
THE SENATE DEBATES

(UNOFFICIAL REPORT)

PARLIAMENT 1999 – 2003

THE SENATE

Friday, December 21, 2001

RESUMPTION

Mr. PRESIDENT: This Senate is in session.

ORDER NO. 4 – TO MOVE THE SECOND READING – OF
THE TELECOMMUNICATIONS BILL, 2001.

SENATOR the Hon. J. X. WALCOTT: Mr. President, in February, 1999, the Government of Barbados entered into discussions with Cable & Wireless (BARTEL), Cable & Wireless (BET) concerning three specific matters:

1. The proposed amalgamation between Cable & Wireless (BARTEL) and Cable & Wireless (BET).
2. The proposed early termination of their domestic and international licences in Barbados.
3. The liberalization of the telecommunications industry in Barbados in a phased manner.

Mr. President, out of these discussions, a Memorandum of Understanding was developed between these two parties and, subsequently, this proposed new Telecommunications Bill was drafted and developed.

Sir, the existing Cap. 282(A) has outgrown its usefulness in this era and, certainly, if we are to look at reforming the telecommunications industry in Barbados, the time is now. The present Act was initiated in a time of a monopoly telecommunications environment and, certainly, if we are to go forward with reform and liberalization, the time is now. Sir, for the successful liberalization of telecommunications, there must be a functional regulatory framework in place. I repeat, we must have a functional regulatory framework in place to provide for the transition to the competitive stage and also to manage it thereafter.

Certainly, as it now stands, the Act does not allow Barbados to fulfil or to achieve its objectives under the WTO/GATTs Agreement on basic telecommunications. Neither does it provide for the liberalisation, competitiveness, nor a fair level of transparency. Sir, obviously there is an urgent need for this new legislation if Barbados is to achieve its policy objectives of promoting the continued development of leading-edge, broad-band with high speed, low-cost telecommunication technology, to facilitate the development of all the economic successes, if Barbados is to be totally competitive in this era.

Mr. President, in 1996, in his foresight and wisdom, the Prime Minister had appointed a Technical Committee to advise on the formulation of a national telecommunications policy. The Committee has submitted a report which was endorsed by Government in 1997 and has set out a number of clear policy objectives. Among those mentioned are:

- a. Access to basic telecommunications service.
- b. Competitive telecommunications service.
- c. Provision of state-of-the-art technology that would facilitate services comparable to other developed countries.
- d. Make provision for continued investment with a reasonable rate of return.
- e. There should be provision for a more efficient and responsive regulatory environment in the industry.

Mr. President, in this new proposed state of affairs, it is figured that the Fair Trading Commission will be responsible for the economic regulation and issues related to consumer protection. The Minister involved will be responsible for formulating policies and administering the legislation, primarily to award licences and to look after the management of the country's radio spectrum.

On 16th October, 2001, the Government of Barbados executed this Memorandum of Understanding with Cable & Wireless to terminate their exclusive provision of telecommunication facilities on this island. It is expected that this will finally culminate on August 1st, 2003. It should be noted at this time that Cable & Wireless (BARTEL) was granted its licence by the Government of Barbados in October 1st, 1991 and was then given exclusive rights to be the national telephone carrier. Similarly, Cable & Wireless (BARTEL) was given similar authority for the external communication on October 1, 1991. In other words, the Government that was in office at that time gave a 20-year licence to Cable & Wireless and gave them exclusive rights to both domestic and international telecommunication in this country. In addition, I add that it can be described that they basically sold out our birthright in this to Cable & Wireless Company. This licence was due to expire on 13th September, 2011, but will now, after these discussions, terminate on December 1st, 2002, for Cable & Wireless (BARTEL) and August 1st, 2003, for Cable & Wireless (BET).

Sir, the telecommunications industry has been transformed over the past 30 years with low costs, but with increased range of capabilities of services that can be provided. Technology has no respect for national boundaries and we must be in a position to respond to the global drive. Within our region, Jamaica has implemented liberalised telecommunications. Trinidad and Tobago has enacted telecommunications reform legislation and five OECS States have now implemented a phased liberalisation under ECTEL. These countries are: St. Lucia, Grenada, Dominica, St. Vincent and the Grenadines and St. Kitts and Nevis. Sir, they have basically put a regulatory framework in place to control telecommunication in these territories. Certainly, the Bahamas and Guyana are also implementing changes. The Dutch and French Islands have already done this as far back as 1998. Therefore, to some extent Barbados is, in fact, trailing and if we are to get on board, now is the time for us to change our legislation.

Mr. President, now I come to the Bill. The object of the Bill sets out:

a. the establishment of a framework for authorising the ownership and operation of telecommunications networks;

b. the provision of telecommunications services on a competitive basis allowing the widest possible access to those services at an affordable rate;

c. the prevention of unfair competitive practice by carriers and service providers in the management of telecommunications under this Act, the Fair Trading Commission Act and the Utilities Regulation Act;

d. the overall development of telecommunications in the interest of the sustainable development of Barbados, taking into account the introduction of advanced telecommunication technologies and increased range of services and the preservation of public interest and national security.

In all this, there is hope that preservation of national security and public interest will remain.

Sir, Part I provides various definitions of the various terms used in the Bill.

Part II deals with the exclusive rights of the Crown.

“Subject to this Act, the Crown reserves the

exclusive rights to provide telecommunications services in Barbados.”

Part III deals with regulators of the telecommunication sector.

“The Minister and the Fair Trading Commission shall

have responsibility for the management and regulation of the telecommunications in Barbados.”

9.45 a.m.

Wednesday, December 21, 2001

SENATOR THE HON. JEROME X. WALCOTT:
Part 10 deals with numbering for telecommunications carriers.

Part 11 deals with the technical standards for telecommunications equipment and technicians. This section allows the Minister to prescribe certification standards for telecommunications equipment and technicians. Provision is also made for access to private property for the installation, operation and maintenance of licence equipment. This section also specifies the procedure for disposing of a privately owned apparatus and it places restrictions on the importations of certain apparatus. It allows for a carrier to disconnect from a public telecommunications network if that does not meet certified standards. It talks about the sale, lease, trade or importation of any telecommunication or radio communications equipment, without a dealer's licence and it says that this is prohibited. In addition, the Minister may restrict or prohibit the importation of specified apparatus or equipment into and for use in Barbados. Installation and the use of a satellite receiver and antennae must be in accordance with regulations.

Part 12 deals with radio communications and this section provides the process for the granting of a radio communications licence.

Part 13 deals with compliance and this section empowers the Minister to issue a prohibition order where a person contravenes the provisions of the Act. Provision is made for inspectors to enter and search vehicles, ships, aircraft or premises where there is reasonable suspicion that persons are engaged in matters contrary to the Act, and it also provides for seizure of documents or extracts of documents or seizure of telecommunications or radio communications apparatus.

Part 14 deals with offences and penalties and this section establishes offences that are specific to telecommunications and identifies the penalties that can be imposed on conviction of such offences.

Part 15 deals with construction work by carriers and this provides for carriers to carry out construction work in connection with the installation, operation and maintenance of licenced facilities.

Part 16 deals with the review of decisions and this section provides for a person affected by a decision made by Minister under the Act, to seek reconsideration of the decision, or to appeal decisions made under the Act.

Part 17 is miscellaneous and this provides for various issues such as contracting between parties for telecommunication services, disclosure of information on documents, refusal to transmit private messages that may contravene the law or public morals.

Part 18 deals with the transition of arrangements and this section, of course, will provide for the repeal of the Telecommunications Act, Cap. 282(A).

In addition to that, there are two Schedules to the Bill. The first one provides for the transitional arrangements and the licence to be granted under the Act. The second Schedule provides for the amendments to the Utilities Regulations Act and the Fair Trading Commission Act.

Sir, it is vital at this point in time that Barbados moves on to the whole process of telecommunications reform. The time is right, as I said. We seem to be lagging behind our CARICOM partners, and certainly globally, everyone is moving towards liberalisation of telecommunications.

Sir, it is imperative that we act now to change our legislation and to make provisions with the specific Act that can deal with all of the considerations. Certainly, if we are not to be left on the shore when the ship of international

telecommunications sails in, I think it is time for us to act now and to change our legislation to facilitate this process.

With these words, I beg that this Bill be read a second time.

SENATOR SIR JOHN STANLEY GODDARD: Mr. President, this is another very important piece of legislation and, Sir, I would like to highlight the objects and reasons of the legislation before us this morning.

The Bill makes provision for the management and regulation of telecommunications in Barbados to ensure, inter alia:

(A) The establishment of a framework for authorising the ownership and operation of telecommunications networks.

(B) The provision of telecommunication services on a competitive basis, allowing the widest possible access to those services at an affordable rate.

(C) The prevention of unfair competitive practices by carriers and service providers in the management of telecommunications under this Act, the Fair Trading Commission Act and the Utilities Regulation Act.

(D) The overall development of telecommunications in the interest of the sustainable development of Barbados, taking into account the introduction of advanced telecommunication technologies and an increased range of services and the preservation of public interest and national security.

The Bill clearly states, Sir, that the Minister shall have responsibility for the management and regulation of the Act. It also clearly states at section 32 that the universal service policy of the Government of Barbados is aimed at ensuring that every resident and every business enterprise of Barbados has access to reliable, affordable telecommunication services throughout Barbados on an equitable basis.

I would like to say, Sir, that the Bill is very technical and I do not feel qualified to deal with any of the technical sections, but I want to deal with what I consider to be important and the social sections.

Section 6 provides for the Commission - and this refers to the Fair Trading Commission - which shall enforce the policies established by the Minister pursuant to this Act. The Commission shall exercise its regulatory functions in respect of telecommunications in accordance with this Act. It shall be responsible for the regulation of competition between all carriers and service providers in accordance with this Act to ensure that the interests of

consumers are protected. The Commission shall establish and administer mechanisms for the regulation of prices in accordance with this Act and the Utilities Regulation Act.

In dealing with regulation, Sir, it is also important to recognise the importance of confidentiality, and section 7 clearly states that the Minister shall take all reasonable steps to ensure that the information submitted to him, and every person concerned with the administration of this Act, in respect of licences and applicants for licences, granted under this Act, is treated confidentially, except insofar as disclosures are necessary for the administration of this Act.

Sir, the penalties provided in Section 93 and Section 94 are for any breaches of confidentiality; and that is the way it should be.

If I may now turn, Sir, to the setting of rates, which is Section 39. The Bill says that the Commission shall establish a mechanism for the setting of rates to be charged by a provider in accordance with the provisions of this Act, the Fair Trading Commission Act and the Utilities Regulation Act.

Sir, that is an important provision and I just hope that this mechanism which they are charged with establishing is less cumbersome and less costly than the Committee that has been established in the past, dealing with rates of public utilities.

In the past, Sir, it was both time consuming and very costly and inevitably, those costs are passed on to the consuming public. I hope this means that the whole mechanism will be much shorter and more in the public interest.

The final point I would like to make, Sir, is dealing with section 81 which makes provision for dealing with annoying, threatening and offensive messages and I quote section 81:

“A person who sends or publishes by means of telecommunications networks an annoying, offensive, threatening, obscene or abusive message to another person commits an offence and is liable to summary convictions to a fine of \$10 000 or to imprisonment for a term of 12 months.”

9.55 a.m.

Friday, December 21, 2001

SENATOR SIR JOHN STANLEY GODDARD:
Subsection 2 states:

“A person who subscribes to a telecommunications service who uses, causes or permits any person to use a

telecommunications service network for the purpose of sending an annoying, offensive, threatening, obscene or abusive message to another person commits an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 12 months.”

I support that totally, Sir. It is important that standards be set high and be maintained and breaches are not allowed.

Sir, with those few comments, I support this Bill. I thank you.

SENATOR THE HON. DAME PATRICIA SYMMONDS: Mr. President, I wish to say a few words on the Fair Trading Commission (FTC). As has been stated, the Bill provides for rates to be set by this Commission. The Fair Trading Commission (FTC) has replaced the Public Utilities Board (PUB) and the intention now is to provide a more modernised system of regulation which the Fair Trading Commission (FTC) has already started to work on.

As the market becomes genuinely competitive in any particular sector one will move from the heavy-handed regulation to economy-wise regulation. The Fair Trading Commission (FTC) will ensure that there is fair competition. I understand that a draft Fair Competition Act as well as draft consumer protection legislation are currently with the Attorney-General's Chambers and will be ready as soon as possible.

Mr. President, the Fair Trading Commission (FTC) is also empowered to set quality service standards which will be a new feature. Although the Fair Trading Commission (FTC) has not yet prescribed standards, it is interesting to note that the mere existence of legislative power has caused Cable & Wireless to start working on their quality of work.

Mr. President, in today's technological environment it is clear that a flat rate regime makes eminent sense and flat rates are replacing measured rates all over the world. There are 85 000 subscribers to residential phones, and socially and culturally we in Barbados are attuned to flat rates. It helps to establish a neighbourliness. If someone's car breaks down, there is no hesitation in allowing the person to use the phone. I think it helps too to alleviate loneliness, and elderly people who live alone can keep in touch with families and friends. Of course, I need not mention the importance of it in case of illness.

In terms of determining costs under the Utilities Regulation Act, the Fair Trading Commission (FTC) is entitled to take a number of things into consideration. For instance, the Fair Trading Commission (FTC) will have to look at whether service providers, and that includes Cable

& Wireless, are using the most modern technology. Obviously, this use would have an impact on cost reduction which is being seen in other places around the world. I am sure that Senator Philip Goddard will elaborate on the question of modern technologies.

Senator Sir John Stanley Goddard has referred to the rate hearings which used to be lengthy and costly and sometimes excessively so. I say that because I sat on the Public Utilities Board (PUB) for quite a number of years and no one can deny that the hearings were costly and time-consuming.

The Fair Trading Commission (FTC) has now circulated for comment a set of procedural rules to govern the conduct of hearings by the Fair Trading Commission (FTC). This is in keeping with Government's policy on transparency and consultation.

This is a revolutionary Bill and it is one which I have much pleasure in supporting wholeheartedly.

Thank you, Mr. President. I am much obliged to you.

SENATOR C. A. MASCOLL: Mr. President, this piece of legislation is exceedingly far-reaching and complicated. In spite of those two things, being far-reaching and complicated, it can only be evaluated on the basis of what it does to the cost of telecommunications in Barbados. So, after all the complexities are removed from the legislation, the question will be, are we going to see a reduction in the cost of telecommunications. Now, although that is a simple question, the answers are exceedingly difficult.

I think we are all aware that once you move from a monopoly to a more liberal or competitive market that there are going to be implications for the cost of doing business and by extension the rates that are charged. There is a bigger complexity here that we need to evaluate and it has to do with the whole question of liberalisation not only in trade but in services. That, for me, introduces a major question as to how we in such a liberalised market would begin to assess the differences between the cost of services provided locally and services that are provided or had from overseas. Therefore, of the major distinctions which have plagued the rate hearings over the years, local and foreign rates would continue to be a major concern.

10.05 a.m.

Friday, December 21, 2001

Senator C. A. MASCOLL: In this new environment, Sir, it is going to be difficult to justify differential rates on the basis of domestic versus foreign service and that is because in this new global world we are supposed to be

living in there are several attempts being made to remove borders and barriers. One therefore has to ask the question if it is going to be difficult to differentiate between the domestic and the foreign rate, then in which direction do we move. Does the domestic rate move towards the foreign rate or would we get a situation in which the foreign rate comes towards the domestic rate?

If you can establish in this new global environment that there is going to be the removal of barriers and borders, as we are seeing in the introduction of a value added tax, in the removal of non-tariff barriers, then it is going to be very difficult to justify the extent of the differential rates between domestic and foreign telecommunications.

I think we are all aware that monopolist prices discriminate on the basis of the ability to separate markets and if the monopoly continues then there can be justification for the maintenance of discriminating prices because it is going to be hard to legislate away the differences between markets, and that is where the complexity comes because inasmuch as we are seeking to remove all the barriers and break down the borders, it would mean that technically we are seeking to treat domestic and foreign markets similarly.

Once a monopolist exists then there is theoretical justification for price discrimination. So you are having a counter situation which offers a major problem to this sector. On the one hand, the removal of barriers will make the two markets become more alike and, on the other hand, it is traditional that a monopolist is allowed to price discriminate once he can separate markets as would be the case.

With that out of the way, the question then becomes what do we mean by affordable rates and how do we establish fairness as reasonableness in the setting of rates. That is going to be exceedingly difficult to achieve in a market where you no longer have one provider. Once you liberate the market and you allow other providers to come into play, then you can understand that the work of the Fair Trading Commission becomes even more complicated because not only are you dealing with, say, Cable & Wireless or BET, however described, but all the other providers who under the law would have been allowed to establish telecommunication networks. You now have to consider their own circumstances, their own cost structures, their revenues, their price fixing and it is going to be exceedingly difficult for the Fair Trading Commission to organise a rating system that is fair and reasonable across the board. That complexity, I hope, would be noted because we all know that the existing "monopolist" is going to have severe advantages over any potential provider of telecommunications in Barbados.

Having said that, perhaps it is quite possible that new technology may make it easier for a small new provider to come into the market and potentially undermine “the existing monopolist”. You can begin to see how complex this arrangement is going to be because technology itself is going to remove the overall existing lump sum investment that the monopolists would have required in the earlier times and reduce it so substantially that entry into the market now becomes far easier for a new provider. Again, you have now complicated this process of fairness and rate setting in Barbados. It is not as easy as it appears to be. Therefore, one could expect that the existing provider will do everything in its power to ensure that new competitors either do not enter or are removed as quickly as possible from the market but that is fair because that is what business is about. There is nobody who is going to invest in any market or operation and then feel good to allow all and sundry to enter and undermine their market share. Dollars have no colour, class or creed. People are in business to make profits and if they suspect that some other person can erode their profits they will do whatever it takes to deny them entry.

Notwithstanding the legislation that we are putting in place, it now becomes the question, are we going to be able to deny the existing provider dominance in the market? I cannot see how you can deny them dominance. In fact, when they remain dominant it then becomes a question of who leads the market so that despite the control that we are seeking to deny “the existing monopolist”, while we can legislate against or seek to encourage higher levels of competition, there are many strategies that could be employed by such a player in a market to ensure control over the market. It is not anything new. It happens in oligopolistic market settings. In the oil business it happens every day where the bigger players determine and dictate. It happens throughout the United States where the largest banks determine the lending and deposit rates simply because of their might and the power that they bring to the market.

I can see no different happening here in spite of our desire to open up the telecommunications sector in Barbados. What we have seen, in fact, is a very clever piece of strategy on the part of the single most important provider, which is downsizing in the earlier part of the year and before and then rightsizing in the latter part of the year, so that whenever you queried why should there be the kind of job losses in that operation you were told that at some later stage the same entity would be seeking to establish other smaller entities to provide service. They may call them something else or they may appear to be under some other name but certainly there is some degree of collusion, I would believe, and even if it is not collusion clearly defined it is going to be hard to ask a former worker who would have derived all kinds of expertise from a particular entity not to remain particularly loyal to that entity if only

because he appreciates that his capacity to grow within the sector depends largely upon his connection with his former employer.

In terms of providing these services there is no one that can tell me that a former worker at that monopoly would not feel some degree of commitment to the established monopoly if he is convinced that in establishing a separate operation he can still derive certain degrees of benefit from having a friendly association with the monopoly.

10.15 a.m.

Friday, December 21, 2001

Senator C.A. MASCOLL: There has to be some degree of control being factored into this entire arrangement within the telecommunications sector. I am walking cautiously and delicately on this matter. When we look at the role that the Fair Trading Commission has to play we see that in setting a fair and reasonable rate there are other considerations like the rates being charged by competing service providers for supplying a similar utility service.

It, therefore, means that if technology allows new players entry into the market and these new players can provide the service at far less cost than the existing provider, then the Fair Trading Commission is compelled to look at the question of the cost that competing services appear to be providing. In short, it would be extremely possible for a similar service provider to come in and offer rates much lower than Cable & Wireless or BET and then you can anticipate that the Fair Trading Commission has a responsibility to look at the differences between the two rates and make a determination as to what is fair and reasonable. The market is not going to fully drive this process in spite of our intention to say that we are now freeing up the telecommunications sector.

Mr. President, standards are going to be exceedingly important because any time a commodity is priced, it has to be in relation to the quality of the commodity and this is why we have to be careful when we attempt to look for cheaper alternatives to purchase because we may not get the necessary standard.

The Bill also talks about the return on the rate base. I have already said that the Fair Trading Commission is going to have a difficult time in determining whether to establish a return on the rate base that is across the sector as opposed to establishing a rate base for individual players within the sector. This is where the complexity will come because how are we going to be able to bring together the different providers, look at their revenue base and

everything else to determine what the rate of return should be for the entire sector?

According to the legislation we also have a duty to look at individual company's performance in determining the rate of return on the investment. This will create a difficulty for the question of rate hearing.

We are told that a simple measure like the rate of inflation should be used as a gauge in the consideration of rates. I have severe difficulty with that because I have difficulty with the existing way in which we calculate rate of inflation in Barbados. First of all, the index itself is in need of a complete overhaul because the index no longer represents an adequate basket of goods for the average Barbadian. I say that because I appreciate that in the aftermath of the value added tax where for the first time taxes were placed on services, the index, as defined now, has never considered putting real services into the index. Other members would like to feel that I am simply being wicked but the truth is that if you look at the allocation of spending across households in the index, it made no real provision for the impact of services. Therefore, since 1997 it is easy to say that the rate of inflation in Barbados is not adequately representing an average basket of goods for the average household because we have not defined the index to capture services which have now become heavily taxed in Barbados. Sir, we all know it because the cosmetologists and their clients now pay all kinds of taxes for the services provided so we need, first of all, to revamp the index.

Sir, the work that has to be done first and foremost is a complete analysis of the rate hearings that have gone before. While we can say that the hearings will not be costly we cannot deny that the same issues raised in the past will now be raised at these hearings and would have to be considered by the Fair Trading Commission. They must be in a position to understand that the world does not begin at the first rate hearing of the Fair Trading Commission. There has to be some consideration of the historical reality of rate setting in Barbados so that we cannot now come and draft a completely new document for determining reasonableness and fairness in the setting of rates in Barbados.

Sir, that is another consideration and I hope that prior to the first hearing the Fair Trading Commission has to engage in that it would appreciate the need to go back to the archives and understand the issues as they were battled over the last 20 or 25 years. It turned out in many instances to be a severe battle. We all respect the work of the late Wendell McClean in that regard and, therefore, let me record my appreciation for his work on behalf of the people of Barbados.

Mr. President, it gets even more complicated because in determining rate setting we are being told in the

Fair Trading legislation which directly relates to the telecommunications legislation that the prospective increase in productivity by the service provider will be part of the consideration of the rate setting.

Sir, because this sector is technologically driven one can understand the volatility in productivity gain that could occur. Almost overnight there can be a transformation in the quality of technology to the extent that it has a severe impact on the cost of operations in telecommunications.

It is my belief, given what is happening in the world today, that technological improvement can translate into substantial cost reduction and the Fair Trading Commission must be in a position where it can truly evaluate prospective increase in productivity to be used in its consideration of rate settings.

10.25 a.m.

Tuesday, December 21, 2001

SENATOR C.A. MASCOLL: Do we really understand the gravity of this provision that you are asking the Fair Trading Commission (FTC), with its limited staff, to be in a position where it can look down the passage of time and anticipate what will happen in productivity among service providers, because it talks about prospective increases in productivity?

Sir, we know how monopolies work. They engage in very healthy investments at a point in time, in the hope that it effects the overall cost over an extended period of time. Over the last few years, Cable & Wireless would have run fiberoptic cable to increase their capacity to provide. That would have been a huge investment. Over time, the benefits would be seen in terms of reductions in average, therefore, reflected in profitability for that provider.

Mr. President, at the time that would have been happening, where you have technological changes, the other major component becomes your human capital. While technology may be driving down cost, you will have a countervailing increase in the cost of human capital. It complicates the ability of the FTC to be in a position to analyse prospective increases of productivity because they can come from many sources. In the short-term, productivity is a managerial concept where you can reorganise your labour and the way you do things, but in the medium to long term, it is driven by technology. Therein lies the complexity for the FTC.

The point has to be made that we are hoping that the FTC would be in a position to say that there is a need for a reduction in the rates similar to its willingness or its belief that there should be an increase. This is where the crux of the matter comes. If we are going to establish a new

telecommunications service, driven by technology, then its ultimate benefit to the economy must come in the form of reducing cost. It cannot be the case that this new area of activity could come into the economy and become a negative as opposed to a positive. There has to be a major consideration of the benefits that can be derived from expanding the telecommunications sector in Barbados.

If we are going to put all forms of legislation in place and it does not redound to the benefit of the economy or the people of the country, then it would have been a failed exercise.

I would hope that we are not just seeking to put legislation in place to be on the same line of trade as others within the region and beyond, but that we understand that there must be an ultimate objective of reducing the cost of doing business. Therein lies our major concern for a future Barbados.

We are here talking about competitiveness but competitiveness is an esoteric term that only has fortifiable value when you relate it to cost. It is being bandied about. You hear that the tourism sector needs to be more competitive but when you ask the question how do you determine that, no one is able to say by doing, X, Y or Z. You must be able to quantify competitiveness to make it a goal and an objective in managing any economy, furthermore a small open economy.

Sir, I move away from all the rhetoric and stepping into a situation and deriving public relations benefit, then pulling back without having put anything quantifiable in place. Over the last month, we entered into the arena. We stalled a particular bank from approaching a customer, then we say that we are providing hope. Two months later, there is absolutely nothing done to assist the individual. Therefore, the question is, are we simply putting structures in place without having defined the objectives or are we seeking to have a public relations contest?

Asides.

SENATOR C.A. MASCOLL: The question is, are we going to be in a position to translate effectively the provisions contained in the legislation into something real and meaningful for the people and businesses of Barbados? That has to be the main question on the minds of those who introduced this kind of legislation.

Sir, it gets more complicated. If it is the case that other providers are going to come into the market, it means that your capacity to regulate becomes more important, even though you are talking about deregulation. If other players are entering the market, then you have to ask the question, while they may be able to provide a service, are they going to be able to protect that service from pirating or

other such use? It has happened in the provision of television services where a major part of your cost relates to how do you protect access without payment. Therefore, you have to put systems in place to prevent people from having access. The major part of the operation is to safeguard the integrity of the system. That is becoming increasingly important in telecommunications. The question of protecting the services that you are providing will become an issue for the future.

10.35 a.m.

Friday, December 21, 2001

SENATOR C. A. MASCOLL: Mr. President, we can have all kind of talk about systems that were and are being developed, but there is not anything in this world that is perfect. If one system is developed today, there can be a counter system because man would have developed that system. It is similar to the excessive concentration of diet to reduce fat. Every day there is a new diet, every day there is a new programme and similarly there is going to be the same internet technology. There is going to be some new invention, only to discover a year in the future that it is flawed. This is where it is going to happen because we are at the stage where we are still experimenting.

We cannot have a world without that kind of experimentation because it is only as a result of creating new things that we can advance, but we cannot believe that every time there is a new discovery that we have gone to the end of the world. Sir, no one can convince me, even though very bright people develop all kinds of technological gadgets, that they have been able to reach to the end of their capacity. Sir, no one should believe that with the provision of all kinds of services, they are isolated from pirating or from people's access by use of some other measure to destroy the integrity of a system that has been developed. This can be seen almost every day now, especially on the Internet. How do we safeguard ourselves? We have not reached that stage of complexity yet in Barbados because it is not yet a wide- spread problem. To date, less than 5 per cent of people in less developed countries have been introduced to the Internet, e-mail, cellular phones, et cetera. We think it is a big thing because some people are able to have access to them without looking to see whether or not they affect the wider body of people within the region and countries, but that is not the case at all.

Mr. President, the other thing that will now happen is that there is a five-year limit for new rates, so that the Fair Trading Commission must convene or inquire about rates every five years or less. They have a duty to come into the market to determine whether or not rates remain fair and reasonable. Sir, that introduces the overall question of cost and administering these rate settings, because we

have been told that a major problem with the Public Utilities Board was the extensive time it took to make decision on rates.

Sir, because we have established a Fair Trading Commission, do not expect that it is going to reduce the inquiries that will be made. The legislation sought, as best as it could, to limit individuals from being “nuisances” and therefore they now have to go through a different channel in order to make representation at the Public Utilities hearing, but it would not stop the extent of the discussions or the debate that one has to engage in, in order to have fairness or reasonableness, to see whether or not one is offered a fair rate of return on their investment, et cetera. In fact, I think I have demonstrated that in this new global environment the issues become even more complicated and are therefore going to require even more discussion. Sir, especially the first rate hearing of the Fair Trading Commission which would be extremely complex because you are now approaching new territory and new ground. Who is now going to be able to determine what the benchmark is? Who is going to make that determination in light of the influences in technology and these other things will have on the determination of rates in Barbados? It is not going to be an easy process for us in the future.

Sir, it means, therefore, that one cannot even query the Bill that is before us because it is, indeed, a very voluminous document where there is little or no precedence and therefore we would have had to look beyond the region to reach this stage. Sir, the question that one would have to ask is, who would have informed the making of the Bill? There is one simple answer to that, the persons who are most engaged and involved in the delivery of telecommunication services, because it would have been impossible to go beyond that group in formulating a Bill of this nature. Government had to seek some input from the existing monopoly, whether it was at the local, regional or international level, but no one can simply put together such a complex Bill without some consultation made by the existing players in the market. It is going to be hard for us to remove the monopolistic character of the market over the next five to ten years. It is not going to be easy for individuals to enter in spite of what the legislation provides because of the start-up capital that is required and the other complexities of knowledge required to enter this particular market, so that there is going to be a level of monopolistic behaviour within the market notwithstanding the presence of the legislation.

Mr. President, I have promised not to take my entire allocation of time during the Yuletide season because we have been forced to return to this August Chamber just prior to Christmas and, in the spirit, I do not wish to carry on as if it were another time in the year. Sir, I wish to end by saying that, yes, the legislation is necessary. Yes, we cannot be left behind, but notwithstanding all of that, we

have to come to the practical realities of the implications of this legislation: the question of the ownership as defined under the Object and Reasons of the Bill; the establishment of a framework for ownership and operation of telecommunications networks; the ownership under the capital requirement would not be widespread. I do not think we can expect it to be widespread. In terms of the operation, there is some degree of experience, the learning curve that the existing monopolist would have been in contact with for the last 40 to 50 years and nobody is now going to simply come into the market and undermine that company. So that, there would remain advantage in this new legislation, notwithstanding the intent.

The second object is the provision of telecommunications on a competitive basis allowing the widest possible access at affordable prices. Sir, we do not have some of the difficulties with the topography that other countries in the region have. Certainly, Dominica is extremely mountainous and very difficult to be able to carry these kinds of services all across the island and in very small and scattered communities because of the nature of the landscape. Barbados is fortunate from the point of view of its flatness, its accessibility in most parts and therefore it does not provide that disadvantage in providing telecommunications services.

Sir, that does not mean that we do not have to improve the quality of the service because, in recent times, it has become extremely difficult to stay on the Internet in Barbados. It has become almost annoying to utilise such a service and whenever you are seeking to do something, you are dropping out of the system. That cannot be a very comforting thing because it is hoped that technology improves productivity, but if technology becomes so annoying that it frustrates, then it actually reverses your desire to be productive. It increases your capacity to get out of the system and to stop using the computer and to look for other ways to find information, but it is not a fair thing to be happening. Therefore, I am hoping that the providers of such services will recognise that quality has to be the buzzword of whatever is required in terms of the provision of bandwidth. Upgrading technology has to be done because if it is not done, it will not allow the sector to become meaningful in the new Barbados. It becomes a nuisance rather than a benefit to the users.

Sir, the whole question of the prevention of unfair competitive practices by carriers and service providers has to be looked at. It is a major problem that will happen because there is a contradiction where one is seeking to open up the market to make it more competitive yet one still has to seek to regulate it in the interest of the consumer. Sir, that must in itself create a world of complexities because the world is about removing barriers which directs us toward being competitive but then, in the interest of seeking to guarantee accessibility by a wider

cross section of the community, we still have to regulate. So that the whole talk about deregulation is what it is - talk, because deregulation cannot be allowed if there is a social conscience and a concern for a wider cross section of people to have access. We can never have that perfect environment. It cannot happen in an imperfect world. Perfection cannot be pursued in a state of imperfection and that is why perfection in itself is just utopian - some thing that is defined for us but just will never be achieved and thank God, that is the only reason why we would be able to get to Heaven anyhow.

10.45 a.m.

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SENATOR C. A. MASCOLL: Similarly, in an economic environment it is useless to speak about perfection. There has to be some degree of control by Governments and there has to be some degree of regulation because the market can never give you what you want in terms of giving a fair price and a fair rate of return. Then, there is the whole question of the future and that is, if we are going to be concentrating on services then telecommunication and technologies become exceedingly important for the future of Barbados.

Sir, we cannot fool ourselves that, given our current structure, we would have achieved our objectives by simply ignoring the need to restructure and reform the economy. We have not truly restructured. We have not embarked on a restructuring of the Barbados economy. We have not embarked on an emphasis on services. It has become a mere question of talk and there is nothing that I can see that has been done over the last seven years to show that we are moving towards a service oriented economy, and that has been a major shortcoming and failure of this particular Administration. They engage in the talk but they have not really provided the environment. The question therefore at the end of this is, would this legislation truly allow for fair rates to be charged and fair rates of returns to be derived by the providers in this sector?

I have difficulty because I think that the complexity involved in determining fair rates and returns would continue to be a major problem within the telecommunications sector of Barbados. I would say that it would not make sense for us to deny the need to have such legislation but, let it not be said that legislation alone would get us where we want to go in terms of justifying efficient allocation of our scarce resources in Barbados.

Mr. President, I thank you.

SENATOR C. K. LAURIE: Mr. President, I am pleased that I can talk this early because I have several

concerns about this Act. I am sure the experts on the other side would be able to allay my fears.

One gets the impression - I certainly got the impression when I heard about the Act, and when I read of the debate in the Lower House - that the legislation is primarily about telecommunications in terms of telephone service providers and the problem we have with the widening of that market and so on. All of the debate so far has been primarily on this, but I have concerns about the radio communications which are covered in this Act.

Senator Symmonds said that the Government prides itself on consultation but when it comes to the radio side of this Act, I talked to members of the Barbados Citizens Band Radio Association, the Barbados Amateur Radio Association, the people who import and sell radio equipment, the people who install radio equipment and all of them assured me that they have never seen the Act, far less been consulted.

Sir, that is a rather upsetting idea because this Act gives the Government powers in relation to things that I think we have come to accept as our rights in Barbados, and to me it threatens some of the personal freedom of Barbadians.

I remember when I was a young boy, you had to get a licence for a radio receiver. The fee was approximately \$2 a year. The Government soon realised, as the number of radios increased, that this was a waste of time and money trying to collect this tax. Then, when television was introduced, we paid a television tax and that was eventually abandoned and people now enjoy the use of television without any licences.

Sir, this seems scary because the fines and penalties addressed in this Act seem to me to be aimed at huge corporations. There are items in this Act that should be literally interpreted. For example, if I have a pocket radio and somebody hits me and smashes this pocket radio, they can be fined \$10 000 or go to jail for three years!

Sir, we have something in the Act which talks about the National Spectrum Management Plan where you can pay a fee, which is not prescribed in the Act, to get hold of this management of the spectrum.

The radio spectrum varies from x-rays and microwaves right through to a very long list of waves. The Government, under this Act, has the right to regulate everything that uses any of these devices. I talked to some members of the Telecommunications Department of the Government and they said, "Yes, that is so and that is what we want. We want to regulate the whole spectrum."

Sir, you have your key and you go to open your car, from now on that has to be licensed. It works by radio and the Act says that has to be licensed.

In the United States of America's law, the FCC specifically puts aside certain frequencies that do not require licensing but this is not so under this Act. There are no exceptions but every single thing that works by radio. If you have a microphone that you walk around with, it is a wireless microphone and it now comes under the Act and it has to be licensed.

Sir, there is a reference on page 13 of the Act, about the International Telecommunications Convention that Barbados acceded to in Nairobi in 1982. I asked to see a copy of this and I was surprised and somewhat upset to find that no such copy exists in Parliament. I was under the impression that any time that we sign a convention or a treaty that it would be laid in Parliament, so that parliamentarians could see what the Government is committing us to, but somehow or other it did not happen and there is no copy in Parliament.

Sir, under the definitions in the Act, radio telecommunications means everything including receivers. Now, I can understand the great need for transmissions: you have to control walkie talkies that are used for business and you have to make sure that you have total control of that spectrum of the business and the frequencies used, particularly by the police, the Defence Force and so on.

Sir, what if my grandson has a little toy plastic walkie-talkie but it can travel the length of the room, does that now come under the Act and requires a licence?

Asides.

SENATOR C. K. LAURIE: The satellite receiver is an antenna. There is no definition to describe exactly what is a satellite receiver. You could have a dish but I could make a dish to receive CBC 900. The dish could be constructed and would be a huge dish because of the wave length but theoretically I could do that, but once I have that, is that going to be called a satellite receiver if it has satellite capabilities?

10.50 a.m.

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SENATOR C. K. LAURIE: I understand right now that you have to pay a licence fee of \$500 a year for one of these dishes. I also understand that you even have to pay a fee for DirectTV with a small dish. In fact, I was surprised to hear from a government source that you actually have paid a tax for the remote control on your television and that when you buy a television that has a remote control that you

have to pay more for it than if it does not have a remote control in view of the fact that it is included in an overall licence for that remote control. I hope the television we have here has that capability.

There are radio control toys that are becoming very popular. There is a club involved in radio control aeroplanes and radio control boats. I have seen people in the Careenage fooling around with these things. All of these things are now licensable.

Now, every telecommunications device, including a pocket radio, has to be inspected and declared at Customs and they have the right to hold it on the basis that it can be taken and modified and on the basis that some times these radios come in and are said to be radio receivers because the Act gives them that right and the Government has intentions that they should hold it until they approve.

There are things called scanners which are used by various people and by the Press a lot to listen to the police. Do you know that every cellular call that you make is scannable? There are people there listening now...

SENATOR the Hon. P. C. GODDARD: On a point of order. The Honourable Senator is misleading the Senate in the fact that digital cellular calls are not scannable. Analog calls can be scanned and the cell phone companies have moved substantially to a digital environment.

SENATOR C. K. LAURIE: I am glad to hear that is so but I can tell you that I saw somebody using one of these phones the other day... In fact, somebody called me and said that they heard me talking to someone and I told them that I did not know that the person was on a cellular phone. This gentleman called me on his cellular phone, I was talking to him but I did not know that he was on his cellular phone. This person told me that they went into this lunch room and this guy has a scanner there and they were listening to my private conversation with this man.

SENATOR the Hon. G. S. H. MURRAY: On a point of order. The Honourable Senator is unwittingly misleading the Chamber. Things that are scannable are what are known as analog which is the old-fashioned network. So the Honourable Senator probably has a very old-fashioned set. A digital set is not scannable. So what he should do is to upgrade his service.

Mr. PRESIDENT: Senator Philip Goddard has already made the point which has been allowed as a point of order. Proceed, Senator.

SENATOR C. K. LAURIE: Sir John raised the question of messages that are obscene and so on, but the Act also includes annoying messages and the fine for this is \$10 000 or 12 months in jail. I find it a little mind-boggling

for someone to tell me that if I phone my favourite politician and annoy him that I could be fined \$10 000 or be sent to jail for 12 months. So who is going to decide on what is annoying and what is not. I find this a little too wide and I would rather see it a little better.

It even goes further in that if you subscribe to a service and that service is used for the purposes of being obscene or annoying to anyone, you as a subscriber are also liable. I find this totally mind-boggling that you have no knowledge of what is going on but you can still be liable. Is it your responsibility to ask the person to whom you are subscribing for a service to guarantee that there will be no annoying messages? This sort of restricts people.

Now, in section 82(1) it said “a person who knowingly intercepts or copies some material that is coming out”. Now, does this include the copying of videos? If you do a video tape of something that is on television, is this going to be illegal? If you do an audio tape of something that is on radio, is this going to be illegal?

Asides.

SENATOR C. K. LAURIE: Ah, but you see, intellectual property would say that if you are going to use this or sell it or something. So if you are just going to copy it, is the act of copying then an offence? This is not normally so anywhere else in the world. Normally you may copy but you may not use. You may use it for your own personal use.

Mr. PRESIDENT: Senator, please do not be distracted by the asides. Please address the Chair.

SENATOR C. K. LAURIE: In section 82 (2) it says that paragraph does not apply to the Royal Barbados Police Force. Now, the Government also has a monitoring station established at Gun Hill which monitors and receives and presumably acts when they find some illegal stuff is going on. I am sure that everybody knows that all the radio substations in Barbados are monitored at Gun Hill and they act on it but this here does not recognise that they exist and only gives the Royal Barbados Police Force the right to eavesdrop on conversations. This monitoring station has been in existence for the last 20 years as far as I know. This is nothing new, so people should know all about it.

Mr. President, the whole point of this thing is that I do not think anybody has addressed the real concerns of people using the radio spectrum in Barbados in our day to day business. So just how far is the Government going to implement this thing? Are they really going to prosecute kids with toys that do not have a licence? Where are they going with this thing? They have the power here to do anything. We do not have these activities set aside as part

of the spectrum that is normally set aside in other countries. In Barbados the spectrum is total. I would assume that a microwave oven gives off microwaves even though it does not go anywhere, nevertheless the Act says clearly anything that gives off any kind of radio emission is licensable. So I think if they try to implement that the bureaucracy would be mind-boggling.

I thank you.

Senator J. E. D. WILLIAMS: Mr. President, I rise to give this Bill my fullest support, particularly by the fact that telecommunications is the thing that drives almost every economic sector or, I may say, all economic sectors in this country.

Before I get into the debate, I just need to speak quickly to a few points which were raised by Senator Laurie and also a few points and comments which were raised by Senator Mascoll.

11.05 a.m.

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Senator J. E. D. WILLIAMS: There is absolutely no intention in terms of spectrum management to deny people like the citizen bands and radio amateurs. The Act is pretty clear. It speaks to the promotion of the economic and orderly use of the spectrum for the operation of telecommunications. Section 40(b)(1) goes on to talk about recovering the cost incurred in the management of the spectrum. This is addressing the issue of telecommunications. The economic value to this has to do with those frequencies and that part of the spectrum that supports telecommunications.

For example, when Government eventually issues a licence to another provider to offer a mobile service, that new entrant would have to be issued frequencies in which to operate. If an individual wants to use satellite communication as a means of connecting, transmitting and receiving information data, you have to use satellite frequency. That is where the economic value is. It is in the form of telecommunications. To talk about a little key to the car and somebody out there using some little walkie-talkie, is basically to trivialise the issue that we are dealing with and I wish that Senator Laurie had started as...

Senator C. K. LAURIE: Mr. President, on a point of order, I am just repeating what I was told by the Government's telecommunications engineer. These are the facts.

Senator J.E.D. WILLIAMS: Mr. President, I know that the Government has telecommunications engineers in a unit that people really understand and I really would not

comment on the last intervention made by Senator Laurie, but I would say that I wish he had started how Senator Mascoll had started. Senator Mascoll began by saying that the legislation is complicated and far reaching and his level of difficulty took him from ten to quarter to eleven before he took up the Bill and he finished at five minutes to eleven.

I wish that Senator Laurie had started the same way because we are dealing with a serious piece of legislation before this Chamber today. Senator Mascoll is absolutely correct that it is a very technical document and quite frankly not even people like myself are capable of dealing with it one hundred per cent, but I know I can deal with it more so than most.

The fact of the matter is that the telecommunication industry has gone through a revolution, particularly over the last 30 to 40 years. As a consequence, the regulatory regimes and the sorts of older technologies on which the regulatory process has hinged make the present legislation that we have obsolete. It means therefore that we have to get legislation that can permit us to be able to satisfy our obligations under things like WTO and GATT.

Those agreements all stress the fact that promoting liberalisation competition and encouraging a measure of transparency in telecommunications, both in terms of domestic, regional and international services are clearly the objectives. The process towards the development of a regime that is appropriate to regulate telecommunications, the sector itself, requires careful planning and the approach must be one that is orderly, focussed and it has, to my mind, to be purposeful in the way that a government or any entity should have gone about it. Those three elements, the fact that it should be orderly, focussed and purposeful are something that we should give this Government credit for. This document before us has gone through a long process where we have seen the setting up of a technical committee.

Senator Mascoll in his contribution talked about the fact that the document itself might have had an input from the local operator. The technical committee that was set up was a committee that had persons across the board to advise Government in terms of what kind of policies ought to be formulated in terms of improving our existing telecommunications legislation. Clearly, you would try to seek to have input from everybody who understands the industry.

I am certain, for example, that if Senator Mascoll had sat down with people involved with the industry and gone through the Bill, his contribution today might have been different. Therefore I believe that if a government is going to formulate legislation then it is incumbent upon the government to ensure that it has the input of all the people

who can help it formulate that policy so that at the end of the day it is relevant to our circumstances.

The first report came out in 1997 and the objectives of that report spoke to access to basic telephone service under universal service obligation. Let me say that what we do not want is a case where when you move to competition, some entity says that it is only going to offer this or that service but not the whole suite of services because you could have overnight a situation where some key services in Barbados are no longer provided. If you are going to come up with legislation, the question of universal services has to be addressed and it has been addressed in the legislation or in the Bill before us.

The second and important element coming out of the 1997 report dealt with creating competitive telecommunications prices. Senator Mascoll spent most of his time seeking to talk around the role of the Fair Trading Commission and whether or not it is capable of setting prices effectively across the board and so on. What I would say to Senator Mascoll is that if you look at most of the OECD countries, at the last count I think there were some 24 out of the 29 that had gone through the process of full liberalisation; some of them have even gone to the extent that they do not need to be regulated. As a matter of fact, the role of the regulator has diminished almost entirely and people can come into the marketplace and set up operations provided they follow certain requirements laid down without having to go through a whole process of being licensed and the prices regulated.

I want to say to Senator Mascoll that eventually, and I am not quite sure when we are going to reach that point where the role of the regulator would have diminished to that degree, but the fact remains that once you create a system that supports competition, and the Fair Trading Commission in its role ensures that competition is fair competition, we will move to a point where the role and the difficulty that Senator Mascoll alluded to would no longer be there because market forces will take over. That was the second objective coming out of the report.

11.15 a.m.

Friday, December 21, 2001

Senator J.E.D. WILLIAMS: There should be utilisation of state-of-the-art technology that facilitates services comparable to those in developing economies. This is part of the objective in the revamping of our legislation and moving towards a process of liberalisation.

A key objective is continued investment with a reasonable rate of return and an equitable basis on which new entrants may be provided services thus promoting

competition and allowing market forces to drive prices. This would assist in regulating the market.

Mr. President, I alluded to the experience of the OECD countries. In every instance where I was able to gather information there is a clear showing that when the telecommunications sector is opened up, liberalised and becomes competitive, the overall revenue coming from the industry tends to go up. In the case of the OECD countries, between 1995 and 1999 their revenues went up by 60 percent and that is where most of the liberalisation took place for those countries. Of course, it also had a concomitant impact on GDP in those countries.

There was also tremendous digitalisation of the networks and we saw further improvement and increase in the cable television industry. This, of course, underscores the linkage between telecommunications and things like broadcasting and information technology.

If the OECD countries and other countries which moved toward liberalising telecommunications have been able to benefit from better prices and better quality of service, there is nothing to suggest that it will not happen in our case, because for us to reach this stage, we needed to take the decision to have a body that could properly regulate prices, and Government has made sure that the Fair Trading Commission was set up in a way that it benefited from the best possible advice at the time. We also had a Committee set up in 1996 and then, to my mind, what we needed to move the process along would be to have the sort of legislation that we have before us today.

Mr. President, most of the countries who went through this experience pointed to a number of things that must take place if there is going to be competition and if we are not to experience the difficulties that Senator Mascoll alluded to.

For example in the United Kingdom, new entrants coming into the market had to use British Telecom networks and, therefore, any new entrants coming into the market in Barbados will have to use the network of the present incumbent. Therefore, inter-connectivity will be integral and important.

The method used to determine inter-connectivity charges will also have to be determined even if we use a method based on historical cost, but whatever the methodology, one has to look at how we arrive at charges for inter-connectivity. Sir, the fact of the matter is that there must be a regime to support operators coming into the business and being supported via the dominant carrier.

There must also be a clear service level agreement so that a new entrant will clearly understand what to expect.

Also, the terms and conditions of what the dominant carrier is going to provide will clearly have to be spelt out.

Mr. President, in terms of the legislation, the interconnection terms must be non-discriminatory. There must be a situation where what you are going to offer a new entrant must be as good as what you use for yourself. It must also be judged against any non-affiliate service provider or similar facilities thus provided and it must be provided in a timely fashion. This is important because as Senator Mascoll correctly said, if one does not regulate the sector properly, a dominant carrier could frustrate the efforts of a new entrant and, therefore, timeliness is very important. When a new entrant asks to be provided with a new service, he must be provided with a good price, a good quality and in a timely fashion in order to make sure that new entrant is not frustrated.

The carrier must also provide interconnection to his network on such reasonable terms and conditions as the interconnecting parties agree through negotiations. The offer sets out the terms and conditions upon which the licence carriers will be permitted to interconnect with the telecommunications network of the carrier who offers them a service. The terms include a description of the services to be provided, the terms of payment and the location of interconnecting points. Sir, this can become a very contentious matter, based on the experience of others who have gone through this because as a provider of service you will be required to set up a network and operate in the most efficient way in terms of your own equipment.

11.25 a.m.

Tuesday, December 21, 2001

SENATOR J.E.D. WILLIAMS: Therefore, the legislation before us seeks to facilitate competition, to promote a regime of cost- oriented prices and to offer an entrant an interconnect price that is cost-oriented. I want to put a stake in the ground at this point. If interconnect prices are to be cost-oriented, the charges by the dominant carrier must also be cost-oriented.

Mr. President, I am saying that the experience of most countries has been that they have taken a long time to move from prices that one can say are not market driven prices, to one where prices approach cost. We, as a country want to have it both ways. We want to make sure that the prices we pay for services are fair, reasonable and as low as possible, and at the same time be in a position to be able to offer new people coming into the market prices that will allow them to be competitive. Sir, at the same time we do not want to deal with the hard facts recognising that we have to move from where we are to a point where there is no longer subsidisation in the sector.

We have the international sector presently subsidising the national sector. For example, people are saying that they want to maintain fixed rates. There is no problem in maintaining fixed rates. However, a regime of cost-oriented prices will simply say, what does it cost to provide that local service? Whatever the cost is plus a reasonable rate of return will determine what is the cost of providing the services. The cost of providing the service plus a reasonable rate of return will equal the price that you pay for it.

However, we are saying that we want to maintain a flat rate in Barbados and that we do not want to move to a situation where you have measured rates. Mr. President, my understanding is that the cost of maintaining a flat rate, if it is charged at the true rate of providing that service, could be anywhere in excess of \$70 a month. It is clear that there has to be a balance in trying to promote competition in the industry and at the same time the social cost in any decision that you take. It is a delicate balance.

Sir, it is not by chance, for example, that countries would have a phased process to liberalisation. Sir, one can make the decision overnight and say that we want to become fully liberalised and open up the market tomorrow, but that would mean that the prices that you charge would have to be prices that relate to how much it cost you to provide those services. To that extent, one would therefore imagine that the cost of services would go up astronomically, there must be a phased process to it.

We cannot be talking about cost oriented prices, we cannot be talking about wanting more competitors to come into the market and to allow them to operate in the most cost-effective way and do not recognise what the implications are. Mr. President, for example, if you are going to expect incumbents who are mandated with commitments in terms of interconnecting because they have a responsibility hereafter to interconnect, I think that we have to deal with the issue in full. I think that we need to understand that we have to look at it holistically.

The role of the Fair Trading Commission (FTC) is very important because it has to ensure that the subscriber charges, while they move towards cost oriented prices as quickly as possible, are done in a way that does not create social hardship.

We are hoping in the short-term that there will be competition within the cellular market. The role of the regulator in this area is going to be particularly important. The regulator must ensure that there is a follow-through on the conditions that are set by the incumbent and the new person entering the market. The Government has to monitor compliance and make sure that they enforce decisions.

I want to move to the area of the funding of universal service. One of the key objectives coming out of the report of 1997 was the fact that Government wanted to make sure that there was universal service in Barbados. That in itself would ensure that basic telecommunications services were available. For example, pay phones are reasonably accessible across Barbados; there is access to emergency numbers, free of charge, and providing appropriate telecommunication equipment for the disabled persons.

Mr. President, if you are going ask any operator to meet this as an obligation, not everyone coming into the market would want to provide the whole suite of services to the public.

11.35 a.m.

Friday, December 21, 2001

SENATOR J. E. D. WILLIAMS: Therefore, it is necessary to have a fund established to ensure that those who provide these services are so recompensed at the end of the day. The universal service obligation operator may receive funding for the net cost of meeting such services. Those operators can be funded in one or two ways:

(a) The establishment of a fund to which all operators contribute and from which the universal service operator is reimbursed,

(b) The adding of a supplementary charge for interconnection fee.

Therefore, it is for the Ministry and the Government to determine which one they consider more appropriate. The experience of other countries has shown that the fund is preferred since it prevents distortions in terms of interconnection and it tends to be more transparent and allows the designation of another operator, instead of the incumbent, to provide personal service in particular areas. Accounting preparation, however, ensures that the possibility of cross-subsidization is prevented.

Mr. PRESIDENT: Senator Williams, you have one minute in which to conclude your speech.

SENATOR J. E. D. WILLIAMS: Thank you, Mr. President. Mr. President, I think if there is one message that I would leave with this Honourable Chamber it would be this:

All of this, to my mind, can only happen if we have a telecommunications unit that is properly resourced, properly managed and is able to monitor what is going on out there.

Sir, I have not even spoken about spectrum management and that is one that concerns me. Sir, presently you will find that people do all kinds of things to get around the system and an incumbent has a responsibility, when it is a monopoly, to ensure that he is able to detect these sorts of things because it is basically set in its own licence. What is happening now is that this now falls to Government, which has a responsibility to take the role from an incumbent and ensure that it is able to police the system to ensure that, at the end of the day, revenues that are due to Government are, indeed, made possible.

I thank you.

Mr. PRESIDENT: Senator Marshall.

SENATOR D. D. MARSHALL: Thank you very much, Mr. President. In my short contribution to this Debate I would want to draw attention to a few of the issues that exist generally in telecommunications, and not going into the legislation itself. I would think it important to remind Members of this Honourable Senate that the area of telecommunications is a very rapidly growing industry, notwithstanding, of course, that the telephone has been around for almost 100 years, and one would imagine that after 100 years there would be some evidence of a plateau, but that has not been the case in telecommunications.

Sir, we recognise that it is growing, fast paced, rapidly evolving when we consider that the legislation we have, as we speak, was enacted in 1991, just 10 years ago. So that, within the space of one very short decade, it has become necessary for us to completely revamp and revive the legislative structures which govern our telecommunications sector. That is not an issue of foresight. In fact, this revision and revamping was the artwork of the former Government. The Bill before this Honourable Senate has, in its objects and reasons statement, the following:

4. This Bill is to make provision for the management and regulation of telecommunications in Barbados to ensure the provision of telecommunication services on a competitive basis allowing the widest possible access to these services at an affordable rate,
5. The prevention of unfair competitive practices by carriers and service providers,
6. The overall development of telecommunications in the interest of the sustainable development of Barbados taking into account the introduction of advanced telecommunications technologies and an increased range of services.

Mr. President, perhaps the most common thing that comes to mind when we talk about liberalisation of the telecommunications sector is cheaper rates. Perhaps it is

human nature that our focus should primarily be the immediate impact on our pockets. Be that as it may, I believe it is important to draw the Honourable Senate's attention to the fact that cheaper rates, though perhaps the most immediate benefit, certainly is not the most important of the benefits that we would realise from the liberalization of our telecommunication sector. Cheaper rates are important, yes, but we have to realise that our telecommunications sector has gone long past what people used to call the POTS - Plain Old Telephone Service.

Sir, the other effects of this liberalising of the telecommunications sector will be such things as positing Barbados as a leading player in the technology. It will also have a very positive impact on our GDP. There will be benefits to local investors, significant increase in Government's revenues can be expected and also increased employment and training opportunities for local residents. Those benefits are, perhaps, the long term benefits which will secure our future as a thriving economy and not simply the immediate benefit of cheaper telephone rates.

I would like to indicate at the outset that the liberalisation of telecommunications is not just an issue of cheaper rates. We also have obligations under the WTO, and therefore it has been important for us to liberalise. Sir, I feel it important to make the point that CARICOM needs to put the issue of telecommunication on its agenda in a meaningful way. This issue of liberalising so as to meet the requirement of the WTO will essentially mean that there will be more foreign players in our telecommunication sector. There will be more foreign players applying for licences and these are issues when one starts to talk about cross-border trade in telecommunications, et cetera, which will almost inevitably give rise to trade disputes.

Small countries like Barbados, Grenada, Dominica and all the other countries in the Caribbean are not necessarily well positioned to handle international trade disputes. We know what has happened in the Caribbean in relation to such things as bananas. We have to recognise that in the WTO companies do not make claims; the WTO is not a civil court. Governments do. Therefore, companies must rely on their governments to make a charge in the WTO on their behalf. Now, we have to recognise that in the area of telecommunication in the Caribbean countries, individually, they are not well equipped to face or to make those kinds of challenges. Therefore, if we intend to become a successful player, both individually as a country and as a region, in the area of cross-border telecommunications and international trade, we have to ensure that our Governments collectively have the skills to mount a successful challenge or to defend a challenge to the steps that we may take. I, therefore, would like to reiterate that call for CARICOM to put the issue of telecommunication firmly on its agenda.

One of the most interesting things about liberalisation of telecommunication is the role of the mobile telephone. The most frequent debates these days on mobile telephone is how unsafe it is because persons are driving while talking with the phone in their hands which is likely to cause accidents. Then, of course, there was the recent scare of increased risk of cancer. Today, over 300 million people in the world own mobile telephones, that is, more people owning mobile telephones than owning personal computers. Anyone who is even slightly technologically oriented will recognise the impact of this. There are more people who own mobile phones in Barbados than own personal computers, therefore we have to recognise that with this proliferation in the growth of mobile phone in that sector of our population that opportunities of new kinds develop. It is estimated by the year 2003, there will be one billion users of mobile telephones and that will be the point when mobile telephones will be as common as television sets.

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SENATOR D. D. MARSHALL: At that time, as well, it is expected that the value of goods and services transacted over mobile networks, will have reached US\$13 billion, approximately 7 per cent of all e-commerce transactions.

Telecommunications therefore is a sunrise industry with many different players coming in. It has typically enjoyed a very high rate of growth and it has been traditionally the largest industry in any developed country. It will be interesting to note that the largest company listed on the London Stock Exchange is the mobile telephone company, Vodophone. In fact, Vodophone is the largest telephone company in the world, even larger than its predecessors, British Telecom and Cable & Wireless.

There have been many forces at work causing all countries to consider liberalisation of the telecommunications network. Technology has resulted in some things like call-back facilities which result in cheaper rates and so on and so will the networks which are viable alternatives to fixed line services. Commercial users have also put a lot of pressure on telephony and also economic competitiveness. Barbados recognises that in order for us to be competitive and position ourselves as a global player our telecommunications infrastructure must be cutting edged. Sir, the basic point is that liberalisation of telecommunications goes far beyond cheaper telephone rates for the domestic consumer.

There are many advantages too, to liberalisation, particularly in tourism. We have to recognise that tourism has changed in many ways and the changing face of the

tourists that come to Barbados is important. As we travelled in the Caribbean over the last few years, we have been making increased calls for the ability to roam.

Six months ago if you went to St. Lucia you would have heard that you had to go to the Cable & Wireless office and make your telephone call. These are now things of the past. How much more would it be an important feature for a European or a North American travelling to Barbados to have a seamless use of his mobile telephone. Sir, these are factors that are coming in and making changes to the landscape.

I am firmly of the view that as liberalisation takes place, we are able to bring newer commodities to the market. The competition will cause players to start having more user friendly offerings and therefore position us as a tourist destination that is able to cater to many of their needs. One only has to think of the proliferation of CNN in hotel rooms, purely because tourists want to keep in touch. The principle is exactly the same when it comes to the use of mobile technology.

Barbados is responding relatively quickly but we have to recognise that this is one race where we are somewhat behind. There are other people in the region who have liberalised markets in telephony. This is not a race that you can afford to give anybody an especially great deal domestically.

I am firmly of the view that our deregulated telephone systems will also provide significant opportunities for economic enfranchisement of Barbadians. I was quite pleased to notice recently that, even in preparation for liberalisation, Cable & Wireless/BARTEL has actually started to out source some of its services to companies set up by former employees.

This is expected to happen because as competition increases, companies will start focussing on their core strengths. Companies will, if possible, get out of having to deal with installations, repairs, this, that and the other and that will therefore provide many opportunities for Barbadians to get into this very powerful, very lucrative sector.

The key business opportunities, in my view, would include maintenance and operation of the actual infrastructure, providing of enabling systems, enhanced payment systems, content providers and so on, as mobile telephones increasingly allow us to access things like the Internet.

Sir, I would like to mention two final things and one might be of interest to the members of this Senate. More and more mobile telephones are being used as payment mechanisms. In the Isle of Man you can now buy a coke

from a coke dispenser without putting in any money. You are able simply to dial in a number on your mobile telephone and you will be billed for the coke that you took out of the dispenser when you get your telephone bill.

The point is that telephones have gone beyond simple communications devices. No longer are telephones just things that you pick up and call your relatives and friends to wish them a merry Christmas. They are becoming an integral part of how we interface with people and businesses on a day-to-day basis.

I believe that the passing of this Bill will mark a watershed in Barbados' development. The opportunities for enfranchisement do not just rest with the small man as we say. Sir, because it is a lucrative industry, I would personally like to encourage Barbadian entities to pay for some of the licences that might be available and try to get in there to ensure that some of the profits remain in Barbados.

Finally, Mr. President, I would like to mention one aspect of the legislation which amuses me and it is in many ways similar to the amusing comment by Senator Laurie about annoying politicians. One of the concerns that I know many Barbadians have problems with from time to time is the question of crank calls. In the former Telecommunications Act, there was absolutely no legislative prohibition against crank calls. This is particularly sensitive to me because, in my early years of practising law, many people would come and say, "I am getting these crank calls, what can I do?"

BARTEL at that time would say that there is nothing much that they can do. There is no framework in place and it was a fairly constant source of embarrassment to say to somebody that really they will just have to put up with it or change their telephone number.

Perhaps the section in the Act which talked about annoying telephone calls was intended to remedy that breach. I was a little amused when I noted that it talked about any person who uses the telephone system to transmit annoying or offensive messages. It occurred to me that very often one of the most common crank calls is when people call you repeatedly and when you answer the phone, they put the phone down in your ears. There could not be any legal definition which equates to a message, so at some point in time when the opportunity arises for an amendment to this legislation, I would like to encourage that we do not limit crank calls just to those people who actually abuse you or annoy you by speaking to you on the phone, but to those people who also annoy you by not speaking.

Asides.

SENATOR D. D. MARSHALL: Sir, with the last comment of my learned colleague in the Senate, Senator McClean, Mr. President, I support this legislation and look forward to a new lease on life to the Barbados economy, through the many advantages that will come as a result of telecommunications and only to reiterate that we cannot think of it only in terms of cheaper telephone rates. There is a lot more at stake and far many more benefits than a reduction in our monthly telephone bills.

SUSPENSION

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that this Sitting be suspended until 12.10 p.m.

The question that the Sitting be suspended until 12.10 p.m. was put and agreed to and Mr. PRESIDENT suspended the Senate accordingly.

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RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

SENATOR LeR. H. McCLEAN: Mr. President, there are a few matters with respect to this legislation which I have serious concerns about but before I embark on them, I will deal with the legislation itself.

I would like to address a point that was raised by the Honourable Minister in his presentation. I heard him made reference to a previous Administration selling the birthright of this country when they entered into some arrangement with Cable & Wireless. What I would like to say with respect to that is that time and circumstances change and everything happens in due time. A few things happened before their time. In fact, we have heard persons suffering because they were before their time but when things happen in the normal process of time we expect to see things happening. So perhaps this is now the time for this legislation because I do not think there were any countries in the Caribbean, in fact, not only in this region but as far as Hong Kong where Cable & Wireless operate business that you did not have the same kind of arrangement as we have in Barbados where it tends to have a monopoly on telecommunications. So that is nothing new with respect to Barbados.

However, if we are going to talk about the selling of birthright, then we will have to deal with several other issues which do not fall within the ambit of this debate because we will have to talk about things like the lack of drugs to the Barbados Drug Service because we are

endangering the birthright of Barbadians when we do not provide them with certain basic necessities; but we will not get into that, and I am sure that you would not allow me to go down that road. So, I will caution the Honourable Leader of the Senate not to allow those who have been around a little longer than him to warp his thinking in this regard.

Mr. President, one of the main concerns I have with respect to this legislation is the power given to the Minister. Now, you cannot blow hot and cold if you want to achieve anything because the best you will end up with is being lukewarm. On the one hand, Government is pushing the notion that we need to liberalise and, therefore, we need to allow for free and fair competition but at the same time they have a mechanism in place which, in my view, runs the risk of stifling that free and fair competition. For example, Under section 12 to grant a licence there are some very questionable points which come up there. It says:

“In determining whether to grant a licence under this Part, the Minister should consider:

(a) whether an applicant

(I) is a person of fit and proper character.

I do not know, Sir, what yardstick would be used by a particular Minister to determine who has a fit and proper character. In my view that seems to be rather subjective. Also, if he;

(ii) is, or is affiliated with an undischarged bankrupt.

Now, I do not know what “affiliated with” in this regard might mean, whether you are a business partner or whether you just happen to be a third cousin or whether you just happen to have a drink together. What does “affiliated with” mean? You see these points might seem insignificant to persons but I always say that I like to think of a worse-case scenario. Maybe one is quite happy with the competence and the integrity of the Minister who has responsibility at this time but who knows what may happen in the future if you have someone who maybe is not as competent nor has the same level of integrity as the present Minister.

SENATOR the Hon. G. S. H. MURRAY: On a point of order. The Honourable Senator has obviously not read the Bill because in Part 1 which deals basically with interpretations, it said:

“Affiliate”, in relation to a company means an affiliated body corporate within the meaning of section 440 of the Companies Act”.

So obviously you are talking of “affiliate” in a company context.

Mr. PRESIDENT: That is no point of order, please proceed, Senator.

SENATOR LeR. H. McCLEAN: The point I am making is that one must always pay attention to things like this because when we are dealing with matters like this is open to interpretation. Therefore, we must ensure that our legislation is not left open to interpretation because this section states that the Minister has power to determine whether a licence is granted or not to an applicant who is affiliated with an undischarged bankrupt or with a person whose licence has been revoked.

Under section 17 subsection 2 it states that:

(2) Where the Minister has reasonable grounds for not renewing a licence under subsection (1), he shall inform the licensee by written notice as soon as practicable of his intention not to renew the licence”.

Mr. President, as I said, where the Minister has reasonable grounds for not renewing a licence under subsection (1) he should inform the licensee by written notice as soon as practicable. As I said, Sir, when you are talking about large sums of money being invested and the person undertaking the enormous commitments he cannot leave it to a person in such a subjective manner to determine whether that licence can be renewed. There should be a reasonable time frame set out by law under which the Minister would have to give that notice rather than leaving it so wide open.

Again, when we look at the modification of a licence, under section 18(1) subsection 2, it says that:

“The Minister may modify a licence without the consent of the licensee where the Minister is of the view that the modification is necessary for reasons of public interest; but where he does so, the Minister shall advise the affected parties by written notice at least two days prior to modification”.

Again, Sir, how are you going to give somebody two days written notice that you are going to modify the conditions of the licence where you are dealing with such an enormous matter?

Sir, I believe that the powers of the Minister appeared to be too wide and subject to very subjective judgment. So I think this is something which we need to guard against because we cannot be saying on the one hand that we want to liberalise a sector but yet we are going to have these kinds of things in force. I believe then that rather than having all of these powers in the hands of a

Minister that there should be an independent impartial body that is responsible for matters mentioned under this Bill rather than putting it in the hands of a Minister. In the same way that we have a Fair Trading Commission (FTC) to deal with the other aspects in terms of the operation, rate hearings and what not, I believe that the decision as to whether a licence is granted or not or the matters relating to licences should not fall under the control of a Minister but there should be an independent body which would not come under any undue influence, that is, a body that is set up with a given life span that will bridge any change in Government for example and one that is not subject to being removed because a Government is changed or because a Minister is changed.

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Senator LeR. H. McCLEAN: We need to have something like the Fair Trading Commission. We need an independent, impartial body to deal with this.

Sir, we have a situation where one person can apply for a licence and based on this Bill the Minister could determine that person is not eligible for a licence. Another person with the same circumstances could apply for a licence and the Minister could use the same judgment to give that person a licence. I believe that discretion in the hands of one person could be okay but we have to consider the worse case scenario.

Aside.

Senator LeR. H. McCLEAN: If persons are listening, they would have heard a few minutes ago where I pointed out that we needed an impartial body to deal with this matter rather than giving such wide and subjective powers to a Minister.

I also heard that in this Bill and with the conditions for liberalisation, there was no use troubling Cable & Wireless...

Senator the Hon. G. S. H. MURRAY: Mr. President, I hate to interrupt the Honourable Member in full flight, and fanciful flight at that, but the Honourable Member is seeking to portray the discretion given to the Minister under this Act as leaving it vulnerable to someone being a tyrant or dictator or being arbitrary, high-handed, one-sided and partisan in his activities. To show that this is not the intent of the Bill, section 19(2) says:

“Where the Minister has reasonable grounds for believing that a licence granted under this Act ought to be suspended or revoked, the Minister shall, before suspending or revoking the licence, give the licensee 60

days notice in writing of intention to do so, specifying the grounds on which he proposes to suspend or revoke the licence; and shall give the licensee an opportunity

a) to make written submission in respect of these grounds;

b) to remedy the breach of the licence or a term or condition of the licence; or

c) to submit to the Minister, within 30 days of the receipt of the notice or such longer time as the Minister may specify a written statement of objections to the suspension or revocation of the licence which the Minister shall take into account before making his decision.”

Sir, it shows that there is provision.

Mr. PRESIDENT: Senator, that is a speech. You will have an opportunity to speak a little later on. Senator McClean, please continue.

Senator LeR. H. McCLEAN: Mr. President, after all that is done, then the Minister makes a decision. The Minister gives you the opportunity to say why he should not revoke it and then the Minister makes the decision. So it still leads back to the Minister.

Sir, it has been reported that the Government did not enter into any deal with Cable & Wireless. In fact, I heard one person refer to it as saying that there was no deal in any smoke-filled backroom and that this is a matter that has been done with the greatest of transparency. We are led to believe, Sir, that Cable & Wireless out of the kindness of its heart has agreed to the shortening of the time in which it enjoyed a monopoly in Barbados. This certainly cannot be the Cable & Wireless with which all of us are familiar. I am sure that Senator Williams in his speech alluded to the heart of the matter as to why we have gone this route at this point in time and why Cable & Wireless is so willing to shorten the time of its monopoly.

The Green Paper on Telecommunications addresses a number of issues and basically this legislation is based on what was in that Green Paper. It is putting into law many of the issues that arose in that Green Paper, a Green Paper in which Cable & Wireless as the incumbent had a significant input. Are we to believe, Sir, that Cable & Wireless would have done things out of charity? I have never heard of a Cable & Wireless as a charitable organisation. Why should it be so charitable to Barbados and nobody else? Perhaps there was no deal struck in a smoke-filled backroom but perhaps the terms were informally spoken of over a drink in a hotel room in London. One never knows.

I do not believe that Cable & Wireless is giving us something for nothing. I think that at the heart of this the issue raised by Senator Williams...

Senator the Hon. G. S. H. MURRAY: Mr. President, on a point of order. I was hoping to be able to ignore a comment that the Honourable Member just made when he talked about perhaps a deal was struck over a drink in London. Sir, this Telecommunications Act is a measure which had the assent of the Cabinet of which I am part, and I want most strenuously to object to any insinuation that I would be part of any such underhand activity.

Mr. PRESIDENT: Could you set the record straight? Perhaps the Clerk can help me. Did he say that?

Asides.

Mr. PRESIDENT: If that is what you said, that was not my understanding, I am asking you to withdraw those words, Senator.

Senator LeR. H. McCLEAN: Mr. President, I withdraw whatever they want me to withdraw.

Mr. PRESIDENT: I am asking you to withdraw the offending words.

Senator LeR. H. McCLEAN: Mr. President, the reason why I said so is that I do not know what are the offending words.

Mr. PRESIDENT: I have not had the opportunity to check the records. I am asking therefore that you withdraw the offending words.

Senator LeR. H. McCLEAN: Mr. President, I withdraw the offending words.

Mr. PRESIDENT: Please, proceed.

Senator LeR. H. McCLEAN: We are now sure that this was not a deal struck in any smoke-filled room nor over a drink in London nor anywhere else. At the heart of the matter is the issue of rate balancing. That is what this whole thing is about because Cable & Wireless has been saying for some time that the overseas calls have been subsidising the local calls and that people have been paying less than the true economic cost because they have been subsidising it with the overseas calls.

Sir, I think there are some issues that we need to address if we are going to go down this line. How did Cable & Wireless arrive at what it sees as the local cost? What are the provisions that it included in arriving at that local cost? If it can afford to subsidise the local calls with the overseas calls it is because probably it was receiving

much lower than it should have received for the overseas calls for a long time. This is borne out by the fact that the FCC has unilaterally reduced the rate that Cable & Wireless was charging, the component that Cable & Wireless was being paid for calls between Barbados and the United States of America.

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Senator LeR. H. McCLEAN: Sir, Cable & Wireless was receiving \$3.60 for overseas calls. Out of that \$3.60, one dollar was going to the United States, another dollar was going to the various subsidiaries of Cable & Wireless that had anything to do with the call, making a total of two dollars but somewhere along the line Cable & Wireless was still getting \$3.60 so perhaps all along Cable & Wireless were getting more money than it should get for the overseas call and, therefore, could afford to subsidise local calls.

Sir, even now that the FCC has made the ruling with respect to US\$0.50 that Barbados should pay, in truth and in fact, Barbados only pays a penny out of that money. Under the arrangements for developing countries certain considerations are given and they are not required to pay the full cost. Barbados falls in that category but Cable & Wireless pays less than the US\$0.50 when it is time to pay.

Mr. President, all along Cable & Wireless has been living well. I heard that Cable & Wireless has spent a lot of money in Barbados over the past three to five years in terms of development. The question is, what was the money spent on and how much of it contributed to development in the Barbados economy because Cable & Wireless can say that it spent money in Barbados when in fact it was spent outside of Barbados.

For example, when Cable & Wireless bought a second switch which was supposed to ease the load so that we would get fewer instances of "all circuits are busy", they bought this second switch which was supposed to work in tandem with the existing switch so that the load would be accommodated, but the two switches were never synchronised because they were not compatible.

Mr. President, when Cable & Wireless talks about spending all of this money it must tell the people of Barbados what the money is being spent on and how effective the spending of that money was in terms of improving the telecommunications in Barbados. Also, at the beginning of the year, Cable & Wireless went into downsizing and then it decided it would re-employ persons but I would like the Government to pay closer attention to some of the things this company is doing in Barbados.

Sir, the trade unions must be aware of what this company is doing and I am sure they will address the issue in due course. There is an issue where Cable & Wireless is putting in place systems which can circumvent certain labour relations practices in this country. It is setting up customer service centres throughout the Caribbean so that when you call the operator in Barbados it is very possible that the call is being answered in Trinidad, Jamaica or Dominica. The idea being that if the workers in Barbados should ever take industrial action that Cable & Wireless will not have to close.

Mr. President, Cable & Wireless said it employed 150 at a centre which was recently set up but 60 of those people were already working, so only 90 people were employed and a significant number of them were not Barbadians. It has also brought in persons from St. Lucia and Dominica who can answer the phone in creole when a Dominican or St. Lucian calls for operator assistance, so all the people employed in this centre are not Barbadians.

Sir, Government needs to examine what Cable & Wireless is doing here because Cable & Wireless is not going to give the Barbados Government something for nothing. Therefore, when persons speak in glowing terms of this company and say that a previous Government sold off its birthright, they better be careful that someone is not only selling their birthright now, but they are also digging up the umbilical cord from where it is buried.

Sir, we also have to examine the components that make up the local rate. The road is being laid for Cable & Wireless to get metered rates which will lead to an increase in rates being paid by the consumer in Barbados. Cable & Wireless is moving in that direction and are being ably assisted by the measures being put in place here.

MR. PRESIDENT: Senator, you have one minute more.

Senator LeR. H. McCLEAN: Thank you, Sir. Another matter I would like to address is Cable & Wireless being the wholesaler and retailer too. For example, Cable & Wireless sells lines to internet service providers but it also provides an internet service. When there are new cellular companies, they will have to rely on Cable & Wireless but Cable & Wireless will also have a cellular company. Interestingly enough, Sir, when Cable & Wireless was complaining about the call-back service that people were trying to introduce in Barbados it was making most of its money in Hong Kong doing the same thing - using the call-back services.

Also, Sir, there is the matter of the rates being charged where the minutes are rounded off. If you talk for two minutes and three seconds, you have to pay for three minutes.

MR. PRESIDENT: Senator, your minutes have expired.

Senator LeR. H. McCLEAN: Sir, I thank you but I hope we will pay close attention to what this company is doing and address it accordingly.

12.40 p.m.

Tuesday, December 21, 2001

SENATOR Miss J.C. ODLE: Mr. President, I rise to make a few comments in this debate because it is a significant part of the future development of Barbados. The Bill speaks, specifically among other things, of making provision for the overall development of telecommunication in the interest of the sustainable development of Barbados, taking into account the introduction of telecommunication technology and an increased rate of services, the preservation of public interest and national security. Mr. President, against that background, I will position my comments.

This Bill seeks to make provision for other players in the telecommunications area to be on a footing where they can offer services to persons in Barbados. One of the main things that this will bring is competition. We are aware that in Barbados though the company dealing with telecommunications has given good service over the years, the time has come when in Barbados several areas need to have competition in order to ensure that the public gets a better deal. The consumers of Barbados have choices so that they can make the choices that work best for them in whichever interest they may have. I am fully supportive of this particular legislation. I am all for ensuring that the consumers of this country have a say in the choices they would wish to make.

In addition to that, the issue of technology and a better deal for Barbados is significantly improved in our island and would be seen as a more favourable destination for companies in need of telecom services and favourable rates generally.

This Bill, like the Green Paper on Telecommunication, is exceedingly vast and I would not attempt to go into detail. I would say that it outlines the various positions that one can take and the various benefits that could accrue to Barbados, particularly, the purse of Barbados.

Sir, in opening up the telecommunications sector, companies have to make application and they would have to meet certain criteria. This would make for additional revenue to Barbados' purse to do other things to supplement the work of the ongoing support services. The

sale or the registration of these licences, whatever language we choose to use, would be entirely beneficial to Barbados.

The Senator that spoke before wanted to raise the issue of the credibility of an individual. If you are going to start pointing fingers at persons whom the people of this country elected to manage the affairs in a serious manner, and imputing what would seem to me...

SENATOR LeR. H. McCLEAN: On a point of order. I have not pointed my finger at anyone. I was specifically saying that we do not know what will happen in the future. That is the point that I was making. Therefore, I would not want the Senator to imply that I am pointing my finger at the present Minister or anybody at this time.

SENATOR Miss J.C. ODLE: Mr. President, at one time or another any individual may have the responsibility and I would not like to think that we deter creditable, able-bodied people from offering themselves in this society to be managers of the people's business, because they are pilloried in advance as seeking to look for personal gain. I think that when we make statements we should not appear to be pointing fingers for purely partisan reasons.

Mr. President, the further broadening of this capability, particularly if it is tied in with the EduTech programme that this Government is proud to initiate is being put on the table to ensure that our young minds in this country have an opportunity for intellectual advancement in this area, particularly if this telecommunications area is linked with the EduTech programme and the e-commerce. Over the next five to eight years perhaps we can see Barbados becoming a giant in the area of opportunities, including the area of opportunities for state-of-the-art with respect to technology.

Sir, with young minds, and perhaps some old minds too, having had the benefit of the education through the EduTech programme, this will position Barbados not only as a provider for services and access but also in terms of individuals.

We make the point that our greatest resource is our human resource. This Barbados Labour Party Government is seeking to ensure that every Barbadian has an opportunity by way of that EduTech programme, if they are in school now, to ensure that they too are competitive. If we in this society fail to look at the competitive nature, even of our service industry, we are doomed for failure in this wide global world.

Sir, one of the downsides would be that in the company that presently is the sole provider of these telecommunication services, there would be some measure

of streamlining. I believe this has been evidenced in two different ways. Sir, that is the nature of business and I do not believe that any organisation would want to seek to disadvantage individuals who have offered service. We have to cross our T's and dot our I's to make sure that all the things we do are transparent.

I believe that the existing company, Cable & Wireless, may have to do some streamlining; it may do so fairly. The trade union in Barbados, being the dynamic force that it is, will not be asleep on the job where advantage may seem to be taken of individuals.

This piece of legislation is well timed. I look forward to its implementation. I look forward to Barbados as a destination which can be on the lips of individuals as the place to want to come and do business in because of our very experienced and developed telecommunication sector. Also to ensure that, with respect to the Fair Trading Commission and utilities regulation, the consumers in Barbados are in the best position to benefit from that.

I want to comment with respect to the cellular phones in this country. In the past, cellular phones were seen as a luxury item. I was also of the opinion that you do not need a cellular phone because Barbados is a small place. My mother is 75 years and she still drives. My mother may drive at night and should anything happens to her and she has no access to her children, Heaven knows what may happen. It is against that background that we provided her with a cellular phone, which she uses very rarely but has should the need arise.

I also recognise that with telephone calls from a cellular the number called is responsible for both the incoming and outgoing calls and you are getting a lot of wrong numbers. People are dialling the wrong digit and it is going to reflect on the individual's bill. I look forward to the time when the change is made to ensure that the calling party pays and not the person receiving the telephone call.

I want to give my support to one of the proposals of moving from a flat rate to doing a mixed billing type of scenario, as is evidenced in other destinations where you pay a flat rate for any number of calls. I believe that you must never take away a choice from the people in this country.

Sir, even though we reflect that the telephone in Barbados is a social implement, for many of those who may not have the ability to travel around Barbados, they let their fingers do the walking. I do not see any change in the rate vastly effecting this. I will say that we must in Barbados be more conscious of the valuable time that we spend on the phone and be careful with the language that we would want to use and speak on the telephone. I do not see even the senior citizen who uses the telephone as a

method of communication being disadvantaged. This is a Government that would never do anything to disadvantage particularly the pensioners in Barbados. It is evidenced in other ways where we have assisted them in terms of increased pensions and free transportation. I see this provision as one where with this Administration Barbadians will benefit and those who abuse the situation will then have to pay for it.

Mr. President, against that background I give my support to this legislation and commend it to other Senators.

I thank you.

SENATOR B.R. COLLYMORE: Mr. President, this legislation is very complex. The Green Paper that was published is the first step in informing people about what was intended but we moved from a Green Paper to draft legislation and that is unusual. The purpose of a Green Paper is to facilitate discussion. Subsequent to a Green Paper it is normal to prepare a White Paper which outlines the specific legislative proposals that are going to be made.

I say this because in the First Schedule of this legislation, reference is made to a Memorandum of Understanding agreed upon with Cable & Wireless and the Government. I think that if reference is made there, it might have been appropriate to include that Memorandum of Understanding as a Schedule to the Bill. It would be naive for any of us to think that Cable & Wireless would be giving up what was 10 years of its licence for nothing, and I think that the average citizen would want to know what are the real decisions made by reference to the Memorandum of Understanding.

I believe that the legislation is giving a division of labour between the Minister responsible for the subject and the Fair Trading Commission. That is not as well defined as one would like. I think that there is going to be room for conflict and confusion. I hope that this does not turn out to be so, but if it does, there will be a quick way of preventing it from being so.

The legislation imposes on the Minister a significant amount of authority and he requires the institution to guide and advise him in carrying out the necessary inquiries. You cannot wait until you are passing the legislation and proclaiming to start getting that institution in place.

It is my view that the present Telecommunication Unit is inadequate for the purpose and that a number of persons should have been trained or be in training long before the legislation takes effect. I believe that there is reference in the Green Paper to technical assistance, which the Government was expecting to get. Technical assistance without proper counterparting is a waste of time. Therefore

you would have to rely on technical assistance for a long time if you do not prepare yourself for the take over.

This is high level work. Electronic engineering, law et cetera. I think that it is not sufficient to have a machinery, such as what we have now, with inadequate administrative as well as technical staff.

12.50 p.m.

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SENATOR B. R. COLLYMORE: Therefore, I would hope that before this legislation is proclaimed and put into effect, there will be an urgent move to have some of the staff in place. Sir, throughout the draft Bill, the Minister has certain functions. He has to publish a national spectrum plan and a national numbering plan. He has to have the certification of standards. He has to prescribe apparatus. He has to issue prohibition orders and he even exercises some kind of judicial function.

Sir, I think with that plate the Minister will have to rely on outside assistance. Sir, it is my understanding that the Barbados Government has not been attending ITU meetings. Sir, can you imagine we are talking about the technological changes taking place in the world and a programme such as ITU, where one can learn so much while interacting with persons who could be of greater assistance later, Barbados does not pay attention to? Sir, it is not only in the area of ITU that this has been happening. I believe that it has happened with ICAO. It frightens me, as one who for some time has had the responsibility for negotiating contracts and loans, et cetera, with international lending agencies. The value of travelling to Washington to talk to the World Bank or the Inter-American Development Bank cannot be evaluated in terms of cost. Sir, if the draft legislation refers to the ITU and to conventions, we should have persons who are now authorities in the same way as we did in relation to the Universal Postal Union, where we have produced experts that have served and are serving the region in that area. I, therefore, have great reservation about the competence to cope with this legislation for a long time. Sir, I refer back to my earlier point about the FTC and the Minister.

Sir, the Minister has a function which could impact upon the authority of the FTC in that 26(l) says:

“A dominant carrier shall file with the Commission a Reference Interconnection Offer (also referred to in this Act as an “IRO”) that sets out the terms and conditions upon which other licensed carriers will be permitted to interconnect with the interconnection provider’s public telecommunications network.”

It seems to me that the Minister could issue a licence, but that this fact comes after the licence has been issued. I am not sure there is not room for conflict there. Similarly at 39(3):

“Subject to this Act, the Minister shall at such time

as is specified under this Act, and after consultation with the Commission require that the Commission use an incentive-based rate settings mechanism to establish the rates to be charged by a provider.”

Now, Sir, he is, I think giving instruction to the FTC in that context. Sir, there is a situation in Barbados where the FTC does not fall under this Minister, but under another. I think there is serious room for conflict and if the Minister responsible for telecommunication is also the Minister responsible for economic matters, there is good merit in making him responsible to the FTC. This is probably an aberration but, personality apart, I think it is a logical prospect.

Sir, 33(3):

“The Minister may, after consultation with the Commission and the universal service carrier, modify in writing the universal service obligation referred to in section 33(1)”

Sir, consultation does not mean that one has to agree; it simply means that one consults and if the FTC is not agreeable to what the Minister is doing, what happens thereafter?

Sir, Clause 35(1) relates to the question of access deficit charges.

“The Commission shall prescribe a charge to be known as “an access deficit charge” to be paid by all carriers and service providers interconnecting to the service.”

Sir, I presume that charge will be paid to the Commission.

36(1): Universal Service Fund.

“There is hereby established a fund to be known as a

Universal Service Fund, the resources of which comprise such amounts as may be collected under the authority of this Act from all carriers and service providers for the purpose of funding the universal service.”

36(2):

“The Universal Service Fund shall be administered by a person designated by the Minister in accordance with regulations made for the purpose by the Minister.”

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SENATOR B. R. COLLYMORE: Sir, that now imposes on the Government the responsibility to have regulations ready. I think that there is another reference in the draft Bill regarding regulations and I do not see how this in itself can function without the preparation and promulgation of the appropriate regulations.

I do not know the hurry there has been to get this Bill on the Statute Book, but consumer protection is as important as anything else and as part of the functions of the FTC. Until the appropriate legislation has been promulgated, I wonder if there is not a feeling abroad that the consumer is the last one in the line of stake holders to be recognised.

I would hope that it is not long before we will be seeing consumers' protection legislation in the Chamber. Sir, in reading the draft Bill, I am not satisfied that there is adequate provision for consumer protection.

The other point I want to make has to do with the fines. The fines under this draft Bill are draconian. They are so draconian that a person who knowingly allows his premises or premises for which he is responsible to be used for this purpose could be fined \$250 000. I am not sure but I know that in law, the Judge does not have to make the fine as much as \$250 000. It is up to \$250 000 but that is a frightening prospect. Maybe that is the intention.

The point is that the whole transition timetable has to be published and one wants to be sure that it is not published in five or ten years and that this transition that we are talking about is going to be done as soon as possible. With those responsibilities imposed on the Minister, I think we are far behind in getting the sort of unit that he requires, both administrative and technical.

The Inspectors should be in training. They have a police function in this draft Bill and that is very serious. Not many other public officers can fully carry out police functions in doing their job and we are probably leading into a conflict with the population if we do not handle this very carefully.

I have no objection to the draft legislation. I think that telecommunication has been changing so rapidly that it would probably be outdated by the time it is proclaimed. The whole area of telecommunication and technology

generally has been expanding at a rate that nobody could keep up with it.

I remember being in London in 1985 and saw a demonstration of the telefax which was considered a miracle. Nobody even uses them now particularly. I also remember having been told that in the last 20 years of the last century there had been more astounding developments in the area of technology than at any stage in human history.

Therefore, with that pace we are now witnessing, we cannot wait back. We must get legislation on the books and then get people to do what has to be done. I warn that if we do not hurry up on this, we may not be doing much to be in the twenty-first Century in terms of modern technology.

Sir, as I said before, I have no general objection to the legislation and I will support the Bill.

SENATOR P. C. GODDARD: Mr. President, in rising to support the passing of this Telecommunications Bill, I believe we must both understand the reasons for liberalisation of the telecommunications system and the context in which that liberalisation is taking place. There is no aspect of our national infrastructure that is more important to our social and economic development, than our telecommunications infrastructure.

In fact, if I may borrow a comment made by the Chairman of BARTEL some years ago, it is the basic infrastructure of all infrastructures. It is this new digital age and the age of information that underpins most if not all business activity, and is an indispensable facet of our social intercourse.

While people have been focussing on business, I think we have to look at the human aspect of our communications. The defining factor that separates Barbados from any other location is our respect for the rule of law and continuity of Government from one administration to the other. It is in that vein that this Government has acted to bring forward the liberalisation of telecommunications from the iron-bound strait-jacket of the Sandiford Administration which bound this country to a monopoly agreement that was to end in the year 2011.

Particularly, Mr. President, at the time of rapid technological innovation, it will be recalled that this Government in its Manifesto in 1994, committed itself to telecommunications liberalisation. The granting of a monopoly licence for 20 years in the 1990s is an act that passeth all understanding. It was an act of desperation during a period of self inflicted, economic crisis and it is something that we have paid for over the past 10 years.

How have we paid, Mr. President? We have not only paid in terms of high cost of telecommunications and for the services rendered but more importantly, we have paid in terms of the lack of introduction of new technology to these systems. In fact, that is probably one of the most damaging aspects of monopoly activity.

The lack of aggressive investment in new telecommunications technology has led us to some real problems in this country. More cruelly, this lack of investment has stymied the opportunities of our brightest young people and it has also hindered the reverse migration of some of our better students that have gone abroad.

Earlier, Mr. President, one of the Senators on the Other Side made the comment that we have done nothing to develop the service industry in Barbados. Nothing could be further from the truth. At least 65 per cent to 70 per cent of the economy of Barbados is a service economy. Recent statistics will indicate that in the international business sector alone, 40 per cent of the corporate tax paid is by the international business sector. That will show a remarkable growth in the financial services and other services in this country.

One of the characteristics of a monopoly is that it responds slowly to technological change. It does so to maximise its investment in existing plants and equipment.

1.10 p.m.

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SENATOR the Hon. P. C. GODDARD: Many investors in developing countries have focussed on getting secondary and tertiary returns on their capital investment. In fact, even an investment on equipment that has been abandoned. The Caribbean is littered with examples of this. At times when technological obsolescence occurs with increasing speed the monopolist falls further and further behind and along with it our country falls further behind.

In the past, telecommunication has been synonymous with voice. Most of us here in this Chamber have been relating the issue of telecommunication with voice activity. The term has now come to include one-way image and video as well as text and data services and it is in this context in which this Bill must be seen. It must also be seen in the context of the history of the telecommunication industry. It started as an unregulated monopoly more than a century ago and it entered a period of fierce competition and then moved to a period of regulated monopoly. Now, we are entering a period of deregulation and a controlled entry into competition.

Today, when the most advanced technology is available everywhere at virtually the same time, we can no

longer subscribe to the nose-to-tail, linear method of introducing new technology. We also have to understand what is happening in the new economy in terms of cost of computation and communication and the convergence of these technologies.

If I may first turn to computation and the introduction of microprocessors in 1971. Almost from the outset they experienced steep inverse pricing. This was the result of what came to be known as Moore's Law that computer chips are halving in price or doubling in power every 18 months. This has caused a massive reduction in the cost of computational power. Indeed, the economist Robert Gordon has estimated that the inflation-adjusted price of computing power dropped to about 19.8 per cent each year between 1951 and 1984 and that it has dropped between 25 and 30 per cent per year since then. This means that today the price of a unit of computing power is 1/100,000 of its price in 1951. In other words, the cost of a \$100 000 worth of computing power in 1951 is worth \$1 today.

Recent estimates of IBM and Intel engineers indicate that the pace of change is now exceeding that of Moore's Law which is a 18-month time frame and that has now been reduced to a 12-month time frame for the next five to ten years. So it shows a continued decrease in computer power and this has direct relationship to telecommunications.

The reduction in cost of computational power, a reduction of 99.999 per cent does not mean however that while computation costs are approaching zero, computer cost is dropping to zero. In fact, I think you will notice that each succeeding generation of new personal computers costs about \$3 000. Therefore, the Apple machine that I brought in 1978 for \$3 000 and which had 128K of memory and 128 floppy disks sells for the same thing in today's dollars. The same \$3 000 will buy you a 2-Giga Hertz machine with massive memory, 40 gigs of ram and tremendous speed. Therefore, the cost of the computer might be level but the price of computing is dropping rapidly.

Francis Cairncross in her book "The Death of Distance" details the drop in the price of a three minute call placed from London to New York in 1990 in US dollars from \$250 a minute to less than a \$1. In fact, it is estimated that the cost factors in delivering long distance calls have fallen by about 25 per cent per annum, and note I say cost factors and not charges.

Telecommunications has its own productivity law which is the equivalent to the computation of Moore's Law. It is Gilder's Law that forecast that bandwidth will triple each year over the next 10 to 12 years. This, coupled with the decrease in computation costs, means that the

transmission rates will approach zero following an asymptotic curve.

In the mid 1990's it was estimated that the capital cost of constructing one transatlantic voice path was around \$1 000. That translates to one hundredth of a cent per minute of use over the lifetime of the cable. Of course, there are other costs of switching and last mile connections but the ITU in 1995 put the average cost of a call in this same time frame at \$0.25 per minute. To date we have seen little evidence of this efficiency being passed on to the consumer.

But this Bill is not just about the price of a phone call. It is about the cost of bandwidth and the access to broadband capacity for business and consumers alike. It is about making the most of that hurricane of a revolution, the worldwide web and the Internet. If we are to give our artists, our researchers, business innovators and young people the opportunity to maximise their potential, we must ensure that they have access to appropriate bandwidth. If we are to benefit from all that is good from the reverse migration of our best brains we must create an environment of technological excellence that is equal or better than anywhere else on earth; and we can do that here in Barbados.

Now, let me just come to bandwidth and what it means. We hear about the need for increasing bandwidth. Bandwidth is roughly defined by the amount of information that you can transmit over a specific period of time usually defined as one second. We are all familiar with the fact that you have 28 000 bits per second or 56 000 dips per second which is the dial-up speed of the Internet - old and slow. Let me give you an example of why that is slow.

Recently, I downloaded a software package which was 600 Meg of information and on the 56K bandwidth or 56 000 bits per second bandwidth that took approximately three days to do running at 24 hours a day given the drop outs and the interruptions and so on and so forth to which Senator McClean earlier alluded. This just shows what the modern-day demand for the transmission rate of information is.

It is no longer about sending a load of text to somebody or about sending a copy of a newspaper article to someone, it is about dealing in massive bits of information which can either be software, video or high quality photograph or it could be X-ray or MRIs for medical purposes.

1.20 p.m.

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Senator P. C. GODDARD: This means that the Internet is now being used for many transactions other than just text transmissions. Therefore, we need to have access to higher levels of bandwidth within the community to maximise the efficiency of our use of the Internet. Prime Minister Blair has stated that it is his Government's prime concern to make sure that there is adequate bandwidth available to the consumers and the people of Great Britain. That also is our concern and that also is why this Bill is before us, to bring competitive forces to force the monopolist to meet that competition demand for bandwidth.

There are systems today that offer one gigabyte per second and obviously there is a differential in cost for value received. You will find that these systems are largely wireless systems and by wireless I am not just limiting it to the concept of radio waves or radio transmissions, but there is also the transmission through laser beams so that you can have a major device at the top of the Central Bank transmitting information to Government Headquarters or to any one of the banks situated around Bridgetown at a rate in excess of one gigabyte per second, secure and reliable, with a reliability rate in excess of 99.999 per cent.

What does all this mean to the average Barbadian? Practically every job function will be affected by the Internet and the telecommunications network supporting it. Workers will both provide and access information directly related to job functions as a routine part of the work day. Fishermen with global positioning systems can improve their navigation and be directed accurately to fish and they can report their catch, time of docking and consummate the sale of their catch before they even reach land. Farmers connected to the new radar system which is to be installed can observe cells of rain in real time to plan their activities in the field. They can access technical information and the projected availability of crops before planting. Distributors can automatically link to cash registers to replenish inventory as it is sold. Physicians can consult with experts anywhere on the globe to verify diagnosis. Students can check their timetables and we can all visit the General Post Office's website today to obtain information on postal rates and services offered by the Post Office. That is here and now at our post office.

The devices that we would use to communicate in future will be multi-functional and wireless. It is in this area of wireless communication that the explosion of services would take place. Innovation will be the key to success and competition is the best way to maximise the use of technology. It has been a proven recipe in the field of computing and thus far competition has brought huge benefits to those countries that have implemented deregulation.

It is a process that has no perfect solution and, in fact, the United States has gone back to the drawing board several times to improve upon their deregulation process and they still have not got it right. In Europe, we have seen a different style of deregulation and they also have their problems. What works in one location may not work in another. However, Government has had exhaustive consultations and inputs from a wide range of experts and consumers in the development of the MOU with Cable & Wireless and in drafting this legislation. All things considered, I believe that this Bill will introduce competitive forces into the telecommunications field in Barbados with minimal disruption and to maximum effect.

I also believe the policies followed by Government should be aimed at providing the best technical communications solution at the minimal cost to maximise development of business activity, innovation and meaningful job creation. The stimulation and expansion of the economy should yield much more revenue than the maximisation of revenue through the use of spectrum or by direct fees and taxation of telecommunications provided.

I believe that we should ensure that we have the minimal cost of telecommunications systems that will support the growth of the economy. In other words, we have demonstrated that we understand that the inputs to production should not be taxed to maintain a competitive edge. We have done that in the removal of duties and the lowering of taxes and we will continue to do so.

Telecommunication is and will continue to be one of the most vital inputs to every aspect of our productive sectors. I hope this fact will be taken into consideration when we address the issue of cost of spectrum and taxation of the industry. Indeed, there is a very good argument for us to accede to the information technology agreement of WTO that would exempt a wide range of technology inputs from import duties.

Finally, as Cable & Wireless has sought to protect its monopoly over the years, it has focussed on throwing up barriers against all comers, protecting its turf and maximising its profits from the existing infrastructure. It has not until recently focussed on maximising the use of its network. The barriers to new entrants have also served as the walls that have imprisoned us. This Bill will start the process of demolishing those walls, bring new entrants into the marketplace and create an environment in which the network utilisation will be encouraged to its fullest. It will unshackle our new business class from the bonds of protectionism.

Opportunities will flourish from meaningful local investment in the development of new telecommunications companies that will offer a wide range of services. The passing of this Bill will truly be a ground-breaking event

ushering in a new phase of our economic development. It is far-reaching and will impact positively on each and every one of us. The Minister is to be congratulated for the work that he and his Ministry have done and the draftsmen are to be wholeheartedly commended for the excellent work that they have done in grappling with this very complex and technical subject.

Mr. President, in the context of this Bill, we need to understand that there is a change of how telecommunication network systems work. Until recently, most of the intelligence of the networks resided within the network itself. Therefore, there was a high cost in network operations. Today, we are seeing a reduction of the intelligence inside the network and the intelligence of the network system in moving to the periphery of the network system. This is essentially what has turned the telecommunications industry on its ear.

1.30 p.m.

Friday, December 21, 2001

SENATOR P.C. GODDARD: We have seen how dramatic cost reductions have taken place in the delivery of telecommunications products. Essentially, the delivery of telecommunications bits of information has dropped to almost zero for all practical purposes and over the next few years we are going to see an explosion of bandwidths that is going to take us from the current fibreoptic capacity and push different frequencies through the fibre up to factors of 10, 20 and 150. This means with today's technology that we can push frequencies up to 120 factors through a single strand of fibre.

In the laboratory we are seeing efficiency improvements of factors of up to 1000 and 2000 with a theoretical maximum improvement of up to 5000.

Mr. President, if the cost today has dropped so astronomically, we can only anticipate what they would be like tomorrow. This means that we have to understand that the cost of telecommunications has almost come to the point where it is at zero and the costs that we pay are for future investment and rebuilding systems which I understand take up about 40 percent of the cost of most telecommunications companies.

Mr. President, I have no doubt that there will be significant competitors entering into the marketplace. Certainly, at the heart of this Bill is the consideration of all of our consumers in this country.

Mr. President, it probably is not generally recognised, but 76 percent of domestic telephones in Barbados make at least one long distance call per month for an extended period of time, so when we are looking at

telecommunications cost to the public we have to look at all costs, not just the flat but also the long distance rate. Therefore, you will see that we already had the effect of reducing the long distance rate by bringing a reduced telecommunications cost to the vast majority of domestic users. Mr. President, you can see that this process is already benefiting the vast majority of Barbadians. Mr. President, I have no doubt that we will be able to move with alacrity in implementing the provisions of this legislation.

I take the comments made by Senator Collymore and others about the need for strengthening the Ministry of Telecommunications. The Minister himself has made some comments on that and recognises that fact. We have to recognise that we have access to international consultants and expertise which we can bring on board in a rapid and effective manner. In fact, much of the consultation done on this Bill was done by international experts who were not part and parcel of Cable & Wireless and who were completely divorced from Cable & Wireless.

There was also significant dialogue between the Ministry of Commerce, the Attorney-General's office and the telecommunications sector. Once again, I think that we owe a significant debt of gratitude to the draftsmen who correctly interpreted Government's policy and very carefully drafted this Bill which will give it the teeth and strength to implement a meaningful and useful deregulation of the telecommunications industry and put Barbados squarely into the 21st century. Sir, this Bill is to be commended.

Mr. President, I support the Bill.

Mr. PRESIDENT: Perhaps I should explain that I have not objected to the Senator who just sat down refreshing his memory by total reference to his notes. Before calling on Senator Rickinson I am bound to make the observation that the Senate has never been quieter. Is it that Honourable Senators are a little late for lunch?

1.40 p.m.

Tuesday, December 21, 2001

SENATOR Mrs. P.E. RICKINSON: Mr. President, I rise to make my contribution to the Telecommunications Act, 2001. Like the previous speaker, Senator Goddard, I believe that telecommunication is one of the most important assets that any Government could have in their possession. I also feel that it could become a liability if it is not used correctly. Telecommunication is invading all aspects of our daily lives. Therefore, we need to take note about any changes in the area of telecommunication. I was uncomfortable when Cable & Wireless was given a 20 year extension, although I am not a politician.

Mr. President, I want to say that although I do not think that we should be discussing mainly telephones, I want to speak on the cost of the telephone, which is included in telecommunication. We have an ageing population and many of our elderly people rely on the telephone. It is the only frontline to their security and safety. Some means will have to be arrived at, whether by subsidisation by the Government, to keep the cost of the phone at a minimum rate, at least for the elderly and certain sections of the population.

I get the impression that if one wants to keep a flat rate, it would be exorbitant.

Asides.

SENATOR Mrs. P.E. RICKINSON: I want to comment on the cellular cards. You can buy a card overseas for \$30 and it can last you for a year. Here in Barbados when you buy a card for \$30, even though the card has not been used, after a month it expires, there is a built in obsolescence. I do not think that is fair to the consumer. I think that is a rip off. I think that the Fair Trading Commission would have to look at that.

Asides.

SENATOR Mrs. P.E. RICKINSON: Mr. President, I want to look at Objective (d) :

“ the overall development of telecommunications in the interest of the sustainable development of Barbados...”

I would like to suggest that we amend that to read:

“the overall development of telecommunications in the interest of sustainable socioeconomic development of Barbados.”

In my opinion this would strengthen that objective.

I am not trying to rewrite this legislation. I think that the draftspersons and the other professionals would do a better job than I can . It is my intention to show that this Telecommunications Act could play a major role in the sustainable socio-economic development of Barbados.

Sir, how do I think this can be accomplished? I will attempt to develop a concept for a forward looking Telecommunications Act, 2001. This Act would address the establishment of a Barbados Telecommunication Commission that is independent of the Fair Trading Commission. Senators McClean and Collymore made reference to another body that is needed. The concept that I have in mind will call for a rationalisation of this Act, as it is tabled at the moment.

I know people will argue that Objectives B and C deal with price and competition and it is related to social development. The type of socio-economic development that I am referring to is one that is beneficial to the productive sectors of the economy. Sir, tourism, offshore banks and the financial sector come to mind.

Mr. President, the Fair Trading Commission would still be the regulatory body for the Barbados Telecommunication Commission that I proposed. The proposed Barbados Telecommunication Commission will look at the arrangement of the Telecommunications Bill, Parts 1 to 18 and the appropriate sections could be used for the Barbados Telecommunication Commission. I would like to see other features added to this provision in the form of the personal.

The role of the Minister is all-pervasive and covers a wide spectrum which was dealt with by Senators McClean and Collymore. I think that we need to address the Minister's role and responsibilities because he seems to be doing too many things under this legislation.

Mr. President, we can look at the Canadian model when it comes to fair trading and telecommunications regulation. For example, there is the Combined and Telecommunications Regulation which is the parallel to our Fair Trading Commission and there is the Canadian Radio and Television Commission which will be parallel to the Barbados Telecommunications Commission that I am proposing. These two Canadian bodies have had a long history and have served the Canadian society well.

Sir, in supporting this Act, I hope that when the time comes for a review and amendments, that they would take some of the ideas that I put forward and look at these two pieces of Canadian legislation and see if we can improve our telecommunications legislation.

I fully support this Bill.

1.50 p.m.

Friday, December 21, 2001

Mr. PRESIDENT: Senator Murray.

SENATOR the Hon. G. S. H. MURRAY: Thank you, Mr. President. Sir, I want to start off by seeking to disabuse the minds of Senators Rickinson and Laurie of any indication or assumption, or if there is any nefarious or ulterior underhand motive aback of Government's intention re this legislation of persons...

SENATOR Mrs P. E. RICKINSON: On a point of order, Mr. President. In none of my presentations did I

allude to anything being nefarious, et cetera, and I am asking for that to be withdrawn from my name.

MR. PRESIDENT: I am not sure that Senator Murray was referring to Senator Rickinson.

SENATOR the Hon. G. S. H. MURRAY: Sir, if Senator Rickinson is unhappy, I will withdraw it. This is Christmas and, therefore, I am very generous.

Mr. PRESIDENT: To the extent that that may be interpreted as a reference to Senator Rickinson, I am asking you to withdraw it, Senator Murray.

SENATOR the Hon. G.S.H. MURRAY: Gladly, Sir.

SENATOR C. K. LAURIE: He has also used my name. Would you please do likewise, thank you.

Asides.

SENATOR the Hon. G. S. H. MURRAY: Sir, the point that I am making is that there is no attempt on Government's part to control the minds of citizens, as Senator Rickinson has said. Do you remember saying that?

Mr. PRESIDENT: Please address the Chair, Senator.

SENATOR the Hon. G. S. H. MURRAY: Sir, there was no attempt on Government's part through this legislation to control citizens, to be their big brother, to control the thoughts, moods or actions of citizens. On the other hand, if Senator Laurie had taken the time to read the legislation he would have seen that a lot of his fears are... I presume that he has neither read it properly nor fully. If he had, he would have seen that a lot of the fears that he had manifested by listening to and going on what persons have told him, rather than reading for himself, are not there. Sir, if we turn to page 52 of the Bill:

57.1 "A person who holds radio communications apparatus for his own private use and in respect of which he holds the appropriate licence, may sell or otherwise dispose of that apparatus to any other person in Barbados without being a licensed dealer."

57.2 "A person who sells or otherwise disposes of radio communications apparatus pursuant to subsection (1) must, unless the apparatus is a sound broadcast receiver, within 14 days of the disposition, notify the Minister of that sale or disposition in writing stating;

(a) the name and address of the person to whom the radio communications apparatus has been sold or otherwise disposed of; (b) the description of the apparatus.

Sir, then at section 60:

(1) "No person shall,

a. establish, maintain, or operate a radio station for the purpose of providing service for commercial purposes;

b. establish, maintain or operate a station for wireless communications on board any ship, aircraft of any other vessel registered in Barbados.

c. for commercial purposes, establish, maintain or operate a radio station not being a station referred to in paragraph (b), or to provide a radiocommunication service not being,

(i) an amateur or experimental broadcasting service, (ii) a meteorological or radio navigation service, or (iii) an amateur or experimental radio communication service;

d. establish, maintain, keep or use apparatus of any kind that generates and emits radio waves whether or not the apparatus is for radio communications; or

e. keep or use any radio receiving apparatus other than a sound broadcast receiver without obtaining a licence for the purpose.

The point is, Sir, this legislation speaks of services and operations and not individuals. Therefore, if Senator Laurie had been told that it was applicable to a person having a particular device or apparatus, it really speaks to service providers and not to individuals.

Sir, I just thought that I should set the record straight in that regard. Sir, Senator Laurie has also tried to make a great to-do of the funds that are mentioned, but as Senator Collymore had pointed out, where these funds are mentioned they are seen as the uppermost limits and does not mean that is the fund that will be, must be, or shall be imposed, but are maximum levels to which the legislation goes. That, Sir, will help to sort out some of the talk that this legislation is intended in anyway to deprive people of their liberties; of seeking to impose funds that will drive them into penury. Therefore, the intentions of this legislation are all in keeping with the Manifesto...

SENATOR K. C. LAURIE: Mr. President, I think that we are getting a little confused here. At section 60, the legislation very clearly said "no persons shall..." and the definition for "person" includes an individual. Therefore for him to say that persons are not going to look at individuals, but at big companies, is definitely misleading.

SENATOR the Hon. G. S. H. MURRAY: Sir, I do not want to drag out this thing any more, we can argue about that all day.

Sir, Government's intention behind this legislation was spelled out in our 1994 Manifesto, as alluded to by Senator P. C. Goddard where, at page 14 it states:

"Cheap and reliable telecommunications services are essential not only for social intercourse but especially for economic development."

We will prepare a study of the telecommunications

industry and the needs of Barbados over the next decade. We will negotiate with local service providers to ensure access to state-of-the-art technologies at international competitive prices."

Sir, this is what we are seeking to do in much the same way as we had a similar principle which applies to the energy sector where we are seeking to make people benefit from lower world prices and to make them as affordable, given the input that energy has into the general economy.

In our 1999 Manifesto, Sir, speaking on energy, we said this:

"An expanding and increasingly sophisticated

Barbadian economy requires safe, reliable, environmentally friendly energy products. The goal of our policy is to supply energy to Barbadians at an affordable price, to promote measures for the efficient use of energy and to increase the use of renewable energy in our energy mix."

Mr. President, in other words, as we want to make energy as affordable as possible to Barbadians by, as frequently as possible, giving prices reductions in gasoline, et cetera, we want to do the equivalent in the telecommunication sector by making them more affordable and easily accessible to Barbadians. Sir, that is all there is to it; no less and no more and, therefore, I want to assure persons that this is intended for the benefit of the Barbadian society.

Sir, let me put it in a broader context. Sir, more than 50 years ago, there was a man called Marshall McLuhan who talked about "the medium is the message" and "the global village". This Telecommunications Bill is all part of the process that has brought about the realization of the global village to this end.

Sir, I think it was Senator Collymore who had alluded to the phenomenal rapidity with which the technology has changed and has mushroomed in the last 50 years that, at the moment, nobody knows where it will end. There are no limits nor borders to man's ingenuity or man's inventiveness and this Bill will help to put Barbados in the

position where it can take advantage of whatever developments there are that come about for the economic and social development of the society that Senator Rickinson, quite rightly, is so concerned about.

We know, Sir, that communication is both vital to humans' social existence and to their activities in every sphere. The technology has served, broadened and enhanced communications as well as telecommunications of all sorts. I feel that one of the reasons why Barbadians are so concerned about the cost of the telephone altogether, is the fact that Barbados has had a long association and a love relationship with telephones. Some eight or ten years after the telephone had been invented Barbados had telephones. I think that is an incredible achievement for a small island even in those days and that the Barbadian society has appreciated the importance of telecommunication as it was known then in that limited sphere.

Sir, the whole growth of the telecommunication industry and the changes that have taken place have now made the distinction that used to be made - for example between broadcasting and telecommunication - non-existent through a process of what the experts call "convergence", so that one technology impacted on the other when in the past there was a clear distinction between broadcasting and telecommunication. Now the two of them are virtually the same. Sir, this therefore would have a tremendous amount of implication to humans' behaviour or communication, development, et cetera. Sir, this Telecommunications Bill has come as part of a process whereby there has been frequent, ample and lots of communications and discussions between the various parties.

Sir, reference was made to a Memorandum of Understanding. To my knowledge and from what I recall, this Memorandum of Understanding is not a secret document, but has been made available to parties who have expressed an interest in it and from what I have been told, has been made a document of the House. Sir, my understanding is that the Memorandum of Understanding is a document of the Chamber.

SENATOR LeR. H. McCLEAN: Sir, to the best of my knowledge, there is no Memorandum of Understanding that is a document of this Chamber.

Mr. PRESIDENT: I am not sure what the position is. I would have to get that information from the Clerks.

SENATOR the Hon. G.S.H. MURRAY: Sir, my understanding is that the Memorandum of Understanding has been made a document of Parliament.

Mr. PRESIDENT: I think, Senator, we have to be clear, we are speaking of the Senate. It is either a document of the Senate or it is not. As far as this is concerned, we are not too concerned with any other place. If it has or has not been laid, you just need to say to the best of your information, but I do not think we need to get into this too much. Please proceed.

SENATOR the Hon. G. S. H. MURRAY: Thank you, Mr. President.

2.00 p.m.

Friday, December 21, 2001

SENATOR THE HON. G. S. H. MURRAY: Mr. President, I made a careful check and it has been laid.

Mr. PRESIDENT: The Clerk has advised me that it has not been laid in the Senate but it is something that can be done at any stage.

SENATOR THE HON. G. S. H. MURRAY: Sir, I am not intending to mislead the Senate. I was following the information that was given to me and I respect the correction that you have made.

The point is, Sir, this has not been any attempt to work a fast one on anybody. The point is that the Democratic Labour Party does not want to accept the fact that we have taken this whole process beyond the sordid mess in which they had left it in 1991.

Sir, we have now been able to bring this whole process to the point where we have sought to reverse the giving away of certain valuable assets, which had been acquired by this Barbados Labour Party Government when it was in office. We all know the history and it went that way. The point is that they do not want to accept that it was their behaviour which put them in that position. Sir, anything that is associated with improving must look wrong to them because they do not have an appreciation of it.

This Telecommunications Bill, Sir, will, I believe, have some tremendous benefits for the Barbadian society, benefits which nobody else can quantify, from which nobody exactly knows what we can specifically obtain. The point is, Sir, that we have made ourselves ready like we have done in other areas of activity in Barbados that whatever the opportunity that comes around, Barbados would be in a position to take it.

I hope, Sir, that the institutions which will support this Bill, the Fair Trading Commission, the other incoming institutions and the consumers' protection legislation will work towards the benefit of Barbados and that this process

will come to the realisation that we stand to benefit and the society stands to benefit in every capacity from a Bill which is long overdue.

Thank you, Mr. President.

Mr. PRESIDENT: I should explain for the benefit of Senators that the Clerk has now confirmed that the Memorandum of Understanding between the Government of Barbados and Cable & Wireless/BET Limited was laid in this Chamber on 9th November 2001. Therefore, let the record show that it has been laid.

SENATOR the Hon. J. X. WALCOTT: Mr. President, I think we have had a very full and exhausting debate on this Bill. I want to thank all Honourable Senators who contributed but I just want to make one or two comments.

First of all, the Memorandum of Understanding was in fact laid on the 9th of November 2001 in this Chamber as Senator Murray alluded to earlier.

There were some other comments, one from Senator Mascoll in particular, who expects to see a reduction in the rates. I also note his concern about the dominance, and the possibility of the continued dominance of Cable & Wireless/BET Limited and I am very pleased that he is concerned about this dominance.

In addition, he spoke about the need to develop strict regulation of their telecommunications affairs and this is one of the ideas of this new legislation that we are trying to enact.

I note also that Senator Collymore raised some very interesting concerns. I do appreciate them and certainly the Bill might not necessarily be perfect, but you do understand the urgency of having the legislation passed and certainly there might be a need for some amendments in the future.

Senator McClean also made some interesting input in his concerns about the ministerial discretion or lack of discretion, depending on which Minister is in the seat as opposed to the future. I just want to remind him of the Administration of Justice Act which addresses these concerns.

Finally, there was some contention about deals not being signed, dealt with or formulated and I want to concur with him that there was no deal in any hotel room, in any smoky room, over any drink, or no imposition from on high. It was just like it was done in 1991. It was a well thought out and sound Government decision to have this new Bill introduced.

With those few words, I beg that this Bill be now read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. JEROME X. WALCOTT Mr. PRESIDENT left the Chair and the Senate went into Committee on the Bill, SENATOR THE HON. DAME PATRICIA SYMMONDS in the Chair.

COMMITTEE

MADAM CHAIRMAN: The Senate is now in Committee.

Parts 1 to 6 inclusive were called and passed.

Part 7 was called.

SENATOR LeR. H. McCLEAN: Madam Chairman, in Part 7, clauses 35 and 36 which are included in this Part, I have a little concern where it says:

“35.(1) The Commission shall prescribe a charge to be known as “an access deficit charge” to be paid by all carriers and service providers interconnecting to the service.”

I am concerned, Madam Chairman, that under this section, there is no provision to whom these charges will be paid, whether it would be paid to the provider of the service or whether it will be paid into the Consolidated Fund. I am sure that there should be some regulation accompanying this legislation which states specifically how a matter such as this will be dealt with. I am also concerned that we do not have the regulations which would accompany this legislation which would state specifically to whom these funds would be paid.

2.10 p.m.

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SENATOR LeR. H. McCLEAN: In both these clauses we have seen again the responsibility falling to the Minister. For example, in section 36 (1):

“There is hereby established a fund to be known as a Universal Service Fund,...

Asides.

MADAM CHAIRMAN: Quiet please! Yes, continue Senator McClean.

SENATOR LeR. H. McCLEAN: “...the resources of which comprise such amounts as may be collected under

the authority of this Act from all carriers and service providers for the purpose of funding universal service”.

I would like to propose Madam Chairman that the legislation cannot be properly passed without the accompanying regulations which will state specifically whom these funds will indicate.

MADAM CHAIRMAN: Senator McClean, you have expressed your concern but you have not proposed an amendment so unless you are proposing an amendment we will go on to take the vote on it.

Asides.

Part 7 to 18 inclusive, were called and passed.

The First Schedule was called and passed.

The Second Schedule was called and passed.

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

On the separate motions of SENATOR the Hon. J. X. WALCOTT, the Bill was read a third time and passed and cited as The Telecommunications Act, 2001.

ADJOURNMENT

SENATOR the Hon. J. X. WALCOTT: That concludes our business for the day and also this year as we will not be meeting again until next year.

Sir, on behalf of my fellow Senators I want to thank you for your diligence, your guidance and indeed your patience over the past year as you presided over the affairs of this Honourable Chamber. Also on their behalf and on my own behalf I want to wish you and your family all God's best wishes and all God's blessings for the Christmas season and the New Year.

I also want to thank the staff of Parliament, the parliamentary clerks, the stenographers, the other clerical staff and certainly the technician from CBC for their diligence and for going beyond the call of duty and the long hours in being here with us. I also want to thank the caterers downstairs who I know must be wondering what is happening to us up here today and for feeding us over the past year. I must not forget the police and the security guards for providing a sense of security in the environs of Parliament in spite of the other detractors who managed to get in from time to time. I really want to thank them all and to wish them God's blessings for this entire season.

Finally on my behalf, to my fellow Senators, I want to say that the past two months have been a new experience for me. I certainly appreciate your warmth, your assistance and your guidance sometimes and I certainly wish you all and your families all the best for the coming season, and indeed I look forward to being in here with you and interacting with you in the coming year.

I thank you.

SENATOR the Hon. J. X. WALCOTT: Mr. President, I beg to move that the Senate do now adjourn sine die.

2.20 p.m.

Friday, December 21, 2001

Senator C. A. MASCOLL: On behalf of Senators on the Opposition side, I would like to say it has been a very productive session and certainly we would like to wish all members, independents as well as those on the Other Side, a very Merry Christmas and a Happy New Year and to say once again that a special mention and praise is to be given to the President of the Senate for conducting the affairs of the Senate in a most admirable way. To the staff of Parliament, we are once again appreciative of the work that is being done and the new addition to the Senate to give us a voice in the public, a wonderful new innovation, especially for those of us who have aspirations way beyond the Senate politically.

We would like to wish the entire staff of Parliament a Merry Christmas and a Prosperous New Year and look forward to the new session in the new year. Thank you.

Senator C. LeR. TROTMAN: Mr. President, we have been hearing much about this side and then that side and I think we have to recognise that either there is no side

or that there is a third side, the side of the independents. I believe that the independents would agree that speaking on the Motion for the Adjournment we would want to use the occasion as has the Government Benches and the Opposition Benches done to express our appreciation to you, Mr. President, for the very suave and at the same time the very mature and deliberate judgmental manner in which you have conducted the affairs of this Honourable Senate.

Sir, we would wish to express the wish that your family and yourself would enjoy all the yuletide blessings that there will be and that you will have good health in the coming year. For the members of the Government Benches, I hope that you will be able to derive some benefit from the star that goes before the wise men to Bethlehem and that Christmas Star will lighten your way and assist some of

your colleagues and especially members of your statutory boards when they deal with the matters of the heart and the welfare and the good will of humble citizens in the country, and that particularly where it comes to the matter of service as with the Barbados Tourism Authority that there would be an appreciation that human values at Christmas time especially should never be made to look secondary to any other consideration within the framework of governance within this country.

For the members of the Democratic Labour Party I would hope that at this time where there is new hope and a promise of a better world to come that there will be fostered within the very bowels of that institution a greater spirit for rejuvenation and a re-energizing under united leadership. Perhaps then they may be able to have some additional persons who are on the verge of reconsidering their political future.

Sir, I would like as the others have done to wish as well all of those helpers to the Parliament, the various people who make this possible, my greatest wishes and those of my colleagues on the Independent Benches and they have been named before by my colleagues and I do not need to rename them but wish them all the best and wish them good health in the coming year. I do not wish them great wealth because I gather that is the particular privilege and prerogative of the new executive groupings which are going into the \$300 000 a year rate of earnings and we want to be careful not to all aspire to that because there must be a level beyond which the country is unable to pay and we would not wish to see new dream teams establishing themselves within the parameters of our shores. So we would wish, Mr. President, that the Christ of Christmas would breathe into our new hearts a feeling of greater humanity and a greater willingness to be kind and generous to all and that the new year of 2002 will hold blessings for all of us on all sides.

Mr. PRESIDENT: This is the eighth occasion on which I have had the privilege at the end of a year to preside in this Honourable Chamber. The Motion for the Adjournment is of course in parliamentary terms one of the occasions when parliamentarians are permitted to range widely, provided they do not go on for too long. Honourable Senators, certainly the Honourable Leader of the Senate, Senator Mascoll and Senator Trotman, I sense that they spoke on behalf of other Senators. I should like to thank them and you most sincerely for your kind remarks. One tries one's best in this Chair. I would like to extend to you and to your families my good wishes for a blessed and merry Christmas and for a bright and prosperous and productive 2002.

I should like to extend those good wishes to the Clerks at the Table, the other members of staff, the Press, the members of the Royal Barbados Police Force and all

those who assist us in the work we do. We were hoping to have risen somewhat earlier and I think particularly of the staff of Parliament. I think this has been perhaps certainly the longest pre-lunch session that I can recall. Maybe it is a record in the annals of our recent Parliament. I do not know but I should like to say that the staff responded as usual splendidly and we would like to thank them, and when we rise in a few moments there should be no encumbrance in the way of their enjoying their festivities.

With those words, I will put the motion which is already before us that this Senate do now adjourn sine die.

The question was put and agreed to, and Mr. President adjourned the Senate sine die.

2.30 p.m.

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EDITORIAL NOTES — NOT PART OF THE REPORT

Prepared with the transcript; for checking against the recording and the Minutes.

EDITORIAL QUERIES

Points noted while preparing this report from the edited transcript. The text has not been altered except where stated.

Q1. Masthead. The session is not stated in the source, so no session line is printed.

Q2. Opening. The source opens without the convening sentence (Pursuant to the adjournment ... met at ...). The date is taken from the heading of the source.

Q3. Dates in the text. The source gives 'Wednesday, December 21, 2001' (21 December 2001 was a Friday). The weekday and date do not agree; printed as in the source.

Q4. Take-slip at the suspension. The take-slip after the motion to suspend until 12.10 p.m. reads '11.55 p.m.'; presumably 11.55 a.m. Printed as in the source.

Q5. Take-slip about 1.40 p.m.. The take-slip before Senator Mrs. P. E. Rickinson's speech is dated 'Tuesday, December 21, 2001'; the Sitting was on Friday, 21st December, 2001, as the other take-slips state. Printed as in the source.

Q6. Speech label, Senator Laurie. One speech label reads 'SENATOR K. C. LAURIE'; elsewhere the Senator is 'SENATOR C. K. LAURIE'. Printed as in the source.

Q7. Committee, Telecommunications Bill, 2001. The record reads 'Part 7 was called.' and, after Senator McClean's remarks, 'Part 7 to 18 inclusive, were called and passed.' Printed as in the source.

DEBATE SUMMARY

(Editorial summary — not part of the record.)

The Senate resumed on Friday, 21st December, 2001, with Mr. President in the Chair, on Order No. 4, the second reading of the Telecommunications Bill, 2001. Senator the Hon. J. X. Walcott explained that discussions begun in February 1999 with Cable & Wireless (BARTEL) and Cable & Wireless (BET) on their amalgamation, the early termination of their licences and the phased liberalisation of the industry had led to a Memorandum of Understanding, executed on 16th October, 2001. The existing Cap. 282(A) did not allow Barbados to meet its obligations under the WTO agreement on basic telecommunications, and the Fair Trading Commission would be responsible for economic regulation and

consumer protection. He outlined the Bill's Parts, including numbering and technical standards.

Senator Sir John Stanley Goddard set out the objects of the Bill, and Senator the Hon. Dame Patricia Symmonds spoke on the role of the Fair Trading Commission in setting rates. Senator C. A. Mascoll said the Bill would be judged by what it did to the cost of doing business, questioned the continued dominance of Cable & Wireless and the capacity of the Commission, and called for control in the sector. Senator C. K. Laurie raised concerns about the definition of satellite receivers, a \$500 annual licence fee for dishes, the offence of sending annoying messages, and an exemption for the Royal Barbados Police Force; Senators the Hon. P. C. Goddard and the Hon. G. S. H. Murray rose on points of order. Senator J. E. D. Williams supported the Bill, saying spectrum management would not be used against citizen band and radio amateur users, and Senator D. D. Marshall spoke on the growth of mobile commerce. The Sitting was suspended until 12.10 p.m.

On resumption Senator LeR. H. McClean questioned ministerial discretion under the Bill and the case for an impartial body, and said Cable & Wireless had received \$3.60 for overseas calls, of which about two dollars went elsewhere. After Senator Murray objected to the suggestion of a deal struck 'over a drink in London', the President asked Senator McClean to withdraw the offending words, which he did. Senator Miss J. C. Odle welcomed competition; Senator B. R. Collymore noted that the Government had moved from a Green Paper straight to draft legislation, asked that staff and regulations be in place before proclamation, and said Barbados had not been attending ITU meetings; Senator P. C. Goddard spoke on the reasons for liberalisation and the use of the Internet; and Senator Mrs. P. E. Rickinson spoke on telephone costs for the elderly and proposed rewording Objective (d).

Senator the Hon. G. S. H. Murray denied any intention to control citizens; a remark of his was withdrawn at the President's request after Senator Rickinson objected. He said the Memorandum of Understanding had been laid, which the Clerk at first could not confirm; the President later stated that it had been laid in the Senate on 9th November, 2001. Senator Walcott replied to the debate, and the second reading was agreed to.

In Committee, Senator the Hon. Dame Patricia Symmonds in the Chair, Senator McClean raised concerns about clause 35 on an access deficit charge and clause 36 on the Universal Service Fund, saying regulations were needed, but proposed no amendment. Parts 1 to 18 and the two Schedules were passed, and the Bill was read a third time and cited as the Telecommunications Act, 2001.

On the motion for the adjournment sine die, Senator Walcott thanked the President and staff, and Senator Mascoll for the Opposition and Senator C. LeR. Trotman for the Independent Senators offered Christmas greetings.

The President, noting that it was the eighth such occasion on which he had presided, extended good wishes to the Clerks, staff, Press and police, and adjourned the Senate sine die.

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