be useful to mention a few of them. In the protocol dealing with privilege and immunities of the Court, Article III states:

“The premises occupied by the Court or the Commission shall be inviolable, wherever located.”

Article IV says:

“The archives of the Court and the Commission, and in general all documents belonging to or held by the Court or the Commission, shall be inviolable.”

Article VIII provides that:

“Judges and officers of the Court and members of the Commission engaged in the business of the Court or the Commission, as the case may be, in the territory of a Contracting Party, shall enjoy:

- (a) immunity from legal process in respect of words spoken or written and all acts done by them in their official capacity; such immunity shall continue notwithstanding that the persons concerned have ceased to exercise the function with the Court or the Commission.”

Mr. Deputy Speaker, these are not immunities that are granted to the individuals for the private purposes of those individuals, these are the Court’s immunities. Therefore, in order for the Court to have effective immunities, then those people who serve the Court, whether from the position of advocate, administrative staff, management or the judiciary, those immunities are relevant.

Mr. Deputy Speaker, I am heartened especially that those attorneys-at-law, who are going to be practising before the Court, have immunities and privileges in relation to their capacity to travel within the Caribbean. They have immunities and privileges in relation to their right of appearing before the court. Therefore, in these protocols, we have sought to remove a whole raft of impediments that might have stood in the way of the proper functioning of the Court as the supranational judicial body. Therefore, a Barbadian, Trinidadian or Jamaican attorney-at-law, who has to travel to another country in the region, as the Court has the right to move from island to island or from country to country, cannot be prevented from entry. That attorney-at-law has the right, under these protocols, to visit that country for the purpose of appearing before the tribunal. Therefore, the question of a work permit does not arise, so that a particular country is able to influence the outcome of a case, simply by preventing the lead counsel or any member of the legal team from getting a work permit in a particular jurisdiction and, therefore, he would not be able to argue the case. Sir, these immunities are not for the individuals but are created to allow the Court to function effectively as the highest judicial body in the region.

Mr. Deputy Speaker, these privileges and immunities that are set out in the three Schedules are going to be vital for the operation of the Court. The protocol in relation to the juridical personality, personifies this body; it serves to take an unincorporated body and vest it with all of the rights of a natural person, so that it now has the capacity to sue or to be sued, to enter into contracts, to do anything that a human being is able to do. This too is vital to the functioning and the effective running of the Court.

How else could it hire staff, contract for premise or receive fees? These things may seem insignificant but a false step in any of these areas could serve to hamstring the court from its proper operation.

2.40 p.m.

Mr. Deputy Speaker, the court is due to be inaugurated on Saturday. It is going to be a ceremony full of pomp and pageantry. Perhaps in the region, we rely on pomp and pageantry to herald the dawn of a new day. In my view, this court will not be judged based on how lavish an inauguration it has, it will not be judged based on whether it is able to come close to the coronation of a queen or the burial of a pope but it would be judged on how, in its day to day activity, it is able to be seen by the Caribbean people as a fit and proper arbitrator of disputes.

Mr. Deputy Speaker, it will be judged on how it is seen by Caribbean people as a court which is not influenced by fame, fortune or political vagaries. It is going to be seen by the people of the Caribbean on how it metes out justice. Those are the things that will be determined by the Caribbean people whether the steps being taken this week will stand the test of time.

My confidence is that it will but I am also practical enough to recognise that without the overwhelming support of the Caribbean people, this court could well be another stillborn. In my view, the region has had quite a few stillborns in the past. We have had some institution that 'grow big and dead quick' as is said around the dominoes table. We have had many challenges but we cannot afford to fail on this.

Mr. Deputy Speaker, in conclusion I want to throw my fullest support behind this amendment Bill and the other two companion bills. Sir, it is obvious to all members of this House that the Constitution (Amendment) Bill is designed to serve the purpose of amending those sections of the Constitution which requires consequential amendment, as a result of the Caribbean Court of Justice (Amendment) Bill.

I throw my fullest support behind it and encourage, in all sincerity, all Honourable Members of this Honourable House to show the kind of support that they have done on previous occasion when we stood together in the cause of regional integration, regional unity and regional justice.

Mr. Deputy Speaker, I thank you for your time.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Lucy.

Mr. D. St. E. KELLMAN: Mr. Deputy Speaker, I first will be seeking permission from this House to be able to

discuss the amendment to Caribbean Court of Justice Act, the amendment to the Caribbean Community Act and also the amendment to the Constitution.

Sir, some time in 2003, the Opposition as it stood at that point with two members said, they had no intention in standing in the way of the Government. I want to repeat that this evening. Sir, even though we said that and I openly support the Caribbean Single Market, I must repeat that I have a problem in supporting the Caribbean Single Market and Economy because those of us who understand the economy aspect of it would know that in order for it to work there would have to be some sort of devaluation and some sort of appreciation of currencies within the Caribbean region. Sir, based on the information put out on Barbados, I cannot see Barbados having its currency appreciated but more see a demand from the Caribbean region asking Barbados to depreciate its currency.

Sir, if we have to come to this particular point, I have a problem with this aspect of it. This is why I do not have a problem in calling for the Caribbean Single Market but when it comes to the Caribbean Single Market and Economy, I have a problem with the economy aspect of it.

Mr. Deputy Speaker, in 1973 the currency was tied to the US dollar because we understood the importance of having goods coming to the country at a reasonable price and being able to predict price increases. I also want to say that we cannot stand in the way of the Caribbean Court of Justice but, at the same time, I understand there is something called localisation and globalisation. If we are going to speak in the context of localisation and behave as if we can only remain at the particular level, I have no problem in having the Caribbean Court of Justice as the final court. Sir, I also understand that Barbados had to do international business and that some of the people we deal with would not want to have dealing with the Caribbean Court of Justice as the final court. We have to be careful when we are in the globalised world and when we expect to deal with international players that we have appropriate this particular point. We should not be creating problems for the Honourable Member for the City because when she has to be in the international market, because of her dictate, trying to promote Barbados, she cannot be limited to localisation when she is dealing with globalisation.

Mr. Deputy Speaker, it is rather strange that only three countries are required to make the court operational, that we can only find Guyana to partner which means the court cannot be operational as yet because we need to find the third country in order to make it operational. I think that it would be wrong to make the break at this point in time when we are seeking to be an international player, yet we want to

operate with a local hand. Sir, I am saying that it is for us to develop the Caribbean Court of Justice to a particular level and not the other way around.

2.48 p.m.

Sir, we can laugh and 'make sport' but we have to understand that as much as we, on this Side, would like to see the Caribbean Court of Justice being a functional court and operating the correct way, the Government side has admitted that there will be some problems in the initial stage. Since they have admitted that there will be some problems, the best advice is for us to have the hybrid situation instead of having a situation where we make a clean break from the Privy Council and go to the Caribbean Court of Justice. Sir, we can strengthen the Caribbean Court of Justice and at the same time hold on to the Privy Council for the time being until we are sure that we are ready to make that clean break.

Mr. Deputy Speaker, it is like the decision which was made in 1966 when we went for Independence. We understood the importance of having old friendship and that has served us well. If we adopt this approach, it would also serve us well in the future.

Mr. Deputy Speaker, the Government has to make that decision. I cannot tell them what to do. I can only express my opinion and nothing I say will change their minds. It is not for me to change their minds but the truth is, it is their hand to play and how they want to play it is up to them. I also want to say that it is the Government's call and not the Opposition's. Sir, if they believe that we should go ahead with the Caribbean Court of Justice and make a clean cut from the Privy Council, it is up to them. There is nothing that the Opposition can do to change their minds.

I am also saying that this court is supposed to deal with trade disputes and it is clear to me that if the Caribbean Court of Justice is going to be the final Court in the Caribbean that the first case that they would have to deal with is the case which Barbados has with the fishing agreement. The second thing that they would have to do is to bring a case against the Trinidad Government for telling the Caribbean Governments that they are giving them a good oil deal. Sir, even though the Caribbean Governments are supposed to be getting the best oil deal from Trinidad, America is still able to get oil from Trinidad that they can sell at BDS\$4.84 a gallon while we are selling oil at BDS\$8.00 a gallon. That would have to be the first case to come before the Caribbean Court of Justice. Mr. Deputy Speaker, the Caribbean Court of Justice is supposed to be a trade court so let that be the first trade matter because that is a trade dispute.

Sir, I am saying from this Floor today that if we had to deal with the particular matter, that would have to be the first case to be put before the Caribbean Court of Justice.

Trinidad would have to explain to their Caribbean brothers and sisters how the United States of America can buy oil from them and can sell it at BDS\$4.84 a gallon and we in Barbados have to sell oil at BDS\$8.00 a gallon and we are supposed to be getting preferential rates from Trinidad.

Sir, I am saying that this is occurring and we have to deal with it because it will increase our production cost. I cannot stand for that because 'Kellmanomics' does not allow that. It believes in compensating production, reducing cost and punishing consumption. Sir, I cannot support this particular measure based on that particular point because it runs contrary to my theory.

Sir, I agree with the Caribbean Single Market but not the Caribbean Single Economy because I do not support devaluation.

Thank you, Sir.

Mr. DEPUTY SPEAKER: The Honourable Member for St. James Central.

Hon. K. D. SYMMONDS: Mr. Deputy Speaker, if I were to begin by responding briefly to the comments made by the Honourable Member for St. Lucy, who just took his seat because I suspect that it does warrant some sort of attention. The fact of the matter is there is now obviously cause for alarm because if the general public is as ill-informed as the Honourable Member for St. Lucy is, we have to go back to first principles.

Sir, there is no fishing agreement. Therefore, there could be nothing to take to a Caribbean Court of Justice on the basis of the dispute between Barbados and Trinidad and Tobago, that is the first point. I do not wish to go into the details of that because we have gone through this in this Honourable House several times. I would want to believe the Honourable Member for St. Lucy is being mischievous in his presentation.

Sir, in fairness to him, he does have a point with respect to oil but it is not an indictment on the Caribbean Court of Justice and it is not an indictment on the regional process. I want to draw the distinction between a grouping of sovereign States which is what CARICOM is intended to be, as opposed to a sovereign group of States, which is something completely different. There will always be a difference in opinion with respect to the way in which those sovereign territories and entities conduct their trade relations with each other.

Mr. Deputy Speaker, what we have experienced, as the Honourable Member for St. Lucy relatively accurately

portrays, is a difficulty between Trinidad and Tobago and ourselves with respect to energy and energy related products.

It would, therefore, be only fit and suitable that under the competition policy outlined in the Revised Treaty of Chaguaramas, you could resolve that by way of going to the Regional Competition Commission, and if that fails as a first approach, then or to the court. It is not an indictment on the process that there is an opportunity for the Court to do some work, that is precisely what the Court is intended to be about.

Mr. Deputy Speaker, I think that we have to understand, as a point of departure, that we are living in a post-industrial and knowledge-based society and that the economy and the notion of production and trade today transcend tangible commodities; they transcend the traditional concept of services such as tourism and financial services and they take us into comparatively new dimensions, for example, intellectual property, e-commerce, *et cetera*. These dimensions of economic interaction will of necessity have to attract the attention of the Caribbean Court of Justice.

Sir, disputes between contracting parties of CARICOM and referrals to the court from national courts and on all tribunals, all those are avenues by which parties will find themselves before the Court. Again, it is not an indictment on the process that such difficulties will arise from time to time, nor is it an indictment on the process that the Court will have of necessity to be empowered from time to time to do this kind of work.

Sir, I think that we have to look at the benefit of the stage that we have come to because for a long time countries sought to trade among themselves. Sir, much of that time, trade within this region was frustrated by virtue of a certain element of powerlessness, an element of a lack of finality and an absence of binding and compulsory jurisdiction within which to settle disputes definitively in the interest of any party to the dispute.

Sir, we have been eventually able to put in place an institution which will have the capacity to bring final, binding and compulsory resolution to some of the difficulties that will arise. That is a positive and a much needed first for this region.
3.00 p.m.

The Leader of the Opposition made reference to the supranational nature of the institution and, quite rightly, he made mention of the fact that the Caribbean Court is going to have to wheel a considerable amount of influence, in terms of shaping course of justice around this region.

Mr. Deputy Speaker, that is absolutely correct, it is absolutely desirable and it is absolutely in order. I want to

stress that we are going to have at the beginning a revised Treaty, which is where we are now. Within the body of the revised Treaty we will have the capacity, as prescribed by the Treaty, to create a Caribbean Court of Justice. Once that Court is created, and that will take place with effect from this weekend, Sir, there now has to be the evolution of a body of what the Europeans have come to call, community law.

Therefore, we would be rooting, within the Treaty Law itself, the development and spread of legal uniformity across the region so that with one voice, this region would have the ability to say with certainty, whether you are a business person involved in the hotel sector, or whether you are a tradesman involved in selling clothes, you know how certain disputes have been resolved in the past, how they are likely to be resolved in the future and what the law is in any particular sector within this region.

I think, Sir, the point has to be made that this gives us a critical parallel with the European Union, which has the similar capacity to build community law and to spread uniformity of law across the community. Sir, I think this has to be done with a view of the development of this region's economy in the future.

There are a number of areas where this region has to develop itself. The only way that we will do so uniformly is if we use the Treaty, in conjunction with the decisions of the court to ensure that certain sectors continue to be developed and addressed, so that you will have a common industrial policy and there will be a common decision with respect to how the industry is developed across this region.

Sir, there is a burning question in this region of a need for human resource development. The Treaty makes provision for some prescriptions on human resource development but that would now have to be underpinned and buttressed by a set of decisions as to how uniformly across this region, we approach the issue of human resource development. The same would be said for environmental protection, health, education, sports, the social security benefits, you name the sector, Sir.

Therefore, we would be developing a level of certainty and uniformity in law across the region, as is the case within the single geographical area of Barbados, where we know with certainty that there is uniformity in the application of the law, depending upon the area in question that you need the law to be applied to, and it works as simply as that, Sir.

Mr. Deputy Speaker, I want to focus, very briefly on the question of how we have come to this stage. I think that the Honourable Member for St. Lucy, while he was in his seat, inadvertently raised a number of concerns that have affected other parts of this region. I would hate to see, Sir,

that these concerns start to bother Barbados and Barbadians at this late stage in the process.

We have to be very clear, Sir, that what we are replacing is a process by which Her Majesty was being advised by a Board, sitting in Council. When we were colonised, we inherited and it is part of the continuing power under the Crown at common law that Her Majesty will have this capacity, if you will, be advised by a Board sitting in Council.

Sir, Advisory Boards Sitting in Council, one of them was the Independence Order of Barbados. It was nothing but a piece of advice rendered after all the work had been done by political players along the way. Sir, to begin with, we are talking about the repatriation of a constitutional process to the Caribbean, and that has to be made clear. Once you hear this talk about waiting, you have to ask, Sir, wait on what? We are simply bringing to finality, a process which we have endured for many years. We are talking about repatriating a constitutional process.

Mr. Deputy Speaker, let me say that in trade, there was no difference. In this region since Independence, we went backward to Gentlemen's Agreements in CARICOM, which did not have binding and compulsory effects, the like to which I just referred earlier in this presentation. In Colonial days, Sir, when there were disputes between the colonies, under the Navigation Acts, as they were called, those disputes were referred to a Committee for Trade and Foreign Plantations, which simply acted as an advisory body, sitting in Council to advise Her Majesty or His Majesty as the case may be.

Sir, in 1833, a Statute in England, called the Judicial Committee of the Privy Council Act was passed, which allowed for the final judicial effect to be taken, via the route of the so-called Privy Council that we are keeping so much noise about.

Mr. Deputy Speaker, this region has to be careful that it does not insult itself in the process. At the turn of the last Century, Sir, there were 64 Colonies which had Rights of Appeal. We are at a stage today, Sir, where 28 States in the world continue to follow the prescription of appeals, by way of Her Majesty in Council. Eleven of those are in the Caribbean Independent States, and then there are three others. The balance, Sir, I call them States but let me say to you that there are Colonial entities.

Therefore, there are 14 Independent Entities in this world which continue to pay homage to Her Majesty in Council. Eleven of them, unhappily, are to be found in this region. We have to accept, Sir, that well respected territories

like Canada, most recently New Zealand, in the past Pakistan, India and Australia, have all jettisoned the Judicial Committee of the Privy Council. Sir, the debate that we hear going on in the northern part of the Caribbean is nothing about which this region should be proud. There should be a clamour not to retain, but to get on with the business of looking after our own affairs.

There are, Sir, coming out of the speech of the Honourable Member for St. Lucy, some other concerns that bother me. I want to say that there is a political concern which I have heard in the northern Caribbean and I have heard it to some extent in other parts of this region that there is a need to ensure that the process is insulated from political pressure and abuse.

Mr. Deputy Speaker, I will be one of the first to agree with you that the process for any Court has to be insulated from political abuse and pressure. Permit me to say, Sir, I am also very satisfied that this entity which we are creating is one which is satisfactorily insulated from any such pressure.

It is important to recognise that the Commission responsible for regional judicial and legal services will be the entity, not the politicians, not the political leaders of parties or Heads of Governments but the Commission responsible for regional judicial and legal services, which selects judges.

I would want to say to you, Sir, that not the politicians but the Commission will also carry the responsibility of ensuring the impartiality of our judiciary at this level.
3.10 p.m.

Sir, the process of the selection of judges is one which is unique in the world. The nominees for the commissioners are made up of two nominees from the Organisation of the Commonwealth Bar, two from the Organisation of Eastern Caribbean States Bar and the Deans of the law faculties within the contracting parties of this region. Sir, the independence of the judiciary is well-established and there is an insulation of the process from political interference of any type. Sir, that should lend to a level of confidence which should resonate across this region.

Sir, it is not only a lawyers' Court, it is also a Court which is comprised of representatives drawn from and upon consultation with civil society, so that entities such as CARICOM and the Director General of the Organisation of Eastern Caribbean States after negotiations with regional non-governmental organisations, are able to make a contribution to those bodies of commissioners who have responsibility for our regional and legal services.

Mr. Deputy Speaker, that court that we will commence on Saturday, is the only regional court in the world whose judges are completely free from either direct or indirect appointment by national political representatives. Mr. Deputy Speaker, there is a European Court of Justice whose judiciary is selected by political participation. There is a European Court of Free Trade whose judiciary is similarly selected by political participation. There is a Court of Justice for the Andean community. There is a Court of Justice for the Common Market of Southern Africa. All these, without exception, are affected by political participation.

Mr. Deputy Speaker, the only court in the world which is so comprised in a manner that it is to be completely free of political participation in the selection process of judges is this court that we will create on Saturday. This is something that this region should not be hesitant about or reluctant to trumpet from the rooftop.

Mr. Deputy Speaker, it is important to recognise as well that a critical role of the court would be its original jurisdiction where it is going to be interpreting the treaty. We have to start from the perspective that we are living in a global environment with a high degree of economic integration along regional lines. I have said during the course of this presentation that we in the Caribbean have never benefited from a court or an entity which had the power to award compulsory binding orders or to have compulsory and binding jurisdiction so as to give to the people of the region certainty and predictability in law. That is something that we have never had.

Sir, the reason that is a bad thing is because it has created a crisis among all of us who are investors because an investor is not just a man with a million dollars who is seeking to have a capital flow across borders. You, Sir, have a skill and were you not in the Chair today and in politics in Barbados, you may wish to invest your skill all across this region, so you need to know that there is certainty and predictability in law in St. Lucia, Dominica as well as in Barbados.

Sir, it is true to say that any person who has goods to sell needs to know of that security and predictability of law. It is true to say that security and predictability finds its genesis not only in the existence of a court but of a regulatory environment which means that you have your treaty law, your body of law coming from the judiciary as they interpret the treaty, and they are therefore going to have it applied in a uniformed manner across the States of the region, so wherever you go in the sale of your skill, you know of that certainty and you can rely on it.

Mr. Deputy Speaker, in spite of himself, the Honourable Member for St. Lucy touched on a very good

point. The court would have to have work to do. Therefore, Barbados ought not, in my view, to hesitate to be at the forefront of ensuring that the system is marked by integrity.

Sir, I will give you a hypothetical illustration. We have a company down here that produces insecticides. Mr. Deputy Speaker, under the CARICOM Single Market and Economy that company should be able to rely on the fact that it is protected against quantitative restrictions and against the application of unequal conditions in territories where there are competing businesses engaged in a similar practice, so that our company is not disadvantaged.

Mr. Deputy Speaker, supposed that the case were to exist where the Barbadian company engaged in manufacturing and selling insecticides was slapped with a quota, to who does the company go to find out whether the quota is wrongful. If there is an application of some type of condition that causes competition to be disadvantageous to our business entity, to whom does the company go to ensure that the restrictions or the conditions that caused the disadvantage are in fact disadvantageous and wrongful? Sir, there has to be an entity and that is what this Caribbean Court of Justice is about.

The Caribbean Court of Justice is intended in its trade jurisdiction to ensure that there is the continuation of fairness in the regional marketplace and that the players in the regional marketplace irrespective of whether one is a manufacturer, an engineer or whatever one does, one's economic interest is not being frustrated by some other player who is seeking to distort trade for his or her own narrow purposes.

Mr. Deputy Speaker, as the Honourable Member for St. Joseph said, there are a range of issues which can therefore potentially affect the court's interest. Rights of establishment under the treaty, competition policy under the treaty, dumping and subsidies, as I just use in my analogy, and the question of quantitative restrictions are all areas where the Caribbean Court of Justice is likely to have a lot of work to do. Therefore, Sir, I find it necessary to throw my wholehearted support behind the process.

I am recognising your signal, Sir, and I am mindful of it.

Sir, whether it be in its original jurisdiction or whether it be in the appellate jurisdiction, this Court is offering something new to the region. I do not want to root my support for the court in its appellate jurisdiction only on the basis of emotion or on the fact that the time has come to free ourselves from some sort of colonial bondage.

Sir, many people do not recognise that Justice Telford Georges was actually referred to by the same Judicial

Committee of the Privy Council in a judgement of the Council as being a judge who so elaborately and carefully outlined the facts and the law that there was no room for the Judicial Committee of the Privy Council to question in any manner whatsoever the approach taken by that Caribbean jurist, so great was his preeminence. Sir, we hear about our people not being ready but we never hear the stories, many as there are, of judges coming from this region of the capacity of Telford Georges. Therefore, Mr. Deputy Speaker, I am not going to base it only on the need to cut the colonial umbilical cord but on a certain knowledge of the capacity that resides within the bosom of the people of this region.

Sir, when it comes to trade, I say this without fear of contradiction, the people of this region will for the very first time have certainty in their economic transactions and their economic interaction with each other across this region in such a manner as to give uniformity to the certainty and to the development of the law in the region. This can only redound to the benefit and the continued economic well-being of these people who are elected to represent and to serve.

I thank you very much, Mr. Deputy Speaker.
3.20 p.m.

Mr. R. L. SEALY: Mr. Deputy Speaker, I rise to lend my voice to this debate and as has already been indicated, the Honourable Members on This Side are quite supportive of the effort to establish the Caribbean Court of Justice. Sir, in fact, in a previous debate with respect to the implementation of the Caribbean Single Market and Economy, I had identified the Caribbean Court of Justice as a critical component in ensuring that the the Caribbean Single Market and Economy was going to work. Therefore, in saying that much I perhaps can go further and say that the Democratic Labour Party, from its very early stages, has recognised the possibility that this day, Saturday, may approach at some stage.

Mr. Deputy Speaker, as far back as 1966, the Constitution at section 66 realise that there is a very real possibility of a Court of Appeal of Commonwealth countries. It did not expressly speak of the Caribbean but the foresight that had existed in the Democratic Labour Party ... It is small wonder that four years later in 1970 when Jamaica of all places, even though it is giving problems now, brought a proposal for the establishment of such a court to the Sixth Heads of Government meeting in Kingston, that the then Democratic Labour Party not only threw its support behind it but also hosted the Attorneys-General of the Caribbean in September of that year, here in Bridgetown, to try to put the nuts and bolts of this issue called the Caribbean Court of Appeal.

Mr. Deputy Speaker, therefore, the gestation period has been quite long but I believe it is necessary to give that

historical context to the Democratic Labour Party support and to say how much we welcome the fact that the Government of the day, the Barbados Labour Party, is so enthusiastic and energetic about chasing after an ideal which we recognised years ago, which has a lot of good in it. It, of course, has been widened somewhat and coming out of the recommendations of the report of the West India Commission, 1992, in addition to the Court of Appeal, we are going to have a court adjudicating our matters of trade disputes. Sir, it has gone through several phases but at each stage there has been nothing but support from This Side and, therefore, the Government can be assured that in executing this particular programme, that they will continue to get the support of the Democratic Labour Party.

Mr. Deputy Speaker, I think it must be recognised that for the very reason our love and appreciation for what we now call the Caribbean Court of Justice is rooted in the very early founding concepts of this political Party, that we would naturally have concerns when we see fairly laboured and sometimes ineffectual processes at bringing this Court to a reality.

Mr. Deputy Speaker, it is clear that the inter-governmental approach that we take, not only with respect to the Caribbean Court of Justice but with respect to the Caribbean Single Market and Economy matters and perhaps other things involving an integration process, really needs to be looked at and perhaps once and for all, thoroughly rebuked. I understand that the governance is a central issue in terms of how we manage CARICOM but I would want to see that given some level of priority because this State by State intergovernmental treaty approach is not working.

Sir, there is a very clear example of what we are now going through with the Caribbean Court of Justice issue. We have a situation where two-and-a-half countries are ready to go forward with the implementation of the Caribbean Court of Justice. I have to say that because we are assuming that we are going to get Jamaica. There is a photo finish situation involving where the Parliament of Jamaica is meeting this Tuesday, while the Senate will meet on Friday. Presumably they will make it and we will have the three members that are required to operationalise the Court. I heard the Honourable Member for St. Joseph suggesting that with the two members, we can immediately start to take action in the Court but my understanding is that there must be three to operationalise it, even if the Court is in existence.

Mr. Deputy Speaker, we sincerely hope that Jamaica comes on stream but I also want to say that for Barbados, it is clear that our competitive and comparative advantage within the context of the Single Market and Economy lies with the Eastern Caribbean. We are told that services are the way of the future, and I can speak here from a very personal

point of view. It is clear that offering one's services in Trinidad and Tobago and in Jamaica, necessarily is not going to be as rewarding as the Eastern Caribbean. Therefore, while I recognised that several countries of the Organisation of Eastern Caribbean States have to hold referenda before they can be part of this process, I am somewhat concerned at the lack, at this stage, and of the unsure nature of the participation of some of these members, because that is really where Barbados advantage lies.

Mr. Deputy Speaker, I would not want to see a situation where we would rush to inaugurate the Court and then for whatever little reasons, be they insular reasons or general lethargy, that a number of members of CARICOM decide not to get involved in the Caribbean Court of Justice. I noted the language that the Honourable Attorney-General, the Honourable Member for St. Michael North East, used in her presentation about her hopes of people coming on board and getting involved. It was the Honourable Member for St. Lucy who noticed it in her presentation. Sir a similar language was used by Dr. Kenny Anthony, the Prime Minister of St. Lucia, who has responsibility for the legal aspects in terms of CARICOM.

Sir, therefore, to hear that we are hoping that these other countries come on board, I certainly would not like to see a situation where we have a hybrid in CARICOM, where half of the member have accepted the Caribbean Court of Justice as the final Court of Appeal, while the other half have the Judicial Committee of the Privy Council as their final Court of Appeal. I do not think that would augur well for pushing the process forward. It would only create confusion in terms of the development of a Single Market and Single Economy, even more so, notwithstanding the fact that the matters pertaining to the Caribbean Single Market and Economy will be adjudicated in the original jurisdiction by the same Caribbean Court of Justice. I am still suggesting that having the final Court of Appeal in countries that are supposed to be participating in a single economic space, that having two different final Courts of Appeal can only lead to a great degree of confusion.

Mr. Deputy Speaker, I would like to address the issue of the interpretation of the Revised Treaty of Chagaramas by the Caribbean Court of Justice, in order for such to work effectively – and I believe the Honourable Member for St. James Central unwittingly touched on this – the Caribbean Court of Justice needs to be effectively buttressed by a series of other institutions in order to make it work.

I also heard the Honourable Member speaking to the CARICOM Competition Commission, which has not exactly set the place alight with industry but that, to my mind, is a critical component in terms of the pursuit of justice and just processes within the context of the Single Market and Single Economy.

Sir, as the Honourable Member has suggested, there will be cases that will be easier and that, in fact, will make more sense to take to the CARICOM Competition Commission, as opposed to going to the Caribbean Court of Justice. It is, therefore, worrying that only Barbados and Jamaica have fair competition legislation. Many other countries do not have such legislation and we would sincerely hope that these other institutions would buttress the work of the Caribbean Court of Justice, in terms of its work in interpreting the original jurisdiction of the Court.
3.30 p.m.

These institutions and organisations need to start to function. The regional organisation for standards and quality would be critical in developing a basis upon which the work of the Caribbean Court of Justice in its original jurisdiction can function and make sense.

Mr. Deputy Speaker, how can you deliver justice when you have no real point of reference in a trade dispute or in a matter involving unfair business practices. Sir, it is a cultural shift in terms of how the Caribbean business people have traditionally operated. There seems to be a reluctance even to use the arbitration process in CARICOM which exists at this moment before the Caribbean Court of Justice.

Mr. Deputy Speaker, we need to see a real shift in how CARICOM businessmen see themselves and see their work going through the region and beyond. I say that in terms of the original jurisdiction. Sir, as I move back quickly to the appellate jurisdiction of the court, it is unfortunate that the decision from the Privy Council on the Pratt and Morgan case almost coincided directly with the renewed energy into what is now called the Caribbean Court of Justice. Mr. Deputy Speaker, as a result of the disgust with which many people in the Caribbean felt at that decision, people seem to feel that it is hanging. Sir, it is not a hanging court.

I was glad to hear the eloquence with which the Honourable Member for St. Michael East made that point. Perhaps, what I can do from This Side is to say that the Democratic Labour Party does not see it as a hanging court. I must confess that we were concerned at the change of Government in 1994, when the then Attorney-General expressed some strong views about what was going to be happening and that the gallows was going to be swinging, that he wanted a man and so on. Sir, those types of utterances coincided with his interest in seeing the Caribbean Court of Justice replaced the Privy Council.

Mr. Deputy Speaker, I am not getting into any debate on the death sentence, who supports it or not. I am simply saying that it is reassuring to hear the current Attorney-General put it very clearly that it is no hanging court because when we were devising it as far back as the 60s, pushing it forward in the 70s and 80s and continuing to support it into

the 90s, we did not just see it as a case of promoting hanging. It seems like a natural and logical step for us to take as a region to complete the process of independence of our own sovereignty of thought and to move away from law lords in England who have no relationship whatsoever towards our experiences in this part of the world.

Mr. Deputy Speaker, the Commission that has been put in place that would be responsible for appointing judges with stakeholders from throughout the region is indeed independent because we would not want to have a situation where anyone rushes hot and sweaty out of an active career in politics and finds himself serving on the Bench. We on This Side, do not necessarily support that at all. We hope that nothing of the sort would happen at the level of the Caribbean Court of Justice. Mr. Deputy Speaker, active politicians should go through a period in the wilderness before they serve in the judiciary.

Mr. Deputy Speaker, I am saying that to say that we support the concept of having the independent Commission responsible for appointing judges. It does meet our approval and we hope that we would move ahead a pace with trying to get the other territories involved in order that the court may be operationalise.

Mr. Deputy Speaker, the Honourable Attorney-General said we are not too sure what date it would occur but I sincerely hope that...

Asides.

Mr. R. L. SEALY: The Honourable Attorney-General is saying that she now knows. I am glad to hear that she is the bearer of good news and that the people of the Caribbean would not find themselves depleting the trust fund at Caribbean Development Bank paying judges for doing nothing and that, shortly after inauguration, there would be work for judges to do.

Mr. Deputy Speaker, we on This Side express our concerns about the process but all along, we have been the ones who have been in favour of a Caribbean Court of Appeal in the early stages and what is now called the Caribbean Court of Justice.

Mr. Deputy Speaker, I am grateful to you.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Philip North.

Mr. M. A. LASHLEY: Mr. Deputy Speaker, I rise to make my contribution to this debate. I want to say that we on This Side wholeheartedly support the advent of a Caribbean Court of Justice. Sir, the European Court of Justice is central

to the EEC and the Caribbean Court of Justice is central to the Caribbean Single Market and Economy.

Mr. Deputy Speaker, the establishment of the court is the day we have been waiting for a long time. In fact, I want to say that even members of the Privy Council suggested that we move away from the Privy Council and establish a final Court of Appeal. An analysis of the report of the debate of the Caribbean Court of Justice, one can recall a member of Parliament in England placed a proposal before Parliament to end appeals to the Privy Council from countries in the Caribbean.

Mr. Deputy Speaker, that was not all because in 1990, Lord Wilberforce, a member of the Privy Council and an eminent jurist urged the Caribbean to establish its own final court. Again, similar comments supported by the eminent Queens Counsel, Lord Anthony Gufford. He said that one day the Caribbean would come to the realisation that it would have to hear appeals from a court, staffed by its own members. Sir, from the outset we have Members from the Privy Council suggesting that we move away from it and at that time Lord Brown Wilkinson, the President of the Privy Council, intimated in an interview that the Caribbean could move away from the Privy Council.
3.40 p.m.

The Privy Council in its own admission is saying to move away from our court and set up your own court, establish your own sovereignty, establish the final act of your independence and establish your own constitutional sovereignty. That is what the Members of the Privy Council said and this came from the mouth of Lord Brown Wilkinson, President of the Privy Council at that time.

I want to submit that the Caribbean Court of Justice is central in the interpretation of the treaty. The fact that the Caribbean Single Market and Economy creates rights and obligations, we must have our own regional and central institution to determine and interpret principles of that treaty because if we speak of certainty, then we have a strong regional body which will assure that there is certainty in the law and the ordinary CARICOM nations would have confidence in the court and it would be able to carry out its daily affairs in confidence that certainty and predictability in the law are the essentials of their judicial system, particularly in the area of the criminal law where the liberty of the subject will be at stake.

Sir, in trade matters we will like to ensure that there is some certainty but when the liberty of the subject is at stake, we want to ensure that there is certainty in the law.

Sir, we also have faith because there are proposals for a judicial code of conduct by the judges and, the Honourable Member for St. James Central mentioned...

Asides.

Mr. M. A. LASHLEY: The Honourable Member mentioned the Independence of the Judiciary which is central to the rule of law.

Asides.

Mr. M. A. LASHLEY: Sir, that code would ensure and assure that there is some independence and integrity in the system in relation to the judges who determine matters that come before them.

Sir, I want to say that this is a defining moment in the process of our integration movement to have a criminal and civil court of last resort. Sir, for too long we have been dependent on a few people in Britain who are far removed from the social mores of the Caribbean; persons who have not experienced the struggle in the Caribbean and do not understand the interaction among Caribbean nationals.

Sir, I would like the day to come when I appear before the Caribbean Court of Justice and make submissions. Hopefully, we could get that within the next five years but I believe that I might be in the Cabinet of the Democratic Labour Party and that would prevent me from practising law.

Asides.

Mr. M. A. LASHLEY: I want to have the opportunity within the next two years to appear before the Caribbean Court of Justice and make submissions.

Sir, if we value our freedom from the colonial past, if we value our sovereignty and pride and industry, then the backward regime of sending matters to the Privy Council must be stopped immediately. Sir, for too long the tax payers of the United Kingdom have been paying for our judicial freedom. I want to say that the establishment of the Caribbean Court of Justice affords access to justice.

Sir, this is not to cast any aspersions on our Court of Appeal because I believe that if a point is taken and a decision is made, then we must accept it but if you are to follow the instructions of your client to take the matter further, then you would have to take it further. I recall one particular time the question of cost arose but the stark reality is that many litigants in the Caribbean are far removed at this present stage for a court of last resort and that is the Privy Council.

Asides.

Mr. M. A. LASHLEY: Sir, at that time another eminent attorney, Mr. Ralph Thorne, and I were interviewed by the

Advocate and we supported the Caribbean Court of Justice based on the fact that access to justice was being denied constantly by litigants.

Sir, I support the establishment of the Caribbean Court of Justice. However, I have some concerns because I believe that we have to get to the harmonisation of the laws but that will be another crucial step in the Caribbean Single Market and Economy. The fact is, even in the area of intellectual property, there are some jurisdictions that do not have a single piece of legislation to protect intellectual property, even in relation to labour laws.

The Government has proposed many types of legislation and we hope that there is a swift approach in dealing with labour matters. We want to see that there is a harmonisation of laws and some uniformity in laws throughout the Caribbean.

Sir, there are issues with regards to the financial viability of the court and many questions are asked but the fact is that we have eminent jurists throughout the Caribbean. I have confidence in Caribbean jurists and I believe that they will develop a strong regional jurisprudence and develop the law throughout the Caribbean.

Sir, in the circumstances, I want to give my wholehearted support to the Caribbean Court of Justice. It is a final act of Independence.

I thank you, Sir.

Mr. DEPUTY SPEAKER: The Honourable Prime Minister, the Honourable Member for St. Peter.

Rt. Hon. O. S. ARTHUR: Sir, I would like to add a few brief words to what I can only describe as an inspiring and mature debate. It is wonderful that the Parliament of Barbados is speaking on this matter in the kind of voice in which we are speaking, at the kind of level and with sincerity and with foresight. Sir, without seeking to be invidious in relation to comparisons to be drawn, I think it is to the credit of this Parliament that it has to be said that perhaps the only place in the Caribbean today where a debate of this nature would take place at this level in this tone is in Barbados.
3.50 p.m.

On Saturday, I, as the Prime Minister with the lead responsibility of the region for the creation of the Single Market and Single Economy, will sit and witness the inauguration of a Caribbean Court of Justice. In every respect, it ought to be celebrated as one of the landmark developments, not only of the Caribbean jurisprudence but in the history of the Caribbean. Sir, if a people cannot trust

themselves to dispense justice to themselves, then of what worth are they. I feel that the chief attribute of being a people is the ability to judge each other.

It is therefore in many respects, Sir, a sad thing that our Caribbean Court of Justice, which should be held up as an institution to rejoice about, is in some respects being inaugurated in circumstances of controversy. It is perhaps not so much a reflection on the Court, its composition and its merits, but a reflection of what has become of our region.

Sadly, Mr. Deputy Speaker, we now live in a region that has come to doubt itself. In 1947, when there was the initial stirring of regional integration, and the late Right Excellent Norman Manley speaking at Montego Bay, said that great causes are never won by doubtful men.

Sadly, Sir, the first four decades of Independence have not been the happiest to the Caribbean. In many Caribbean countries, there are people who are now expressing the view that Independence might not have been a good thing and that a colonial status is greatly to be preferred.

The criticism about the Caribbean Court of Justice, in my judgment therefore, Sir, is not so much a criticism of the Court but an adverse reflection in some quarters of the inability of some Caribbean people to see a capacity in their jurisdiction that suggest that they can manage their own affairs.

Mr. Deputy Speaker, for us in Barbados, I think this debate is a celebration but it is also a vindication of everything that has engaged us in nation building, and especially so, it is an utter validation of the way in which our Constitution in this country was drafted.

Sir, our Constitution was drafted with the expectation that Barbados would corporate with other Commonwealth jurisdictions, in the dispensation of justice. The way was always opened to us to embrace a regional court. There has never been, therefore, a constitutional difficulty in moving to embrace a regional court.

Mr. Deputy Speaker, the Caribbean Court of Justice that is to be inaugurated on the weekend, and I can speak now from my vantage point as a Prime Minister who has been involved in the process all along, is a court for which only the greatest particularity has been exercised, in ensuring both its judicial independence and its financial independence.

In relation to its financial independence, it is the only institution in the region that enjoys the prospect of survival and a secure existence that is not dependent upon the state of any of the exchequers of any of the individual Caribbean States.

Its financial independence has been secured by the creation of a Trust Fund and the raising of funds by a Bond, such that the Court and its operation expenses can be met from the investment income, ensuing from the proceeds of that investment. Therefore, the Court does not have in the future to rely upon the Ministries of Finance to support its operations.

In terms of its judicial independence, Mr. Deputy Speaker, the judges for the Court have been selected by a process that has not, even in any remote way, reflected any political involvement. There is a President of the Court, whose appointment has received only the concurrence of the Prime Ministers. His appointment has been by way of a unanimous position of the Commission. All of the judges have been appointed without Prime Ministers or any politician in the Caribbean seeking to intrude in the process.

For those therefore, Sir, who have been putting, what I think is the unfortunate propaganda that Caribbean Governments would not be able to resist the temptation to become politically intrusive in the affairs of the Court, the way in which the Court have been constituted from the very outset should be enough evidence that we now, in today's world will not seek to do that which we have never done before in the region.

The point I am coming to, Sir, is that in Barbados and in the Caribbean, even in instances where there are persons who have come from the political class to serve on the judiciary, there really has never been any political involvement in the affairs of our judiciary.

I think one of the great strengths of the Caribbean society is that the judges have as a class shone, and continue to shine in their capacity to render justice and to do so in a way that is totally untainted by any political influence.

I think I can say fairly that no matter what defects we can point to, in relation to the functioning of the judiciary, it cannot be said of the judiciary in Barbados and I think I can say that it cannot be said of the judiciary across the Caribbean, that people are bent by political forces to render political judgments. I do not think that is true.

Therefore, I have, Sir, only the fullest confidence that the tradition which has now been established to ensure the independence financially, and judicially of this court, will continue in the future to be not only protected, but to be enhanced.

Sadly, Sir, it is not a good time for the region. In many instances, the existence of the many Caribbean institutions can be represented by an anthem called, the Executioners Song. We live in a region where most of the regions institutions are under continuous threats.

The LIAT is under the threat of going under. All of the regional airlines are under the threat of going under. We hear the threats of the existence of CARDI. The Caribbean Media Corporation was under the threat of going under. The Caribbean Congress of Labour was under the threat of going under. Perhaps, the point I want to come to, Mr. Deputy Speaker, is that we can all create a greater environment of comfort to surround the operation of new institutions, such as the Caribbean Court of Justice, if we make a stronger effort as a region to really assure the viability of those key regional institutions without which, the region simply cannot function.

Sir, people are concerned about the Court, legitimately so, because they fear that it could become the victim of the relative indifference of the region to many of its key institutions, that we have sought to ensure that the Court does not, Sir, does not mean that there is not a perception that it could become such a victim.

In fact, let me say, Sir, that sometimes if one suspects that the West Indies Cricket Team had to be put together in this present climate, forgetting about its performance, it would be difficult to put the West Indies Cricket Team together.
4.00 p.m.

Mr. Deputy Speaker, you often get the impression that if you had today to start a University of the West Indies from scratch, given the doubt in the region and the suspicion about the creation of new institutions, it would be very difficult to convince the region about the need for a new university from scratch. The court is really flying against that headwind of institutional difficulties in the region.

Sir, I really do hope that the nay-sayers to the Court will allow the Court to prove itself. I have no doubt that left to itself this court would prove to be an outstanding institution. History will show that 40 years ago the Federal Supreme Court was one of the outstanding successes of the Federation. Therefore, if Caribbean countries, 40 years ago, at what one would hope was a lower stage of development, could have been capable of putting in place an outstanding regional court, I do feel that this present generation of Caribbean people should draw from that inspiration and allow this Court to rise and to shine.

Mr. Deputy Speaker, there are a large number of things that still have to be done to build the institutional capacity to support the CARICOM Single Market and Economy. Honourable Members who spoke in this debate were right in saying that the Caribbean Court of Justice is going to be but part of an overall network of implementation, dispute resolution and dispute settlement. Sir, it is to that issue that I turn. Yes, we do have now to form a regional competition

commission. There are agreements to create a regional standards institution which has been established in Barbados.

Sir, the thread that runs through all of this is that building a CARICOM Single Market and Economy imposes on the region the obligation to build a new tier of regional institutions where none existed before, some of which will have to be vested with an element of supranationality, and on that rest the incredible challenge. The challenge arises from the fact that the Caribbean Community is a distinctive kind of political organisation among all integrating areas. CARICOM is a community of sovereign States. By that, it simply means that it is a political organisation with a strong central federal Government. It is not a federation, it is not a confederation, it is a community. It insists on being a community of sovereign States where each State is sovereign in relation to the implementation of regional decisions.

Mr. Deputy Speaker, a community of sovereign States, as CARICOM is, is quite simply the most difficult kind of political form to use to create something as complex as a single market and single economy. Therefore, it is left to each sovereign jurisdiction to decide when to implement regional decisions, how to implement them and at what pace. What we lacked in CARICOM is that element of supranationality as is found in the European Union which is the only other regional bloc in the world that has attempted to create a single market and single economy, where a body of community law has evolved and is implementable, where community decisions have the force of directives and can be immediately embedded in domestic law and where there are a range of institutions that are supranational in their scope and authority.

Mr. Deputy Speaker, what we are seeking to do in the Caribbean is something that is fraught with much difficulty. I speak from the position of the Prime Minister, who has the responsibility for the region to create a single market and single economy and can speak very personally about how difficult it is to create a regional economy in circumstances where the fundamental decision of how that economy should be created is left to the individual Parliaments in the individual territories. It is a very difficult exercise, Mr. Deputy Speaker.

The point I therefore want to come to is that the region now has to press on to the next phase in the development of the CARICOM Single Market and Economy. At the end of this year we will hopefully have completed the process of creating the Single Market. That creation of the Single Market involved action by the State in removing a number of restrictions. The big task now is to create the Single Economy involving the harmonisation of policies and the building of regional institutions around which an economy can start to evolve. For example, regional competition policy

is going to be important in making sure that we have a common economic space that is a fair economic space. We also need a regional competition authority.

However, all of that is work for the future and that would require the commitment of financial resources. The great difficulty that we are facing in the region is that precisely at that moment when integration is most desperately needed, is precisely at that point when most of the economies in the region cannot afford to pay for integration. Sir, that is part of the reality. Integration is being advanced in the Caribbean to the debt of a single economy involving the creation of new regional institutions at times when the financial crisis has overtaken many of the lesser developed countries and is on the doorstep of others. That represents the paradox of the region. The region of the world which needs most desperately to integrate and which can benefit most from integration finds itself as that region of the world which is least capable financially to support the creation of new institutions without which integration cannot prosper.

Mr. Deputy Speaker, the Minister of International Transport recently returned from a meeting in Bermuda where the issue was how to deal with matters of air transport. It may sound like a simple matter, Sir, but you cannot have a community without communications. You cannot really contemplate the creation of a single market and a single economy unless people's goods and services can move freely. Sir, we are at this stage in the integration process facing a situation where almost every one of the regional airlines is bankrupt. We want to build a regional economy but we are doing so against a backdrop of a fundamental difficulty in being able to finance the movement of goods, people and services across the region.

Mr. Deputy Speaker, I am therefore making the broader point that the pace at which the Caribbean would move to fully implement the single market and economy cannot be isolated from the financial capacity of the member States to be able to give effect to some of their obligations. Sir, it is not to condemn them. It is to accept the reality that many small economies are struggling to finance their domestic responsibilities.

Integration adds a new cost to Government and some of it is very expensive. I make that point because a lot of the criticism that is aimed at many of the countries for tardiness in implementing their obligations does not take stock of that. If I may illustrate, Mr. Deputy Speaker, many Caribbean countries depend upon taxes on trade for their revenues. Many of them find it difficult to implement the final phase of the Common External Tariff because they do not have domestic production to protect but they are being asked to remove tariffs, and they find it difficult for revenue purposes to do so.

Sir, the assurance that I would like to leave this House with is that this Government of Barbados will do everything in its power to entrench the judicial independence of a Caribbean court. I trust that future governments of Barbados will do everything in their power to entrench the financial independence of the Caribbean court. Mr. Deputy Speaker, this Government of Barbados will also do everything in its power to assure the financial independence of the court. However, there is a concern across the region that cannot be ignored. Mr. Deputy Speaker, there is a concern across the region that putting in place a Caribbean Court of Justice, without first addressing problems surrounding the functioning of the judiciary, is to leave fundamental problems not addressed, while we go to superstructural issues.

4.10 p.m.

Sir, on that matter I would simply say to this Honourable House that even as we are putting in place the arrangements to create a Caribbean Court of Justice, this Government of Barbados and all other Caribbean Governments should be assiduous in their efforts to address any problems that are associated with the functioning of the judiciaries in their jurisdictions, for if there is any valid case to be made, it is that there is no point in creating a Caribbean Court of Justice and leaving problems with the existing judiciary being unattended. If there are problems to be addressed, I think that we should all face them squarely and that we should all embrace the challenge of modernising our judiciaries.

Mr. Deputy Speaker, I close by saying that this is a historic moment for us in Barbados. Barbados has already disengaged itself from having the Judicial Committee of the Privy Council as our final Court of Appeal. I think that we will move to a higher plateau of not only national development but of higher consciousness. I think that we will reach that stage of maturity as a nation, where we will look to justice from among our own.

Mr. Deputy Speaker, I want to thank the Honourable Members of this House who have spoken in this debate, both for the tone in which they have spoken and for the maturity of the support that has been rendered to this most important development. I would want us to remember that even as we speak, that it is a court that we are creating, it is an institution for the dispensation of justice in which we are engaged and if there were ever a cause for celebration, it would be in the creation of this court.

Mr. Deputy Speaker, when I go to Trinidad and Tobago on Saturday to be part of the creation of a Caribbean Court of Justice, I will go with a sense of pride, knowing that I go as a representative both of the people and of Parliament. I will go with pride, cognizant of the fact that

Barbados is one of the few countries in the region which has accepted both the original and appellate jurisdictions of the Court. Sir, I feel that is a matter of pride because it reflects how the people of Barbados feel fundamentally, that we can manage our affairs and that in the most important aspect of managing our affairs, we can judge ourselves that we have reached a stage of maturity in that.

Mr. Deputy Speaker, with a greater sense of pride, I will be going as a Member of a Parliament, which, to a man and a woman, recognises the historic significance about that which we are creating and understanding our duty to this generation. Therefore, in the decision that we are taking today, we understand our duty to generations yet unborn. I am obliged to you.

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, the last speaker who spoke, the Right Honourable Prime Minister, would have spoken as if he were winding up the Bill. Therefore, I will not proposed to delay the Honourable House very long. Suffice it to say that I too am gratified that the appeal which I made at the opening of this Bill, that this Honourable House should speak with one voice, is, in fact, what has transpired. It is, as the Prime Minister indicated, a matter of significant pride that as Barbados takes this step to accept both the appellate and original jurisdiction of the Caribbean Court of Justice, we can say that it was done with Both Sides of the House in full agreement, having had a history of Both Sides of the House at some point in the process of the planning of the Court, which has played a significant role.

Mr. Deputy Speaker, there were a number of basic questions that were raised that merited a response. The Honourable Leader of the Opposition wondered what would be the situation in relation to the Court's interpretation of other laws, and that standing in relation to Barbados' jurisdiction. When the Court sits, it will sit as the final Court of Barbados. Therefore, even if it sat as the final Court of Guyana and may have dealt with similar circumstances, that decision from Guyana will not be binding on the jurisdiction of Barbados because it is not sitting as a general Court of Appeal of the region but as the final Court of Appeal of a particular State, which is duty-bound to interpret the laws of that particular State. Therefore, the decisions from other Caribbean territories, even if the law is the same, will be persuasive but not binding.

Mr. Deputy Speaker, I also want to say that it has now come to my attention since opening the debate, and I apologise to this Honourable House, if I may have misled it in any way that in truth and in fact, the Governor-General has signed the Proclamation of the Legislation and in those circumstances, the relationship with the Judicial Committee of the Privy Council would have ceased to exist. It has not as yet been gazetted, and that is where the confusion came for

me this morning but it has, in fact, been signed last Friday. It does not become law until it appears in the *Official Gazette* but the irony is that once it is published, it goes back to the date in the Instrument. Therefore, when it is gazetted, it becomes law as of April 8, 2005.

Mr. Deputy Speaker, that is for the Acts passed in 2003. These Bills that are before us, if they are approved without amendments, will go to the Senate tomorrow. If they are approved in the Senate, they would then go to the Governor-General for assenting, and it is anticipated because this is not being required to be brought into Proclamation but purely upon passage. Therefore, once His Excellency assents to this Bill before Friday, it then means that Barbados, before the inauguration of the Court, would have been fully compliant in respect to its domestic legislation, not just in relation to the original agreement but to all of the subsequent protocols, including the one signed in February, 2005. It further means that once the *Official Gazette* comes out on either Friday or Monday, our relationship with the Judicial Committee of the Privy Council would have formally ended on April 8, 2005. It also means that all persons appealing thereafter would appeal to the Caribbean Court of Justice, and that there would be no prejudice to anyone because in these matters no judgements have been rendered between the date of the Proclamation and the publication of the *Official Gazette*, but even if they are, they have six weeks within which to file their appeal, so that in those circumstances there would be no injury done to any party.

Mr. Deputy Speaker, I, therefore, seek to ask this Honourable House to formally register its unanimous support of not only this Bill but those that we have treated as one Bill, as we have formally asked to move it.

As I indicated, there are two small amendments that I beg to move, one being a typographical error and the other relates to style but subject to that, we should allow The Right Honourable Member for St. Peter and the Honourable Member for St. Michael North West to represent Barbados, knowing that they have a mandate of a unified House.

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

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

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

4.20 p.m.

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, I beg to move that the Honourable Member for Christ Church West be so nominated to serve as temporary Chairman of Committees.

Hon. Dame Billie MILLER: I beg to second that.

Mr. DEPUTY SPEAKER: If that be the will of the House, so let it be.

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. Dame Billie MILLER, the House resolved into Committee, Dr. W. F. DUGUID, Chairman of Committees, in the Chair.

COMMITTEE

Dr. W. F. DUGUID: This House is in Committee.

Clauses 1–5 were called and passed.

Clause 6 was called.

Hon. Miss M. A. MOTTLEY: I beg to move that we amend Clause 6 by literally dropping the words “the practice and procedure of the Court” to come before the phrase at subsection starting “in exercise of the appellate jurisdiction.” Sir, the computer should have dropped this out.

I beg to move that Clause 6 as amended stand part.

Hon. Dame Billie MILLER: I beg to second that.

The question that Clause 6, as amended, was put and resolved in the affirmative without division.

Clause 7 was called and passed.

The Schedule became the Schedule to the Bill.

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. Dame Billie MILLER, Mr. Chairman reported to His Honour the DEPUTY SPEAKER, the passing of one Bill in Committee and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. Miss M. A. MOTTLEY, seconded by Hon. Dame Billie MILLER, the Bill was read a third time, passed and cited as the Caribbean Court of Justice (Amendment) Act, 2005.

ORDER NO. 6 – CONSTITUTION (AMENDMENT) BILL, 2005

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, in moving the second reading of the Caribbean Court of Justice (Amendment) Bill, 2005 earlier today, I indicated that we would treat that second reading debate as one debate for the three Bills on the Order Paper today. In the circumstances, I

beg to move that the Constitutional Amendment Bill, 2005 be read a second time.

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

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

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. Dame Billie MILLER, the House resolved into Committee, Dr. W. F. DUGUID, Chairman of Committees, in the Chair.

COMMITTEE

Dr. W. F. DUGUID: This House is in Committee.

Clauses 1 – 3 were called and passed.

Clause 4 was called.

Hon. Miss M. A. MOTTLEY: Sir, in moving the amendment to Clause 4, I beg to move that we delete subsection 2 and substituting the following subsection:

“Where a court or tribunal is seized of an issue whose resolution involves a question concerning the Interpretation or application of a treaty, the court or tribunal shall, if it considers that a decision on the question is necessary to enable it to deliver judgement, before delivering judgement, refer the question to the court for determination.”

Sir, this amendment does not change the substance of what is there before the House but just makes it plainer in terms of language. It is felt by the Chief Parliamentary Counsel that it was preferable for it to read this way and, hence the amendment.

I beg to move that Clause 4, as amended, stand part.

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

The question that Clause 4, as amended, was put and resolved in the affirmative without division.

Clauses 5 – 8 were called and passed.
4.30 p.m.

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. Dame Billie MILLER, Mr. CHAIRMAN reported to His Honour the DEPUTY SPEAKER, the passing of one Bill in Committee with amendments and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. Miss M. A. MOTTLEY, seconded by Hon. Dame Billie MILLER, the Bill was read a third time, passed and cited as the Constitution (Amendment) Act, 2005.

A division has been called.

The bell was rung.

Ayes: Rt. Hon. O. S. ARTHUR, Hon. Miss M. A. MOTTLEY, Hon. R. R. FARLEY, Hon. G. A. CLARKE, Hon. A. P. WOOD, Hon. H. F. LASHLEY, Hon. N. A. LYNCH, Hon. Mrs. H. E. THOMPSON-McDOWALD, Hon. J. X. WALCOTT, Hon. D. D. MARSHALL, Hon. Miss C. Y. FORDE, Hon. K. D. SYMMONDS, Rev. J. J. S. ATHERLEY, Hon. R. C. EASTMOND, Mr. T. A. PRESCOD, Mr. R. St. C. TOPPIN, Mr. G. W. PAYNE, Dr. W. F. DUGUID, Mr. C. A. MASCOLL, Mr. R. D. JONES, Mr. M. A. LASHLEY, Mr. R. L. SEALY - 23

Noes: None.

Mr. DEPUTY SPEAKER: The result of the division is that 23 Honourable Members voted aye and no Honourable Members voted no. The Bill is therefore now passed and cited in accordance with Section 49 of the Constitution of Barbados.

ORDER NO.7 – TO MOVE THE SECOND READING OF THE CARIBBEAN COMMUNITY (AMENDMENT) BILL, 2005

Mr. DEPUTY SPEAKER: The Honourable Member for St. Michael North East.

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, as I indicated, this Bill is part of the trilogy and I, therefore, beg that this Bill be now read a second time.

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

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

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. Dame Billie MILLER, the House resolved itself into Committee, Dr. W. F. Duguid in the Chair.

COMMITTEE

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

Clauses 1 to 3 were called and passed.

The Schedule became the Schedule to the Bill.

On the motion of Hon. Miss M. A. MOTTLEY, seconded by Hon. Dame Billie MILLER, Mr. CHAIRMAN reported to His Honour The DEPUTY SPEAKER, the passing of one Bill in Committee and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. Miss M. A. MOTTLEY, seconded by Hon. Dame Billie MILLER, the Bill was read a third time, passed and cited as The Caribbean Community (Amendment) Act, 2005.

ADJOURNMENT

Hon. Miss M. A. MOTTLEY: Mr. Deputy Speaker, this brings us to the end of today's Sitting. I beg to move that this Honourable House be now adjourned until Tuesday, April 26, 2005 at 10.00 o'clock in the morning.

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

The question was put and resolved in the affirmative without division, and Mr. DEPUTY SPEAKER adjourned the House accordingly.
4.38 p.m.

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