
THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2004

THE SENATE

Wednesday, April 23, 2003

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, April 23, 2003, at 11.00 a.m.

PRESENT

His Honour Senator Sir FRED GOLLOP, K.A. (President)

His Honour Senator C. L. BOLDEN, C.B.E., Q.C. (Deputy President)

Senator the Hon. J. X. WALCOTT, FRCS (Edin.) J.P. (Minister of Health) (Leader of the Senate)

Senator the Hon. G. S. H. MURRAY, B.A. (Hons.) J.P. (Minister of State, Prime Minister's Office and the Civil Service)

Senator T. E. BARKER, B.A. (Hons.), M.A. (Econ.) (Parliamentary Secretary, Ministry of Economic Development)

Senator P. C. GODDARD

Senator Dame PATRICIA SYMMONDS, D.B.E., G.C.M., B.A. (Hons.) P.G.C.E., J.P.

Senator Miss J. C. ODLE, J.P.

Senator J. E. D. WILLIAMS, B.Sc., M.B.A., J.P.

Senator D. D. MARSHALL, LL.B. (Hons.), L.E.C.

Senator D. L. HAYNES, S.C.M.

Senator K. D. SYMMONDS, B.A., LL.B.

Senator C. A. MASCOLL, B.Sc. (Econ.) (Hons.) M.A. (Public Finance)

Senator LeR. H. McCLEAN, B.Sc. (Hons.)

Senator Sir ROY TROTMAN, M.A.

Senator Mrs. P. E. RICKINSON, B.A. (Hons.) M.P.H. (Harvard), S.R.N.

Senator Sir JOHN STANLEY GODDARD, K.A., G.C.M. B.Com., F.C.A., Hon. LL.D. (U.W.I.)

Senator B. R. COLLYMORE, C.M.G.

Senator the Hon. Mrs. V. E. NEWTON, S.C.M., B.A. (Spec. Hons.) M.A., LL.B. (Hons.) (U.W.I.) F.L.A. (Gt. Brit.) L.E.C.

Prayers were led by Rev. Father Errington Massiah.

Mr. PRESIDENT: The Senate is now in session.

MOTIONS RELATING TO THE BUSINESS OR SITTINGS OF THE SENATE AND MOVED BY A MINISTER

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that Section 6(6) and 45(2) of the Standing Orders be suspended for the remainder of today's Sitting in order to allow for debate on some very important matters which are on the Order Paper for today.

I know that some Honourable Senators would be expressing their annoyance with the short notice, but some of these matters have been in the public domain for several months, indeed years, and Honourable Senators should be familiar with some of them. Some of the documents have been circulated over the last couple of weeks, so I certainly hope that we will be able to debate these matters today.

The question was put to the Senate and agreed to.

INTRODUCTION OF BILLS

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that the following Bills be read a first time:

1. Income Tax (Amendment) Bill, 2003;
2. Caribbean Court of Justice Bill, 2003;
3. Constitution (Amendment) Bill, 2003; and
4. Caribbean Community Bill, 2003.

NOTICE OF RESOLUTION

SENATOR THE HON. J. X. WALCOTT: I beg to give notice of the following Resolution:

Resolution to approve in accordance with Section 5 of the Crown Lands (Vesting and Disposal) Act, Cap. 225 the vesting in the National Housing Corporation of parcels of land situate at Upton, Kent and Coverley in the parish of Christ Church in this island for use by the Corporation in its joint venture housing programme with the private sector.

PUBLIC BUSINESS

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

SENATOR THE HON. J. X. WALCOTT: Mr. President, it is a privilege for me to be able in the year 2003 to lead off this debate on this matter which I suspect would become to be seen as the most important piece of legislation which has been debated in this session of this Honourable Senate.

Sir, it is indeed significant that after 36 years of Independence, we are finally seeing the birth of our indigenous final court. It has certainly had a very long gestation period. As far back as 1970, at the Sixth Heads of Government Conference in Jamaica, the Jamaican delegation put forward the suggestion and had the view that we should move toward a Caribbean Court of Justice.

This Caribbean Court of Justice will ensure the autonomy of our judicial determination in our region and will serve to complete the process of independence for us. Sir, I shall not pretend to be a legal luminary or indeed any wizard or student of the Law, but I think it is the thinking of many people in this country that the Laws and the interpretation of the Laws should be relevant to the collective social ethos of a country and of a people, and that in keeping with this they should also be applied by judges who are mindful of these and have internalised the values associated with these social ethos and the whole socialisation of our region.

That is certainly long overdue because we should not continue 36 years after Independence to have to resort to individuals who are encamped in the United Kingdom to make determinations on judgments in our region.

Sir, this being such a significant matter, it is obvious that the establishment of this court and hopefully the passage of this Bill in this Honourable Chamber this morning would have concomitant changes in our Constitution which would be debated later today, I hope.

Sir, the Caribbean Court of Justice has been designed to be more than a court of last resort for Member States of the Caribbean Community. In addition to replacing the Judicial Committee of the Privy Council, this Court of Justice will be vested with an original jurisdiction in respect of the interpretation and application of the Treaty establishing the Caribbean Community and the Single Market and Economy. In other words, it would have both appellate and original jurisdiction.

In its appellate jurisdiction, this Court will consider and determine appeals in both civil and criminal matters from Common Law Courts within the jurisdiction of Member States. In the discharge of this jurisdiction, the Court will act as the highest municipal court in this region.

In the exercise of its original jurisdiction, the Court of Justice will be discharging the functions of an international tribunal and will be applying rules of international law in respect of the interpretation and application of the Treaty which I spoke to earlier. It will be performing functions similar to that of the European Court of Justice or the European Court of First Instance. In other words, it would be a hybrid institution, a municipal court of last resort and an international court with compulsory and exclusive jurisdiction in respect of the interpretation and application of the Treaty.

Sir, as with all changes, there is the usual opposition. There are usually those who oppose changes and those who are the proponents of this change. The establishment of this Court is no less different. There is opposition. Some may say it is justifiable, but when always something is new, there is the suspicion of the unknown, and this occurred in this case. Of course, there was some pressure of resistance to change. People had their reservations about the ability of governments in this region to provide adequate funding for the sustainability of this Court. In addition, there were queries about if we would be able to attract the best judges with the required expertise.

Of course, on the side of the proponents, there were those who would perceive this as an institution which was vitally necessary to complete the whole process of Independence. They said that it was farcical that after 36 years of Independence we still resorted to a court in the United Kingdom to give final decisions. A lot of the support for the Court considered that an indigenous court consisting of regional judges was best suited to pronounce on issues of regional importance and would also contribute to the development of a regional jurisprudence.

Sir, I will deal with some of the queries that were raised. There was the query about the whole concept of political manipulation and possible political interference if the governments of the region would have been able to determine who would sit as judges in this Court of Justice.

It is generally accepted, in our societies, that independence of the judiciary is a vital and essential ingredient of the rule of law and is indeed the basic principle in the CARICOM States.

Unlike the situation in the European Court of Justice where the judges are appointed by the Ministers of Government, the judges of the Caribbean Court of Justice are to be appointed by a Regional Judicial and Legal Services Commission whose composition is highlighted under Article 5 of the Schedule to the Bill.

This speaks to:

- “(b) two persons nominated jointly by the Organisation of the Commonwealth Caribbean Bar Association (OCCBA) and the Organisation of the Eastern Caribbean States (OECS) Bar Association;
- (c) one chairman of the Judicial Services Commission of a Contracting Party selected in rotation in the English alphabetical order for a period of three years;
- (d) the Chairman of the Public Service Commission of a Contracting Party selected in rotation in the reverse English alphabetical order for a period of three years;
- (e) two persons from civil society nominated jointly by the Secretary-General of the Community and the Director General of the OECS for a period of three years following consultations with regional non-governmental organisations;
- (f) two distinguished jurists nominated jointly by the Dean of the Faculty of Law of the University of the West Indies, the Deans of the Faculties of Law of any of the Contracting Parties and the Chairman of the Council of the Legal Education.”

So one can see that this Commission is wide-ranging and would be a decision-making body on the appointment of judges. This would be removed from the individual ministers as obtained in the European Union.

In addition, they were concerned about the security of tenure of judges. These judges can only be removed from office by affirmative recommendations from this same commission which establishes them. The President of the Court will be appointed by the Heads of Government. This would be done on the recommendations of the Commission and they can only be removed on the recommendation of the said commission. In effect, the Caribbean Community will be the only integration movement whose judges are not directly appointed or elected by States.

Sir, the other issues which were raised were the issue of funding, the financial viability and the financial survival of the Caribbean Court of Justice. The Heads of Governments from quite early made a position that they are going to mandate the Ministers of Finance to provide funding for the recurring expenses of the Court for the first five years of its operation.

In this regard, a trust fund was established under the auspices of the Caribbean Development Bank. In this way the recurrent expenditure of the Court, including the remuneration of the judges, would not be dependent on the capriciousness of Member States who might be unwilling or not in a position to make a contribution at a particular point in time.

11.25 a.m.

It was felt that the best way would be to have a Caribbean Development Bank overseeing a trust fund for the financing of this Caribbean Court of Justice. It is expected that a one-time capitalisation would be approximately US \$100 million.

It is expected that the first two years of its operation, capital and operating costs of the Court would be \$12 million, to be taken out of the US \$100 million, an investment of approximately US \$88 million by the Trust Fund in suitable financial instrument, the yield from which we would use to cover the annual operating cost of the Caribbean Court of Justice from year three to perpetuity. This is how it is expected that the Caribbean Court of Justice would be funded, so that we are not totally dependent on the whims and fancies of a particular ministry of finance or the state of finance of an individual member state.

Another issue raised was that the Caribbean Court of Justice was being set up as a knee-jerk reflect to the Pratt v Morgan case and that we were, in fact, setting up a hanging court to facilitate the execution of those who were condemned for murder. As far back as 1992, the West Indian Commission Report, “Time for Action” from which I quote stated:

“The case for the Caribbean Supreme Court with both a general appellate jurisdiction and an original one is now overwhelming. Indeed, it is fundamental to the process of integration itself.”

Therefore, we can see this process predated the famous Pratt v Morgan case and, therefore, this is not the sole purpose for the establishment of the Caribbean Court of Justice. In fact, one of the most compelling arguments for the establishment of the Caribbean Court of Justice is the need to have an authoritative regional institution to interpret and to apply the Treaty as being amended in order to create the Caribbean Single Market and Economy.

Sir, the Treaty of Chaguaramas, 1973, is being revised by a number of protocols to facilitate this convergence to the Caribbean Single Market and Economy. This, as revised, would have to be interpreted and applied by the Caribbean Court of Justice in the exercise of its original jurisdiction.

The Treaty of Chaguaramas which established the Caribbean Single Market and Economy will determine in a critical way how the Caribbean Single Market and Economy would function, and would see the creation of a Caribbean Single Market and Economy. Obviously this creates a number of extensive rights and obligations of States that are parties to this Treaty of Chaguaramas for which they would have numerous discussions.

Sir, in establishing this Caribbean Single Market and Economy, there is a need to have a stable economic environment. This is related to certainty and predictability in the Law. There is the need for regulatory framework established according to legal principles. With the force of the Law, and within such a framework, clear guidelines must be established, along with prescribed sanctions for breaches for which individuals and investors may make reference in order to determine their rights and responsibilities.

Sir, in addition and, perhaps, even more importantly, where there is a single economic space which extends geographically across and within several sovereign nations, the stability and predictability of the environment, necessarily depend upon the uniformity and the application of the regulatory framework, hence the importance of the Caribbean Court of Justice.

One can see if there was concurrent jurisdiction with other courts in the community, there is the likelihood of conflicting opinions on important economic, commercial and financial issues, thereby creating uncertainty and unpredictability in the business climate and in the economic arena. Obviously, Member States that are signatories to the Caribbean Court of Justice would have to agree to enforce its decisions in their respective jurisdictions with decisions of their own superior courts.

Sir, that, in a nutshell, is the presentation about the Caribbean Court of Justice. As I have said at the beginning, this is a very important milestone in Caribbean jurisprudence and certainly a very important day for this Chamber when we are making a decision about the establishment about something that is as important as the Caribbean Court of Justice, our first indigenous and autonomous court, which is now taking place some 36 years after Independence.

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

SENATOR Sir ROY TROTMAN: Mr. President, permit me to say that I am pleased to be involved in having

discussion in this matter, especially at this time which leads up to the unveiling of the statue of the Right Excellent Sir Frank Walcott. It is significant because the Right Excellent Sir Frank Walcott was a foremost Caribbean person. As a Caribbean person, for many years, he very much wanted us to be addressing, to a more full degree, the question of Caribbean integration.

No one can really oppose this pillar to Caribbean integration. Therefore, I am not opposed to the concept of a Caribbean Court of Justice but I do have a major question which relates to why is it that the Government has not used this matter of a major discussion which looks to a fundamental issue, not merely for Barbados but a critical issue for the entire Caribbean and for our future as Caribbean people, why has Government not used this occasion to bring the masses of the country into greater information in the process to make those masses of our country more informed and more involved?

Mr. President, the Forde's Commission, in its very sterling work, noted this very special requirement for involving civic society, but properly declined to recommend that we should move towards local Government, a view which I shared because there is no fundamental basis for it.

The Forde's Commission has also suggested that every effort should be made to involve civil society more meaningfully. I take that to mean that what we ought to concern ourselves with, would be systems by which we are able to have groups of persons who are legitimately involved in trying to improve the masses through their associations and organisations and that those groups should be brought together from time to time, especially on issues as important as this.

I am satisfied that the vast majority of civil society would support the concept of a Caribbean Court of Justice. I am also of the view that the vast majority of our associations and our people should be better informed, and not merely a few selected persons in these Chambers, regarding precisely what is meant by the action their leaders are taking on their behalf on occasions such as this.

We will, for example, be doing significant business with Latin America in the foreseeable future. We should be doing significant business with the United States itself, if we are not overly punished for our independent stance on Iraq. We shall be doing business with the European Union and, therefore, quite possibly there would have to be questions as to where we should look for legal precedence regarding how we determine what to do if we are into issues with one country as opposed to a second country.

11.35 a.m.

There will no doubt be the legal luminaries who the Leader of the Chamber spoke to, who could very easily understand this and speak to it fully. This is not to address what the legal luminaries may wish to say or do but to address what the simple man and woman in the street will understand because this is not merely about criminal action, but it has to do with another recourse that people will have which varies from the old system where we went to Westminster.

Mr. President, I think this occasion would have been a useful one for us to have gone the route of a referendum. I am wondering the extent to which we will see that it makes a lot of good sense that people are able more so than they now do to be involved in discussions which are so critical to their well-being as the involvement of a subject like the Caribbean Court of Justice.

Sir, such a referendum could very well be the beginning of an approach in which we begin to see civil society and the matter of governance as moving beyond the limited ideals and scope of the House of Assembly of Parliament and the Senate to the wider scope of governance in a globalised community that speaks to the total responsibility of all major actors in this civic society for the overall well-being of a society that has a new form of governance that touches on all nooks and crannies where we all begin to recognise our greater social and legal responsibilities, including those of corporate citizens.

Sir, I recognise that the march of coming events sounds very loudly in the air, and my call for such a referendum may be a cry of one in the wilderness. This is a cry which says that we are at a stage where the more we involve our people, the more we are able to get those people to participate as shareholders in the final outcome of those decisions in a manner which can only do us well as a people.

I am quite conscious that even though I call for such a referendum, it may not be that this would be heard, but it must still be my recorded position that the people of Barbados deserve more than to have important pieces of social, legal or intellectual legislation put before them without they being brought fully into the loop regarding where they stand in the exercise.

If there is no decision to go in the direction that I have suggested, I will still support the legislation, but I would like to recommend that if it is not the Government's intention, as it surely does not appear, to go in the direction suggested by me, Government still has a responsibility to make sure that, notwithstanding the passage of the legislation, adequate occasions be used to invite the public to sessions and opportunities when this matter might be fully explained to

them in such a way that they understand what does not go, when it goes and how it is done, that a matter involving them or their interest will go before the Caribbean Court of Justice.

Sir, I have said before that no Caribbean person would reject the concept of a Caribbean Court of Justice. For one thing, some of us are very fully aware that the British Justice system has not time or interest in areas such as ours in the Caribbean. My organisation and colleagues in the Congress of Trade Unions and Staff Associations recall all too easily what was the outcome of the Ophelia King's case when it went before the Privy Council. Though we are supposed always to understand the workings of those law lords, from our position in the labour movement, we get the impression that those persons, who seem all to be octogenarians or older, would wish not to be disturbed. We get the distinct further impression that the British has no interest in seeing Caribbean legislation unless it is willing to follow the British system of legislation complete with its quirks and contradictions.

11.45 a.m.

They have no interest, it seems, in the labour movement or in seeing capital punishment unless, of course, it maybe for somebody who has not been tried before a court, as in the case of Iraq.

Sir, it is difficult for us to understand how we can associate with an institution, or a series of institutions where the approach they seem to bring to matters that touch on our well-being, so vastly varies from our own position.

Mr. President, I can imagine that it is a matter which must give significant grief to our people to have a situation where they applied for justice, where the clear impression is given, on both sides of the Atlantic, that justice must be only as we decree it, not necessarily following the lines of any jurisprudence that one may have followed in law school. Sir, it is clear that we have to develop our own system. Clearly, we have to move by our own understanding of what society needs, what society should go for and what society should be governed by.

Mr. President, in those circumstances, it would be very vital for us to be able and proper for lay persons, persons in my organisation, to be able to have the benefit of an approach in matters of this sort of a more integrative form, to be able to find that what we have is a Government consumed more with understanding what the public needs than a Government which may be allowed or may be seemed to be allowed the deterioration into a set of values which do not necessarily take into account the needs of the masses of people who are to be represented.

Sir, it is very important, especially a Government where the majority is as great as it is in this particular

country, for the public not having the benefit in another place of the full level of debate by different sides of a picture, to be able to have a voice through the public at large in matters like this one. When we fail to do that, we are likely to find ourselves being governed by too narrow an interest and find that interest is not an interest that is sufficiently able to hear what it is that the constituents are requesting.

I do not believe this may be so in this case because I suspect that everyone would feel the way we do about a Caribbean Court of Justice. How can we know that we have not done what could have been done in an effort to sensitise the public and to be able to come to this forum in a manner which would be more representative of the needs of our people?

Sir, we have to be particularly careful because another President may not have given the instructions, but had one of his servants come to our country recently and that individual had the temerity and the unmitigated gall to suggest that when our Government spoke, it spoke just for only a few persons, but that the vast majority of the people of our country did not support the legislator's position about the action taken by the United States of America.

Sir, words come very easily. They are cheap and anyone can use them. We all know that was a statement which would be regretted. We would like to believe that the person has since apologised.

Mr. President, the point of the matter is, there are some occasions when matters of great significance need to have that civic stamp of approval. If there is nothing else that we should do out of this exercise, is to understand that it is one thing for us to feel and to feel strongly about issues, but it is something else for us to want to ensure that the public as a whole understands why we feel the way we feel and is able to agree in great proportion, to the position which we will adopt.

Mr. President, I support the concept but I am reserved on the approach and lament that the occasion has not been taken to involve civic society much more meaningfully.

I thank you, Sir.

SENATOR Dame PATRICIA SYMMONDS: Mr. President, I am very pleased and indeed proud to be able to make what is going to be a brief contribution to this debate. I consider it an historic occasion. Any decision made about the Caribbean Court of Justice will be done within the context, culture and law of the region, without having it interpreted by those who, for the most part, have never been to or even seen the Caribbean.

Sir, in England, the death penalty was abolished over 30 years ago. To them it is an alien concept and they treat it

as barbaric. Of course, it has already been stressed, and I hasten to stress it again, that it is not going to be a hanging court but still one has to look at the reality how it has been wrongly interpreted.

Sir, another aspect is, at present, the process of having to leave Barbados to go to the Privy Council. It is extremely costly. Thus, the final legal control outside of the country is not the happiest thing at this stage. We have enough outstanding legal officers and judges to man the Caribbean Court of Justice.

Sir, how can one expect a sovereign country to take on responsibility for other sovereign countries forever? It is unrealistic. I do not think that anyone would deny that the Privy Council has been a valuable asset in the colonies for Caribbean countries but the time must come when sovereign countries must set up their own institutions. This is an opportune time for the Caribbean and an historic moment for us in Barbados. Mr. President, the Attorney General and the Government are to be highly praised for bringing this Bill.

It has also been pointed out that our people will need to be educated. This made me think again how important it is for the subject of citizenry, what we knew formerly as civics, to be taught in schools. I remember having a legal person come to the school where I taught to address our Parent-Teacher Association and our senior students about things in relation to the Law.
11.55 a.m.

It was evident how much talks like these were appreciated and needed. Of course, this is where the media will and can play a major role, doing for this particular process, what has been done in areas of health, for instance. I think that will perhaps help in considering what the Honourable Senator who has just spoken, was looking at, that is, the importance of our people being widely educated on the matter and all aspects of it being disseminated.

With those few words, I wish to say again, how proud I am. Like the Leader, I feel privileged to be able to stand here this moment, as part of history in the making, and supporting this important Bill.

Thank you, Mr. President.

SENATOR THE HON. Mrs. V. E. NEWTON: Mr. President, I rise to give my support to the passage of this Bill to make the Caribbean Court of Justice a reality, certainly in terms of the domestic law of Barbados.

Mr. President, the notion of the Caribbean Court of Justice has been with us for a long time. I believe the first mention of such a court was made at a time when, in 1948

Sir Alexander Bustamante and some other persons from the Caribbean, met in Montego Bay, Jamaica, to discuss the UWI and other regional institutions.

The predecessor of this court would have been the court to the Federal Court which we are told was an excellent court that gave some good decisions. Unfortunately, few of those decisions have been recorded for posterity. Certainly we have few, if any of them, in the Law Library and that is something we will have to look into and now, the Caribbean Court of Justice.

The establishment of the Caribbean Court of Justice has been surrounded by a considerable amount of controversy, not so much here in Barbados but in Jamaica and some other territories. Some of our people fear that it will mean, the notion of impartiality that distance has brought, with the Privy Council as the final Appellate Court, might now no longer be with us today. I think many of those fears are unfounded.

Mr. President, I think, as has been said by some of the speakers before me, that the main plank on which we could justify the establishment of a Caribbean Court of Justice is that of sovereignty.

It may be argued that as Independent countries, having your final court outside the region, is an abrogation of the notion of sovereignty. Sir, as it now exists, the permanent members of the Privy Council are appointed by the Queen, on the advice of the Prime Minister of England, whereas, a few judges are appointed from the Commonwealth. I am not sure to what extent Commonwealth Governments are involved in the selection process.

In any event, Mr. President, most countries in the Commonwealth which have become Independent, opted to *Justinian* the Privy Council. Australia, India, Kenya and Nigeria did it and here at home, Guyana. The USA established its own Supreme Court on its Independence. Canada established theirs some time later in the 1940s, I believe.

Mr. President, one may also argue that the Judicial Committee of the Privy Council is part of the socio-political apparatus which came with colonialism. It was one of the planks on which Colonialism was based, which held the British Empire together. Therefore, when we became Independent, it was a must that we should look seriously at severing ties with the Privy Council.

Sir, for various reasons, one of them, I believe, opposition based on fears that a local final Appellate Court might be partial, would have been one of the reasons for

having the Privy Council with us as long as we have, after Independence.

Mr. President, distance has advantages and disadvantages. It has been said that the Privy Council was unbiased because of distance from the political and social arena of the Commonwealth Caribbean. It may also be said that distance breeds ignorance. Some Privy Council decisions have been criticised, because it has been said that they do not show any feeling for local circumstances, and any real appreciation of the social and economic conditions of the region. Those views have been well founded.

Mr. President, if we look at the document before us, and the proposed structure of the Caribbean Court of Appeal, we will notice that the system of appointment of judges, minimises the possibility of political interference. This is one of the reasons, I think, that some of our people, especially in Jamaica, have been fearful of the regional court replacing the Privy Council.

The Regional Judicial Legal Services Commission will recommend the appointment of judges and they also will recommend the appointment of the Chief Justice to the political directorate, and it is not coming the other way around. This is one of the main reasons that in Jamaica, the court was feared.

The Honourable Senator who introduced the motion went through the mechanism for providing for the costing of the Court, and it is not necessary for me to go into that any further. I would say though, Mr. President, that as the proposal stands, the Court ought to be able to draw on legal talent across the region. This ought to make it a formidable institution because we Caribbean people need to have faith in ourselves. If we look around us, we will see that there are many legal luminaries, some of whom will be eligible for appointment to the Court. I have no doubt that, in the end, the Court will be one in which we can be proud.

One other reason that the Caribbean Court of Justice has been supportive, and in some cases not supportive, is the question of whether or not it is going to be a hanging court. Mr. President, in my view, this is just a smoke screen. Whether or not that seems to be the mission of the Court, the point is that it is long overdue and it is in-keeping with our status, as sovereign nations, to have our own Court of Appeal.

If we can have our own Legislators, people like you and me sitting around a table, making and passing laws, I do not see why those laws should go to a foreign court to be interpreted. Sir, looking at it from that light, it is easy for anyone to support the Caribbean Court of Justice.

Sir, whether, in fact, it will be cheaper for appeals to go to the Caribbean Court of Justice than to the Privy Council, I cannot say. Sir, if you look at the mere question of distance, if nothing else, I would think it ought to be cheaper. As I said previously, that is not the main reason on which one ought to support a court like this, not in 2003 and in an Independent Barbados.

The question of sovereignty, to my mind, is the most important plank. I wish to say that it makes a few points now, in relation to the operation of the Caribbean Court of Justice. As we all know, it is to be sited in Trinidad and Tobago. The Court has pledges of funding to set up an excellent law library.

We, at the Faculty of Law at the University of the West Indies (UWI) view the Caribbean Court of Justice as an important milestone in our development, similar to the establishment of the UWI back in the late 1940s. We will be doing all we can to assist the Court when it gets going.

You will note that a few weeks ago, we launched a website of the court decisions from the higher courts around the region. One of the reasons for pushing forward that date of the launch was so that when the Caribbean Court of Justice comes into being, the judges will have access to these decisions. We are also going to have our catalogue online, published on the web in another couple of weeks. Again, this is not only to assist scholars, academics and practitioners around the region to have access to our very rich collection but, certainly, to assist the Caribbean Court of Justice in this mandate.

12.05 p.m.

Mr. President, the question of publicity has been mentioned earlier. I must say that I cannot accuse the Government of Barbados of not engaging in any publicity in relation to the Caribbean Court of Justice. The thing is that it has been doing so over a few years. I remember articles in the newspapers, I think there were one or two meetings to which people were invited to hear more about the Court, and so we would tend to forget, because of the length of time over which this public relations exercise has taken place, that there have been initiatives.

Of course, there is always more that can be done, but I would question whether there is need to go so far as to call for a referendum on this matter because it is not an issue, the establishment of the Caribbean Court of Justice that goes to the fundamental rights of citizens and matters like that. I think it is one that the Barbadian citizens could well leave to their Government to decide.

Having said all that, I would like to say also that the CARICOM Secretariat at certain meetings that would have

been held over the past few years between its Member States, was given a substantial amount of funding and demanded of fully publicising the Caribbean Court of Justice, what it is going to do and how it is going to operate in the Member States of the community. I am not sure that much has been done in Barbados by the CARICOM Secretariat. I know they have a website and I know that there are a few brochures they would have sent around from time to time, but I do not know how well they have been publicised. I would think that the CARICOM Community during the next few months before the Court gets going, may well be reminded of its mandate to do a little more to publicise the establishment of this regional institution.

Mr. President, I wish to congratulate the Government for the courage it has taken to bring this piece of legislation at this time and to say further that once again the Government of Barbados has been one of the few, certainly I think the first, to put its money where its mouth is. It committed to a court and it has brought the legislation to make the establishment of the Court a part of its domestic law.

I thank you.

SENATOR D. D. MARSHALL: Mr. President, as always it is a pleasure speaking after my colleague in the Senate, Senator Velma Newton. Let me begin by saying that I am indebted to her as always for the depth of her research in terms of the historical development of the arguments for the Caribbean Court of Justice.

My own research indicates that there was a meeting of the West Indian Governors in 1947 that Senator Newton referred to as being in 1948. It does not matter much when it was. The important thing to note is that in the 1940s the West Indian Governors at a meeting were courageous enough to urge the establishment of a West Indian Court of Appeal. At that time they also urged the establishment of the University College of the West Indies.

I will like to jump off at that point because there is no doubt in anybody's mind today as to the validity and the legitimacy of the education that is provided across the region by the University of the West Indies. In fact, it is today seen as one of the pillars on which Caribbean people base and rest their development.

How is it possible that against all of the arguments we have brought the University of the West Indies from its humble origins to being a world class institution today which is well-regarded in every face on this globe, but at the same time we fail to believe in ourselves in respect of the other recommendations that our Governors made in the 1940s? I find it most peculiar.

meeting, Jamaica tabled the Resolution calling for the setting up of a Caribbean Court to replace the Judicial Committee of the Privy Council. The Frazier Report of 1972 argued for the same thing. In 1975 Dr. Francis Alexis, an outstanding academic who has come through our very own University of the West Indies, spoke passionately against the continued, as he called it, subjugation or subordination of Caribbean judges to British judges.

I believe that is perhaps one of the points at which the passion that we feel about our regional institutions really takes off into another sphere. How can we continue to accept that our judicial reasonings and our judicial decisions will be subordinate to British judges?

Of course, coming near to home, I would like to remind all present that in the 1994 Barbados Labour Party Manifesto, which I believe has already been made a document of the House, therefore, I would like to quote a brief extract from it, under the heading Caribbean Court of Appeal at page 36, it says:

“The Barbados Labour Party remains committed to the establishment of a Caribbean Court of Appeal as a final Court of Appeal for Caribbean jurisdictions. This is, however, a matter for negotiation among the Caribbean countries. The establishment of the Court ought to reduce the cost of litigation and also reduce the time it takes for these matters to be heard. It ought also to assist in the development of a Caribbean Jurisprudence.”

In the 1999 Manifesto, also a document of the House, at page 62 it says, the Barbados Labour Party will:

“Continue its crusade for the establishment of a Caribbean Court of Justice.”

It is clear in my mind, and I believe it is clear in the minds of everyone in the public, that the Barbados Labour Party, of which I have the tremendous honour to be a part has always seen it as being fundamental to the continued development of our Caribbean structures and of ourselves as sovereign nations and that we look inward to find the place where we will repose our trust when it comes to the final arbiter of our judicial decisions.

In my view, there has been a tremendous opportunity for dialogue. While Barbadians may not have seized this opportunity, I do not agree with the Senator who spoke earlier about the lack of opportunity for dialogue. Certainly, dialogue would have been entered into on the publishing of our two Manifestos and in the many meetings of the Constitutional Review Commission.

Dialogue would also have been entered into in an almost weekly basis as we look towards the future and try to determine what we would be doing in relation to the

Caribbean Single Market and Economy. Perhaps it is that Barbadians have not seized the opportunity for that dialogue but, certainly, as someone who supports this piece of legalisation, I am satisfied that there has been a tremendous opportunity for dialogue and that dialogue has been seized certainly by the well-informed members of the Barbadian public.

I think it is important we recognise that despite the vastness of the Commonwealth today, appeals to Her Majesty's Privy Council come from a mere sprinkling of Commonwealth countries.

12.15 p.m.

Mr. President, appeals to the Judicial Committee of the Privy Council still come from the Commonwealth Caribbean in countries both independent and dependent. Appeals also lie from countries such as Brunei, Zambia, Mauritius, Tuvalu, Djibouti and the Channel Islands.

I think one would, therefore, agree that across the Commonwealth, there has been progressive movement away from vesting our final judicial authority in Her Majesty's Privy Council.

We, therefore, have to wonder in a very serious way, wherein lies the timidity of Caribbean people when it comes to seizing this opportunity and providing for the determination of our judicial inquiries by like-minded Caribbean people.

It is quite frightening that until now, we have had to go through our lives depending on the good sense of others to defend our liberties and our livelihoods. Certainly, and I would like to echo the comments made by Senator Newton, how is it possible that we can be courageous enough to pass laws? How is it possible that we can be courageous enough to negotiate international treaties or enter into negotiations for matters of significant financial imports? How is it possible that we can do all of these things but still be timid when it comes to the question of severing with Her Majesty's Privy Council as our final judicial body?

I think if Barbadians reflected on the peculiar nature of the Privy Council, it might help them to shake off those shackles. Even now when Her Majesty's Privy Council makes a decision, it does not say “This is the position on the case”. It says, “We will advise Her Majesty on what we see the Law to be”, and it is then for Her Majesty to transmit it. The point is even now there is still that almost hidden step which still puts us firmly in the bosom of Her Majesty the Queen, if only by convention because decisions of the Privy Council are given by way of advice to Her Majesty.

Of course, the debate did not end there. In April of 1970 at the Sixth CARICOM Heads of Government

Mr. President, there is a famous book called *Les Misérables*, written by Victor Hugo. I am almost embarrassed to admit that my knowledge of Victor Hugo's famous book comes not from reading the text itself but from watching the musical on Broadway. One thing sticks in my mind though and it has to do with a confrontation between the two main players in that work. It is this passage: "The law is the law and shall not be mocked."

Sir, on the matter of the Caribbean Court of Justice being a hanging court, I want to say that the law is the law and shall not be mocked. We have, in our law, provisions which say that if one is found guilty of murder, one shall face that dreadful punishment of being hung by the neck until dead. That is our law. It is recognised by our Constitution. It has never been repealed and, as the Law of the land, it cannot be mocked.

Sir, while I agree and say with great fervour that this court is not a hanging court, the court cannot pick and choose the matters on which it will make a determination, so that as long as an appeal goes to the Caribbean Court of Justice on a capital case, then the Law must be applied. It is not a question of it being a hanging court. It could also be described as a nationalistic court.

The point is that in the same way the Caribbean Court of Justice would have to rule on a dispute between a citizen and me, in the same way it would have to rule on a dispute between contracting parties, in the same way it will have to rule on the matter of the interpretation of the Treaty of Chaguaramas, it will also have to rule on capital cases.

I am in no position to say what such a ruling might be but the fact is, as a court, it has the jurisdiction to hear appeals on capital cases, in the same way that our Court of Appeal would hear such appeals. Nobody says that our Courts of Appeal are hanging Courts of Appeal. Nobody says that our High Court judges are hanging judges. Our legal system has to apply the Law as it finds it and is not at liberty to deviate from that because of a personal view on the desirability of capital punishment. In the very same way, this court is likely to be called on to rule on capital cases, and I have no doubt that the eminent jurists who will certainly be appointed to the Court will rule as the law requires, whichever way that might be.

This Caribbean Court of Justice represents a tremendous opportunity for us to assert our sovereignty. The biggest argument to me that appears to be against the establishment of this Court, has to do with its independence. I believe the Honourable Leader of the Senate and Senator Newton have both examined, in some detail, the methodology which has been adopted in ensuring that this Court is independent. I sometimes wonder if in our efforts to ensure that the Court is so independent, that we might not

have gone a bit too far in trying, as a region, to ensure that all of the stakeholders have a say.

I believe one of the areas which comes to mind is the fact that the Deans of the Faculties of Law of the Universities of Barbados, Guyana, Trinidad, *et cetera*, have to nominate a member to the Court. I sometimes wonder what happens if they cannot agree. The point is that in the negotiation of this Treaty, in an effort to ensure that no one can allege political interference, we have tried to ensure that the process of selection is as broad-based as ever to the point where we have made it cumbersome.

It is important that the citizens of the respective countries have confidence in this institution. I want to say that confidence is not one which would be fermented on paper. It is not one that would be developed because we say the process of selection of the judges is transparent. It is not one which would be developed because we say the court is being funded by a US \$100 million facility which is going to last into perpetuity. None of these things, in my respectful submission, would cause Barbadians or others to be confident in the court. That confidence has to come from within ourselves.

It is a confidence we have been prepared to repose in our magistrates, judges, police officers, doctors, teachers, nurses or priests for the last 300 years. We have been prepared to repose that confidence in our judicial officers, or in our politicians for the last 300 years. The time has now come when we should see ourselves as matured people living in matured nations. We must accept that in the same way we have established institutions within our lands to govern our affairs, we should have confidence when we establish intra-regional institutions to make input on those affairs.

Sir, I want to complete my presentation by referring to the importance of this Court in the workings of the Caribbean Single Market and Economy. Part of the original jurisdiction of this Court would be to hear, to determine and to interpret the provisions in relation to the revised Treaty of Chaguaramas.

One noted commentator posited that the only way the Caribbean Single Market and Economy would progress and would grow as a regional movement is if there is finality in any dispute, and that finality is to be found in the establishment of the Caribbean Court of Justice, so that, on the one hand, we cannot seek to establish a Regional Single Market and Economy while trying to hamstring it on the other hand by maintaining reliance on the decisions of the Judicial Committee of the Privy Council.

How absurd it would be if the countries in the European Union (EU) should rely on the United Nations to determine matters in relation to their Treaty. Therefore, it

is important for us as we chart our path in the direction of a Caribbean Single Market and Economy that we establish a judicial arm to further our aspirations as Caribbean people. This legislation is timely. It will see the incorporation of our domestic law and of this agreement. I cannot think of a more impactful thing since Independence on which we, as Caribbean people, would have embarked.

12.25 p.m.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, I join in this Debate because it affects me from a political position as well as a legal position. The political position is, in 1964 when I came back to Barbados I joined a group called the Under-forties. We believed in Caribbean unity and I believed it to be one of the steps which would eventually forge a Caribbean unity rather than independent islands which we still are. From a legal position, I believe it is time that we have our own final Court of Appeal and begin to put together a Caribbean jurisprudence based on our own customs and habits which we dearly need to maintain.

I believe that the independent governments around the Caribbean have basically failed our people when they marketed this idea by not telling the people of the Caribbean that at least 90 per cent of the appeals that go to the Privy Council are really criminal appeals and not civil appeals. Our people accept the decisions of our Court of Appeal judgements and are quite satisfied with them.

Those who want to live on the fringe of danger and who want to commit crimes and escape will tell you this Court is being established as a "hanging court" but they are the same people who go to the civil courts in the Caribbean and accept the judgements of the judges and live with them. They do not talk about the Privy Council and civil appeals because only the major companies in the Caribbean ever end up at the Privy Council for decisions.

Sir, in my 40 years of practice in Barbados, I cannot count 10 civil persons who have appealed to the Privy Council, so I do not know what the argument is about.

Therefore, all the Governments in the Caribbean have to do is publish the statistics of cases that go to the Privy Council and then publish the statistics of the Privy Council that agree with the judges in the Caribbean because we need to have faith and confidence in our people.

Mr. President, I like to listen to a religious CD which was recorded by the "Incredibles". One of the tunes says that the Nation of Israel had good kings and bad kings but in the end the kings brought good things to the people of Israel. In the Caribbean we have had good judges and bad judges. We in Barbados know of some of the decisions that the University of the West Indies laughed at coming from some

of the bad judges that we had in the Caribbean. However, we have also had good judges in the Caribbean.

I recall in 1965 that Sir Donald Jackson, a non-Barbadian, sat on the Caribbean Court of Appeal and you would hear comments like "Sir Donald is coming and you are now going to hear good law".

I also remember appearing before Sir Donald Jackson in a case, which was known as a bastardy case. I cited law and was feeling good about it because I felt that I was correct and Sir Donald was bowing his head all the time. Sir Donald then said to me, "Counsellor, I would like you to turn to page 267, which is on the next page from which you are citing." Sir, he was not looking at any book yet he asked me to read paragraph 4. When I read it he asked, "What is your decision now?" I said "Thank You My Lord" and I sat down. Sir, Sir Donald knew the Law by heart and he was a good judge and it is about time that we recognise the ability of Caribbean people.

Recently, I was talking to a gentleman who had come back from the United States of America after receiving medical treatment there. He said that his family told him to go to a hospital in the United States of America to see a specialist doctor regarding a problem he had with his heart. He said that while he was in the waiting room the doctor that he was supposed to see came to him and told him that he could not see him for the next hour and a half because a specialist was coming to give them a lecture.

The man said that while he was sitting in the waiting room he saw the specialist come through the door and it was a Barbadian who was giving the lecture to these doctors in this big hospital. He was so ashamed that he held down his head because this specialist was his doctor in Barbados.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, the problem with the Caribbean is that everything must come from "over in away" for us to accept it and we do not believe in our own people. I want to say that we have good judges in the Caribbean but we keep subjecting ourselves to what Senator Trotman calls "the irrational judgements and decisions of the United Kingdom". We must be fair and frank about this. We let the people understand what we are talking about. Sir, I know what I am fearful of. 12.35 p.m.

Mr. President, recently, I have been reading some law and I shuddered. I am glad to see this Court coming and that is why I am going to support this more than 100 per cent. There is a series of cases in England where the judges are telling the citizens that they have a duty of care to robbers in their own homes.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: Sir, people trespass in your house in the middle of the night and then they take you to court for damages because they fell over something while they were in your home.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: Sir, someone comes into your yard and gets injured and the courts are telling you that you owe them a duty of care to a trespasser.

We have to develop our jurisprudence in the Caribbean. I do not believe that we will tolerate that in the Caribbean. The British Government has passed in law which says that homosexuality is now legal between consenting males. My question is this. Supposed we are faced with a situation in our courts where somebody is charged with homosexuality and he appeals to the Privy Council, what will be the decision? I can foresee that the decision will be the same as those people who have appealed to the Privy Council for murder.

Mr. President, the Privy Council will sit and find a device and tell us that we are wrong although we are right according to our law. Therefore, we have to decide whether or not we want a court within our own boundaries which will develop our jurisprudence in keeping with our customs.

We ask ourselves the question, why is it that other Commonwealth countries have set up their own final Court of Appeal? Mr. President, it is a strange thing that this Debate is going on today. We have adopted the Australian Family Law and we have a Bill waiting on these papers because somebody decides to copy the Australian Family Law about a man who cohabits with a woman, who has children with someone else, and we are seeking to tell that man that those children must be paid maintenance. However, the public does not want it.

Sir, this is a typical example why we need our own jurisprudence. The public, both man and woman, has rebelled against it because we have a particular feeling within this area. We must know our people and that is what our Court is bound to do, develop our own jurisprudence.

Sir, the United States of America became an independent country and they broke away and formed their own Court of Appeal and other Commonwealth countries have formed their own Courts of Appeal. Why is it that the Caribbean must go through all these gymnastics in order to establish its own Court of Appeal when we have been Independent since the 1960s?

Mr. President, I want to look at some areas of the Bill. If we are going to create a Caribbean Court of Appeal, it must be a court that the man in the street understands totally. When I look at Section 10 of the Bill, we still seek to use some Latin phrases. Why is this so? Sections 10.3 and 10.4 say:

10.3 "The Court may not bring in a finding of *non liquet* on the ground of silence of obscurity of the law."

10.4 The provisions of subsection (2) shall not prejudice the power of the Court to decide a dispute *ex aequo et bono* if the parties so agree."

Sir, tell me which man in the street understands what that means? We are talking about a Caribbean and this is why people will tend not to accept it. Sir, within a Caribbean court we have to adopt Caribbean language.

Mr. President, Page 33 of the Bill under "Compulsory Jurisdiction of The Court" says:

1. "Contracting Parties agree that they recognise as compulsory, *ipso facto* ..."

Sir, I was in the Other Place and I heard Ms. Gertrude Eastmond, when she was a Member of Parliament, complaining that we continue to bring laws to the Chamber that are complex, that the man in the street cannot understand it. Mr. President, if she complained about that, I know that the man in the street will complain about the Latin in these Bills. I know what they mean but I am standing here representing the masses.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: I think that it is time that those who are putting together these Bills, should take into consideration the Caribbean man in the street.

Sir, there is a typographical error on Page 20 of the document which, I think, could have been erased before it reached us. Mr. President, it looks to me from my reading that the term of the President is limited to seven years. It means that we may be circumscribing ourselves in a position that we may have good judicial material who, if they are appointed, could not serve seven years in the first term. In one section the Bills says that you cannot be older than age 72. In another section the Bill says that the President can only serve for seven years.

Mr. President, it means that if you have a judge in the Caribbean who is aging 66 or 67 and very brilliant, he would not be able to serve seven years because he has to

retire at age 72. This Bill basically is looking at one of the judges who is in his or her 50s who would serve seven years. Even then, if he turns out to be a brilliant President, he can only serve for seven years, although he will not be age 72.

Mr. President, in our efforts to make it seem as impartial as possible, we are creating, in my view, some problems. There is a tradition that once you sit as a judge you cannot come back and go into practice.

Sir, there was a case in Trinidad where a judge wanted to come back and practise at the Bar and they said he could not do that. The person who could be appointed or who accepts an appointment could limit himself, knowing that after accepting that appointment, he cannot come back and practise at the Bar. He probably might only be a consultant. I think that when we get going, we should have a look at this area of concern.

Section 8 of this document deals with appeals and I believe that it is a little tight. This section says that you can only appeal to the Court by leave of the Court of Appeal and in such other cases as may be prescribed by any law. Those words, in my view, do not tell us exactly where we go, unless we are going to amend or create new laws for that.

I believe that this Court, as the final Court, should have a laid-down status. I think that we should have the position where if there is no leave from the Court of Appeal, the litigants can have the right to appeal to the Court and let the Court tell us whether the case is appealable. I think that is what we need here. We need to know that citizens have the right to go to this Court if the Court of Appeal does not allow it and I am raising this for a particular reason.

Mr. President, we have had instances in Barbados where the Court of Appeal refused appeals for varying reasons. I think that this Court, as a final Court of Appeal, should not be hamstrung in this way. I think it should be wider than that.

12.45 p.m.

Section 17 of the Act takes into account, decisions by judgements against the Crown. I hope that this would induce the Government of Barbados to change the present arrangement whereby judgments against the Crown are not expeditiously honoured. The costs against the Crown are sometimes not even paid. I think we have reached the stage, if we are talking about a developing society, *et cetera*, these are things that have to be looked into.

In this particular case it says, in section 17:

"17. (2) In any proceedings to which the Crown is a party, costs adjudged to the Crown shall not be disallowed or reduced on taxation, merely because the proceedings are conducted on behalf of the Crown."

Sir, I think we should also have it the other way whereby the Crown should pay when they are adjudged to pay. I had an instance where a client of mine received a judgement against the Crown. They had to wait three years to get the money. Then, we had to sign a release, and it was nearly five months before we got the money. I do not think that is good enough. When the Crown becomes a litigant, they should behave like other litigants.

I have been trying for a long time to see if we could levy against a tractor belonging to the MTW or somebody but we are prohibited from levying on the goods of the Crown. I believe this should move us a bit further in that direction.

Asides.

HIS HONOUR SENATOR C. L. BOLDEN: Do not laugh. This is true.

Mr. President, as I said, I join with those who said they would vote for this because, I believe it is one of the movements that was long outstanding. When I entered politics in 1965, I heard about this final Court of the Caribbean. I know many practising attorneys have looked forward to this coming into existence. I believe it will create one or two hiccups in the system. I heard where the hiccups will come from, but I do believe it is a step in the right direction, and respective Governments should arm themselves ready to deal with the various hiccups which might come out of the system, so that we can get it in existence as soon as possible.

I thank you.

SENATOR K. D. SYMMONDS: Mr. President, I rise to associate myself with the remarks of those Honourable Senators who preceded me. In particular, I would want to associate myself with some of the analyses from Senator Marshall and Senator Newton.

I would want, Sir, to begin on the point that Senator Marshall ended on which is, I think, perhaps, one of the most critical of the concerns touched in this matter. That is, the fact that we speak today at a time where, in the Caribbean, the reality of our commercial interaction is still such that without necessarily wanting to invoke the word xenophobia, Jamaicans, for argument sake, Sir, do not

necessarily take kindly to the dominance of the Barbadian presence in their life insurance industry. Barbadians do not take kindly to Trinidadians in other sectors of our economy and it goes that way, Sir, throughout the archipelago.

Sir, even as we say that, those of us who consider ourselves to be perhaps a little bit more sensitive to the urgency of building a Caribbean Single Market and Economy, try to provide some element of leadership and direction, insofar as the architecture of that Single Market and Economy is concerned.

Sir, it is therefore imperative, on the point of departure in this debate, I think, to make the case that no matter how strongly we seek to support it rhetorically, no matter how deeply we seek to entrench the finances and protect the finances of the Court, the fact of the matter is that a lot of the work of the Court and, indeed, by extension the work of the Single Market and Economy, is going to rest on the spirit of cooperation and bonding between the people of the Caribbean.

Sir, having said that, we all went through a process of colonialism and upon reaching a stage of Independence, we asserted our individual nationalistic spirit. We evolved a structure across CARICOM where we divided power between an executive, a legislator and a judiciary. We placed residual control, which had formerly rested in the hands of the colonial office under a royal prerogative, still so called, even though we were Independent, but in the hands of the executive.

That, notwithstanding, the peculiar feature of our Independence, arrangements were that we continued to pay homage to the British court, situated in London which would provide us with the final word on legal matters, which presented themselves before us, so that to cure that defect, if one could use such a word in our constitutional formulation in our sense of nationalism, I think it is important that exercise is conducted.

Sir, what essentially we are seeking to do by creating this Court is, as has been said before, to place firmly into the Law of Barbados, a provision for our final court to be a Caribbean Court of Appeal.

Sir, as Senator Marshall quite rightly pointed out, we are the first to take this bold step. Even when it is taken and passed here, for it to be effective and for us to be able to rely upon it, we must be able to rest assured that our brothers and sisters in CARICOM, will equally be willing to participate and do the same. Even as we say so, we conduct this exercise under the spectre of Jamaica still being an uncertain party and others seeking to opt out, provisionally, on certain issues.

The question of our sovereignty has also been touched upon. It is my view, Sir, that there are two very interesting jurisprudential arguments. I think it was Douglas Mendez from Trinidad and Tobago, who is a highly famed human rights lawyer, made the point that the question of the development of a Caribbean Court of Justice is essential to the whole question of completing our sense of sovereignty. There is a simple logic to it. We will not be sovereign, until all of our legal jurisprudential is determined within our shores.

Sir, although I confess to being attracted to that argument, I also confess being more attracted to, I think, the more persuasive argument of our own Professor Simeon Macintosh from the UWI, where he is making the point that what we are, essentially, now concerned about is governance.

We are, in effect, standing here in this Chamber, seeking to invoke into the Barbadian legislative reality, a new tier of governance. Sir, that evolution of governance means that we are now seeking to make part of our discourse a new way in which we allocate the responsibility for determining the relationships, and adjudicating upon the relationships between private individuals and the State, between political institutions and private institutions, between political or private institutions and the individual Barbadian person. We are seeking to build a new tier of governance and that perhaps, Sir, is one of the most persuasive and powerful arguments about this Caribbean Court of Justice.

Sir, it takes us to that next step where we are seeking to say that we, in evolving a West Indian jurisprudence, are also evolving in my view, part of the inevitable and inescapable level of a new form of governance in the Caribbean. On that ground, Sir, I also associate myself with the principle.

Sir, the argument has also been made as to the question of cost. It goes without saying and, I think Senator Dame Patricia Symmonds alluded to this point, that by going to England, we are going, probably, more than 4,000 miles away, and we are going at great expense. The reality, Sir, has been that in civil cases, it is particularly difficult, but even more so in criminal cases, because we are dealing with still a society, which in large measure, upholds and expects the implementation of the death penalty for capital offences and, indeed, in other offences as well. The reality, therefore, is that when once one can have as serious a loss as the loss of life being contemplated, you cannot be seen at the same time to be driving someone away from the seat of judgement through the question of cost.

12.55 p.m.

Of course, that has not really applied here. That is more of a theoretical principle because very often we appeal to the Judicial Committee of the Privy Council in what we call in *forma pauperis* – I am too poor to pay and I am begging the Government to pay – but someone has to foot the bill. What has not been said – and I think should be said repeatedly so – is that the costing coming out of Jamaica and Trinidad and Tobago is shockingly high. We are talking about millions and millions of dollars being paid in travel expenses, accommodation, legal fees for counsel, fees for the Judicial Committee of the Privy Council, *et cetera*. Therefore, there is significant cost attached to our continuing to do business with the Judicial Committee of the Privy Council.

Having said that, the more pressing concern for me is that the highest remedy via the rights of appeal in the Caribbean as it now stands is not financially available easily to the vast majority of people in this region, so by creating the Caribbean Court of Justice, I think we go somewhere towards resolving that issue.

Speaking again to the question of access, it is to be hoped that the Court would be an itinerant court – moving from country to country as time or the need arise – and modelled upon the Court of Appeal of the Organisation of Eastern Caribbean States (OECS). That will make it more accessible to litigants, perhaps less costly and, therefore, I would like to think, more effective.

Having said all of that, there is, in my view, the most pressing argument for the creation of this Court to be found in the creation of the Caribbean Single Market and Economy. It is inevitable that disputes will arise under the Treaty as it is currently being revised. Disputes will arise between Member States. They will arise between the persons who, as a result of benefiting from the rights of establishment, will wish to move their goods and services but have problems. They will arise in every corporate capacity and every personal capacity that we can imagine.

The resolution of disputes within CARICOM has long been a problem for this region. Honourable Senators will probably be all well aware of the fact that when the European Union created their court, they altered the Convention of Rome, I think it is called, so as to ensure that there was an effective dispute resolution mechanism in place. We in CARICOM have never been able to effectively resolve disputes because it has always been to go at the pace of the slowest member. Therefore, if Antigua or St. Kitts has not gotten on-board, the train cannot progress.

It is, therefore, hoped that by the creation of a court which can resolve disputes, interpret the Treaty and develop the Caribbean Community's Law that essentially we would be going to strengthen a regional agreement which is really very weak on obligations and very meagre on rights. That is

something that concerns me as a young person studying political science. It continues to concern me today that we speak in terms of building a Caribbean Single Market, in terms of understanding and appreciating the urgency attached to building confidence in the Caribbean people that we can be, for argument sake, a shareholding democracy and that shares held in companies in Barbados which are headquartered in Jamaica are a common and customary thing and something that Caribbean people should reach out to do.

We urge upon ourselves the view that there should be movement of our people, but yet still for years we have stymied that kind of development by not putting in place one of the most fundamental of mechanisms which is the mechanism to ensure the resolution of disputes which arise between Member States and now, in this case, which would arise between entities within Member States to ensure that their rights are protected and their rights are enforced.

I make this point in this term because I am of the view that there is nothing more important to the future of the Caribbean Single Market and Economy than the spirit of co-operation between the Caribbean people based upon a genuine belief and a recognition that they have rights vested in what is taking place. I think this is the point to which Senator Trotman was alluding, but I do not necessarily agree with the approach he suggested by way of referendum because I am not sure how far that will take us.

I think what we need to do is to make sure that there is sufficient public discourse and sufficient public participation that people across the Caribbean recognise that they are stakeholders within the Caribbean Single Market and Economy and that it is not something that is created for a few millionaires in Bridgetown, one or two to be found in Guyana and Trinidad and Tobago, and a few in Jamaica, but that it really impacts upon the fishermen, the journalists and on all of us. That is, I think, critical to this whole exercise.

Again the point must be made that it is not only a question of the original jurisdiction of the Court which is to be the vested body for interpreting rights and so on but also the exclusivity of jurisdiction.

The point which I think many people have not yet grasped is that when once there has been some interpretation, some dispute resolution, or whatever, that jurisdiction has to be final. There has to be a certainty that you cannot go beyond the Court, that they cannot be an invocation of prime ministerial directive, that they cannot be an invocation by some big boy who may be an Attorney General or positioned in some position of influence in another State which says that: "Look, do not mind that this is what is taking place, we are going to go another way."

There must be legal certainty and a finality, that exclusivity of jurisdiction which says that the Court is seen and treated by whoever functions within the Caribbean at whatever level within the Caribbean as being the institution that is empowered to make these final decisions.

I say that again because it has been our history right here and all too often that very many times people believe that you can invoke some other authority outside of the authority that is perhaps recognised as being the very best possible authority to be invoked.
1.05 p.m.

I would want to say that I do have some legitimate concerns. The creation of the Court is about evolving a treaty so as to give effect to the Court. The protocols that would have to be interpreted now speak to the movement of people, capital, goods, the rights of establishment, *et cetera*, but Sir, there are issues of evolution to which this court must be empowered to speak.

One of the weaknesses I have detected in our system is that we have created a supranational body which would be transcending Barbados, Trinidad and Tobago, Guyana, *et cetera*. It would encompass all of us but that is a body of interpretation. It is a body which would be making decisions only on the basis of interpreting that which already exists and the process of evolution, therefore, might be too slow. It might be much slower than what the region, perhaps, more urgently needs and I will give an example.

We now stand on the threshold of going into a Free Trade Area of the Americas, which would be seeking to almost ram down our throats – for want of a less way of putting it – their views of what should be good corporate governance, what are their views on the question of Government procurement, or how do we go about dispensing and awarding contracts. CARICOM has not yet settled that issue.

The Caribbean Single Market and Economy is being created without some of those fundamentals being understood and embraced, irrespective of where you are within the commercial community in the Caribbean, yet as a unit, we are going to be participating in an even broader grouping which is seeking to determine those things for us.

Therefore, as we speak in lofty terms about sovereignty and nationalism, we have to be very clear and careful that we are not, by virtue of the slow pace at which we are moving, standing in danger of trading one form of colonialism for another.

We also have to think in terms of how the Court will evolve in the context of being more representative. The

danger in this is that we are speaking about a court which is functioning without another supranational body, a court that is a legislature to make rules and regulations such as we do here in this Parliament.

If one looks at the Constitution of Barbados, one is saying there is a legislature which is making rules, then we go to the judiciary for the interpretation of those rules. The reality is that we seek to expand on the basis of the Treaty and the Treaty itself is going to be more slow and notoriously clumsy. I speak in those terms because I think we need to think in terms of the next step.

We are here speaking of the evolution. Professor McIntosh makes the argument of a new tier of governance. It is a welcomed step but we must start to think in terms of where does the Caribbean community go next in order to lend greater efficacy to what we are trying to achieve.

I am also concerned about the appearance, as it now stands, that there is some elitism in those cadres of people who can benefit in terms of free and unrestricted movement. I do not believe there is anything peculiar about a graduate of a university, a journalist, musician or sportsman, that should set that person apart from that of a fisherman.

I think in regards to the movement of people, we have heard and have seen our people complaining. The fishermen here will never understand nor accept that they can move as freely to do their business in Trinidad as I can to do my business there. I think this is something at which we need to look. We need to restore a sense of equity and to build a view that there is a genuine stake-holding/stake-ownership in the process that we are talking about.

Sir, those concerns apart, I do believe it is an idea whose time has come. I am very pleased to have been given the opportunity to have been able to participate in this debate and to be here at this particular time. I believe we are standing in a most historical time when we are doing something for the first time in Barbados, for the first time in the Caribbean but for which generations to come would want to commend us.

With those remarks, I thank you.

SENATOR LeR. H. McCLEAN: Mr. President, I too would like to associate myself with many of the comments on the establishment of this Court.

I would like to say that I have heard several comments prior to this stage where persons have expressed their reservations, for various reasons, for the establishment of the Court. Not least among them is the concern that persons had voiced about the Court being a hanging court. As I have said before, I think that as politicians, we are our worst enemies because if we are going to mention two

things in the same breath, I think it is only reasonable to expect that those persons who oppose the issues would seek to associate the two points that have been made.

It is unfortunate that very often we have heard the increase in public opinion for the establishment of the Court at the same time that there is discussion about the decisions of the Privy Council with respect to executions. It is unfortunate that this has happened from time to time and, therefore, people have associated the establishment of the Court with the desire to have executions taking place. However, I do not see if the Court should go in that direction, why there should be any cause for complaint.

Sir, I expect that any court of this nature to be one which maintains the high standards and integrity of the judicial system in most Caribbean countries. We have reason to be concerned, from time to time, about the practices in the judicial systems in a small number of territories but I am sure that, by and large, we in Barbados are satisfied that our judiciary has exercised a high level of integrity.

Certainly, I think it goes against the grain of things to suggest that the Court would go in one direction or another. I know that the Court would act in accordance with the Laws, bearing in mind the culture of the territories which it would be serving, since we believe we would get the highest form of judicial practice.

As a regional entity that is serving a number of territories, we have a number of precedences. We have the Eastern Caribbean Court of Appeal, even though that is not a final court. The fact that it has been established, it is possible to have a court which has regional jurisdiction and with respect to whether we can have a final court of appeal in this part of the world again as was mentioned.

We have the example of Guyana which decided sometime ago that their Appeal Court would be the final Court of Appeal for matters in that country. Therefore, it is still puzzling why so often we have these reservations about trusting institutions that we have set up. It is still puzzling why there is this seemingly lack of respect for those things which we seek to put in place.

In that regard, I would like to touch on the matter of the Court being an itinerant court. It is amazing that we should be hearing so much discussion about the Court being itinerant when we are moving away from a situation where appeals had to go before the Judicial Committee of the Privy Council, but even though the Judicial Committee of the Privy Council makes decisions for so many jurisdictions within the Commonwealth, I have never heard anybody suggesting that it should sit in another country other than Great Britain.
1.15 p.m.

We are satisfied to travel thousands of miles to go before the Privy Council but we establish a court in the Caribbean and we believe that Court should be travelling from country to country like a travelling salesman merely to satisfy the whims and fancies of people who do not trust themselves.

Sir, my position is that if we have established a court and the court has a seat in Trinidad, that if you have a matter to go before that court then you should go there. This is the same kind of thing that was responsible for the breaking up of the Federation. Everybody felt that the capital should have been in their country, that they should have the first Prime Minister and that they should have some major role to play. Sir, we have to reach the stage of maturity where we can say that this is what we are doing and get away from pettiness.

As mentioned before, we cannot enter into an arrangement such as the establishment of the Caribbean Single Market and Economy (CSME) and deal with disputes such as the Revised Treaty of Chaguaramas and other regional matters. We must have some judicial body to deal with matters, particularly in the context of trade since we are going to be having situations across borders. We should not expect that a court in a single jurisdiction should be responsible for dealing with matters across borders.

Sir, I agree with the statement that the Court is a necessary entity if we are going to have the matters pertaining to the Caribbean Single Market and Economy and disputes which can arise from time to time within CARICOM dealt with by this Court.

Mr. President, this is a historic occasion and the time has come for the establishment of the Court and we are merely fortunate to be here. The suggestion was made in 1947/1948 for the establishment of such a court. Therefore, there is no stroke of genius in the establishment of the Court. It has become an entity that is necessary.

Mr. President, with respect to the agreement in establishing the Court, Article 18.1 deals with the right of territories. This Article says that a member state, a community or a person, considering that it has a substantial interest of a legal nature which may be affected by a decision of the court to the exercise of its original jurisdiction, may apply to the court to intervene and it shall be for the court to decide on the application.

Sir, I would hope that wherever, in the best interest of Barbados and individuals who may be affected, our Government will make full use of this provision because we are seeing too often incidents in the region where things have been done to the disadvantage of a particular territory and we seem not to have any recourse in dealing with it.

One of the matters that, perhaps, would need to be dealt with by this Court sooner or later is the matter of the delimitation of maritime boundaries where countries, close to each other, even though it is accepted under the Law of the Sea Agreement, would agree on midway points. In the region we seem not to be following this practice and it may become necessary for the Court to make a ruling on matters of this nature very soon.

Mr. President, Article 21 says that there is provision of revision of decisions made by the Court. I am concerned about the Court acting in its original jurisdiction making a decision that parties agree and what extent they could appeal such decisions. Under that Article it speaks only of revision of the decision under certain circumstances. For example, if there is new evidence of which the court was not aware of at that point in time then there could be a revision.

Sir, Section 9.5 of this Bill says that the decision of a sole judge exercising jurisdiction under subsection 4, may, on the application of an aggrieved party be reviewed by a panel comprising not more than five judges. It seems that within the court, even though it says that there should be three judges, there is provision for a single judge to sit in certain instances and where a single judge makes a decision, there is provision for that decision to be reviewed by a panel comprising not more than five judges.

Sir, even though we are not told that you have the right to appeal, it is set out clearly and apparently there is some provision where there is recourse in the event an aggrieved person felt that they need to appeal a decision.

Mr. President, I want to conclude by saying that I lend my fullest support to the matter and that the time has come when we should have these regional institutions functioning at a level to promote a greater integration within the Caribbean.

I thank you.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, I want to make my contribution to this very worthwhile debate of a substantial issue to the future and well-being of the Caribbean region. Before I get into my presentation, I want to set the record straight regarding the extent to which Government has attempted to educate and inform the public about the Caribbean Court of Justice (CCJ).

Sir, some mention was made to the process and exercise undertaken. I would like to be more specific if only for the record. The Government Information Service of Barbados spent approximately \$40 000 on promoting the concept and structure of the Caribbean Court of Justice. This was done in conjunction with the Caribbean Media Corporation. The Government Information Service would

have produced the "Giggard and Boo" series episodes which were broadcast, not only in Barbados but throughout the region. The Government of Barbados was not only seeking to cater to the Barbadian constituency but in keeping with the spirit of regionalism, the performance of these two characters was used to promulgate the question of the Caribbean Court of Justice throughout the region.

In addition, there were six features written on the Caribbean Court of Justice and the Caribbean Single Market and Economy by a Richard Cox, a senior well-established journalist, a radio series done by the Government Information Service which was broadcast across the region. There was also a booklet which was circulated throughout the region. I think I saw evidence of that booklet here this morning.
1.25 p.m.

I think that the Government of Barbados was conscious of the need that for a major step like this, where regionalism was concerned, and also as it seeks to do with its own domestic issues, large attempts were made to involve and inform the public in that regard. We know that the public's support and understanding, even though they may not all be lawyers, there is still a community support that will give legitimacy to this whole being. We must understand that legitimacy comes from within the people. It does not come from an institution where it is handed down, what political scientists would call authority. Legitimacy comes from the community in which something operates and serves.

Therefore, I want to commend all those political practitioners who have made this step possible. It is not very often that one gets a chance to commend politicians in this region. I think the mere fact that persons were willing to make the sacrifices and adjustments, psychologically, the whole question of sovereignty, nationalism and national boundaries, it was an important experience in the Caribbean. I think that we should also pay tribute to these people.

Sir, this emergence of the Caribbean Court of Justice represents a major act of leadership by Barbados and by the Barbados Labour Party Government which is in keeping with the same act of leadership that was demonstrated by the late Right Excellent Sir Grantley Adams in becoming the Prime Minister of the West Indies Federation.

Mr. President, that was more than a symbolic gesture or an indulgence of lip-service on the part of the Barbados Government at the time that Sir Grantley Adams made a substantial contribution to that attempt, which we know did not turn out for as long a time that we had hoped it would have.

Sir, in this regard, it is natural that there would be some resistance to this new phenomena and this new institution coming into being in the Caribbean. It is natural that human beings would experience some resistance where there is a new experience coming. If I did not know better, I would think that people in Barbados and maybe in CARICOM were lacking in self-confidence about their ability to manage this institution, the Caribbean Court of Justice.

Sir, the justice and the judiciary is one of the most important universal institutions that is to be found in any society. It is as important as Parliament, the Executive, religious institutions, education, law and order or the economy.

I wish to submit that nobody can say that where the mandate of the institutions, to which I just alluded, have been concerned, that Barbados and the Caribbean have failed to managed them properly. These institutions have justified their existence and have made substantial contributions to the region.

Mr. President, I would like to refer to the University of the West Indies and the Caribbean Examination Council. We were brought up under the Oxford and Cambridge and the London Examinations, those external bodies, setting the benchmarks and overseeing how we accredit and give certification to persons in our education institution. That system was replaced by the Caribbean Examination Council and nobody can challenge the integrity and the wholesomeness of this process. I think that the Caribbean Examination Council has justified its existence and has adhered to the standards that were expected of it by the Caribbean region. Mr. President, why should we feel any differently by the judiciary and by the Caribbean Court of Justice?

Sir, we do not refer any of our decisions regarding those educational institutions to any external body for final adjudication. We make decisions on the workings of those institutions and we live by them. For example, cricket, an institution that we hold dear in the Caribbean; our having a test match in the region called the Carib Beer Series and you then have an Umpire from Britain to oversee the performance of the Caribbean Umpires. Even though it might not be as glamorous an activity, it still requires us to have faith in the people who make decisions and they make them on the best information, good faith and integrity of the system.

Sir, I am sure that the Caribbean Court of Justice will not in any way make it seem as though we are living in a regional "banana republic". The track record of management of our institutions is such that we can be sure that it is not going to happen.

I believe that this institution will do a great deal for the well-being and the functioning of the Caribbean community as a whole. I have no fear that this institution will do any damage to the traditional respect and dignity that the Caribbean will have towards our judiciary.

Sir, rather than fear that the Caribbean Court of Justice will do damage to the integrity and credibility of the judiciary as an institution and cause people to lose respect, I believe what would do more harm to the image, standards and credibility of judiciaries in the region and Barbados, in particular, would be the recent rantings and ravings of persons who would have been quite undignified in a way that we should no longer encourage.

Sir, if that becomes a trend, I believe that would do more harm because you begin to eat away at the credibility and integrity of the judiciary by persons who should know better, breaking the tradition and in a way that should not be tolerated.

Therefore, I want to give my fullest support to the Caribbean Court of Justice and I look forward to it taking its place among the pantheon of institutions that have done the Caribbean proud.

I thank you, Sir.

SENATOR P. C. GODDARD: Mr. President, I rise to support this Bill and to say that this shows a remarkable exhibition of confidence and maturity among Caribbean people.

I believe that the establishment of this Court is long overdue and I would also like to commend the tremendous body of work that has been done by many people across the Caribbean, particularly by the former Attorney-General, the present Chief Justice, who has done much to bring this Court to the stage it is at. I also want to commend the present Attorney-General for the legislation that we have before us. 1.35 p.m.

I am fully confident that this Court will do justice in the Caribbean. It has been said that the Privy Council respects the sovereignty of the British Parliament, much more than it respects the sovereignty of the Caribbean Parliaments. I think it is time that we redress that imbalance.

Parliaments have a sovereign right to pass legislation and the courts have a duty to interpret that legislation, but this legislation must be interpreted in the context of our societies. We cannot have a double standard on the relevant ability or sovereignty of various Parliaments around the globe.

Sir, I think that this Caribbean Court of Justice is needed. It will support our integration movement and I look forward to its successful implementation and many long years of service to this region.

I thank you, Mr. President.

SENATOR THE HON. J. X. WALCOTT: Mr. President, I want to thank all Honourable Senators who made contribution in this important debate and also to thank them for their support. Suffice it to say that I would ask 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. J. X. WALCOTT, the Senate resolved itself into Committee on the Bill, Mr. DEPUTY PRESIDENT in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

Clauses 1 – 37, inclusive, were called and passed.

The Schedule became the Schedule to the Bill.

On the motion of SENATOR THE HON. J. X. WALCOTT, Mr. 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 motion of SENATOR THE HON. J. X. WALCOTT, the Bill was read a third time and passed and cited as the Caribbean Court of Justice Act, 2003.

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

SENATOR THE HON. J. X. WALCOTT: Mr. President, I do not intend to have a major debate on this Bill. Suffice it to say that I alluded to it earlier and that there would be a necessary constitutional amendment which would be needed. These are obviously consequential amendments as a result of the passage of the previous Act.

The major amendments will be in Chapter 7 where sections 79B to section 79I have now been included. Sir, I should mention that section 49 of the Constitution mandates that a two-thirds majority is needed. This means that the votes of at least 14 Honourable Senators would be required to bring this Bill in law.

I will therefore on final voting be requesting a division.
I now beg to move that this Bill be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. J. X. WALCOTT, the Senate resolved itself into Committee on the Bill, Mr. DEPUTY PRESIDENT in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

Clause 1 was called.

SENATOR THE HON. J. X. WALCOTT: Sir, as I mentioned earlier, the enactment was amended at the Other Place yesterday.

Clause 1 was passed.

Clauses 2 to 12 inclusive, were called and passed.
1.45 p.m.

On the motion of SENATOR THE HON. J. X. WALCOTT, Mr. 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.

SENATOR THE HON. J. X. WALCOTT: I request a division on this Bill to comply with the Constitution.

A Division has been called for.

The question that the Resolution do now pass was put to the Senate and agreed to, the Senate dividing as follows:-

Ayes: SENATOR THE HON. J. X. WALCOTT, SENATOR THE HON. G. S. H. MURRAY, SENATOR P. C. GODDARD, SENATOR T. E. BARKER, SENATOR Dame Patricia SYMMONDS, SENATOR Miss J. C. ODLE, SENATOR J. E. D. WILLIAMS, SENATOR D. D. MARSHALL, SENATOR D. L. HAYNES, SENATOR K. D. SYMMONDS, SENATOR C. A. MASCOLL, SENATOR LeR. H. McCLEAN, SENATOR Sir John Stanley GODDARD, SENATOR THE HON. V. E. NEWTON, SENATOR B. R. COLLYMORE, SENATOR Sir ROY TROTMAN and HIS HONOUR SENATOR C. L. BOLDEN – 17.

Noes: 0

The Bill was passed and cited as the Constitution (Amendment) Act, 2003.

SUSPENSION OF SITTING

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that this Sitting be suspended until 2.55 p.m. today.

The question that the Sitting do now suspend until 2.55 p.m. today was put to the Senate and agreed to. Mr. PRESIDENT suspended the Sitting accordingly. 1.55 p.m.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

ORDER NO. 9 – THE CARIBBEAN COMMUNITY BILL, 2003

SENATOR THE HON. J. X. WALCOTT: Mr. President, if our region is to survive economically and socially in this area of globalization, we need to remove certain restrictions which currently impinge on the movement on the factors of production in our area. The CARICOM Single Market and Economy has been conceived as one single economic space within which people, capital and the providers of service, would be able to move in an environment, hopefully of minimum restrictions.

In 1973, the Treaty of Chaguaramas transformed the then Caribbean Free Trade Association, which had been implemented in 1967, into a Caribbean Common Market. The time has now come for us to move a stage further in this continuum of integration in this region.

Sir, it is significant that some 14 years after CARIFTA had been implemented in 1989, the Heads of Government of the Caribbean Community at the 10th Conference in Granada, Grenada, declared an intention at that time that the integration process should proceed and should be strengthened in all dimensions.

The Heads at that time obviously were determined that there was the need to look at the direction in which it was going in the face of the changes within the global market. They thought that they would work towards the establishment of a Single Market and Economy in response to the challenges and would look at the opportunities which were presented by the changes in the global economy.

By 1992, at the 13th Conference, all the technical work had been done. They had reached a stage of conceptualisation of the Caribbean Single Market and Economy. This was presented for endorsement by the Heads of Government in 1992. In essence the CARICOM Single Market and Economy was conceived as an instrument which would facilitate economic development of all Member States in an increasingly liberalised global international market. It

was figured that this would assist in the realisation of certain objectives which the Heads had outlined at that meeting.

There was the need for full utilisation of all the factors of production, to improve standards of living and to work within the region, to accelerate and coordinate economic development for all member countries, to increase economic leverage and effectiveness, viz-a-viz, States, groups of states and entities; the expansion of trade and economic relations with other Caribbean countries, also Central and Latin America, an achievement of increasing the level of competitiveness, and an organisation for increased production.

A number of these things had started in 1973 and by 1992, we had achieve such things as the Common External Tariff, which has been in existence and has been working towards the implementation of a full customs union. In other words, the Free Trade Area and Customs Union together, had comprised the Caribbean Common Market. There is now time to move on to a Single Market and Economy.

To do this a number of new facets had to be considered. These would include the adding of the free movement of services to the free movement of goods which had already existed within the CARICOM Common Market. We had to look at the free movement of the factors of production, in particular capital and labour and the right of establishment. We had to look at measures for the creation of monetary union and support mechanisms including institutions and structures that were schemes for disadvantaged countries, regions and sectors and public education initiatives. We saw examples where this scheme for disadvantaged countries is working in the case of the Republic of Dominica.

As I said, when this was looked at, it was clear that the Treaty of Chaguaramas, in its present state, could not provide the basis for the required changes that were necessary. Hence, the Heads of Governments agreed that a revised Treaty of Chaguaramas should be undertaken. This process was completed in March, 2000 and has resulted in a total of nine Protocols which are, in fact, instruments for amending the legal agreements being prepared.

These Protocols include: Protocol One, which speaks to institutions and structures; Protocol Two, which speaks to establishment, services and capital; Protocol Three, which deals with industrial policies; Protocol Four deals with trade policies; Protocol Five deals with agricultural policies; Protocol Six deals with transport policies; Protocol Seven deals with disadvantaged countries in the region; Protocol Eight deals with consumer policy, consumer protection and dumping of subsidies; and Protocol Nine deals with disputes settlements.

Over the years, the free movement of labour has been the most highly profiled and perhaps the most discussed issue within our region. In 1989, the Heads agreed that steps should be taken for the free movement of skilled and professional personnel, as well as contract workers, on a seasonal or project basis. The Heads also agreed that steps be taken for the elimination of passports for CARICOM nationals travelling to other CARICOM countries.

As I speak, eight Member States currently have provision in place for accepting forms of identification other than passports, ranging from travel permits, photograph identification, birth certificates and drivers' licenses. Antigua and Barbuda, Belize, St. Lucia, Suriname and Trinidad and Tobago are yet to take action in this regard.

The Caribbean Community Skilled Nationals Act, which is in existence in countries except Montserrat, St. Kitts, Nevis, Suriname, Trinidad and Tobago, allows CARICOM nationals who are university graduates to work anywhere in CARICOM without the work permit requirement. Protocol Two provides for the movement of personnel in pursuit of the rights of establishment, provides managerial and technical staff of economic enterprises. This will be looked at again in Protocol Two.

In other areas of economic and monetary initiatives, currency convertibility has been looked at. A Council for Finance and Planning has agreed that no further action be necessary regarding currencies with floating exchange rates. Those currencies with fixed rates would continue to receive attention with the objectives of putting in place arrangements for the convertibility at a later stage.

They have been looking at the process of removing the foreign exchange controls and to the need for a regional capital market. They have been looking at the harmonisation of internal tax regimes. Work is ongoing towards the harmonisation of corporate tax structures. Double taxation agreements have also been looked at and we are looking at harmonisation of incentives to industry, agriculture and services.

Sir, it is obvious that the ability to take opportunities of advantages in the liberalised global market would determine, to some great extent, the success of the CARICOM Single Market and Economy and, given the relatively limited size of our internal market, the external focus is therefore critical.

We need to look at other countries in the Caribbean, for example, Venezuela, Columbia and Latin America. This is part of our sphere. As we all know, we are actively negotiating in the formation of the Free Trade Area of the Americas and would be very critical in this area.

In the area of the establishment of the CARICOM Single Market and Economy, significant work is required to be undertaken in the areas of support structures. In a number of the Protocols mentioned earlier, we need too to have a lot of work done in that regard. Therefore, the Heads of Governments, at their 11th Intersessional Meeting in St. Kitts, March, 2000, have assigned and allocated specific responsibilities to various countries.

The issue of a Single Market and Economy, including the Monetary Union was assigned to Barbados. External negotiations was assigned to Jamaica. Science and Technology was assigned to Grenada. Services, including information technology and telecommunication was assigned to Antigua and Barbuda. Agriculture and agricultural diversification and food security was assigned to Guyana. Transport was assigned to Haiti. Labour was assigned to Dominica and sustainable development was assigned to Belize, assisted by Montserrat.

There are a number of benefits to be derived by the formation of the CARICOM Single Market and Economy and this is being undertaken in a phased manner. Certainly a number of benefits are expected to be accrued to Caribbean nationals and I can outline a number of them. In the optimum allocation of the region's resources, the output of goods and services, through production integration, access to national producers to the entire CARICOM market in the first instance, and eventually to market opportunities further afield, enhance competitiveness regionally and a net positive impact on the profitability of regional companies. Of course, there would be increased opportunities for CARICOM nationals for investment in services and in the employment in the new CARICOM Single Market and Economy.

Sir, this CARICOM Single Market and Economy, when fully established, will be fundamentally different from the CARICOM market to which we are accustomed. Whereas CARICOM's focus was inwards on goods, this CARICOM Single Market and Economy would be both inward and outward on both goods and services. While the common market focuses on trade and final products, the Caribbean Single Market and Economy would treat the free movement of goods and services, as well as the free movement of the factors of production, namely labour, capital and in the case of the right of access to land for the purpose of establishment.

The CARICOM Single Market and Economy allows entrepreneurs to trade freely without hindrance to establish and service market clients in other Member States and to attract capital, to invest and to utilise funds in other States, to hire from or to work in another state – all with the objective of facilitating internationally competitive production.

Sir, the Caribbean Single Market and Economy would provide this region with a singular opportunity to organise itself for an efficient and competitive production and trade in a globalized world.

It is significant that we are debating this Bill today in this Honourable Chamber, as one of the first CARICOM countries to do so, bearing in mind the fact that Barbados has been assigned the area of the Single Market and Economy, including the Monetary Union.
3.10 p.m.

I think it is significant bearing in mind the passage of the Caribbean Court of Justice Act earlier today that we are also debating this CARICOM Single Market and Economy because the symbiotic relationship between will be necessary.

In closing, I want to state that this will be a very important venture in this region if we are to survive economically in this world of globalization and trade liberalisation.

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

SENATOR LeR. H. McCLEAN: I am indeed happy to know that we have had the opportunity on two occasions in one day to deal with matters pertaining to CARICOM and the strengthening of the regional integration movement.

Mr. President, unfortunately this matter has not gained the kind of wide discussion in Barbados which we hoped would have taken place. Recently, I heard the Prime Minister made the point that it is unfortunate that the people at the University were not engaging in greater discussions on the issues pertaining to the CSME, but I believe that the lead must come from the political directorate, that people must be so sensitized that they would want to discuss the issues and be involved in what is happening given the importance of an entity such as the CSME.

I also take note of a statement made by the Prime Minister of St. Vincent when he was given the responsibility of bringing persons together to engage in discussion on the formation of the strengthening of CARICOM. He said he would be inviting the Prime Minister to come to St. Vincent to discuss the matter.

One of the shortcomings we have in this regard is that issues such as this cannot be left solely to the political parties that form the Government in the various territories. If it were left solely to Government, then we run the risk that with a change in Government there could well be a change of focus in dealing with these matters.

Therefore, in the same way that the CCJ was discussed, I recall the Secretary-General of CARICOM meeting in this building with representatives from the Opposition in order to bring them up-to-date with respect to the formation of the Court and to give them some background information. However, we do not see this kind of involvement when we are dealing with matters relating to integration in the Caribbean.

Sir, it is important that we recognise the importance of strengthening the integration movement that we have all the major political parties in the region involved in those discussions so that we do not have the change of emphasis when there is a change of Government.

Sir, I hope there would be wider participation in future in matters pertaining to CARICOM or the integration movement involving all the major political parties in the region so that they can have an input in these discussions and in the decision-making process.

Sir, whereas we will hear there is a need for us to integrate and we put the various institutions in place as we did today with the CCJ, we find that there is not always the political will to go to the extent that we are required because there is the situation where everyone wants to have their little kingdom.

Sir, I think that the English-speaking Caribbean islands are probably the most over represented part of the world. For a population of five million people, there are two Presidents, one Queen, 13 Prime Ministers and more than 100 Ministers of Government. London and New York are run by a City Council but for some reason we believe we need to have this great fragmentation within the region because we live with the myth that because we are separated by sea water we cannot unite, although we have seen in other parts of the world that it is not the case. Sir, there are other archipelagos which form nation states and do so successfully but in the Caribbean everyone wants their own Cabinet and recently I hear people in Barbados advocating local Government.

Sir, in my view, there is a need for a federal Government responsible for handling our affairs because there are a number of ambassadors representing the Caribbean, yet they cannot come up with a common position on any issue because each Prime Minister is going in his own direction and every foreign minister going in his own direction. There is a state of confusion that exists and we are never able to make any significant process on important issues.

Asides.

SENATOR LeR. H. McCLEAN: Sir, I am not surprised that people will take offence to the comments I now make because too many people in decision-making positions in the Caribbean fail to understand the issues we deal with. Sir, in my view there is a paucity of intellectual capacity in the region when it comes to dealing with matters which affect the livelihood of the people of the Caribbean. 3.20 p.m.

Recently, one of the leading authorities on the Caribbean Single Market and Economy, Ambassador Hadlot Brewster, former Professor of the University of the West Indies, gave a lecture on the Caribbean Single Market and Economy. It is interesting to note that the people who have to deal with this issue did not even try to take the opportunity to hear what a person of the calibre of Ambassador Brewster had to say about the Caribbean Single Market and Economy.

Sir, at that presentation, the only two Members of the Lower House present were Sir Harold St. John and Ms. Billie Miller. Mr. President, people are too busy to involve themselves in hearing what is happening in the region. However, they would go into the Chambers of Parliament and merely make anecdotal speeches because they cannot speak, very often, to the substance of what is before them. They do not understand the issues with which they are confronted. They cannot appreciate the difficulties that are faced by this region and people would just spout off on issues and then have to be responsible for making decisions that affect the welfare and livelihood of the people of this region.

I think it is about time that politicians, at least, try to avail themselves of information, that they understand the issues that are involved and try to deal with these matters in a manner that could be beneficial to the people of this country.

Sir, one must ask the question, why must we always find ourselves having to reinvent the wheel whenever we deal with matters of Caribbean integration? We can never seem to move forward with any degree of confidence, even when we do take decisions to move. There is always some measure of hesitation, distractions and we cannot go forward with the kind of confidence that we should as a people.

Sir, perhaps, one of the reasons is our lack of a national identity. When I say national identity, I am speaking on the regional level. I do not know what other people think of it but I would like to say that I, for many years have been grappling with the term of "West Indian". I have always tried to understand what is a "West Indian", a term which, to some extent, has been associated with ethnicity. If somebody in Eastern Europe heard that a West Indian was coming to see him and he has never been in contact with the people of this region – for example, if you take the West Indies cricket

team, he would probably look at the team and wonder what part of India these people looking like this could come from, except, probably, Sarwan, Chanderpaul and Ganga.

We have an identity that associates with a particular ethnicity which we cannot identify with. I really have difficulty being called a West Indian because you would derive a name as a result of a historic accident. A man set out to sail to India and he decided that if he sails far enough west he would get to the east. He came across some islands and he called them the West Indies and we have been stuck with that name. Perhaps, it is really the root of some of the inability to have a clear identity within this reason.

Mr. President, that is my personal view. Perhaps one day somebody would seek to deal with it.

Sir, the Caribbean Single Market and Economy is being looked at against the background of trade liberalisation and globalization. We only hear warnings from a person in Government who speaks of globalization and trade liberalisation that protectionism will end and, therefore, we need to do this and we need to do that. Very often we do not know how we are to do the things that we are being cautioned that we need to do.

In the same way that we do not discuss the issues surrounding the Caribbean Single Market and Economy, neither do we discuss in a manner that can make sense to the average man, the matter of trade liberalisation and globalization. The only thing we hear is that by a certain year certain things are going to happen.

What does it mean to the average person in the Caribbean? What does it mean to people who have to deal with the problems associated with governance? What does it mean to the average person who is trying to trade or engage in areas of trade? Very often most of us, particularly those persons who are in positions to make decisions, as is quite evident from some of the extraneous sounds that are coming from outside of this Chamber, do not understand what the issues are. For example, what would be the impact on education in the region?

Sir, recently, we heard that the United States of America has included education as one of the matters that they are putting before the World Trade Organisation, having free access to educational institutions and our systems within the Caribbean or outside of the United States of America. What are the implications for that? Nobody has sought to discuss that to find out if it is since the Governments within the region contribute to the University of the West Indies, will it mean that an American university can now come and set up in the Caribbean and demand similar assistance from Governments or will it mean that they will be able to say that since you are not going to assist me, then you cannot assist any other entity? What will it mean to us?

Sir, there is no clear answer because we have not yet put the issue on the table. They have not yet discussed it and we do not know what would be the implications.

Sir, when we have a situation where we are told that we cannot subsidise agriculture, yet, the United States of America, Canada and Great Britain would subsidise their agriculture but they would tell us that we cannot subsidise our agriculture. What will this mean to our local farmers? When or how will they be able to compete against agricultural products coming from outside of the region which are produced at a cheaper price? What does it mean for our ability to determine the level of taxation, what we tax or whom we tax?

We know that because of the World Trade Organisation (WTO) arrangements, there are certain measures we cannot take, for example, the recent change in the taxation with respect to property transfer. There was a time when a non national paid a higher Property Transfer Tax than a Barbadian.
3.30 p.m.

Sir, because of these arrangements, we now have a situation where, it is either that we all pay the same tax or, in fact, we have changed the legislation now and put the tax on the vendor. It is interesting when we look at the Estimates to see how much taxes we have earned coming from the Property Transfer Tax.

We have found ourselves, Sir, in a situation where many of the things have been dictated by the agreements that we have signed. In most cases, Sir, the people of the country are unaware of the agreements entered into by the Government. Therefore, they do not know how to relate to them.

You wake up one day and hear that there is need for a new piece of legislation, in order to comply with some agreement or some Treaty that you have signed. This is the most that the people will hear about it, and they do not understand what are the implications for them, and how it would impact on their lives in the future.

Sir, we are discussing the Caribbean Single Market and Economy against the background of the FTAA. Now, the question is, which one of these would come about first, because it is clear, at least from listening to what Ambassador Brewster had to say, that we are not yet ready for the Caribbean Single Market and Economy and that it will not be in place at the time or within the framework and timetable that has been suggested.

Sir, there are so many political issues that have to be dealt with, and one came away with the feeling, as one Permanent Secretary made the comment after the lecture, in

which he said that it is clear that the politicians in the region want to consummate this matter but they do not want to enter into the political intercourse that is necessary to bring it about.

Sir, we seem not to have the political will to do the things that are necessary, or to take the political steps that are necessary in order to bring into being, the things that we want to do.

We need, Sir, to have the Caribbean Single Market and Economy up and running before entering into the FTAA. If the FTAA comes about before the Caribbean Single Market and Economy, then it becomes irrelevant because having gone into the wider arrangement, you are going to form a block which will have rules that do not include the larger arrangement.

You therefore have got to ensure that the Caribbean Single Market and Economy is in place and up and running, so that you can now enter into the FTAA as a block, rather than the other way around. Otherwise, we will find that if we continue to procrastinate on this matter, and if we continue to lack the political will to do what is necessary, we will find that all of this would have been in vain and that the Caribbean Single Market and, Economy would have been merely an academic exercise and indeed, an exercise in futility.

Sir, if we are going to look at regional integration, there are also some pillars on which that integration must be built. As we heard earlier, Sir, one of those pillars is the Caribbean Court of Justice. Sir, we also have to look at the matter of things like transportation in the region.

It is amazing, Sir, that it was easier to get around the Caribbean by ship 40 years ago, than it is today. It is a nightmare for manufacturers and other persons who want to ship goods around the region to get shipping. Generally, you have to look at paying high costs for container shipping, and you have to wait for a ship that leaves Miami to come down through the region, and you also have to wait for one that is going back, in order to do your business.

There are very few vessels now which ply between the islands. As I said, it was easier 40 years ago for someone to put a box of produce or whatever, on a ship to move from one island to another than it is today. How are you going to have proper integration of a region, if you lack the facility for people to move and trade within the region?

We heard a lot about the movement of skilled workers, the movement of university graduates, the movement of journalists and musicians, but what about the movement of the average person who just wants to go somewhere for a

vacation, or who wants to feel that if you leave here and go to St. Lucia at least you are going to meet a friendly person in the airport, in customs or immigration.

Similarly, a person coming into Barbados feeling that they are going to a country where they will not meet any level of hostility. How are we going to integrate the region, if people are unable to travel freely and trade freely among these countries?

Sir, we do not only have to look at the movement of goods and services and certain categories of people, we have to look at the movement of people *per se*. People have got to be able to move freely throughout the region, if we are going to have any significant measure of integration.

Then, whenever you speak of this, the red flags go up. People feel that if we open the doors to easy entry by Caribbean nationals, then people from all over are going to flood into the country. We heard that when the Jamaicans felt that Jamaica was the greater of the islands. They could not allow freedom of movement, because all the small islanders would come and pack up in Jamaica.

We heard it with Trinidad where, because of their oil wells, they felt they were the greatest and, therefore, they felt that everybody would come and pack up in Trinidad. We have heard it in Barbados where we believe that if we allow freedom of movement, too many undesirables would flood into Barbados.

Sir, how many people in the Caribbean today, want to go to Jamaica? How many people are clamouring to go to Trinidad, unless they are going to Carnival? Because we, in our fragmentation, do not understand that we are very vulnerable and that today, because of a particular set of circumstances, you may be doing well, tomorrow, those circumstances change and the situation is totally reversed. In fact, as the calypsonian, Chalk Dust puts it, sometimes we have to appreciate that all we have is sea water and sand.

We have to appreciate, Sir, that most of us in the Caribbean have a common heritage and a common history. We have to understand that our similarities are much greater than our differences. Even where we have the differences, we have to use those differences as a form of strength. Sir, we are very quick to talk about strength but very seldom we look at the fact that there is also significant strength in diversity.

Sir, the United States of America became strong, not because every State had the same resources, but every State had different resources which they were able to use as a nation. Why is it that we cannot use our differences as a source of strength in the Caribbean, rather than as a means of causing greater fragmentation between our people?

Then, Sir, there is the matter of telecommunications. In order for people to truly integrate, they must be able to communicate with each other.

We have the situation in Barbados where the telecommunications sector is dominated by one entity. In every island, it is dominated probably by the same entity, but operating as a different company. We have the ridiculous situation, now that we have liberalised telecommunications to some extent, where a person in Barbados using a Cable and Wireless system cannot call a person in another island who is using a different service, yet we say that one of the agreements is the interconnectivity which has to exist between these companies. So how are we going to integrate our people if we do not ensure that the means of telecommunications are open and that there could be greater communications so that the people in the region can at least talk to one another?

3.40 p.m.

I notice that we have set up in this Bill a number of councils. You have the Community Council of Ministers, the Council of Trade and Economic Development, the Council for Foreign and Community Relations, the Council for Human and Social Development, the Council for Finance and Planning, *et cetera*. Quite significantly, there is no council for resource and energy management.

We have in this region Guyana with its gold, diamonds and other precious stones, mineral resources in general. We have bauxite in Jamaica, Guyana and Suriname now that Suriname is a part of the CARICOM. We have oil in Trinidad and Tobago and Barbados. We have forestry in Guyana, Suriname and Belize, but what do we do with these resources? We have thousands of square miles of land in Guyana.

I visited a man-made lake in Guyana a few years ago where they merged three rivers in a Project called the MMA. I think they are the Mahaica, Mazaruni and the Aruka rivers. They merge the three of them and form this large body of water which is 124 square miles.

I heard recently that the Barbadian sheep farmers are fearing that one day we would have to buy black belly mutton from Trinidad and Tobago because Trinidad and Tobago has a sheep population which is now larger than the sheep population of Barbados, but what else can we expect? With the land area that Trinidad and Tobago has and we only have a few square miles here, how can we in any way believe that we can have a larger sheep population than Trinidad and Tobago or indeed Guyana?

It is unbelievable that rather than trying to see how we can share the resources of the region and put mechanisms in place that we can share these resources, we continue to try to compete against one another. This competition will always continue because of the lack of trust that exists among the people. Barbadians will be concerned with how

many Guyanese come into Barbados to work and we are going to get a similar situation in every one of the countries.

There is this lack of trust because the political leaders of the countries do not see it fit to bring the issues of integration to the table and put them out there for the people of the country to really appreciate and understand what are the benefits to be derived. We always hear of the difficulties associated with integration. If I suggest now that tomorrow every Prime Minister should announce that there is no need for passports to travel throughout CARICOM, people would say that you are crazy because you would hear about every problem that would arise if you did that when the fact of the matter is that you cannot even get a man that was born in St. Lucy to willingly move to St. Philip in Barbados and *vice versa*, but you would expect that people would get up from one country and just decide to go to another without knowing what they are going to do. You would get some movement initially but eventually the situation would settle down because people are not going to just get up and go to places where there are no opportunities.

We have all of these fears and every time you talk about something to advance the integration movement you can hear all the fears coming out. You cannot do it because of that, and everybody is going to tell you why you cannot do it, but to what extent have we really engaged in any dialogue or discussion to see how we can make it work rather than seeing why it cannot work.

We have to move to the next stage and determine that if this thing is necessary, then we have to make it work and therefore try to see past the pitfalls and to ensure that we can put the systems in place that can make integration work in the Caribbean.

Sir, in the Caribbean we also have a pool of genetic material which is, in some regard, unique to this part of the world. What we have found in recent years, because of TRIPPS and the other agreements, is that people from the developed world are going into third world countries and exploiting the genetic resources of those countries.

For example, we have in Barbados Sea Island Cotton and the Barbados Black Belly sheep which, in my view, are the two greatest natural resources that this country has. If we do not appreciate the value of these two pieces of gold which we have, it may be because of the composition of the political parties because most of the people in political parties very often lean more towards law and economics and therefore do not really appreciate the scientific aspects of our lives.

We have heard all about the value of Sea Island Cotton, but right now in the United States of America the Americans are busily exploiting the characteristics of the Barbados

Black Belly sheep for their benefit. Recently we have seen on the front page of the newspaper a photograph of black belly sheep causing a traffic block in Texas. It is instructive to note that the population of black belly sheep in the United States of America came out of three ewes and a ram that were imported by the American Government who then crossed them with other breeds in the United States of America. People have seen the value of the Barbados Black Belly sheep and they are actually breeding out the crosses to get back the original animal they had.

I went on the Internet and saw that there is an organisation called the "Black Belly Barbados Association International" where people are paying as much as US \$300 to become members. These are people who are keeping the animals as a hobby. But if you ask a Barbadian farmer to pay \$50 a year to be involved in a project, he would probably say that you are trying to rob him. Yet there are persons in the United States who are prepared to pay as much as \$300 to become members of an association to utilise or to be associated with an animal that we consider to be Barbadian or to be Caribbean.
3.50 p.m.

Sir, we have got to use these genetic materials that are available to us. We also saw in Jamaica where they have developed the red pole and the ortanique. Grenada, even though a small country, is one of the largest producers of nutmeg in the world which now has a ready market. Therefore, one has got to find a way to utilise these resources regardless of where they come from in the Caribbean. This could only be done if we see these as Caribbean resources and not as Barbadian, Guyanese, or Trinidadian.

The only way that we could do that is if we have the political systems. Regardless of whatever systems we put in place, we cannot truly move forward unless there are the political systems in place to deal with them.

We then have a situation in the region regarding cultural expression such as calypso, reggae and spouge. Again, we should try to exploit these resources as individual countries or as persons, but not as entities or products of the Caribbean, which persons outside of the Caribbean find to be special entities that are highly sought after but we pay a lot of lip-service to it. Whenever there is a festival, someone gets up and talks about how great is our culture but after that is passed, what do we do in order to try to advance and market these aspects of our culture?

Sir, out of this five million people we have in the Caribbean, we have produced three noble laureates. That would probably be an extremely high average for any region in the world with two of them coming from St. Lucia.

Sir, if we are able, and I am sure if the late Dr. Capelldio were still alive and had not been distracted by politics, he too might have been a noble laureate at some point in time because of his brilliance. Therefore, we have the intellectual capacity to do things. We can excel in the arts and in literature but for some reason, we are incapable of finding the means that we can come together as a people. We have had historians such as the late Eric Williams. We have had people who have made contributions internationally such as Sir Walter Rodney, Marcus Garvey, C. L. R. James. These are all people of the Caribbean. Why then this cultural melting pot that we have here in the Caribbean?

In an area that has produced such excellence, why is it that we are incapable or not prepared to take the necessary steps to go forward and to make that political move as a region, to form that Caribbean nation that is required and is absolutely necessary if we are to survive in this new world of trade liberalisation and globalization.

Regardless of how important we believe we are, if we do not decide to give up some of our so-called sovereignty and be part of a larger entity, we will have to pay the price. Regardless of how important we believe we are in the scheme of things internationally, we are quite insignificant. Unless we can find a way to be seen, not only as a Caribbean nation or not only as the English-speaking countries but also as French and Spanish-speaking countries, unless we could find a way of identifying those things that could bring us together and strengthen us, we will perish individually. We cannot survive as a small entity in the face of the onslaught of trade liberalisation and globalization.

We have got to find a way of becoming a Caribbean nation. When we have to negotiate an issue on the World Trade Organisation and Barbados has one position, Antigua has another, St. Lucia has another, what are we going to negotiate? Can we negotiate any issue as an individual country and expect to get significant results?

I have noticed that the Organisation of Eastern Caribbean States has been making significant strides in terms of pulling that organisation closer together. Perhaps we need to take the lead from the Organisation of Eastern Caribbean States when we are looking at regional integration. They have been able to share ambassadors. They have been able to share a central bank. They have a single superior court. They have a single currency.

Sir, perhaps, what we are looking for already exists. We have the examples there already set by the Organisation of Eastern Caribbean States and we need to pay greater attention to what is happening in that subregion and see to what extent the entire region could become part of it.

We believe these are the so-called Less Developed Countries and, therefore, we pay little attention to them

when, in fact, they seem to be the ones that understand what is necessary and what has to be done if we are going to survive in this new globalized world.

Sir, in some cases, what we find is that they have been able to withstand the economic shocks better than some of the More Developed Countries. If Jamaica, for example, had the same impact as the Organisation of Eastern Caribbean States countries because of the situation with bananas in Europe, Jamaica would have been totally decimated, but the Organisation of Eastern Caribbean States has been able to pull together.

We recently saw where that spirit of cooperation came to the fore when Dominica was facing economic problems. I must say that Barbados also chipped in to assist. This was a situation where we saw the member countries of the Organisation of Eastern Caribbean States coming to rally around Dominica in its time of crisis. They have been able to get a better deal in dealing with Cable and Wireless than we have been able to and long before we were able to come to an agreement with Cable and Wireless, they were able to tell Cable and Wireless ... they did not negotiate with Cable and Wireless in any back room of any hotel in London but on a position of strength. Therefore, they were able to get a better deal and get liberalisation of the telecommunications in the Organisation of Eastern Caribbean States long before we were able to do so in Barbados.
4.00 p.m.

Sir, the subregion has been able to benefit from co-operation at different levels. They have shown us that because of a single Central Bank that no individual country can cause any fluctuation in the currency of the OECS, but we have all these different currencies and one by one they are becoming monopoly money.

Sir, when I was a student in Jamaica, one Jamaican dollar was valued at US\$1.80 and at one time it was higher. Now, US\$1.00 is worth over JAM\$40.00. US\$1.00 is worth GUY \$135.00 and US \$1.00 is worth TT \$6.00. US\$1.00 is worth BDS \$2.00 but I do not know for how much we can hold to that position.

Sir, as the world becomes more open and liberalisation becomes a reality, it is going to become increasingly difficult for us to put artificial means in place to protect anything including our currency. We will not be able to protect our manufacturers, our land resources from foreign buyers nor our currency through any artificial means.

Sir, the time has long past for the Caribbean to unite as a political entity. It is okay to put the trading arrangements in place but, at the end of the day, if we do not put political

structures in place and make them meaningful, we will run the risk of being picked off one by one by other countries which have the resources to do this. We simply have to unite or perish individually.

I hope the matters that I have drawn attention to, particularly the manner of resource and energy, that closer attention will be paid to them.

It is believed that we have about 60 years before the fossil fuel resources run out. At one time it was anticipated that it would run out by the year 2015 and if we have 60 more years before the fossil fuel runs out it does not mean that there are 60 years remaining to deal with the problem. Could you imagine what will happen to Barbados if there is a shortage of fossil fuel and we cannot get petroleum products?

Sir, if there is a shortage, Barbados will get none. We should have started a long time ago, but we must start now to seriously look at the matter of alternative sources of energy. It is unfortunate that whenever there is an energy crisis we remember the windmills at Lamberts and solar energy products and developing these alternative sources of energy.

We have to start thinking long-term because in the next 15 years or so we will have a serious energy problem in this region, particularly in a small country like Barbados. I would like to see the day when the Minister of Finance advises us that he has allocated millions for the purpose of developing alternative sources of energy.

Mr. President, it is vitally important that we take steps now because only recently certain parts of the island were affected by a water shortage. This is something we hear every year at this time because we fail to plan for these situations and every year we end up in the same situation.

Similarly, we continue to talk about what needs to be done. When there is a problem we talk about the need to integrate and the importance of being one. We are only crisis-oriented people and when there is a crisis we want to deal with the situation only at the time but we have to deal with the situation a long time before the crisis arises so that we can plan ahead and develop a better Caribbean for our people.

Sir, in the face of this new legislation, I hope we do not stop at the point of putting it in place and believe that we have fulfilled our role. We have achieved nothing until we have heightened the awareness and brought to the attention of the people the importance of creating a Caribbean state for the people of this region.

SENATOR T. E. BARKER: Mr. President, I rise to give wholehearted support to this Bill which effectively makes provision for matters arising out of the Revised Treaty of Chaguaramas which establishes the CSME and other organs of the Caribbean Community.

Sir, I speak from the perspective of being basically a CARICOM man who believes in full integration of this region which, to a large extent, is already fully integrated because if you go to Dominica you will meet many Antiguans and if you go to Antigua you will meet many Dominicans.

It is a fact that movement of people around the Caribbean has been a fact of life for hundreds of years and this will continue to be so. Like the calypsonian said, we came on the ship and we are in the same region.

Sir, I had my political awareness in the early 60s when we had the political federation of the 10 States of the Caribbean and I knew the pain that a lot of us suffered as a result of the break-up of the West Indian Federation.

I also had a political baptism in the years when the Under forties hit the platforms across this country with a message if listened to at that time, this region might well have been spared from the ravages that it had to suffer.

Sir, it is no accident that the largest and most powerful economy at that time is now, sad to say, one of the weakest. The level of selfishness exhibited by some of the leaders to some extent resulted in some of the situations we have today. 4.10 p.m.

The point must be made that people exploited the Federation situation for their own political gain. For many years, this party of which I am a member, because of the stance that we took when the issue of Independence came, we were wrongly and unfairly labelled as not wanting Independence. Sir, because someone at the time took the principled position that the region would be better off having Independence within the context of a Federation, the Democratic Labour Party of that day, unfairly castigated us for being anti-Independence and some sort of royalists. Sir, for years we had to undergo public insults that were hurled against our great party.

Sir, we almost lost a golden opportunity to be on the road to greater prosperity. There is no doubt in my mind that if we would only pool our resources, of which we have many, for the greater good of the region, a lot of things that

we suffered we would have easily overcome. Mr. President, that was the message of the Under forties during those years. I am sure that some of us in here are old enough to remember the debate.

I am glad that we have reached the stage where we have gone past talking about trade and tariffs and we have come to see the integration of the Caribbean region, not only as an economic imperative but a political and social imperative.

I will never forget my first journey in 1974 to Great Britain. My first contact with a British person was in the Immigration at Heathrow Airport. The first question that I was asked was, what part of Jamaica is Barbados. Sir, a lot of other people had that same experience.

Sir, the world sees us to a large extent as one people. They know us from playing cricket and they do not make any geographical distinction between Jamaica and Barbados. They see us in terms of education and that we have built a magnificent institution called the University of the West Indies and they see us as one. Why do we not perpetuate those things which unite us rather than focus on things which divide us? There are more things that unite us than there are that divide us. Our job as a Caribbean people is to accentuate the positive, talk about those things that give the Caribbean identity a sense of purpose.

Sir, we have come together on many issues. This morning in this Chamber we were discussing a Bill to set up the Caribbean Court of Justice, which is long in coming and is a very necessary organ. We have the potential, ability and resources to make this region one of which all of us can be doubly proud, but the political will must be there.

Mr. President, I am glad that with the passage of this Bill, it shows that there is a political will to see this region as one which can develop together. The world is going towards trading blocs and integration. For example, Europe, in spite of the fact that there are so many languages, cultures and history, is now trying to come together because they see it as an imperative for them to move together in a more meaningful and fundamental way.

Mr. President, the European community is seeking to enlarge its borders. The former nations of Eastern Europe are now being integrated into the European community because they know that must be done in order to counter the threat from the opposite side of the Atlantic. They see a united Europe as a buffer with the political might and economic clout to be a counterfoil to the United States of America on the other side of the Atlantic. Sir, we in the Caribbean felt that we could swim alone like little sardines in a sea of sharks but this coming together is a necessity.

Mr. President, I am happy to be a part of this Honourable Chamber that is debating this important Bill today. There are a lot of areas that are crying out for common development, for example, fishing. We are at a stage where people from outside of the region are coming and exploiting our fishing resources but, yet, in the region we give other countries problems when they try to use some of the resources of the Caribbean sea.

I think that the time is right for us to come together and have a common fishing protocol. We have to effectively manage the resources by coming together and use Barbados' expertise in fishing, which is the best developed in the region. There is no reason why we should not be using our technical and human resources in fishing in order to provide more fish for the Caribbean to stop the importation of meats from outside of the region.

Mr. President, the region has more than enough energy to satisfy it. Trinidad, Suriname, Guyana and Barbados to a lesser extent, have energy resources that can fuel the manufacturing sector. However, we have to see the region as one and marshal our resources for the good of the people.

Mr. President, there is a ridiculous situation in the region where energy products are sold to the United States of America at a lower cost than there are sold to States in the CARICOM region. Sir, this is a fact and this has been going on for many years.

Asides.

SENATOR T. E. BARKER: Mr. President, we have to buy energy products from Trinidad at a higher cost than they are being sold to the United States of America. Yet we are talking about one economic state. These are things that we have to come to grips with because they cannot be right. 4.20 p.m.

Sir, why are we building energy companies to rival those of the multinationals that come and exploit the markets in the region? Sir, we have made great strides in Barbados because we have reached a stage now where we have been importing for the last five years, our own importation and storage. The smaller islands of the Caribbean are at the mercy of the multinationals.

There is no reason why we should not be using our own resources to build a company or companies to do our storage and the importation of petroleum products right through the region. I am sure, Sir, that at the end of the day, just as Barbados saved by doing their own importation and storage, the other islands could do the same and effect tremendous savings for their people.

Sir, they are allowing multinational corporations to exploit the region. I am saying that if we come together in

a meaningful way, we would be able to lower the cost of doing business in the islands and hence, have a positive effect on the economic life of the region.

Sir, it is only recently that we have been building up capital markets in the Caribbean. Trinidad has developed and is continuing to develop as the financial centre of the region. They have built large successful banks and a lot of the lending, especially for large bodies in the region, come through Port-of-Spain, Trinidad.

This is good because it stops us from being at the total mercy of the international banks. We can build our own financial institutions in order to finance development within our very region. We have to further exploit this to ensure that the savings of the region are used on behalf of the development of the people of the region.

In the past, Sir, we know for a fact that the savings of the people in the region fuelled development in other regions. This is still so because we are building our own capital markets, and that is the way to go.

Sir, that is why the deepening of the integration process is so important. As the Minister said, we have the resources, the human resources, the financial resources and the materials. If we work together in a meaningful way, we can do a lot to push this Caribbean region even further than it is, but we must do it together.

Sir, the last speaker mentioned telecommunications and there is no reason why we should not be marketing this region as one. In terms of telecommunications, we should be seeing this region as one network. Sir, given the advances in telecommunications, there is no reason why Barbados should have a telephone company, Antigua must have one, Dominica must have one. Why are we not building our own telecommunication companies?

Sir, we are not depending on external companies, but we have the resources and the people to build our own networks so that we would be less dependent on the cable wirelasses of this world, or the AT&Ts of this world. We need to be looking at these sorts of things.

It is not to say that we are xenophobic but we believe, and if I am repeating myself, Sir, I apologise but I believe that we have the people in the region – the human resources – that we could be doing a lot better.

Sir, we have built a university which is second to none in this world. Our students can go anywhere in this world and compete effectively, so we can do it. We have built a cricket team, in spite of the present difficulties of a few years

ago, people had to steal our methods in order to beat us and that is a fact.

Sir, when we were competing together, we won a medal at the Olympics. I think it was in 1948, but I speak subject to correction, where Barbados got its first medal at the Olympics.

Asides.

SENATOR T. E. BARKER: Sir, I am told that it is 1960 but I stand corrected. The point is that Jim Wedderburn, won a medal, not for Barbados but for the West Indies. The West Indies at that time were competing as one nation, so there is precedence. I am saying, the same will that caused us to win medals in those days, the same will that caused us to be successful in cricket and education, we should be using that same will to carry the integration process forward.

Sir, it does not mean that I would not be a Bajan or you would not be a Barbadian but we would not lose our national identity. Sir, the point is that we would not lose our national identity. We would still be cooking the same way and, Sir, we would still be liking the same foods. In other words, we would not have changed as a people but by pooling our resources, we will be buttressing each other, so that when difficult times come, we can lean on each other.

Sir, the integration process must deepen. I see the creation of the Caribbean Single Market and Economy as another example of the Caribbean trying to deepen the integration process. I must also state that the integration process must not be only seen as economic. Sir, it is not only the creation of the Caribbean Single Market and Economy that is important but, unless the people themselves are involved in the integration process, until the people of the region, themselves, see this as a necessary process, as part of the Independence process, we will get nowhere.

Sir, we have to sell to our people the idea that the region can only go forward in a meaningful way, if we all go forward together. Sir, the fact that we are going together, does not mean that we are going to equalise at the bottom. I believe with all my heart that we can equalise at the top where it will be a case of the stronger ones using their strengths, in whatever area, to lift up those who are weaker. I believe, Sir, that the integration process will cause the weaker to become stronger without causing the stronger to become any weaker.

Sir, I welcome this piece of legislation and I am sure that the Barbadian people, judging from their responses to certain issues, want the process to go even deeper. The

whole idea of free travel is something that must happen. It must not only happen for university graduates, but all people must be allowed to go and find work wherever there is work.

Sir, Barbadians have been known to have moved through the region. One sees it most in the police force. In Trinidad, most of the senior officers were Barbadians and that is a fact. At one time Barbadian teachers were well known for the quality of their work throughout the region. There is no reason for us to stop what the people of the region want, the freedom of movement.

Sir, can you tell me that we can have freedom of capital and not freedom of movement? We must have “a people-centred” integration. There is not only the talk of integrating the financial market and energy markets, but the most important thing is that the people see themselves as part and parcel of this integration process.

I welcome this Bill and I commend it, not only to this Chamber but through you, Sir, I commend it to the nation and the region, as the way forward for this region.

I thank you, Sir.
4.30 p.m.

SENATOR THE HON. J. X. WALCOTT: I want to thank all Honourable Senators who have made a contribution to this Bill and now beg that this Bill be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. J. X. WALCOTT, the Senate resolved itself into Committee on the Bill, His Honour SENATOR C. L. BOLDEN in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

Clauses 1 to 12, inclusive, were called and passed.

The Schedule was made the Schedule to the Bill.

On the motion of SENATOR THE HON. J. X. WALCOTT, Mr. 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 Caribbean Community Act, 2003.

ORDER NO. 4 – RESOLUTION TO APPROVE IN ACCORDANCE WITH SECTION 5 OF THE LAND ACQUISITION ACT, CAP. 228, THE COMPULSORY ACQUISITION BY THE CROWN OF PARCELS OF LAND SITUATE AT WORKHALL, HOPELAND AND MARCHFIELD IN THE PARISH OF ST. PHILIP IN THIS ISLAND FOR THE PUBLIC PURPOSE OF HOUSING DEVELOPMENT

SENATOR THE HON. J. X. WALCOTT: The Resolution before the Honourable the Senate seeks permission to acquire 19 202 square metres, 0.853 hectares and 1.273 hectares of land at Workhall, Hopeland and Marchfield, St. Philip respectively for housing development.

The acquisition of these three parcels of land form part of the overall housing development plan for the parish of St. Philip. The National Housing Corporation is planning to develop 123 lots at Rices, St. Philip. One hundred of these lots are earmarked for the construction of houses and the remainder would be sold to the public. It is proposed that the infrastructure on this site would be carried out by a private corporation, Eastern Land Development.

The area of Marchfield has been earmarked for the construction of terraced units. The area of Workhall would be for in-filled housing and the Hopeland area would form part of the Rices Development.

With those remarks, I beg that this Resolution do now pass.

The question was put to the Senate and agreed to.

ORDER NO. 5 – RESOLUTION TO APPROVE THE COMPULSORY ACQUISITION BY THE CROWN OF PARCELS OF LAND SITUATE AT WESTON, IN THE PARISH OF ST. JAMES IN THIS ISLAND FOR THE PUBLIC PURPOSE OF REMOVING THE HOUSES LOCATED IN THE WATERCOURSE AT WESTON, ST. JAMES AND OF PROVIDING A SAFE ENVIRONMENT FOR THOSE PERSONS LIVING IN THE SURROUNDING AREA

SENATOR THE HON. J. X. WALCOTT: Mr. President, this Resolution seeks the Senate's permission to acquire 3 175 square metres of land at Weston in order to create a safe environment for the persons who live there.

Mr. President, you would be aware of the flooding that occurred in this area in August 1995 when 38 residences, one church, one day nursery and one minimart were affected. A report was subsequently submitted to the Cabinet in which certain recommendations were made. It is figured that the acquisition of these three parcels of land would be necessary to provide a safe environment for which

the Drainage Unit could widen the drainage system. This acquisition is to allow the Drainage Unit to be able to provide safe and better drainage in that area.

With those remarks, I beg that this Resolution do now pass.

The question was put to the Senate and agreed to.

ORDER NO. 10 – RESOLUTION TO APPROVE IN ACCORDANCE WITH SECTION 5 OF THE CROWN LANDS (VESTING AND DISPOSAL) ACT, CAP. 225 THE VESTING IN THE NATIONAL HOUSING CORPORATION OF PARCELS OF LAND SITUATE AT UPTON, KENT AND COVERLEY IN THE PARISH OF CHRIST CHURCH IN THIS ISLAND FOR USE BY THE CORPORATION IN ITS JOINT VENTURE HOUSING PROGRAMME WITH THE PRIVATE SECTOR

SENATOR THE HON. J. X. WALCOTT: Mr. President, this Resolution seeks permission to vest 21.74 hectares and 11.18 hectares of land at Coverley and Kent respectively in the National Housing Corporation to facilitate joint venture housing.

This joint venture housing programme involves several building contractors and developers in collaboration with the National Housing Corporation which would seek to accelerate the provision of housing solutions for Barbadians. There are namely two approaches to this programme, one approach is that the National Housing Corporation would be carrying out the relevant infrastructural works and contractors would be constructing the houses. In the other approach, the National Housing Corporation would be providing the land and the developers would finance the infrastructure work in constructing the houses.

In the case of Kent, these would be for middle income housing. The first phase would involve 198 lots which would provide 250 housing solutions bearing in mind that some of these units would be terraced units. In the case of Coverley, Christ Church, there is provision for 177 houses on 177 lots and these would be middle income and lower income houses.

With those remarks, I beg to move that this Resolution do now pass.

The question was put to the Senate and agreed to.

SUSPENSION OF SITTING

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that this Sitting be suspended for 15 minutes to be resumed at 4.57 p.m. today.

The question that the Sitting do now suspend until 4.57 p.m. today was put to the Senate and agreed to. Mr. PRESIDENT suspended the Sitting accordingly. 4.40 p.m.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

ORDER NO. 6 – THE INCOME TAX (AMENDMENT) BILL, 2003

SENATOR THE HON. J. X. WALCOTT: Mr. President, this Bill seeks to give legal effect to certain proposals which were made by the Minister of Finance in his Economic Policy Statement, October 2002.

This was not developed in a vacuum but came about after a consultation on tax reform which was held at the Sherbourne Conference Centre last year. At that meeting, Government has shown its commitment to tax reform in this country. This reform was to have occurred in a phased manner so that our economy would have been able to buffer the necessary changes that would have occurred and cognisant that if these changes had taken place in one fell swoop, we could have found ourselves in a state of economic morass as occurred in 1991, under the leadership of the Democratic Labour Party.

Sir, if I may go through some of the proposed amendments. Section 10 is being amended. As the Commissioner of Income Tax had indicated that with the liberalisation of the telecommunication market, entities that were desirous of entering the market would have to pay significant sums in respect of licence fees. The Commissioner has advised that, in other tax jurisdictions, it was normal for sums spent on acquiring licences from Government to operate an operating activity to be deductible.

Section 13 of the Act is being amended to facilitate and to allow for 50 per cent of the amount expended, to be deducted over a period of 10 years. This would give effect to proposals which were made by the Minister of Finance in 2001 when he said that expenditure incurred in the development of intellectual property such as copyright and patents, would be deducted from taxable income for persons investing in the creation of intellectual property.

Section 37 of the Act is being amended to allow for housing allowances. One would remember that these allowances were abolished by the Democratic Labour Party and were reinstituted by this present Government.

It is now proposed that be increased from \$6 000 last year to \$10 000 per annum for income year 2004. These will cover, not only the expenses and mortgage interests but also insurance premiums, house repairs, renovations, energy saving and water-saving devices.

Section 38 (b) of the Act is being amended to allow the increase in the threshold below which income tax is payable. It is proposed that this would be increased incrementally from income year 2004. Again, this was one of the measures that was mentioned in last year's proposals in October. It will be a phased increase. It will be \$17 500 in the income year 2004. It will move to \$20 000 in respect of income year 2005, to \$22 500 in respect of income year 2006. This brings it to a total of \$25 000 in income year 2007 and subsequent years.

Again, this shows this Government's commitment to a phased reform. This would cost the Treasury approximately \$100 million in this period to increase that threshold by \$25 000. That is, for the first \$25 000 earned, one would be exempted from taxes.

In addition, Section 42 of the Act is being amended to allow for a lowering of the basic marginal rates, beginning in the year 2003 and spreading over four years to the income year 2006. These will be adjusted by the income year 2003, twenty-two point five per cent of every complete dollar of taxable income, up to and including \$24 200.

For the income year 2004, this would be reduced to 20 per cent of every complete dollar of taxable income, up to and including \$24 200. The marginal rate would also be lowered. This is expected to occur from income year 2005. It will go from 40 per cent to 37.5 per cent of every complete dollar of taxable income above \$24 200. From income year 2006, it will further go down to 35 per cent of every complete dollar of taxable income above \$24 200. This is expected to cost the Treasury an additional \$70 million.

Sir, it is important to note that Government is both raising the threshold and lowering rates at the same time. It must be noted that this is not usually done in other jurisdictions but again, this shows Government's commitment to this concept of tax reform.

Section 43 of the Act is also being amended. This is to give effect to reduction in corporation taxes. Effective income year 2002, this was reduced to 37.5 per cent. It is proposed that this would be reduced over the following income year 2003, to 36 per cent; income year 2004 to 33 per cent; income year 2005 to 30 per cent, bringing it down to 25 per cent by the year 2006. This obviously bears relevance to the matters discussed earlier relevant to the Caribbean Single Market and Economy and the need to be competitive within our region where a number of countries in our region have corporate taxes which are lower than ours at this time.

Section 43(8) of the Act is being amended to give effect to a reduction in premium tax, property insurance from 5 per cent to 3.75 per cent for the income year 2003.

Section 65 of the Act is also included. It is a new subsection which is to exempt branches of exempt insurance companies from the payment of taxes. Under the International Business Miscellaneous Provisions Act, 2001, section 27, the exempt insurance was amended to allow the registration of local branches of exempt insurance companies. These amendments did not take into account the classifications of the remittances of branch profits to the foreign jurisdiction, to which the Head Office is located. Consequently, on the remittance to the Head Office of the branch profits outside of Barbados, there was a 10 per cent profit which was withheld.

The Ministry of International Business amendment to the Act would, therefore, allow remittances by branches of exempt insurance companies to be exempted from the payment of these taxes. This would certainly be a stimulant to our international business sector.

Sir, in these measures one can see Government's commitment to reduction of taxes and tax reform. We also have to be mindful that with the negotiations within the Free Trade Area of the Americas and the World Trade Organisation, it is expected there would be a reduction in import duties over the next five years and automatically VAT would also be reduced, as this is being charged on the cost of commodities and on import duties.

Sir, though we are committed to the reform of taxes, this must be done in a gradual and phased method. It shows Government commitment to assist all sectors. Both the lower and middle incomes are being addressed and members of the population are also being assisted.

This shows Government's continuing commitment to the reform of taxes throughout this island and to encourage persons, not only in this situation to save but also to invest, to procure insurance on their properties, to strengthen and to provide protection against hurricanes and to make investments in their personal savings.

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

SENATOR C. A. MASCOLL: Mr. President, I rise in this debate, fully aware that a lot of the measures in this Bill were, in fact, announced last year in the Prime Minister's Budget of October.

I am also very conscious that the Prime Minister has made it quite clear that in anticipation of the impact of the Free Trade Area of the Americas and of the need to reduce

import duties, that in response to the Democratic Labour Party's position, he has stated that he could not have afforded to make such substantial adjustments to income taxation in Barbados. Therefore, I am indeed, extremely surprised by some of the measures I am seeing before me.

However, if I may put the entire debate in context, for the last four or five years, we, on This Side have been arguing for a reduction in taxation. It is well known in this very Chamber, the Senator on the Other Side indicated that the tax take of Barbados is now 39.6 cents out of every dollar.

Sir, today is about the alternative package that the Democratic Labour Party proposes to offer to the people of Barbados. It is not simply a criticism of the Government's proposals but an alternative package.
5.10 p.m.

The lower income categories have struggled to live from day-to-day and one of the major features of the tax system of Barbados is that middle income Barbadians have carried the load of taxation for a long period of time and it is a fact of life. No one can dispute that persons who earn \$37 200 per year carry the burden of taxation in Barbados.

Having said that, the intention of the Democratic Labour Party, as has been stated in the public domain, is to remove over a five-year period over \$200 million of taxes on Barbadians. We estimated that to move the tax take from 40 cents out of every dollar in the national income to 25 cents out of every dollar in the five-year period would result in \$210 million reduction in taxation overall.

To demonstrate the level of confusion that this Administration has obviously been in over the last couple of months in anticipation of the Democratic Labour Party's Manifesto, we have seen in this Bill which I received on Monday bank holiday stated that the threshold would have been increased by \$2 000 per year over a five-year period. It would move from \$15 000 in 2003 to \$17 000 in 2004, to \$19 000 in 2005, to \$21 000 in 2006, then to \$23 000 in 2007, and \$25 000 in 2008 and subsequent years. To show the level of confusion, the next day the messenger of Parliament visited my home again and delivered an amendment which is going to move towards the \$25 000 threshold income level in four years time in chunks of \$2 500 from next year over to 2007. Sir, I find that in itself very amusing because it demonstrates some level of confusion, or some degree of anticipation as to what the Democratic Labour Party is bringing in its Manifesto.

I can tell the Government of Barbados and the Prime Minister in particular that we have recognised and criticised in his Manifesto of 1999 the bold print on page 38 where he said that:

"We will progressively increase the income tax threshold from the present level of income at \$15 000 to \$25 000."

This was promised in 1999 and between 1999 and today not one dime has been assigned to this particular policy to the extent where the \$15 000 threshold remains. What is particularly amusing is that since 1999 we were supposed to experience periods of growth and some recession, albeit hidden recession, because when the Democratic Labour Party spoke about recession all kinds of talk was created in Parliament and in the public domain and we were told that the economy was not in recession, and then September 11th came and allowed for some degree of admission on the part of this Government that there was, in fact, a recession in the environment in Barbados.

To think that the Barbados Labour Party could not have increased the threshold from \$15 000 over a five-year period during the boom years but now over the course of one day you increased this threshold to \$25 000 in amounts of \$2 500 per year, of course, this has to be electioneering.

Asides.

SENATOR C. A. MASCOLL: It is electioneering because how come during the good years you could not afford to increase the threshold but all of a sudden because it is anticipated that the Democratic Labour Party's Manifesto would contain measures like these, the Government now sees it fit to make these kinds of adjustment to the income tax threshold. I find this amazing, Sir.

I want the Barbados Labour Party to know that the Democratic Labour Party's Manifesto for this year is going to increase the threshold from \$15 000 to \$20 000 in one fell swoop and that there will be no five-year period. If the Barbados Labour Party thinks it is necessary to make adjustments to their Manifesto, they can do it now because I am saying that the Democratic Labour Party's Manifesto will contain an increase similar to 1986 in many respects.

Asides.

SENATOR C. A. MASCOLL: I want the Barbados Labour Party to know it is rooted in the fact that there should have been tax relief since 1999 and the present period and it never happened.

Sir, I have nothing to hide in this regard because it is well known that I have been arguing and urging the Government of Barbados to reduce taxation for the last few years. It is rooted in the fact that the Prime Minister said in 1995 that there was excess taxation in Barbados and likened it to a bull pistol being put on the backs of Barbadians. He then subsequently increased the rate of taxation from 30 cents to 40 cents out of the dollar.

Sir, I am saying all of this because, like others, I do not run away from certain realities. I, if I may say this, believe in the policies and programmes of the late Wendell McClean because I respected him very much as an economist. I do not back off from that. No one can get me to push aside the 1986 measures. The 1986 measures were appropriate. The only difficulty in that period was the question of the foreign reserve stock that we had.
5.20 p.m.

In today's Barbados where we have borrowed so heavily to have an adequate cover of reserves, it can be no harm to this economy or any other Caribbean economy if we decide to give some kind of tax relief to get us out of the existing situation. Sir, I do not back off from the measures of 1986 neither do I back off from other policies and programmes of the Democratic Labour Party.

Asides.

SENATOR C. A. MASCOLL: I want the Barbados Labour Party to know that since they have been able to label me as a major architect of those programmes in the early 1990s, and those programmes were so successful, then this Government must now recognise that any degree of crisis or difficulty in the Barbados economy can be handled by the Democratic Labour Party because within the Democratic Labour Party, there are persons who are more than competent and capable of managing the affairs of Barbados. There is no need for me to back off that.

Sir, I am saying that you know what the reality is.

Asides.

SENATOR C. A. MASCOLL: It does not mean that you have to be arrogant. When you look at the Cabinet of Barbados and look at the absence of the real powerful thinkers and politicians in Barbados, it would give any young politician hope that he or she is more than capable of assuming a ministerial post in this country.

Sir, I have the most respect for Sir Harold St. John. I am going to say this without any fear of contradiction. Sir Harold St. John is, for me, what a sitting Member of

Parliament should be. I said that from the time I entered into politics and recognised the quality and worth of that man. I see him as the kind of individual that I would wish to emulate in terms of representation within the parliamentary walls.

Therefore, I do not hide from that either.

Mr. President, when I see that he is no longer around, Sir Henry Forde and Dr. Johnny Cheltenham would no longer be around and we would not have that calibre of individuals in the Lower House, I have no apologies to make in relation to what I now perceive to be the capability on the Other Side.

I am saying that it is quite obvious to me that it has nothing to do with what age you are because the Prime Minister of Barbados, in 1994 when he assumed office as the Prime Minister, would not have been a Minister of Government before that. He would not have been anything in relation to even being a major member of an Opposition party.

Asides.

SENATOR C. A. MASCOLL: Sir, he would have assumed Opposition leadership only after being encouraged or asked to be given an opportunity to make some income.

Mr. President, it is quite evident the Democratic Labour Party's policies and programmes in 2003 would be rooted in a belief that this economy has been overtaxed for a very long time. Therefore, we make no bones about where we stand. We intend to push that income tax threshold...

Asides.

SENATOR C. A. MASCOLL: We make no bones in saying that the threshold under the Democratic Labour Party will be raised...

Asides.

Mr. PRESIDENT: Order, please.

SENATOR C. A. MASCOLL: Sir, the threshold will be raised to \$25 000 over a period of time.

Mr. President, the question of the increase in the threshold of the personal income tax, income below which you do not pay any income tax, the Democratic Labour Party is quite clear in terms of the policies that it intends to implement.

Sir, as it relates to the marginal tax rates, the Democratic Labour Party is proposing over the five-year period to reduce – this policy was formulated before the

recent reduction to 37.5 per cent, the top marginal tax rate from 40 per cent to 32 per cent over the five-year period. Sir, this will be a gradual reduction because we deem it necessary to reduce the marginal rates, both the upper and lower rates, by 20 per cent over the next five years. We will be moving from 40 per cent to 32 per cent. That is our proposal. Mr. President, as it relates to the lower marginal tax rate, that will also be reduced by 20 per cent from 25 percentage points to 20 per cent.

Mr. President, for a very long time we have practised a principle of harmonising the top marginal tax rates with the corporate rate. Therefore, over that period, the corporate rate would also slide to 32 per cent. Our major difference in the Democratic Labour Party's upcoming Manifesto is that we intend, given the need to coordinate and harmonise our tax system in concert with the major economies within the region, like Jamaica and Trinidad, to move towards a single rate income tax. That single rate income tax would be 25 per cent after the 2005 period. It would be a single tax rate of 25 per cent across-the-board. In concert with that, the corporate tax has to be harmonised, as is the usual case in our tax systems, with the marginal tax rate.

Sir, let me explain why there is need for harmonisation. In the 1986 measures, in excess of 2 500 new companies were formed. It was believed in some quarters that this had something to do with the abundance of new economic activity anticipated as a result of the measures, however, not recognising that there was a disparity between the top marginal tax rate and the corporate tax, which then encouraged individuals to set up companies. As a result, if you go to the Registrar of Companies you would see that in 1986, two thousand five hundred new companies were formed. When this situation was investigated, people recognised that it made more sense in terms of easing your tax liability by going the route of a company.

Mr. President, we would never wish for that to happen again in Barbados. Therefore, it is the policy of the Democratic Labour Party that every time you reduce the top marginal tax rate, that you bring the corporate tax rate in line with that.

Sir, our major problem in Barbados has been excessive taxation over the last five years and it has crippled, not only companies, but it has also crippled individuals and people have been living on the margin.

Sir, when you check the International Monetary Fund's (IMF) Report of March 2003, you will recognise that there is emphasis on tax reform. They are saying to the Government that we need to increase the disposable income of public sector workers. Why not go about via a reduction in taxation more so than an increase in their gross incomes? This is really the path recommended by the IMF.

Sir, there is a lot of discussion about whether or not this could be accomplished and achieved without disrupting the economy. Let me say that the position taken by the Democratic Labour Party is, yes, we have to reduce taxation but we also know that by reducing taxation it could provide a little gap in the fiscal deficit. How would you expect, if you promise that you are going to reduce taxation, increased disposable incomes and regenerate more activity in the economy and the economy not to grow as a consequence of that?

5.30 p.m.

If the economy grows as a consequence of that, then that so-called gap that may become a point of criticism on the Other Side would have to be looked at, because I am surprised, as I said, to see that the Barbados Labour Party, under the Hon. Owen S. Arthur, a highly conservative Prime Minister, by the way, is now prepared to make adjustments to the income tax structure of this magnitude, since it is this same individual who had been cautioning against a significant reduction in income taxation.

Sir, I know, deep down inside, that these recent adjustments, and they are recent and confusing, had to be as a result of anticipation on that Side of what the new leadership of the Democratic Labour Party would bring in the future.

Asides.

SENATOR C. A. MASCOLL: It is very evident who is in control of the Democratic Labour Party. It is very evident who is taking the Democratic Labour Party into the next election. In fact, if you recognise what the Opposition Leader said, that in the fullness of time, the true tax package of the Democratic Labour Party would be revealed to the people of Barbados. This is the time, so under my leadership, the Democratic Labour Party would be embarking on a path of reducing the burden on persons not only paying taxes but persons who are below the threshold.

In this context, I wish to make some other things quite clear about the housing policy of the Democratic Labour Party. I, before 1999, in this Chamber made it quite clear, that housing is perhaps the major social requirement of Barbadians. So you cannot expect that a Democratic Labour Party would go into an election without putting undue emphasis or substantial emphasis on housing.

Now, I was again surprised that for the last two to three weeks, we have seen the Minister of Housing parading on CBC, up and down, on the question of housing. What is being done for housing because they would have anticipated and correctly so, that the Democratic Labour Party's housing policy is going to be rooted in concerns for low middle income and upper income individuals. It is in this context

therefore that the policy was formulated in 1996, in the by-election in North West, where a decision to give national housing units to tenants would now become a major component of low income housing programmes with the Democratic Labour Party.

Asides.

SENATOR C. A. MASCOLL: He could not have done it because he confused the message. I am saying like the Farm Housing area which was formulated in 1968, is now 35 years old. If you are saying that a tenant pays the economic cost in terms of rent, that tenant, once he has paid his rent over that period, would have been repaying a mortgage.

Therefore, it can be of no value to the Government of Barbados to wish to hold onto national housing units that are 20 years and older, because, like a mortgage, your rent was making the contribution towards that particular cost of the unit. When that policy was enunciated, I heard...

Aside.

SENATOR C. A. MASCOLL: It does not matter. The crux of the matter is that it could not have cost any substantial amounts to build those units in the Farm in 1968 and it is of no real benefit for the Government to want to hold on to those units, except to keep the maintenance of the common area and to do such other things.

Therefore, we said that we would make available to tenants, who have paid their rent for 20 years or more, those units. If you had been paying for 15 years, you are entitled to come and get a five-year loan, or a loan for five years, that would cover the cost of the unit up to 20 years of payment in rent and therefore you are entitled.

Sir, it does not stop there because a house cannot be purchased like a pair of shoes, with a receipt. There has to be something called a title deed. That is where we are asking the tenants to make a contribution towards the acquisition of their homes. Now, if you have, like in the Farm Housing area, again, ten block units, sometimes five, there can be no harm in asking a lawyer to consider that there are economies of scale to be derived, and that, basically, since the vendor is the same individual, and that all you are doing is changing the name from unit to unit, there can be a settlement or an agreement, to give a lawyer two blocks of 20 units and reduce the unit cost to the individual tenant.

This is the thinking of the Democratic Labour Party and there can be, again, no harm in that because, I repeat, that since you are really purchasing from the same individual, the title deed is just the question of replacing a name here and a block number here and there. Therefore, that has been the thinking.

Sir, the Democratic Labour Party did not stop there in its housing policy programme which will be delivered to the people of Barbados this weekend, by the way. The Democratic Labour Party, unlike this Administration which now wanted to return to mortgage interest deduction, and felt that they needed this to score a political point, in this regard, decided that they would increase the mortgage allowance.

Sir, that is not what is wanted at this stage. You need to reduce the cost of building low income houses to Barbadians. A house that is valued at \$150 000 may have material inputs of about \$60 000 to \$70 000, upon which there is a 15 per cent VAT which works out to be roughly \$10 000 more.

Now, what we are saying here on the Other Side, the Democratic Labour Party side, is that we are going to encourage the building of low income homes, genuinely so, and it is not about giving back any mortgage interest deduction because a lot of the people cannot qualify for mortgages, in any case.

Asides.

SENATOR C. A. MASCOLL: Low income earners cannot qualify for mortgages and the National Housing Corporation Credit Fund is not enough to circulate. Then, when you stretch the mortgage to 40 years, where would this money come from to be recycled? So the issue here is to reduce the cost of building to low income Barbadians and that is what the Democratic Labour Party is proposing to do and will do. It is visionary in every respect. In fact, when you get the full document, you will see the extent to which there has been a lot of thought.

Sir, it goes further. We do not only cater to low income people, we have to recognise that middle income Barbados is really the largest round, as we speak. So if you wanted to build a home valued at \$200 000 or \$300 000, then the first \$150 000 given the same thing that I explained earlier, the cost of raw material would be relieved, so, that whomever decides to build a larger house, they would be entitled to such benefits.

Sir, what we are doing here is creating an opportunity for thousands of Barbadians to be able to afford housing. This Administration has quietly sat and presided over substantial increases in land and property value in Barbados, without even giving it a thought. This Administration is most guilty of that offence.

This Administration, in compliance with the World Trade Organisation (WTO), as was said earlier in the debate, allowed for Property Transfer Tax to be removed on purchasers of land and property in Barbados, and imposed a doubling of the tax on local vendors.

Sir, what that did? That encouraged foreign people to see Barbados as an area for opportunity in terms of land and property ownership. It exemplifies itself all along the West Coast such that we have a situation where a major hotel, Paradise, has been out of operation for a number of years. In less than eight years the land value of that property has so skyrocketed that it makes no sense now for the owner to even contemplate putting it into tourism.

5.40 p.m.

Why would the owner of that property wish to get involved in tourism if he could purchase a piece of land with a hotel, do not put a nail, a block, a piece of galvanise or a piece of permaclad in it but still can benefit from a quadrupling of that value? Why would he wish to have a tourism entity? Why would he wish to invest? It does not make sense because he has reaped his returns and he does not intend to come to Barbados. So all who feel that Butch Stewart or the Sandals Properties plan on coming to Barbados, they are making sport. It makes no sense to do so.

Therefore, I am saying to you that this Administration is extremely guilty of allowing land and property values to skyrocket the way they have done. To believe that you could separate the centre of the country from the eastern part, the northern and the southern part is ridiculous. That increase in land and property value then spread across the length and breadth of Barbados to the extent where it becomes almost impossible for an average Barbadian to own a piece of land and purchase a house in Barbados.

I recently visited someone who said to me, "Mr. Mascoll, would you believe that I was able to purchase the lot I am on 15 years ago, but I cannot now purchase the adjoining lot that is next to me, and I am a dentist?" He cannot purchase it because of the way in which land and property values have skyrocketed, but we do not seem to understand that is happening in Barbados.

To simply have a land bank is nice, but unless you are entering the market to control prices or to give opportunities to other persons, it would have been a useless exercise. It is like when a Central Bank enters a market to stop the exchange rate from going down. You are going for a purpose. You do not just go in to acquire land.

We also have a situation in Barbados where, as I said, every land development is occurring in St. George North. The Minister of Housing and Lands is not making any sport at all. Poor Mr. Tull on the other side cannot get any housing development in St. George South but everything has happened in the constituency of St. George North. It might be very difficult to beat that fellow because every young yam was entitled to a piece of land.

This thing gets worse and I must repeat this because I find it extremely fascinating that over the course of one day that a confused Government could have sent to my house two Bills, which I have before me, making different adjustments, an adjustment of \$500, to the threshold. So I would like to know what would have transpired between the Bank Holiday and the Tuesday of this week to have incurred Government to send back this amended version to us...

Asides.

SENATOR C. A. MASCOLL: Oh, it is a "typo", okay, then I can appreciate that.

Let me say here again that we are concerned not only about persons who are paying taxes in Barbados, we are concerned mostly about persons below the tax threshold. To simply adjust the marginal tax rates and increase the threshold would not assist persons below.

The Government must know therefore that young women of single parent families in this country would be assisted by a Democratic Labour Party Administration because it is absolutely necessary. I wish to say here now too in reference to the tax credit – so you all can know of my things, so if you all want to put back the election, you can put it back. I am saying here now...

Mr. PRESIDENT: I hope you are not referring to the Chair, Senator.

SENATOR C. A. MASCOLL: You would not have any say, Sir, in terms of when the election comes. You may have some knowledge.

From the day the Value Added Tax (VAT) was conceptualised – and if you go back to the documents you would see it – \$23 million has been allocated every year to vulnerable groups because it is known that VAT is regressive in nature. Poor people eat rice and they eat every other thing just like people who got big money because cows cannot eat no more rice than sheep after a while.

Asides.

SENATOR C. A. MASCOLL: Recognise the cows, the cows that I am talking about, I am talking about big people. Therefore, I am saying to you that it was recognised that VAT is regressive, that is why the tax credit was provided. The tax credit that came with this Administration is nothing new. In a VAT system you do that as a matter of duty. You identify, as was done in this case, that persons earning below \$250 per week are paying VAT as well and, therefore, you estimate that "X" amount of their income may go in terms of VAT and then you compensate them. That is \$500 per year.

Let me say here now that the same way in which you can give working persons earning less than \$250 a week a tax credit of that magnitude that you can give old aged pensioners who are below that threshold as well that reverse tax credit as well as disabled people in Barbados, so “wunna” can go and make adjustments to the Manifesto again.

I am telling you that the same way a tax credit of \$500 is being granted to persons earning less than \$250 per week, that a tax credit would be given to pensioners who get less than that per week as well as the disabled in the society. That is in the Democratic Labour Party’s Manifesto. That cannot come up to the \$23 million allocated to that project in 1994.

This is not just about any electioneering. This is a philosophy, a belief, a feel and a knowledge for the impact of VAT on the most vulnerable group. This should have been done from the implementation of VAT. It should not take any promise. I do not want to hear anything about 1999 neither. Clyde Mascoll was not in charge of the Democratic Labour Party until now, so what you are seeing reflects the thinking of Clyde Mascoll and the people around him, so I do not want to hear any talk about you did not see that in the 1999 election or Manifesto. This is the year 2003.

I can tell you now that the policies and programmes of the Democratic Labour Party would be reflecting what we are convinced about as a party. That is precisely the point. Under my leadership, these kinds of policies and programmes will be implemented, so I do not have to worry about that.

5.50 p.m.

Sir, the other thing is that we need to give special consideration to genuine small businesses. Let us remember that only companies that make profits pay corporate taxes. Therefore, the tax reduction to those companies are going to be good over the number of years. They deserve it because in this new environment they need to be given the opportunity to invest in other areas.

We speak to liberalisation and globalization and of allowing persons and companies to basically do as they like. We are talking about attracting foreign companies, by giving them special concessions under the International Business Companies Foreign Sales Corporation. What is wrong with giving a better playing field to our local companies? There cannot be anything wrong with it.

Therefore, I am saying that one has to be thinking in terms of making that move. It should not have been delayed this long. There was too much money from VAT. VAT brought in excess of \$200 million more than was required and all that was done with it was that it was allocated to the Urban Development Commission and Rural Development

Commission, *et cetera*, without understanding that the economy can only grow through private sector initiative, as was identified by the Prime Minister in 1995. His employment strategy was to allow existing businesses to grow and to create new enterprises.

This has not been done because as I speak to you, Julie-N Supermarkets are now Trimart Limited. Budg-Buy Supermarket is on its knees. Rick’s Supermarket is dying. Shamrock Supermarkets are ailing – and they all have one thing in common, for they are all black businesses in Barbados. They are not so small but in this environment, they are dying. The fact is that sooner rather than later, Trimart is going to take over Budg-Buy Supermarket. Rick’s Supermarket is out already. Geddes Grant has gone. I can call the number of companies in this country that have folded in the last number of years. Pepsi Cola has also gone. A number of years ago, they had decided that they would have held on for life, now there is a tremble and they are going too. The Ju-C Company too is going.

Therefore, we cannot pretend that nothing is going wrong. There is something wrong. The only policy instrument that was available to Government is the tax instrument and rather than control the level of taxation, this Administration has presided over the highest level of taxation ever inflicted on the backs of Barbadians.

When one looks at the social services of Barbados, they do not reflect any improvement. The Queen Elizabeth Hospital is worse than it ever was. When surveys are done across the constituencies with the exception of a few, there are a number of bad roads. Regarding the same surveys that we are hearing about in relation to the election polls, crime is still number one. There are problems in relation to unemployment and housing services. There is then a situation in which only recently this Government is now in a position...

Asides.

SENATOR C. A. MASCOLL: The Urban Development Commission has now been able to allocate substantial resources to constituencies across the length and breadth of Barbados. In fact, I am to query whether or not Christ Church South is part of that process of urban development but they have been handsomely allocated.

There is then the situation in which only recently a tour out of Barbados was financed by the Urban Development Commission funds, approval of \$80 000, but the club only received \$20 000 to travel to Boston. I must confess I made a contribution to the tour as well but I did not get my picture taken or any coverage in the *Nation* Newspaper or on the Caribbean Broadcasting Corporation (CBC).

I made my contribution which came out of private sector pockets, whereas the \$80 000 came out of the Urban Development Commission and only \$20 000 had been allocated to the tour so far. I want to see where the \$60 000 has gone.

Asides.

SENATOR C. A. MASCOLL: All I am asking is, where has that money gone? The other question relates to the social service in Barbados, of which there has been a deterioration. I live in the north and suddenly I cannot get any water at nights. Noise was made, water came back on last week. The water pressure in St. Peter is much higher now than it ever was, although we are still in a drought. The problem is that we were experiencing difficulty because of a drought. There is still a drought but the water pressure came back on with a vengeance in St. Peter. I am now being informed that there is a housing project to come in the north and the real trick is that the main man behind the housing project would have been required to build a desalination plant. Therefore, the trick in this was to make it seemed like a national problem for Government then to pick up the slack.

Again, in relation to JAWS. In December 2002, the Government advanced another \$32 million last year in relation to the GEMS Project, totalling \$145 328 264 of the taxpayers' money out of the Consolidated Fund without the approval of Parliament. This is not good to be taking taxpayers' money and wasting it when people cannot get something as simple as water, or having their electricity being turned off every night, or the resources at the Queen Elizabeth Hospital, notwithstanding the efforts of the young man, still not up to scratch.

Therefore, I am saying that we need definitely to address the problems in Barbados. The Democratic Labour Party, I must repeat, has decided not only to criticise this Administration, but to start to put its policies and programmes in the public's domain and we have done that here tonight.
6.00 p.m.

If the Barbados Labour Party believes that it is now invincible, so be it. If the Barbados Labour Party believes that it does not have to take care of the needs of Barbadians, so be it. If the Barbados Labour Party believes that no other person in Barbados is capable of managing the affairs of Government of Barbados, so be it.

If they believe that there are no people, notwithstanding the presence of doctors, lawyers, engineers, accountants, marketing experts, insurance workers, small business people and teachers on the Democratic Labour Party cards for the next elections do not have any competence or skills and that we cannot run the Government, so be it.

I can tell you that once Senator Clyde Mascoll is leading the Democratic Labour Party, which he is, you can

rest assured that policies and programmes will come for the people of Barbados to have a choice. It will not be a one-man show, or a one-party show in Barbados any longer. If anyone feels it will be a one-man show, he can continue to wallow in his ignorance.

Sir, the people of Barbados need change, but it is not simply a question of change. The members of the Democratic Labour Party, of which I am the leader, will have to demonstrate to the people of Barbados that it is capable of providing the change and leadership necessary.

No one will give me an inferiority complex because when I hear discussion about leadership and that the Prime Minister is now a big wig, I ask the question of the Prime Minister what experience he had in 1994. Was he a minister before 1994? We discovered that he was part of an IMF Programme that failed, but I was part of an IMF Programme in Barbados that passed handsomely, so I have no difficulty at all.

Asides.

SENATOR C. A. MASCOLL: I passed handsomely not only in Barbados but I passed regionally, internationally and this Administration honoured the then Prime Minister, Sir Lloyd Erskine Sandiford under this Administration.

Asides.

SENATOR C. A. MASCOLL: If he had performed so badly, destroyed the economy and the society would he have been given an honour for his contribution?

Sir, the Democratic Labour Party is now on course to expressing and answering the needs of Barbadians. The Democratic Labour Party has decided to look at life as a journey and has identified from cradle to grave the needs of Barbadians and can answer the needs of the youth, adults and the retired persons of Barbados. It can answer issues pertaining to the social needs of Barbados, outline and describe the policies and programmes of the Democratic Labour Party.

The Democratic Labour Party is, therefore, ready and prepared to create history in this country because it would not be an easy journey for anyone in this election. If people feel they can come overnight, put one set of proposals before the people of Barbados and within 24 hours change their minds, but could not fulfil their promise on page 38 of their Manifesto over the period 1999 – 2003, but now in less than one week could now fulfill a promise that can only be realised in 2007 and think this is enough, should think again.

Sir, this Government has had the most resources of any Government in the history of Barbados but it has squandered more resources than other Governments of Barbados. It squandered over \$35 million at Greenland, \$30 million at Warrens, \$15 million at NHC, \$5 million at Southern Meats, \$7 million at the Glebe. It has squandered \$200 million and beyond at the GEMS and you have to ask why the Government should be given another opportunity to squander money.

Sir, there is nothing special on the Other Side. I do not see anything that encourages or excite anybody because this is not the 1960s when there was revolution of all kinds, social upliftment, policies and programmes like National Insurance, free secondary education, the Queen Elizabeth Hospital, health services, water and telecommunications.

Sir, I have not seen anything over the last eight years to excite me or to suggest anything imaginary or visionary on the part of the Barbados Labour Party Administration. This Administration has been lucky because after 1997 with the implementation of VAT, it came into contact with excess resources and then "lick" them out.

Mr. PRESIDENT: Senator Mascoll, you have two minutes to complete your presentation on the Income Tax Act.

SENATOR C. A. MASCOLL: Mr. President, when I look at where we need to go, the first requirement of any administration is to reduce the level of taxation in Barbados because this is necessary for growth and increasing savings, enhancing investment, creation of employment, the upliftment of the society, the ability of individuals to get opportunity to part of the process of growth and development.

I am, therefore, warning the Other Side that the Democratic Labour Party has in its Manifesto a comprehensive programme in tax reduction, social matters, employment strategy, housing needs, telecommunications, transportation, education, health, defence and security, CARICOM, international affairs, community development for the youth and elderly and the whole works as it relates to the management of any economy and society.

Mr. President, I thank you.

SENATOR T. E. BARKER: Mr. President, I rise to support this amendment to the Income Tax Bill, the major part which was announced to the nation last year by the Minister of Finance. Sir, it is both necessary and vital that from time to time we examine the Income Tax Act to look at the threshold and yield from the tax because, as you know, we are in a dynamic situation and from time to time because

of the increases in income and so on we will have distortions in the fiscal situation if we do not make timely adjustments to the Act.

Sir, I am sure that you and the whole Chamber share in the disappointment that the last speaker had an hour to speak about the income tax but he chose to vary far, wide and wild. When I listened to the debate, it was a "tale of two cities" and I refer to a book called "Three Men in a Boat" written by a man called Jerome K. Jerome.

Asides.

SENATOR T. E. BARKER: I am told that in the end the boat sank. Yesterday one leader said that he would abolish income tax and increase the VAT, another leader said he agrees to the proposal but the time should be shorter, and the third leader who calls himself the maximum leader is now saying that it should happen in one fell swoop, so we have three men in a boat. There are three leaders in the boat but the people of Barbados are not getting in the boat with them. They are all alone because the people of Barbados lived through the holocaust of 1986 when despite advice to the contrary, the Democratic Labour Party in their quest for power decided to give way the whole shop.

I will say this that they had enough commonsense that in nine months' time when they saw where the policies were leading us, in the April Budget of 1987 they visited on Barbados the highest level of taxation that a Government ever instituted. Sir, the people of this country do not want to go through 1987 again because they have suffered enough. When you compare the performance of the Barbados economy between 1994 and now and compare 1986 to 1994 there is no contest.

6.10 p.m.

Sir, I am sure that we are not going to return to that.

Asides.

SENATOR T. E. BARKER: Sir, we know what their policy led to. It led to having a \$11 million in foreign exchange.

Asides.

SENATOR T. E. BARKER: Senator Mascoll made a very interesting point. I listened to what he said very carefully.

Asides.

SENATOR T. E. BARKER: I am sure that the people of Barbados heard him say that he worked with the IMF with the tax reform. Senator Mascoll reminds me of one of

the leaders of the Democratic Labour Party. This other leader said that he knows the IMF and they know him. He said that he knew what they wanted and they knew what he would do. Again, the Democratic Labour Party has this love affair with the IMF because Senator Mascoll knows that if the people of Barbados ever give him the chance, he would lead us in the hands of the IMF in short time.

Asides.

SENATOR T. E. BARKER: ...Sir, the so-called ring leader who beats up his chest and say that he is the leader of the Democratic Labour Party.

Sir, I will not be distracted by the utterings which are not based on any economic theory, just pure political expedience.

Asides.

SENATOR T. E. BARKER: Sir, it is a fact that there is a case for some element of tax reform. Last July 2002, the Prime Minister had a national consultation. I am told that the Opposition was invited but they did not attend. However, the leaders of the labour movement and the private sector came together with the Government and presentations were made on direct and indirect taxation and the National Insurance system. It was a session where everybody was able to give their views on the way to go forward. Sir, the consultation was done in a rational manner and with commonsense where everybody articulated their position.

Sir, what we are seeing here is a national consensus, basically. This is what the people of Barbados want. They do not want any experimentation. Senator Mascoll knows about experimentation, but we are not going to experiment on the people of this country.

Mr. President, what we have here is the result of what the people said they wanted. They said how they wanted their economy to be governed.

The people of this country gave us a large mandate and we never abused that mandate. Whenever we had important decisions to make, we felt that the governed must always be involved in the decision-making process and that is what separates us from the ones on the Other Side.

Sir, we do not beat our chests and say that we are the leaders. That is not our style. This is the people's business and we should hear what the people want. When we make a decision, we know what the people want, not only what the IMF wants. Sir, that is why we have had such a tremendous

response to our proposals in the past because they were the results of interaction between the governed and the governors.

Asides.

SENATOR T. E. BARKER: Sir, we recognise that we have just come through a very difficult period. It is okay to talk about cutting this and cutting that but, at the end of the day, gradualism must be the philosophy guiding our taxation policy. It is okay to move the rate from \$15 000 to \$25 000 in one fell swoop but what is the effect on the economy? Is the economy going to grow that fast in a year that it would be able to cushion the effect of such a tremendous loss of income? The answer is no.

In the final analysis, the people of this country will want the standards of our roads to be at a very high level and our water supply to be available during drought. We want the Hospital to be operating at its maximum efficiency. We want our education services to be always at a maximum. At the end of the day, we are not prepared to cut the level of services which have made Barbados what it is today.

Mr. President, there is no doubt that all the profits that we make are the results of the society that we built. In order to get a few votes, why should we dismantle the very thing that gives rise to our prosperity? The Democratic Labour Party can promise whatever they like but we know that the people of this country went through this "hurricane" already because of misguided policies and because of the misguided policies of people whose only ambition was to get to power without concern for the economy.

Sir, the worst statement that I ever heard any political leader make was made by a Prime Minister who said that he knew what to do, but he was not about to commit political suicide. Those were the worst words that I ever heard a leader of any country make.

Sir, the Newton's third law is applicable to economics and physics, to every action there is an equal and opposite reaction. A Member of Parliament from the Other Side said that you can abolish income tax and increase VAT. Sir, that is a ludicrous suggestion. Income tax brings in about \$300 million a year and we get about \$500 million a year from VAT. Therefore, if we were to increase the tax take by 300, it means that we would have to increase the VAT rate from 15 per cent to 25 per cent. Sir, I want to repeat that. If we were to follow the suggestion and abolish income tax and increase VAT, we will have to increase the VAT rate from 15 per cent to 25 per cent. Sir, who would be the ones to suffer?

Mr. President, under our policies, you have to work for approximately \$300 a week before you pay income tax. A person working for less than \$300 a week is not going to benefit from the abolition of income tax but he will be called upon when he goes to the lumber yard to pay VAT, not at 15 per cent but at 25 per cent. That is intolerable and utter foolishness. It does not make sense.

Sir, in the proposal that was made before the Democratic Labour Party left office, it had recommended VAT on food. I ask Senator Mascoll if he was still of that same mind. He spoke for an hour today and he mentioned everything else but never sought to answer the question whether he is committed to adding VAT on food items.
6.20 p.m.

Sir, he spoke for an hour this afternoon. He mentioned everything but he never answered that relevant question, is he committed to what he said before to putting VAT on food. He did not answer that one.

Sir, I believe that the people of Barbados should get an answer to that question. I heard a "no" from the fourth leader.

Asides.

SENATOR T. E. BARKER: Sir, that is a very relevant question, because he does not want VAT on tourism or hotel accommodation – all of a sudden, abolish Income Tax, increase the VAT, do not put it on hotel accommodation, but put it on food.

Asides.

SENATOR T. E. BARKER: Sir, the point is that our VAT system has worked well. We cannot say any different, especially when we removed the VAT on food items. All fruits, vegetables, fresh meat, ground provisions, butter, fresh milk, beverages, most of them are not subjected to VAT, so when the people are talking about the VAT, they should bear in mind that VAT is not levied on about 95 per cent of the food that people use.

Sir, Senator Mascoll has not dissociated himself from the policies of the last Administration but the question we must ask him, is he prepared:

1. To increase VAT?
2. To have VAT on food?
3. To remove VAT on hotel accommodation?

If he is prepared to do that, let him come and say so, but since he is disclosing what he is going to do about

Income Tax, he also has a right to disclose to the nation what his policies are, with regard to the VAT.

Sir, if he is going to use the fact that we are broadcasting to the nation to give his Manifesto, he needs to tell us, using the same forum because it is available to him, what his policies are, in relation to VAT. He should not give us half of the message. He should give us the whole message so that we, then, are in a better position to make an assessment.

Sir, we are glad that the Honourable Senator recognises the revolutionary nature of the reverse tax credit.

When they first came in, we did not hear anything about it, but now he is all in favour of it and he wants it extended to pensioners.

Sir, it is said that the sincerest form of flattery is imitation. Imitation, Sir, is the sincerest form of flattery. Sir, we are going to accept it as flattery because he recognises a good thing when he sees it, but the people do not understand what is happening with this tax credit.

The poor does not pay Income Tax. Therefore, if you are giving tax concessions, then you have excluded, maybe half of the workforce. Sir, more than half of the workforce does not pay, in the first place, so all of this tax prevention that we are now discussing is not going to touch the poorest of the poor in Barbados but the reverse tax credit, where he gets a lump sum in his hand, will help him then, to pay any indirect taxation he may be called upon to pay.

For example, Sir, if he goes to the lumber yard he is going to pay VAT on the stuff that he buys, so the \$500 reverse tax credit enables him then, to pay some of the VAT which he would have incurred from this ordinary purchase. Do not forget, Sir, when it comes to the poor, more than half of his income is spent on food and, as we said before, Sir, 95 per cent of all foods are exempted from the payment of VAT.

Sir, this reverse tax credit is an income transfer basically and it is revolutionary and it is wide in scope because it enables the poor then, to have a lump sum, bearing the fact that he does not benefit from Income Tax changes because the majority of the poor do not pay Income Tax in the first place.

Again, Sir, that is why I say that the abolition of Income Tax is so regressive, because when you do that, you are not helping the poor, especially if you are going to transfer the \$300 million from the Income Tax to the VAT. You are not helping the poor, you are making the distress on the poor even greater.

Sir, I just want to ask the Honourable Senators what is the result of the proposed tax changes that we are here discussing this evening? Sir, take a person working for \$25 000 per year, his allowance is \$15 000 and if he has his own home, and he can get another \$3 500, I am talking about income year 2002, allowance \$15 000, then \$2,500, \$3,500 home allowance, \$18 500, he pays tax on the difference and he pays \$1 625 in tax.

Sir, in income year 2003 that same taxpayer, working for the same money, pays \$900 in tax. By the year 2004, he pays no tax, because by then, the allowance would have gone up and the home allowance would also have gone up, so that by 2004, the person working for \$25 000 a year, that is just over \$2 000 a month is brought off the tax role, as a result of these changes.

Sir, the person working for \$30 000 a year, 2002, he would have paid \$2 875 in tax, 2003, he would have paid \$2 025, a savings there, Sir, of \$850. By 2004 he would be down to \$500 and by 2005 that taxpayer is off the tax role – he pays no tax.

Sir, the same is for the person working for \$40 000, his tax moves from \$5 300 and by 2005 he would be at \$2 000, 2006 – \$1 500. These are significant reductions, Sir, at all the income levels. The people of Barbados must be assured that the Government cannot afford too significant a loss of income, given that we are not committed to lessening the services that are now available to the people of this country.

Sir, we still have old people who need their houses fixed. There are more communities that need roads. Sir, we need to extend the Community Technology Programme, so that more people can have access to the Internet. All these are things that we are committed to and we will do, so we have given tax concessions, we have reduced taxes but we are not committed to reducing the levels of services that the people of this country enjoy and that they are entitled to have at present.

Sir, that is the difference between us on This Side, and the ones on the Other Side. We know that we can effect changes in the Income Tax structure but, at the end of the day, we still have to be concerned about the level of services we give the people of this country.

Sir, yes, we are reducing Income Tax but at the same time we are doing it in such a way that we would not compromise the level of services that the people of this country receive. Sir, that is fair and that is how I think this country ought to be managed. The people of this country demand that sort of responsible Government. We are going to do what we can but there are certain imperatives we must follow.

Sir, we commend these changes to this Honourable Chamber. The Government has gone a long way and every Barbadian, every taxpayer, is going to benefit now and in the future. We have made sure that the people in Barbados are given an incentive to keep their houses in good order, Sir, because the last Democratic Labour Party Government took away things like the home allowances.

6.30 p.m.

All of us who have a house know the amount of money that is needed to keep a house in good shape. Every year you have to be doing something more to it. That is a fact of life. That is why as soon as we came into power we said there must be a home allowance. We must give people the benefit of going and spending money to improve the level of their housing.

From this income year, it is going to \$6 000 and the next income year it is going to \$10 000. That means that when you spend \$10 000 either in mortgage interest or in house repairs, if you are at the 25 per cent level your tax liability would have declined significantly to 20 per cent of \$10 000 which is \$2 000 and which is the equivalent of giving you \$2 000, so instead of spending \$10 000, you will spend \$8 000 because you would receive back 20 per cent.

Sir, some people will argue that we should do more. Yes, when the economy allows us to we are going to do more but, in the final analysis, we have to make sure that we keep this economy afloat. We are not going to allow three men in a boat to wreck the ship of this state.

I thank you.

SENATOR B. R. COLLYMORE: I am now going to speak about doing more. The opportunity to increase benefits to working persons through the reduction in Income Tax is not something one can scoff at or reject as such.

As one who has attended the consultations in 2002 and being aware of the Budget promise to reform the income tax, I am sure that I cannot say anything against it as such. I think however the fact that it was picked out of other reforms of taxation and brought at this time seems more to be a tactic relating to immediate circumstances.

The reform which was advanced seems rushed in as much for instance in a day the rates change and I do not think that...

Asides.

Mr. PRESIDENT: Order, please!

SENATOR B. R. COLLYMORE: I cannot say that it was not rushed, but I, however, like to draw attention to a few serious omissions. In the Income Tax structure we now have, there is a provision for an allowance for a spouse who is not an income earner. It has been fixed at the present level of \$3 000 a year since 1995. Since 1995 real wages have increased better than 20 per cent. We have to recognise the value of those spouses, whether it is a man or woman, who make their contribution to the country and to the family although they do not earn income. It, therefore, would have been appropriate to look at this allowance at the same time, even if it meant a slight reduction in the other allowances which were brought.

This is not a joke, because the system of non-contributory pensions recognises the value of the spouse who did not earn an income in that within a family, both parties are eligible for a non-contributory pension. If there is a change in the rate of that pension, it inures to both of them. I therefore think that this aspect of the income tax system should be examined very carefully. This is something which I feel should have been dealt with on this occasion. I feel the same way about the allowance for children which has been fixed at the level of \$1 000 per child since 1993. If you are reforming direct taxation like this, I think that these are areas which should have been accounted for in some way.

Now, I will probably get to what is perhaps my greatest beef. If you are reforming taxes, why did you not reform the payment of taxes on National Insurance pensions?

Asides.

SENATOR B. R. COLLYMORE: I think you are not aware of what exists, if you say that.

When the exemption of tax was removed from National Insurance pensions in July of 1992, there was a debate in Parliament. On page 2279 of *Hansard* of that Debate, it reports the views on this measure of the present leader of Government who was then an Opposition Member and he said:

“Mr. Speaker, in many respects this is more a moral issue than a financial issue.”

He spoke against having both contributions to the National Insurance being exempt from taxation and the actual pension when they started to be paid. He did not think that was fair. He said the pension fund accumulation being tax free and then access to the resultant measure as a source of income should not both be tax free, but he did not consider that the National Insurance pension was anything to be taxed because to withdraw that provision could hardly be a loss of revenue to Government except very small and

insignificant, so that leaving the existing arrangement, that is prior to the amendment, in place will not seriously affect the revenue.

Now if that was the philosophy in 1992, the same person who has an opportunity to put that in place should not find it impossible to consider taxation on National Insurance pensions to be double taxation. Therefore, I am unrepentant in my call that this should be looked at.
6.40 p.m.

Mr. President, we are talking about pensioners who constitute 14.5 per cent of the adult population, more than the total population of Barbados, and not many of them, I would hazard a guess of 300, would fall into the rich pensioners' category, to which the Prime Minister has referred.

What I am saying is that there can be no big thing about this and to say that it would enrich the already rich pensioners, I think, misses the point. I therefore, make a plea for this to be put back on the agenda and that something be done on it as soon as the next stage of reform starts.

Sir, let me say that as a tax paying citizen, I am always very worried about dramatic changes in the tax structure. I am worried because of something which I happen to have read. I read at page 11 of the International Monetary Fund Report, paragraph 29, it says:

“The Authorities intend to implement a comprehensive tax reform over the next several years that reduces personal and corporate income tax rates and gradually shifts the budget from reliance on high income tariffs and direct taxes towards indirect taxes, mainly the VAT.”

Asides.

Mr. PRESIDENT: Senator Barker, you may rise on a point of order. Other than that, please allow the Senator on his feet to be heard.

SENATOR B. R. COLLYMORE: The other thing is that whenever tax is shifted to indirect taxation, it is a harder burden on the poor and the disadvantaged. There are no exceptions. They continue to pay taxes like everybody else. If, therefore, the intention is to shift to indirect taxes, then there is even more reason...

SENATOR T. E. BARKER: On a point of order. Mr. President, the Honourable Member is quoting from a document which is not Government policy. Therefore, the Honourable Member is giving the impression that Government is going to increase VAT and nothing is further from the truth.

Sir, the International Monetary Fund can write whatever they want but this is not an International Monetary Fund Programme. Therefore, the Honourable Member must not give the impression that this Government has committed itself to increase VAT. Nothing is further from the truth.

SENATOR B. R. COLLYMORE: I am not accusing the Government of anything. I was saying that the Report said the authorities in Barbados intend to implement a comprehensive tax reform.

SENATOR T. E. BARKER: Sir, on a point of order. I will repeat what I have said. This is the view of whomever from the International Monetary Fund but Government has stated on many times that it does not intend to increase VAT.

Mr. PRESIDENT: Senator Barker, you have made your point. Please continue Senator Collymore.

SENATOR B. R. COLLYMORE: I am saying, if the intention is to move towards indirect taxation, the case for better treatment of what I consider the disadvantaged and the poor people in the society, that even under direct taxation is made stronger because indirect taxation is more disadvantageous to the poor people in this society. I do not see how one could say this is not true.

It is important for us not to dodge these issues. It is almost destroying of one's soul to hear debates are completely involved in politicking rather than very serious business.

Asides.

SENATOR B. R. COLLYMORE: I am not trying to be political. I am drawing attention to something to which nobody has referred. In making my call for older persons to be considered in a special way, I want to draw attention to what I have said earlier that 14.5 per cent of persons are above the age of 65 who are and still giving much productivity to the country. They are doing it in different ways such as volunteers or as mentors through various activities. Therefore, there is a value which was placed on the contribution of voluntary work in Barbados in a 12-months' period that recognises it to be about 24 per cent of all the work done in Barbados.

I therefore, want to say that we must not push them aside and not think about them in our taxation policies or any policies.

One of the areas in which I think there is a serious need for early consultation is in the area of housing for older persons. If there is anyone doing community work – and many of the Members in here would now be doing

community work, one would see the housing conditions of many people. It makes us feel very badly that we have not been able to deal with this matter. When I was in the Ministry of Housing, we did surveys in various parts of St. Michael that showed some of the worst housing conditions anywhere that I have ever seen.

In 2003, most of those conditions still continue and, therefore, there are generally older people. Therefore, it is important to address this matter for such a sizeable portion of our population. As one gets older, one becomes susceptible to all kinds of health problems that one does not encounter or think about when being not so old. Therefore, the pension or whatever that comes into one's hands has to be directed towards things such as this. I think assistance in the form of tax provision and whatever else that could be done, should be given.

Mr. President, I make this plea without reservation and will make it every time I have the opportunity because I do not think it is getting through anywhere.

I want to summarise by saying that whilst I agree with the tax provisions, I think they are too limited. They should take into account categories such as the non-working spouse who makes as great or as greater a contribution as a working spouse. There should also be allowances for children, which is now at the same level as it has been since 1993. I think they should take into account, as a special arrangement, the case of pensioners, especially those where taxation is still imposed on the National Insurance contributions, as well as on the pensions – a bad case of double taxation.

I thank you, Sir.
6.50 p.m.

SENATOR J. E. D. WILLIAMS: Mr. President, I rise to give my fullest support to the amendment before us today. I want to begin by saying that tax reform must be seen to provide for the greatest good and the greatest number. I know that Senator Collymore has continued to push a case for abolishing Income Tax for National Insurance pensions but he would be aware that the \$30 000 limit would take into account those people who were getting a full National Insurance pension. This was done by the present Labour Party Administration because, despite what Senator Mascoll said today, we reduced the tax rate as we went along in a most prudent manner.

Sir, I want to say that I am reaching the age when I will be soon drawing a pension as well and I am mindful that if changes are to be made, we must address those who are worse off in the society. If we are talking about persons who will be able to draw pensions in excess of \$30 000 we will have to first begin with the old age pensioners who depend only on non-contributory pension.

Sir, I simply want to say that when the tax system is reformed, it should be in a way that it seeks to address the greatest number for the greatest good. This is a case where we are bringing an amendment that is bankable. Over the coming months we will hear from the Other Side what they would like to do and I was shaken this afternoon to hear Senator Mascoll say that in one fell swoop he will move from \$15 000 to \$20 000 and that "it will be like 1986 all over again".

SENATOR C. A. MASCOLL: Mr. President, on a point of order. The Honourable Member is misleading the Senate. The proposal to the Bill says that in the year 2005 that the tax threshold will be \$20 000. I am saying that one year earlier, in 2004 it will be \$20 000 and, therefore, I do not understand the comment that Senator Williams is making.

SENATOR J. E. D. WILLIAMS: Mr. President, I wrote down exactly what Senator Mascoll said. He said "it will be like 1986 all over again". Sir, I want to make the point that if we change the tax system, it should be sustainable at a minimum of five years and, hopefully so, for ten years.

Sir, 1986 rings hollow in the bosom of all Barbadians and if they feel that it will be like 1986 all over again, not a single person will sleep well tonight. There is one good redeeming thing because the people of Barbados will never forget for many generations to come what happened and whenever the Prime Minister calls elections, Senator Mascoll will understand that it will never be like 1986 again.

Sir, what we are seeking to address and agree to this afternoon will become law. We prudently looked at what was involved before and reformed our tax system. We started by listening to people through consultation and which the Democratic Labour Party could have attended and made a contribution in the interest of the national good, but they sought to remove themselves from these consultations.

Sir, in 1992 we saw that allowances like mortgage interest, national insurance, medical and health expenses and house repairs were removed. We said that if persons owned houses that Government would encourage those persons to maintain their house but these things were removed by the guiding hands of the IMF consultants at that time. This Administration is now seeking to reduce corporation tax rates and we are looking at providing a special tax rate for small businesses in this country because they were left with a 40 per cent tax rate by the Democratic Labour Party Administration even though Senator Mascoll did not tell us this.

I hope that the Barbados Labour Party continues, once it gets the mandate from the people, to move the tax rate to 25 per cent and at the same time address the tax rate

applicable to small businesses. Sir, we have to make sure that whatever is done will address all the groups that most need it. I want to say to Senator Collymore that I sympathise with the fact that 14 per cent of the population are pensioners. It would be an interesting statistic if he could tell me what portion of that percentage represents persons whose allowances are in excess of \$30 000 a year.

As Senator Barker said, we have to ensure that the corporation tax rate is on par with the CARICOM rate because this Government would like Barbados to be seen as the jurisdiction of choice by investors and those considerations guide us in terms of the tax rate that becomes applicable and how to make changes.

7.00 p.m.

Sir, I also want to remind Senator Mascoll that when you make changes, they must be sustainable. It is one thing to say to this Honourable Senate that we will make a change in one full swoop to \$20 000 but, at the same time, Senator Mascoll is equally aware that by the year 2005 we will be losing the revenue that we get from import duties. When you couple that with the fact that import duties are included in VAT, what we are going to collect from VAT will be reduced as well.

Sir, we will have a situation where we are losing our import duties, then any change that you are going to make to your tax system has to be one that is sustainable. We must ensure that the action taken is prudent so that we do not find ourselves in the same situation that we found ourselves in between 1991/1992.

Sir, what we have before us are home-grown prescriptions, not guided by any International Monetary Fund. These were arrived at after careful deliberation with all of the people who are the stakeholders who have an understanding of tax reform but, at the same time, not being driven and guided by the International Monetary Fund. Once we have a Government led ably, as we have had over the last nine years, by our Prime Minister, you will find that whenever we come with prescriptions, there are well thought through and never with the intention of putting this country's economy on the brink.

I know that the period we went through in 1991/1992 will never be forgotten. We have an obligation that when we begin to deal with things as important as our tax system, we do not play fast and loose with it. We have to be honest with ourselves and we have to be honest with the people. We have to make sure that the things we come up with can withstand the test of time and they must be sustainable.

Sir, I also want to remind Senator Collymore and Senator Mascoll that the application of the reverse tax credit was something which was implemented by this present Administration.

Asides.

SENATOR J. E. D. WILLIAMS: Sir, I wonder what the record will show in terms of the stance taken by the Democratic Labour Party with respect to the reverse tax credit.

Sir, I am also satisfied that once we are able to move the threshold to \$25 000, it will also be important at that time, or even before, to address the question of the reverse tax credit. If people are not earning a level of income where any adjustment is meaningful and relevant to them but the ceiling is raised, then one, ostensibly, would have to look at the level, to my mind, of the reverse tax credit.

Sir, mention was made by Senator Mascoll about the level of property taxes. This Administration, recognising over the years that the value of property would have gone up year after year, the Government sought to ensure that the rate applied was reduced to make sure that people did not have to pay exorbitantly large increases in taxes based on the fact that the value of their properties increased yearly.

This Administration has no intention of allowing property taxes to create a hardship on people and we will continue to look at it and make adjustments to ensure that people are able to continue to own their homes.

Mr. President, this is not a situation like 1991/1992 where a lot of Barbadians, because of the hardship imposed, lost their homes. It is not the intention of this Administration to allow those sorts of things to happen.

Any tax system must be socially and culturally relevant and it must treat to the needs of the working class. Sir, what this Government has come up with has sought to address the needs of those at the bottom and particularly the lower middle income groups as well as the middle income groups. When we are in a position, as we always have, to make changes, we have done so and we have shared any benefits with the country and we will continue to do that.

Sir, may I say on this occasion, that I am particularly happy to be associated with these measures before us this evening.

I am obliged to you, Sir.

SENATOR Sir JOHN STANLEY GODDARD: Mr. President, I think we can all agree that Barbadians enjoy a relatively high standard of social services, education, health, roads, *et cetera*. We can also agree that those services have to be paid for out of the tax revenue.

I think we can also agree that taxes in Barbados are high. I may even say excessively high. For that reason I support the amendment, which would increase the threshold, increase the allowances and which will reduce the tax rates over a relatively short period of time, but we will have to make a choice.

Sir, the amendment would mean a loss of revenue to Government and that loss can be made up for by one of two ways. The first would be to reduce, what I consider to be an unacceptable level of tax evasion in this island. I think that responsibility would fall to the Audit Department of the Commissioner of Inland Revenue.

Mr. President, I have been asked about this repeatedly by some younger persons, when they see homes being built and big cars being driven around by people whom they know and they cannot equate their level of remuneration with that standard of living and conspicuous consumption. That is a question that will have to be addressed.

Sir, the other question that has to be addressed is the Auditor General's Report. I believe that the tax revenue is in arrears in excess of \$300 million. I speak subject to correction and I do not think that I am wrong. This situation should never be allowed. It means that the honest taxpayers have to pay exorbitantly high levels of taxation to compensate for the taxes that are not collected because of tax evasion or taxes that are not paid and are left in arrears.

Sir, another area of concern is the inefficiency and waste within the public service. I know that we talk a lot about public sector reform and I must admit that there have been improvements. However, when the rubber hits the roof, you cannot tolerate waste and inefficiency in certain departments, poor timekeeping and the lack of supervision. 7.10 p.m.

Sir, all those have a cost to the taxpayers of this country. Those will have to be addressed. Sir, in other words, we have to not only talk about increasing levels of productivity, we have to ensure that levels of productivity are increased. Not only will the Government be losing revenue because of these amendments, as has been stated here previously, but membership in the Caribbean Single Market and Economy, the Free Trade Area of the Americas, demands of the World Trade Organisation, Government will be losing duties.

Sir, unless measures are taken to compensate for that shortfall in Government revenue, either by, let me summarise, reducing tax evasion, collecting of tax arrears in various Government revenue departments, and reduction in efficiency and waste within the public service, I do not see how the Government can avoid increasing indirect taxation.

The revenue will be lost by the reductions in direct taxation and the one that readily comes to mind is increasing the rate of VAT.

I am not suggesting, Sir, that it is inevitable. I will prefer to see the rates remain as they are and that steps are taken to adjust the other problems that they try to highlight.

With those few remarks, I support the amendments.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, I just intend to make a very short intervention because of the poor quality of my voice today. I am somewhat hamstrung but I just want to observe, Sir, that after listening to Senator Mascoll, particularly, it reminded me of that famous American personality and baseball player, Ugy Bell, who was immortalised by the phrase, and I quote.

“Deja vu all over again.”

Sir, that is what I remembered after listening to Senator Mascoll. I remember in 1976 when the Barbados Labour Party came to power, people in Barbados were paying taxes from \$96 a month and up. Sir, only below \$24 a week were tax free. Sir, we raised it to \$10 000 by 1986. Only then, Sir, to be met in 1986 by the Democratic Labour Party’s great back-raise when they talked about \$15 000, *et cetera*, and people were made to believe they were going to get a cheque for \$15 000 in their hands.

Sir, that is why I said, *déjà vu* on it. It is so reminiscent. I can hear echoes of it in my mind. I, also, like Senator Williams, even had echoes on it and these ones are even less pleasant, Sir, of what transpired post 1986, the mammoth taxation of 1991 and the great holocaust, the economic disaster that was wrought upon Barbados.

I still bear, if not only the financial, but the emotional scars from that experience. I do not want to see it repeated, not as I am maturing. Certainly not as a member of BARP, would I want to see that imposed on me again, by another Democratic Labour Party Government.

Therefore, I would have to characterise what I have been hearing from Senator Mascoll, right now, as the great give-away. Sir, 1986 was the big back-raise. Now, 2003 is the great give-away. We know what happened when they gave away in 1986 and, like I said, Barbadians have short memories, but not that short.

I, therefore, want to say that the Barbados Labour Party is the Party which really was known for genuine, durable and enduring tax relief and tax reform in Barbados, moving from \$96 a month and upwards.

Asides.

SENATOR THE HON. G. S. H. MURRAY: I also quite understood where the fruit and weed whackers came from. It came from that great give-away in St. Michael North West. Senator Mascoll was concentrating his concerns on the black businessmen that it is clear that some of his financing is from them.

Sir, I just want also to speak on where Senator Collymore is concerned about the bad housing conditions among the elderly. Of course, the Government has been so concerned which is one of the reasons why we set up the Ministry of Social Transformation, which has repaired, replaced, enhanced hundreds of elderly persons’ houses all over Barbados.

This is a central part of the Government’s Poverty Eradication Programme. Therefore, why draw it to our concern as something that we are unaware of and we have institutions. We have no longer decided to wait just on the standard traditional Welfare Department or National Assistance Board, but a special institution was created to go into the heart of the community and deal directly with those issues in a much speedier manner.

Sir, we are sensitive to the plight and a lot of those persons, but we have a ministry and departments and a clearly enunciated programme, specifically devoted to eradicating these issues, through the Poverty Eradication Programme.

I just want to make the point, Sir, that we have a history and a proud tradition in the Barbados Labour Party of dealing with tax reform, dealing with the elderly and dealing with the pensioners and we intend to maintain that standard. We will not be giving away the country at all cost.

Thank you. Sir.

SENATOR THE HON. J. X. WALCOTT: Mr. President, I want to thank all Honourable Senators who have made contributions. I have noted their comments and all I can say is that Senator Mascoll seems to be tinkering with these figures. We have proposed to raise the threshold to \$17 500 by income year 2004, but he proposes to raise it to \$20 000. We propose to decrease the marginal rate to 35 per cent in four years. He proposes to decrease it to 32 per cent over five years.

Asides.

SENATOR THE HON. J. X. WALCOTT: One good thing is certain that we seem to agree that it has to be done in a process of gradualism.

Sir, this Bill has been certified by the President as a money Bill and there is no need for us to go into Committee. I beg to move 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. J. X. WALCOTT, the Bill was read a third time and passed and cited as the Income Tax (Amendment) Act, 2003.

ADJOURNMENT

SENATOR THE HON. J. X. WALCOTT: This brings us to the end of our business for today. I want to move that this Senate be adjourned until Wednesday, 30th April, 2003 at 11.00 a.m.

The question was put to the Senate and agreed to and Mr. PRESIDENT adjourned the Senate accordingly.
7.20 p.m.

CONTENTS

MINUTES

The Senate met in the Senate Chamber, Parliament Buildings on Wednesday, April 23, 2003 at 11.00 a.m.

MOTIONS RELATING TO THE
BUSINESS OF THE SENATE

Senator the Hon. J. X. WALCOTT 1

INTRODUCTION OF BILLS

Senator the Hon. J. X. WALCOTT 1

1. Income Tax (Amendment) Bill, 2003;
2. Caribbean Court of Justice Bill, 2003;
3. Constitution (Amendment) Bill, 2003; and
4. Caribbean Community Bill, 2003.

PUBLIC BUSINESS

ORDER NO. 1 – CARIBBEAN COURT OF JUSTICE
BILL, 2003 2

Senator the Hon. J. X. Walcott, 2; Senator Sir Roy Trotman, 4; Senator Dame Patricia Symmonds, 6; Senator the Hon. Mrs. V. E. Newton, 6; Senator D. D. Marshall, 8; His Honour Senator C. L. Bolden, 11; Senator K. D. Symmonds, 13; Senator LeR. H. McClean, 16; Senator the Hon. G. S. H. Murray, 18; Senator P. C. Goddard, 19.

ORDER NO. 8 – CONSTITUTION (AMEND-
MENT) BILL, 2003 20

Senator the Hon. J. X. Walcott, 20.

ORDER NO. 9 – BILL ENTITLED AN ACT TO
MAKE PROVISION FOR MATTERS ARISING
OUT OF THE REVISED TREATY OF
CHAGUARAMAS ESTABLISHING THE
CARIBBEAN COMMUNITY INCLUDING
THE CARICOM SINGLE MARKET AND
ECONOMY 21

Senator the Hon. J. X. Walcott, 21; Senator
LeR. H. McClean, 23; Senator T. E. Barker, 30.

ORDER NO. 4 – RESOLUTION TO APPROVE
THE COMPULSORY ACQUISITION BY
THE CROWN OF THE PARCELS OF LAND
SITUATE AT WORKHALL, HOPELAND
AND MARCHFIELD IN THE PARISH OF
SAINT PHILIP 32

Senator the Hon. J. X. Walcott, 32.

ORDER NO. 5 – RESOLUTION TO APPROVE
THE COMPULSORY ACQUISITION BY
THE CROWN OF THE PARCELS OF LAND
SITUATE AT WESTON IN THE PARISH OF
SAINT JAMES 32

Senator the Hon. J. X. Walcott, 32.

ORDER NO. 10 – RESOLUTION TO APPROVE
THE VESTING IN THE NATIONAL
HOUSING CORPORATION OF THE
PARCELS OF LAND SITUATE AT UPTON,
KENT AND COVERLEY IN THE PARISH
OF CHRIST CHURCH 33

Senator the Hon. J. X. Walcott, 33.

ORDER NO. 6 – INCOME TAX (AMENDMENT)
BILL, 2003 33

Senator the Hon. J. X. Walcott, 33, 50; Senator
C. A. Mascoll, 34; Senator T. E. Barker, 42;
Senator B. R. Collymore, 45; Senator J. E. D.
Williams, 47; Senator Sir John Stanley Goddard,
49; Senator the Hon. G. S. H. Murray, 50.

SUSPENSIONS 21, 33

ADJOURNMENT 51

Senator the Hon. J. X. Walcott, 51.

SPEAKERS IN THIS ISSUE

BARKER, Senator T. E.
BOLDEN, His Honour Senator C. L.
COLLYMORE, Senator B. R.
GODDARD, Senator Sir John Stanley
GODDARD, Senator P. C.
MARSHALL, Senator D. D.
MASCOLL, Senator C. A.
McCLEAN, Senator LeR. H.
MURRAY, Senator the Hon. G. S. H.
NEWTON, Senator the Hon. Mrs. V. E.
SYMMONDS, Senator K. D.
SYMMONDS, Senator Dame Patricia
TROTMAN, Senator Sir Roy
WALCOTT, Senator the Hon. J. X.
WILLIAMS, Senator J. E. D.