
THE SENATE DEBATES

(UNOFFICIAL REPORT)

PARLIAMENT 2008 – 2013

THE SENATE

Wednesday, May 13, 2009

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, May 13, 2009 at 11.10 a.m.

PRESENT

His Honour Senator Dr. B. M. Taitt, B.A. (Hons.), M.P.A., LL.B (Hons.), D.H.L. (Hons.) (President)

Her Honour Senator K. F. Ifill, B.Sc.(Hons.), M.B.A. (Deputy President)

Senator the Hon. H. LaV. BENN, E.M.B.A. (Marketing), Minister of Agriculture and Rural Development)

Senator the Hon. A. B. WALTERS, DPSA(Oxford), M.A., (Minister of State, Prime Minister's Office)

Senator the Hon. D. W. BOYCE, M.B.A (Fin.), B.Sc. (Econ.), C.M.A., F.C.A., (Minister of State, Ministry of Finance)

Senator Mrs. V. I. SANDIFORD-GARNER, CIM, Dip.Mng. M.B.A., (Parliamentary Secretary, Ministry of Community Development and Culture)

Senator D. M. D. ALLEYNE, M.A., B.A.

Senator P. W. B. GILKES

Senator Miss P. I. INNISS, B.Sc.(Hons.)

Senator D. K. A. GRIFFITH

Senator Miss H. E. THOMPSON, LL.B.

Senator Sir Roy TROTMAN, K.A., M.A.

Senator Sir John S. GODDARD, K.A., B.Com., F.C.A., LL.D.(Hon.)(U.W.I)

Senator the Very Reverend H. E. CRICHLLOW, G.C.M., B.A. (Hons.) Duenelm

Senator Dr. F. L. CHANDLER, Ph.D, Bsc.(Hons.)

Senator R. O. MARVILLE, M.A. African Studies M.B.A., B.A.(Hons.)

Senator J. A. C. HUTSON, B.C.H., MRAC.

Prayers were led by Rev. Father Errington Massiah.

Madam Deputy PRESIDENT: This Senate is in session.

MESSAGES FROM HIS EXCELLENCY

THE GOVERNOR-GENERAL

Message No.1

HIS EXCELLENCY THE GOVERNOR-GENERAL TO THE HONOURABLE THE SENATE

His Excellency the Governor-General has The Honour to inform The Honourable Members of The Senate that, on the recommendation of the Prime Minister, after consultation with the Leader of the Opposition, under Section 3(1) of the Ombudsman Act, Cap 8A, he proposes to appoint Valton Donovan Benn, Esquire, to the Office of the Ombudsman established by Section 2 of the said Act.

His Excellency further has the honour to seek the approval of the Honourable The Senate for the proposed appointment pursuant to Section 3 (2) of the said Act.

C. Straughn Husbands

The Governor-General

Government House

Barbados

27th April, 2009.

ANNOUNCEMENTS BY HER HONOUR THE DEPUTY PRESIDENT

Madam Deputy PRESIDENT: I have three excuses this morning from the Leader of Government Business,

Senator The Honourable Maxine McClean, who is away on official business on a visit with the Prime Minister to Cuba, Senator Kerry Symmonds who was invited by His Excellency the Secretary-General of the Commonwealth to join the team of Commonwealth observers for the forthcoming elections in Malawi, which is taking place on May 12 - 26, 2009. His excuse is therefore for any Sittings of the Senate for the period May 10 - 28, 2009. I further have an excuse from Senator Velma Newton.

INTRODUCTION OF BILLS

SENATOR the Hon. H. L. BENN: Madam Deputy President, I am commanded to lay the following documents:

1. Duties, Taxes and Other Payments (Exemption) (Bacassa Developments)(Barbados Limited) Order, 2009.
2. Duties, Taxes and Other Payments (Exemption) (Foster and Ince Cruise Services Inc.) Order, 2009.
3. Value Added Tax, Order, 2009.
4. Customs (Amendment) Regulation, 2009.
5. Customs Tariff (Amendment) Order, 2009.
6. Customs Tariff (Amendment)(No.2), Order, 2009.
7. Reports on the audit of the Accounts of the Office of the Auditor General for the Financial Years 2006 to 2007, 2007 to 2008.

11.20 a.m.

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Senate A15, Sequence 03, 11.20 a.m.

8. Duties, Taxes and Other Payments (Exemption) (Coast Guard Relocation Inc.) Order, 2009.
9. Annual Report of the Barbados Vocational Training Board for the year 2005.
10. Annual Report of the Barbados Investment and Development Cooperation for the year 2008.
11. Duties, Taxes and Other Payment (Exemption) (Yankee Garments Limited) Order, 2009.
12. Annual Report and Accounts of the Barbados Agricultural Management Company Limited for the Year ended June 30, 2006.
13. Annual Report and Accounts of the Barbados Agricultural Management Company Limited for the Year ended June 30, 2007.

14. The Annual Report of the National Sports Council for the Year April 1, 2006 to March 31, 2007.

SUSPENSION OF STANDING ORDERS

SENATOR Hon. H. LaV. BENN: Madam Deputy President, I beg to move that Standing Order 45(2) be suspended for the remainder of today's Sitting.

The question was put to the Senate and agreed to.

INTRODUCTION OF BILLS

SENATOR the Hon. H. LaV. BENN: Madam Deputy President, I beg to give notice of the following:

1. The Criminal Appeal (Amendment and Miscellaneous Provisions) Bill, 2009.
2. The Money Laundering and Financing of Terrorism (Prevention and Control) (Validation of Functions) Bill, 2009.
3. The Caribbean Court of Justice (Amendment) Bill, 2009.
4. The Constitution (Amendment) Bill, 2009.

SENATOR the Hon. H. LaV. BENN: I beg to move that the above Bills be read a first time.

The question was put to the Senate and agreed to.

SENATOR the Hon. H. LaV. BENN: Madam Deputy President, I beg to give notice of a Resolution that an address be presented to His Excellency the Governor-General approving the proposed appointment of Valton Donavan Bend, Esquire to the Office of the Ombudsman.

PUBLIC BUSINESS

ORDER NO. 1 – THE CARIBBEAN COURT OF JUSTICE (AMENDMENT) – BILL, 2009

SENATOR the Hon. H. LaV. BENN: Madam Deputy President, there are two separate Bills before this Senate. One is a derivative of the other. I therefore seek the concurrence of the Senate to debate both Bills, Order No. 1 and Order No. 2 together.

The question was put to the Senate and agreed to.

Senator Hon. H. LaV. BENN: Madam Deputy President, before I get into the meat of the substance, I want to say a warm welcome to all Senators back from the Easter break, which included holidays for Heroes Day, and May Day for the workers of Barbados. I recognise that all

of our Senators look refreshed. Those who do not look refreshed look fresh, rested, watered and blessed.

I could not help but notice some of our Independent Senators looking rather prosperous. I see our Dean, Senator the Very Reverend Harold Crichlow looking as dapper as ever and, of course, our Senator Sir Roy Trotman, who never seeks to let us know how wide and varied his wardrobe is.

Madam Deputy President, I have also made a commitment over the holidays to seek when we resume, to be more constructive, and I want to give Senator Elizabeth Thompson the assurance that I intend to do my utmost to work very closely with all Senators, and that we will seek to move the business of Government forward. I look forward, therefore, to a very fruitful session between now and when the next recess should come in the Summer.

Madam DEPUTY PRESIDENT: His Honour the President will now take the Chair.

Mr. PRESIDENT: Senator Benn, you may continue.

SENATOR the Hon. H. LaV. BENN: Mr. President, the Bill seeks to amend the Caribbean Court of Justice Act, Cap.117, by adding to the Protocols set out in that Act, a further Protocol which was signed by Barbados on June 3, 2007, and which amended the Agreement establishing the Caribbean Court of Justice to provide that the Tenure of a Judge of that Court may, during a period referred to as the Evolutionary Phase of the Court, be extended in the manner set out in Article 2 of the Protocol.

The second Bill seeks to amend Section 79(g) of the Constitution to give effect to a protocol signed by Barbados on the June 3, 2007, to the Agreement establishing the Caribbean Court of Justice, that makes provision for the Tenure of the Judge of that Court during a period referred to as the Evolutionary Phase of the Court to be extended.

Mr. President, I wish to give this Senate some background to the establishment of the Caribbean Court of Justice, and I wish, from time to time, Mr. President, with your permission and approval, to refer to it as the CCJ.

The Caribbean Court of Justice (CCJ) is the regional judicial tribunal, which was established on February 14, 2001 by the Agreement Establishing the Caribbean Court of Justice. The instrument was approved by the Conference of Heads of Governments and the Agreement establishing the CCJ was approved and opened for signatures in 2001 and then turned it into force on July 23, 2002.

Senate A15, Sequence 03, 11.30 a.m.

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SENATOR the Hon. H. LaV. BENN: Barbados was one of 12 Member States that signed the agreement. The Caribbean Court of Justice was designed to be the final appellate court for Member States of CARICOM, replacing the Judicial Committee of the Privy Council of England.

The Caribbean Court of Justice was inaugurated on April 16, 2005 in Port of Spain, Trinidad. On April 8, 2005, Barbados enacted the Caribbean Court of Justice Act, 2005-2008, which encompassed the provisions of the agreement.

The Court would be responsible for creating a system of law relevant to the Region's political status as independent countries, to address issues of municipal Law or common Law, relating to the constitutions, contracts, torts, and criminal matters among others. The Court would also be the sole authority of the final settlement of disputes likely to arise from the establishment and implementation of the CARICOM Single Market and Economy. Mr. President, to my mind, this was a very positive step by the Conference of Heads of Governments of CARICOM.

Mr. President, the inauguration of this Court has its genesis from as far back as the early 1900s, when the view was expressed that the judges of the Judicial Committee of the Privy Council situate in England, were too far removed from the social realities of the colonies for the Court to be effective as a court of last resort.

In April, 1970, the Heads of Government of the Commonwealth Caribbean recommended that the establishment of a regional Court of Appeal in substitution of the Judicial Committee of the Privy Council, should be studied by a committee of Attorneys-General. The Attorneys-General also sought the review of the regional legal profession. One of the structures recommended by the Report of the West Indies community, was a Caribbean Supreme Court, which was to be accorded a dual role in Caribbean jurisprudence. Mr. President, we have determined, therefore, how the Caribbean Court of Justice came into being.

Mr. President, let us look now at the composition of the Caribbean Court of Justice. The original agreement establishing the Caribbean Court of Justice, provided for the amendment of the contracting parties. Article IV of the Agreement which deals with the tenure of the office of judges, provides for a President and not more than nine judges of the Court. The current composition of the Court is a President and six others. A judge could hold office until he obtains the age of 72.

The previous Administration of Barbados, through the former Prime Minister, was part of the decision to amend the Bill. At the 18th Intersessional Meeting of the Conference of Heads of Governments of the Caribbean

community, which was held in St. Vincent and the Grenadines from February 12 - 14, 2007, a decision was taken to extend the retirement age of judges of the Caribbean Court of Justice from 72 years to 75 years, as there was need for the relevant institutional capacity to be maintained, especially during the evolutionary stage of the Court, that is, until the Court obtains its full complement of judges.

Mr. President, I am sure that some of us who are closer to age 70 would be happy, perhaps to know that the Heads of Government in the Caribbean recognise that despite age, people still have value and knowledge and we can use their experience in an effort to take a process forward, particularly the Caribbean Court of Justice which is very new. That should also give some hope to our President that he himself is considered rather useful.

Mr. President, it is important to note that there are currently two Member States of CARICOM, Barbados and Guyana, who have signed on as members of the Caribbean Court of Justice. Guyana has already made the amendment to their Bill, and today we in Barbados, the other member of the Caribbean Court of Justice, is seeking to do the same.

To that end, a draft protocol relating to the tenure of office of judges of the Court was prepared. In order to give effect to the protocol, the Cabinet of Barbados, on February 5, 2009, approved the Caribbean Court of Justice (Amendment) Act, Cap. 117 and the Constitution of Barbados.

Thus Section 2 of the Caribbean Court of Justice is being amended by deleting the existing definition of protocols and replacing it with a new definition, which incorporates the old definition, but also includes an additional provision covering the protocol to the agreement establishing the Caribbean Court of Justice relating to the tenure of office of the judges.

In relation to the Barbados Constitution, Section 79 (g) which deals with the tenure of the office of judges of the Caribbean Court of Justice is also being amended to add two new sub-sections. Sub-section 4 provides for the extension of the age of the judges of the Court to 75, but not beyond a 7-year period as a judge. Section 5 offers a definition of the evolutionary phase of the Court for the purpose of clarity.

Section 4 of the Caribbean Court of Justice (Amendment) Bill, 2009 and Section 3 of the Constitution (Amendment) Bill, provide for the new Act to take effect from June 2007. Mr. President, it is clear that the Caribbean Court of Justice is still moving towards perfection. The original Bill allows for all judges to retire at age 72, and we are now seeking to extend that to age 75.

Mr. President, this Court is headquartered in Trinidad and Tobago. The President is a citizen of Trinidad and Tobago. It is the hope, as expressed by our Attorney-General over a week ago, that Trinidad and Tobago, indeed all other Member States of CARICOM, would become members of the Caribbean Court of Justice. This gained the support of all Members in the Lower House, and therefore, today I urge all of my colleagues to join with me as we seek to take the process forward.

Mr. President, I would wish to join with the Attorney-General of Barbados and all right-thinking persons, to encourage all CARICOM Member States to become members of the Caribbean Court of Justice.

Mr. President, you may be aware, and I am sure that you are, because very little things of importance failed to capture your attention, that the current President of the Caribbean Court of Justice was a judge of the Judicial Committee of the Privy Council of England.

Senate A15 Sequence 4

11.40 a.m.

Wednesday, May 13, 2009

SENATOR the Hon. H. LaV. BENN: Mr. President, let me repeat that, prior to his appointment, the President of the Caribbean Court of Justice was a judge of the Judicial Committee of the Privy Council of England.

Mr. President, it must be further noted that the Caribbean has produced judges of the highest quality, including the late Chief Justice, Sir William Douglas, who also served as Judge on the Judicial Committee of the Privy Council.

Sir, the Judicial Committee of the Privy Council of England, has recognised that the Caribbean Region has produced distinguished jurists of high-standing and brilliant minds. The Judicial Committee of the Privy Council has benefitted from those persons, therefore, our Heads are further seeking to affirm the confidence that was exhibited by the Judicial Committee of the Privy Council in the people of the Caribbean.

Mr. President, I must also add that I regret that nearly after 50 years of Independence by some of our CARICOM Member States, we are still hesitating and toying with the issue of whether we should have our own final appellate, rather than having to rely on our former colonial masters. As I mentioned earlier, only Barbados and Guyana have so far signed on, but it is understood that Belize is contemplating signing, as well as Dominica. Sir, we wish to see some of the bigger guns as well, Trinidad

and Tobago and Jamaica, becoming members of the Caribbean Court of Justice.

Mr. President, let me further inform you that Britain, I am told, is considering revamping their own judicial system and plans, in the near future perhaps, to dismantle the Judicial Committee of the Privy Council. If agreed by their legislators, this would see the birth of a system in Britain, which is similar to that which presently obtains in the United States of America.

Sir, we in the Caribbean should feel comfortable having our own Caribbean Court of Justice, where all matters pertaining to whatever has to come before them from the Caribbean Region could be dealt with, rather than having to be at the door-steps of our people at the Judicial Committee of the Privy Council.

Mr. President, I support the move to amend this Bill which would give legislative effect to the Protocol signed by the Heads of Government in 2007, to change the retirement age from 72 to 75. I believe perhaps that even during our stint as legislators in this Honourable Chamber, that all 12 of the Member States of CARICOM would see it fit to sign on.

Mr. President, oftentimes we have heard the comment that Barbados is always one of the earliest countries that is willing to sign treaties and other protocols, while others seek to study or to carry out further studies. It is not that Barbados likes to run helter-skelter in being part of these endeavours, but it shows the foresight and the vision of our leaders over the years, who I am sure, before signing on the dotted line, oftentimes would consult with their greater Heads.

Sir, we have a lot of very good retired persons in this country. As a matter of fact, I believe that many of them are now listening to this debate, some of whom are retired principals of schools, and retired clergymen.

Asides.

SENATOR the Hon. H. LaV. BENN: They are not always retired, but some of them use retirement to mean putting on fresh tyres, but certainly even here in this country, I would even wish that some of our seniors, who would have served their period, in circumstances where the chronological age has allowed them to retire, but in circumstances where their biological ages still say they still have quite a lot in them left for the support of this country.

Mr. President, I often wish that the educational system would find a way of bringing some of the retired principals back into a system where they could act as mentors to teachers, as well as to students. Sir, I talked

about this up to last week when I was discussing the Senior Games.

Sir, some years ago, some of us seniors, who were not good athletes when we were younger, did not get a chance to represent our schools or to grace the tracks at Kensington and in recent times, at the National Stadium. I even suggested that top athletes in my days, persons like Michael Taylor from Lodge School, Darcy Boyce from Harrison's College, Deane from Harrison's College, Gasby from Foundation, Catwell from Lodge School, Ranny Lynch from Lodge, all those good guys could be used to be part of a system.

Mr. President, I am happy that this Bill will give rise to the effect of the Protocol, to change that retirement age from 72 to 75.

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

SENATOR Miss H. E. THOMPSON: Mr. President, this is a measure and a Bill with which I am compelled, inclined and quite happy to support. Sir, I start at the point on which the Honourable Senator who presented the Bill ended, and that is the matter of the extension of the age limit.

Mr. President, it would be inconsistent with current policies and trends not to change the age limit and to allow people to serve as they get older. The reality is, as Senator Marville and I were speaking prior to the start of this Session, that age limits in the legislation were set at a time when the life span of individuals were nowhere near as long as it is today.

Secondly, not only did the people not live as long, they did not enjoy good physical and mental health well into their old age. It was not uncommon to see people dying at ages 60 and 65 on average. Today I believe that the average life span in Barbados for men is probably 79.5 or thereabout and for women probably about 80 or 81.

11.50 a.m.

Wednesday, May 13, 2009

SENATOR Miss H. E. THOMPSON: We have already, in the country, made extension to the age at which people can retire or continue to earn in the workforce. In fact, in Metropolitan countries, one also sees retirees going back to work and taking up either partial employment or employment on a different scale.

Sir, very often, they have tremendous experience to contribute to the society. In fact, in a society as small as ours, where there is a dearth of trained specialists in

particular areas, it can do the country well, if we allow those specialists to continue to contribute to social and national development, by offering their skills to the country even as they age.

Sir, to raise the age for which a judge could serve up until he retires, really means that you are allowing judges when they are matured, when they are experienced, when they are still enjoying good physical and mental health, to be able to contribute to a judicial system in Barbados and to bring the wealth of that experience, to bear on the gravamen of their decisions on matters before the Court.

Mr. President, from that perspective I am supportive of the measure.

Mr. President, I want to speak to the wider issue of the Caribbean Court of Justice. Sir, I am one of those, who has always believed that if we are serious about independence, and if we are serious about democracy, then we have to sever the last vestiges of colonialism where we allow a foreign Court to dictate to us, what the nature of our jurisprudence should be, and how we should define ourselves legally, as a people.

Mr. President, I say this with all due respect to the Law Lords of England, some of whom are very learned but, Sir, the reality is that our jurisdiction, Barbados in particular, the Caribbean Region has produced jurists of tremendous standing, who have served on international tribunals with distinction for many years.

Sir, there is absolutely no reason why we in the Region cannot ourselves populate a Court at the highest level with some of the finest legal minds, not only anywhere in this country and in the Region, but anywhere in the world. Sir, I am strongly supportive of the establishment and the functioning of this Caribbean Court of Justice.

Mr. President, in a time when we are expanding our economic space and thinking in terms of a Caribbean Single Market and Economy, we have to have a judicial platform, which could carry the economic and social structures, which we are establishing, and a Caribbean Court is the best platform for carrying the structure of a Caribbean Single Market and Economy. Sir, as that Caribbean Single Market and Economy evolves into its own economic space, the phenomenon of the Caribbean Single Market and Economy will itself need to have a body of jurisprudence.

Mr. President, what will our relationship be with the ILO? What will our relationship be with the WTO? How are we to deal with the emerging trade issues?

Sir, the Copenhagen meeting which is going to update the KYOTO Protocol takes place in December this year, and what will be the new legislative framework for energy and environmental matters emerging from that? How will they impact on the Caribbean environment and energy relationship, relative to the economy, relative to the workplace, relative to the trade and all the other matters, which must integrate and work with some degree of cohesion, within the context of the economy.

Mr. President, I think it is critical, therefore, that at this juncture of global development, at international development of our own history, that this Court should emerge to carry the Caribbean Region forward, and to develop a jurisprudence that is distinctly Caribbean at a time when it is critically needed.

Mr. President, in lauding the mechanism and the advent of the Court, Senator Benn was generous to support the leadership of the country and not a political Party, relative to this and I am going to follow his lead today but, Sir, only today and on that very narrow point.

Asides.

SENATOR Miss H. E. THOMPSON: Sir, I do not intend to make a partisan political speech today, because I think this is a matter of national importance and I am going to cast my comments in those terms. I really will not speak to partisan political issues. There is a political point I want to make, but I will not make it today.

Sir, one of Barbados' trends has been that successive Governments have been able to perceive, where previous Administrations did something right and continue it. We did this with the Caribbean Court of Justice and we did it with the Caribbean Single Market and Economy. It is to our benefit and it speaks to the leadership position that Barbados has always taken in CARICOM.

Mr. President, I have said that even as I lauded what we have done, I must deprecate what I am failing to see from our sister islands in the Caribbean. It is deeply disturbing to me that at this stage after the issue has been canvassed across the Region, after populations across the Region have discussed it, celebrated on it, come to high words and low words on occasions and it is a matter that has been discussed at every level of society. In fact, I am disappointed that some leaders cannot yet find it, to sign on to the Caribbean Court of Justice and still find themselves looking outwards for our superior Court of jurisdiction.

Mr. President, it speaks to a lack of self-confidence. It speaks, in my view, to a lack of trust of one another. It speaks to a remaining perception, a lingering perception that, that which is external, that which comes from Europe, that which comes from the United States of America is

somehow of superior quality to what we have to offer ourselves. Sir, we have, as a people, to liberate ourselves from that kind of thinking, because we cannot truly grow as a Region. The Caribbean Single Market and Economy would never become the best it could be.

We would never function as a cohesive body unless we are prepared to trust one another. Sir, unless we are prepared when the challenge comes to put aside partisan political concerns, to put aside the quarrels that we have with small island, big island, low island, high island and all those other things about which we quarrel sometimes.

Sir, we quarrel about who has this, who do not have that, why they do not have it, who Prime Minister this and who Prime Minister that, but Sir, unless we are able to put aside those concerns and accept that having come out of Independence, that this Region has given health care, educated people - Sir, in fact, it fascinates me that only this morning, I could hear on the television, the President of the most powerful nation in the world, trying to find a health care formula for a country far wealthier than the whole of the Caribbean put together, and to deal with a problem that Barbados has long solved.

Sir, we must not believe that which comes from outside is naturally better because there are things that we have in the Caribbean to offer that others could emulate, replicate and take a template of, to improve societies, which are larger and wealthier than our own.

S/A15/12:00 noon

Sequence 6

Wednesday, May 13, 2009

SENATOR Miss H. E. THOMPSON: I daresay that our jurisprudence and our justice system is one of them. That is not to say that all is perfect. There are still long delays in the Court system in some areas where one would not want them to be, while we have to keep working towards dealing with those areas of inefficiencies, or those areas of deficiency that we find.

The reality is, often where we may speak about the workings of the system, we do not criticise the quality of the system, because the quality of the judicial decisions is by and large of a very high quality and we can be proud of them.

In fact, in 1980, when I say that I was trying to remember how long it was, I am conscious of the fact that I am getting old.

Asides.

SENATOR Miss H.E. THOMPSON: Sorry, Sir, you are saying I do not look old?

Mr. PRESIDENT: I was not addressing you. You felt that I ought to have addressed you?

SENATOR Miss H. E. THOMPSON: Sir, I am tempted to make a remark so mischievous that I cannot put it into this microphone.

Asides.

SENATOR Miss H. E. THOMPSON: You will probably be wrong.

SENATOR Miss H. E. THOMPSON: In 1980, when I went into Cave Hill they taught us that the areas of appeal to the Judicial Committee of the Privy Council are very narrow, and as the cases go through the system, by the time you get to the Judicial Committee you have only, perhaps, a 10 per cent chance of success at that level, if so much.

The vast majority of cases which go before the Privy Council from our jurisdiction, were not successful, because the quality of the judgement and the quality of the exercise of the legal mind to the points before the Court were invariably so sound, that they could not be challenged at that level. That itself speaks to the quality of the legal work that was being done here and the quality of the legal decisions.

We have been developing a Caribbean jurisprudence through the University of the West Indies, through the Law schools that exist in the Caribbean. There are a number of lecturers and legal luminaries who have written work which are highly regarded in legal literature, and we have, as I said, a number of outstanding jurists. So there has been emerging a form of Caribbean jurisprudence. The truth is, that Caribbean jurisprudence cannot find its epitome unless it is in a Caribbean Court and a Caribbean Court of Justice.

Sir, it pains me, therefore, that even after all this time, there are still only two signed-on members, even all this time, and it is not a good reflection on where we are going as the Caribbean. It is not a good reflection on our efforts at unity, our efforts at trust and our efforts at working together, that other members of other Caribbean countries are not signing on and have not signed on.

In fact, it is one of the terrible ironies of life that the Seat of the Court, is in a country that has itself not signed on to the Caribbean Court of Justice. It really is one of the ironies of the whole evolution of the process, and in years to come when people look back and write the history, it is something that is going to be commented on, perhaps, not in a very positive way.

I do not know what can be done at the level of Government to renew efforts, to encourage our Caribbean brothers and sisters to sign on to the Court. Perhaps, over time, when they see that it is not afflicted with controversy, when they see that the quality of the decisions are good, when they see that the men who serve on the Court are honourable men, all of the things that we assume...

Mr. PRESIDENT: And women.

SENATOR Miss H. E. THOMPSON: I do mean men and women.

Sir, when they see the Court behaves as it is presumed that the Privy Council would behave, when they see that our Court has the quality that it is presumed that the Privy Council has, when they see that we are capable of the learning that the Privy Council demonstrates, perhaps that is what they are waiting for.

Perhaps they have adopted a “let us wait and see how it will turn out”. Sir, that is sad, because had we rallied together on this, so much more could have come in terms of the breadth of its work, the number of decisions before it, the number of areas in which it was exercising its mind and the alacrity with which a body of decisions and a body of precedents can be built, because part of the difficulty now is, the base for precedence is really extremely narrow, emerging only from two jurisdictions and from a limited number of cases.

Sir, we know that the life blood of Courts is a system of precedence. So not being able to have a full body of work within the Caribbean Court of Justice, does affect the capacity to evolve a precedence in the system for our Caribbean jurisprudence and it is of concern.

Sir, part of the reason why I supported the Caribbean Court of Justice was, it seemed to me that a Court external to ourselves had to have a certain degree of disconnection from the social and economic realities of a country. Something that takes place in Liverpool might not interest a person in Manchester, unless it has to do with football.

Equally, an activity taking place in Tottenham has no meaning for somebody in Leeds, but in a Small Island Developing States like St. Lucia, Barbados or Guyana, when there is violence in a village, when there is drive-by shooting, when one hears that a little child was raped or somebody was killed in a ZR collision, and there is an issue of negligence to be determined, it sends shock waves through a society in a way that when an incidence takes place in a large country, people at the opposite end of the country do not feel the grief the same way, because, invariably, in a small country you know somebody from the district. You feel it could happen to you. It is invariably happening on a road that you have to pass, or a ZR you

may have travelled on or your friends travel on to get home.

Incidents like that, the way that we would approach matters with that social perspective in the context of a Caribbean country, a Court in the UK cannot approach it in the same way, because they are coming from a completely different socio-economic perspective. Therefore, the level of disconnection and the decisions of the Court cannot reflect the social mores and social norms in the same way as if the Court was out of the bosom of the Caribbean.

Sir, in fact, there are some very interesting appeal cases emerging from the Caribbean, where witnesses giving evidence in the vernacular, speaking whatever was their appropriate dialect, people talking about a ‘Black belly’, “well a ‘black belly’ went up the road and so and so then lick she down”, and so, a Court reading that outside of the Caribbean will not know what a “black belly” is, and they do not have the Honourable Senator Chandler to advise them that it is a sheep and not some kind of vagabond.

12.10 p.m.

Sequence 7

Wednesday, May 13, 2009

Senate A15, Sequence 08, 12.10 p.m.

SENATOR Miss H. E. THOMPSON: I am saying this with some degree of levity, but I think this Chamber understands my meaning that when you see the vernacular in print, unless you have a cultural connection to what the speaker is saying, you can totally misapprehend and misadvise yourself and make an incorrect decision because of that cultural disconnection, so that the cultural perspective that a Caribbean Court will bring to Caribbean matters is really something I think of great import.

Perhaps the greatest area, Sir, on which the issue of the disconnection between what the will of the people in the society was, what the culture required and what the mores and norms of another society are, came in the issue of corporal and capital punishment, relative to the decision by the Courts.

I do not want to speak to the issue of whether corporal or capital punishment is correct. At some time I believe there will be a debate on these matters. The point that I want to make, however, is that invariably, there was a point over the last 10 to 20 years perhaps, when Caribbean peoples were highly supportive of both corporal and capital punishment, hanging and flogging within the judicial system. It was felt that capital punishment was an effective deterrent to crime.

Sir, I am not going to debate whether statistics prove that to be so or not. All I am saying is that Caribbean people supported the notion of hanging, but the Courts in the United Kingdom frustrated the wills of Attorneys-General, elected by the people of the Region, who were being called on to implement certain kinds of punishments within the judicial system, but because the Court was of a different cultural persuasion and followed a different value system, they prevented and frustrated the will of Caribbean people and Caribbean Attorneys-General, where the will was for hanging.

Sir, like I said, I am not speaking of whether hanging is good or bad. I am simply saying that where a Court is located outside of the seat where the decisions are to be made, there can be such a major disconnection between the desire of the Court, and the culture of the Court, and the culture of the people, that the will of the people for whom the decisions are being made, will be totally by-passed, when a different culture or different value system is imposed. Sir, I therefore would want to strongly support the Court.

I also want to make the point that I am sorry that in his address, the Honourable Senator Benn did not speak to the issue of financing. I wondered if there was, in fact, some connection between countries not signing on and financing issues. I do not recall now what the financing mechanisms are for the Court. What I do recall is that there is a plethora of Regional organisations and institutions, which are supposed to be supported by Regional Governments and very often Regional Governments do not pay.

I would hope, therefore, that a financing mechanism, as I said, I do not recall what it is, though at some stage I had to have known what it was, but I would hope that there is a fail-safe financial mechanism built in place so that the Court is not compromised, the integrity of the judges, and we have always sought across the Region to pay our judges relatively well to give them a buffer of some sort against temptations of various types.

I would hope that for the administration of justice, for all of the organisational and administrative work that needs to be done relative to the Court, there are proper financing mechanisms in place and that we are not going to end up as we have with other Regional institutions with one or two or three countries carrying the bulk of the financing and other countries giving an IOU every year and not paying fully. I am not saying that is what the case is. Clearly, there are now only two members.

I do not know what the financing mechanisms are and if the Honourable Senator can share them in reply, I think that the public would also be interested in that, so that we can have some degree of comfort.

Hence, Sir, as we move towards the enlargement of our democracy, towards the dismantling of the last vestiges of colonialism, towards the strengthening of our process of independence, I am pleased today to continue to support this Court, which from the onset, I have been happy to support, and to hope that the Government will put in place, an initiative to try to encourage other Caribbean countries to sign-on.

Sir, the longer people do not sign on, the more comfortable they will get with the status quo. You have to keep agitating and trying to move people forward, albeit gently. I hope that is what we are intending to do, because it really makes no point having a Caribbean Court of Justice with only two countries signed-on. After a point, it will become farcical. We will destroy the whole system of precedence and I would wish, therefore, that our efforts be renewed to make the Court truly Caribbean.

I am glad to be able that we are seeing the beginnings of what is a movement towards an epiphany in the development of Caribbean jurisprudence. I look forward to its full evolution and growth in time and to coming back here and supporting other measures, relative to this Court as time and circumstances allow.

In those circumstances, therefore, Sir, I support the Bill.

Asides.

Mr. PRESIDENT: Senator Marville.

SENATOR R. O. MARVILLE: Thank you, Mr. President.

I rise to support, in fact, virtually all the statements that have been made so far and, of course, to support the Bill. There are a couple of points that I would like to make, elucidating some of the issues that were raised.

I think the most crucial thing about this is the question of the change of the age limit. As Senator Thompson indicated, we had discussed the issue of the reality of age limits in the present world, with a population that is remaining healthy and getting much older. It is almost absurd to determine that people should be retired at an early age, some of us would not even be here, in fact, and then put out to pasture. Having those people back in the workforce, adds to the productivity of the nation.

We cannot say that they are taking jobs from other people, because in several cases, they could do things that other people do not now do and cannot now do, and it is absolutely important in a continuum to have the older folk communicate with younger folk, so that there is some understanding of where we came from and where we are

supposed to be going. Sir, of course, I support totally the idea of extending the working life of the judges of the Court.

With respect to the Court, I think we should look at the Court as the final or near final act of an expression of sovereignty of the people of the Region. The failure of several countries to join the appellate segment of the Court, I should explain that the Court has an original jurisdiction, as well as an appellate jurisdiction.

The original jurisdiction is, in point of fact, extremely important because it deals with the question of inter-CARICOM trade settlement issues, settlement disputes between countries, et cetera, and the establishment of this original jurisdiction also gives us the possibility of settling issues with other countries within the Court, within the Region, something we could not have done before.

On the appellate jurisdiction, there is everything to recommend the Court. Senator Benn suggested that we have had members on the Privy Council. In fact, we have had members on the Court in the Hague, which I consider considerably more important.

Senate A15, Sequence 08, 12:20 P.M.

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SENATOR R. O. MARVILLE: We have not been lacking in judicial skills and talents in any way. If there is a doubt, it is because in some ways, if I may coin a phrase that I have coined before, we are children of the shadows. We continually walk in the shadow of the colonial master without recognising what we have, and establishing it in its proper form.

The one case that went to the Judicial Committee of the Privy Council with respect to membership to the Court came from Jamaica. The Judicial Committee of the Privy Council's argument, as Professor Fiadjoe indicated, was essentially false, and it should have been contested. They were arguing as if the Judicial Committee of the Privy Council was a fundamental part of the Constitutions of the Region. In fact, there is no mention of it, it is not that.

The failure to contest that decision was the starting point in the slipping and sliding which has occurred since then. You have had member countries say, if it ain't broke, don't fix it. The Judicial Committee of the Privy Council itself is no longer the highest Court of Appeal in Britain since there is the European Court behind the system.

Mr. President, we are stuck with the absurdity of appealing to a Court, which would be - let me put it this way, if St. Vincent appealed to our High Courts, it does not

make sense. You do not appeal from one level to the same level in another system. We have lost our way.

The Caribbean Court of Justice has other advantages besides the expertise that it possesses. It was financed by a Trust operated by the Caribbean Development Bank in such a way, that Member States cannot interfere even though they have to pay. There are not very many Member States, including those who do not normally pay, who do not respect their indebtedness to the Caribbean Development Bank. This gave the Court the possibility of functioning properly without the question of somebody saying: "well, I am not paying because they are not paying", et cetera.

On top of that, there is practically no Supreme Court that I could think of which does not, because of the ways the Laws are functioning, have some outside interference. By outside I am thinking in terms of the separation of powers. I do not mean interference directly, I mean interference in the selection process.

Mr. PRESIDENT: The only reason for interrupting a Senator is because these debates are being broadcast and persons outside might not quite always understand precisely what is being said.

SENATOR R. O. MARVILLE: I did not mean interference, I meant control of the selection process. In our case, Member States do not have control of the selection process. The selection process is done essentially by the judicial bodies across the Region.

If you take the State with probably the greatest separation of the three powers, the Executive, the Legislative and the Judiciary, the United States of America, the President ultimately appoints the judges of the Supreme Court, and in that lies a tale.

In fact, if the first George Bush had not appointed a person who turned out to be a moderate, one could have had a reversal of Brown versus the Board of Education, Rowe versus Wade, et cetera. The point I am making is that we have a Court that is appointed by judicial expertise and not by political heads.

With respect to the matter of the refusal of other States, it is clear, as I said, I think, they are children of the shadows.

Mr. President, the Caribbean Court of Justice has had an opportunity even in its brief spell to make some very interesting decisions. The decision in the case of Joseph versus Boyce, and I would not go into the details, established what was called the “Law of reasonable expectation.” In other words, the Court which was relatively new, has already blazed a trail in establishing certain benchmarks of the Law.

Interestingly, on the matter of the original jurisdiction, all of the Member States, I think with the exception of Haiti, are very keen. Surinam was one of the first signatories on the matter of the original jurisdiction, because everybody has to have some access to a Court that ultimately deals with the matter of disputes between Member States.

Asides.

SENATOR R. O. MARVILLE: I am asked to explain original jurisdiction. Fundamentally, we are talking about original jurisdiction, meaning the right to deal with cases right from the beginning. In this sense, the Caribbean Court serves as it were, as an ordinary Regional Court as well as a Court of ultimate appeal. In its original jurisdiction, it is for settling disputes among CARICOM States and for the interpretation of the Treaty of Chaguaramas, as has been revised, and the CARICOM Single Market and Economy, or whatever else you want to call it.

Mr. President, even Surinam which has a completely different legal system, was very keen to be in on the original jurisdiction. There is a certain understanding that the Caribbean Court of Justice is not just any other thing but a Court of excellence. The reluctance to join it has been remarkable, because most of the countries refusing to join, have made their contributions and continue to do so through the Trust Fund.

It is really sitting back having access to a service which is essentially cheaper than the Judicial Committee of the Privy Council, where you have to pay your Lawyer. In most cases, since the appeals are against Government decisions, Government is responsible for the cost and the Lawyers may be in Britain for two to three months, so all the fees required, apart from the legal fees, hotels, et cetera, have to be met. The Caribbean Court of Justice not only sits in Trinidad and Tobago, but will, on occasion, and very often, move to the country if there is a specific dispute in the country.

We have a Court that is genuinely ours. Mr. President, I would like to make an appeal now to all members who are not members of the Court, either to stop making a political football of it, or to come to their senses and recognise the importance of our own sovereignty.

I thank you, Mr. President.

SENATOR Dr. F. L. CHANDLER: Mr. President, I support the amendments to Section 79 (g) of the Constitution and the Caribbean Court of Justice Act, Cap. 117, to accommodate the extension of the age limit for the President and the Judges of the Caribbean Court of Justice to age 75.

In fact, Mr. President, I do not think there should be an age limit at all. As long as persons are in full control of their mental faculties, I do not think that age should discriminate against the use of all the wisdom and the great experience and knowledge of persons of an older age.

Mr. President, like other Honourable Senators, I find it a cause for concern, that after the Member States signed the Agreement in 2001, and the Caribbean Court of Justice was launched in 2005, we are now in 2009, that only two members, including Barbados, have become members of the Caribbean Court of Justice. In fact, it would seem as if the Caribbean has made its own case against us having our own Caribbean Court of Justice, if they are not intending to support it or to have confidence in it.

As Senator Benn noted, and I agree, it seems like Barbados is always in the forefront of all of these agreements. We are out there committed to carrying out all of these agreements and conforming, to all of the Regional agreements and then the other States are very tardy in coming forward.

Senate A15 Sequence 9

12.30 p.m.

Wednesday, May 13, 2009

SENATOR Dr. F. L. CHANDLER: Mr. President, I visited the Caribbean Court of Justice website and I note it said there are 11 judges. I assume there is the President, along with 10 other judges on the Caribbean Court of Justice, but this Bill notes there is the President and nine other judges, which makes it 10. I think this discrepancy should be looked at because if that is the Caribbean Court of Justice's own website, I think it should say the same thing as this Act.

Mr. President, I also noted with interest where it was said, that America's reason for being against using the Judicial Committee of the Privy Council, was that they were too far-removed to do a good job, yet we have a British and a Dutch judge on the Caribbean Court of Justice. Sir, I was hoping, like Senator Thompson said, that they would be fully acquainted with the “black belly” issue, that they would be given some training.

Mr. PRESIDENT: Would you be willing to help the President to understand what is the “black belly” issue?

SENATOR Dr. F. L. CHANDLER: Yes, of course, I would ask Senator Benn to assist me.

Mr. PRESIDENT: I assume that Senator Thompson was not talking about sheep.

Asides.

SENATOR Dr. F. L. CHANDLER: Mr. President, with regard to the funding of the Caribbean Court of Justice, I note that it was noted on the website that in the initial stages, a Trust Fund of US\$100 million was set up and administered by the Caribbean Development Bank, and the income generated from this would take care of the financial part of it, the recurrent expenditure.

Sir, I was wondering how long this initial period was for, because it definitely said in the initial stages, and so I was wondering what would be the financial arrangements after this. I was also wondering if the two member countries would have to bear the whole brunt of everything.

Mr. President, as I said before, I support these amendments and definitely I do not think that age should be a deterrent in any of these matters.

I thank you.

Mr. PRESIDENT: Senator Walters.

SENATOR the Hon. A. B. WALTERS: Mr. President, I rise to lend support to this Bill. Sir, I am pleased to be able to make this short intervention in supporting the amendments to the Caribbean Court of Justice Act, Cap. 117 and Section 79(G) of the Constitution.

Mr. President, the Government is required to add further to the Protocol set out in the Act, which was signed by Barbados on June 3, 2007, by the then Right Honourable Prime Minister, Mr. Owen Arthur, at the 18th Intersessional Meeting of the Conference of Heads of Government, held in St. Vincent on February 12 to 14, 2007.

Mr. President, the only point I would wish to make on that, and I hope it would not be taken as a political point, is that we should have processed this amendment during the course of 2007. It is cutting it a bit too thin in relation to what has to happen with either one or more of the judges. At that meeting, the decision was taken to extend the retirement age of the President and Judges from age 72 to age 75, since there was the need to maintain institutional capacity of the Court in its evolutionary stage,

that is, until the Court attained the full complement of judges, one President and nine Judges. The current complement of the Court is the President and seven Judges, so that we are required to make two appointments to the Court, to fully establish that Court.

Mr. President, the question which needs to be put is simply, do we need a Court of final jurisdiction in the Caribbean? Sir, the answer is yes. Sir, having attained Independence in 1966, Barbados still maintains its association with the Judicial Committee of the House of Lords, until some time in April, 2005, when it enacted the Caribbean Court of Justice Act, 2005/8.

However, there are still outstanding issues with this arrangement, since all of the necessary revisions and revocations to the relevant Acts of Parliament have not yet been completed. There are a number of outstanding matters which have to be dealt with.

Mr. President, the point must be made that this matter should have been dealt with in 2007, even in the dying hours of Parliament on December 16, 2007.

Sir, I wish to spend some time on the cultural context of law and justice in the Caribbean. In the area of Law in which I have some interest over the last 25 years, the area of Employment Law, Family Law, and Social Welfare Law, in our own employment Law and industrial relations practice, the affected working class has not yet accepted that the judicial system is where justice can be obtained.

The Trade Union Movement and the working class continue to depend on customer practice and they have studiously avoided the judicial system, except when it is absolutely necessary on the basis that class prejudice exists in the composition of the Court.

The latest judgment coming out of the Caribbean Court of Justice in the matter of pensions and access by Barbadian public servants to pension benefits, takes into account the peculiar circumstances of our own Public Service Regulations.

The matter of the introduction of employment tribunals into our system of dispute resolution, for the broad mass of employees and in Barbados, who depend on a singular statutory provision in the Severance Payment Act, which speaks to wrongful dismissal, is likely to change in the future with the introduction of the Employment Rights legislation. I suspect that some of those matters would be taken to the Caribbean Court of Justice.

Mr. President, the draft Employment Rights Bill seeks to move to a culturally sensitive statutory base...

Mr. PRESIDENT: Honourable Senator, I am sorry I have to interrupt you, but I have to draw to your attention that the Rules do not permit us to anticipate legislation, and what you set out to do when you talk about a draft Bill could be nothing short of anticipation in the context of the Rules. I do not like interrupting you, but I ask you to help me.

SENATOR the Hon. A. B. WALTERS: Mr. President, I will take your advice.

Mr. President, I will move away from that to a similar discussion which I would have had previously. Sir, I am grateful to Senator Marville, who succeeded me in teaching a class called "Law: Governance in the Caribbean Society", at the University of the West Indies.

12.40 p.m.

Wednesday, May 13, 2009

SENATOR the Hon. A. B. WALTERS: Sir, I remember the discussion on profession in the classroom and in the public domain that the Caribbean Court of Justice would have been seen as a hanging Court. Sir, a lot of that discussion was centred around the Pratt v. Morgan ruling out of the Judicial Committee of the House of Lords, which appeared to be moving away from the ultimate capital punishment in the Caribbean.

This is where an appreciation of the cultural dimension of the dispense of justice, between a changing liberal culture in the United Kingdom and the culture in the United Kingdom has been liberalised by the cultural diversity, which that country has experienced and the more conservative Caribbean culture coming into conflict.

The Law Lords made up of a conservative, middle-class and upper-class regime would, on many occasions, not be able to understand the social and cultural dimension of a Caribbean of which they are far removed. Sir, I think both Senator Marville and Senator Thompson would have made that point.

Mr. President, within the Caribbean Region, the political philosophy dictated that the new Caribbean jurisprudence be inserted into our judicial system, since some of our jurists have sat on the Judicial Committee of the House of Lords, including two of our more outstanding jurists, the late Sir Williams Douglas, former Chief Justice of Barbados and Justice Michael De La Bastiste of Trinidad & Tobago and the current President of the Caribbean Court of Justice.

Mr. President, this Amendment seeks to extend the term of the President and Judges of the Caribbean Court of Justice where there are no other limitations through

increasing the age limit from 72 years to age 75. However, in some other jurisdictions around the world, there are no age restrictions and we may, at some point in this Parliament, be asked to review and revise this age limitation on judges.

Mr. President, in concluding my presentation in support of this Amendment to the Bill, I would implore other Caribbean States to buy into participating in the Court. I make this point as only one other Caribbean country, the Republic of Guyana, has signed on to this jurisdiction.

Mr. President, I support the Amendment to the Bill. Sir, I am obliged to you.

Mr. PRESIDENT: Senator Trotman.

SENATOR Sir Roy TROTMAN: Mr. President, believe me when I tell you that I had no intention of taking part in this discussion, because I thought that when once we had heard from Senator Benn and Senator Thompson, that we would wrap up the discussion, but I have now been provoked by the previous speaker into making some comments, which are in support of the Bill before us but, at the same time, in support of the reputation of the Trade Union Movement, an institution in which I have more than a passing interest.

Mr. President, I do, however, at the outset, wish to say that before I respond to what I consider to be some calumny heaped in the direction of the Labour Movement that I would wish, preliminary, to deal with the matter of the extension of the age of serving officers. I support the view of some speakers, though perhaps not for the reasons they have given, that say that one does not suddenly lose capacity to contribute simply on the basis of one's chronological age. After all, Mr. President, both you and I would know that if that were so, we would both be robbed of the opportunity to help our country, which we love so much.

Asides.

Mr. PRESIDENT: I do not think the Senate could disagree with you.

SENATOR Sir Roy TROTMAN: Thank you very much, Mr. President. Sir, I think it is only proper that we should be able to accept and recognise that this piece of legislation is coming. It is little late, as has been said, but it is coming and I am happy to see that everybody on All Sides would support it. I think we need as well, to recognise that home drums have to beat as well, when we talk about what we are doing outside our own shores.

Mr. President, although for the sake of this debate, we should call the Caribbean Court of Justice part of home drums, I believe that the Barbados environment is a similar home drum and that we should not limit this particular effort to the Region as a whole, and we should have to come back to Barbados.

Mr. President, I would, therefore, like to believe that the Government, before too long, would come back to us to correct those areas where there are similar anomalous situations obtaining on our very shores in Barbados.

Mr. President, I go on to make the point somewhat along the lines, having been made by Senator Chandler and Senator Thompson. We must not only look at the physical capacity of people, because people might be challenged and have disabilities in some areas, which disabilities do not prevent those individuals from contributing at the full level of their mental capacity.

I think, at the end of the day, in some of these areas, it is our capacity when we are physically not as strong, that our intellectual strength seems to shine through much more than it otherwise would have been. Sir, I see Senator Millington looking at me and shaking his head in affirmation as though he has already passed that threshold.

Mr. President, having said all of that, I wish to make the point that the concerns which we have for our colleagues in the Caribbean and that the legal persons have for those leaders, who having contributed to the Caribbean Court of Justice and to the Trust Fund that have ensured its existence at least for the medium-term, that kind of concern is reflected wherever we deal, as Senator Walters was saying, with cultural and social issues and, indeed, in cultural issues as well.

It seems to be almost axiomatic that if it is local or if it is Regional, then it is second-class to something outside of the Region. Sir, I think to a great extent we are going to have to make the effort and make much more greatly than currently we do, to shift that kind of thinking.

We have several areas where thought is entered into and where debates are held involving Caribbean contributors where our own Caribbean people either do not take the time out to have representation in those decision-making forums, or when they do have representatives go to those forums, we find, very often, that there is not enough effort made by our Regional participants, to influence the decision-making process.

12.50 p.m.

Sequence 11

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SENATOR Sir Roy TROTMAN: Therefore the people at home who spend their tax dollars in sending these delegations, do not manage to get the full effect of their tax dollars by having our small Region group together and take a Regional position, or where they are absent, take a national position that would put our Small Island Economies or our Regional economies, and societies in a position where we are able to influence world decision-making processes, or world opinion as a whole.

Most of the Senators who have spoken today, have made reference to the significant level of intellect which is demonstrated around the world by your Barbadian and Caribbean intellectual input. Yet, we very often miss out on the opportunity to influence the text of those documents which control what is happening around us.

Sir, very often when we go overseas, those people whom we look to for guidance, are the ones who look to us for opinion when discussions are being held. What we have to do is to stop being passive recipients of the opinions of others and become much more assertive in ensuring that the Caribbean point of view takes the position of prestige, priority and eminence, that it ought to be taking in this world now and towards the future.

Sir, I see almost yearly, debates on what should constitute the standards through which people ought to live, ought to engage in employment relationships, ought to establish for housing for the environment, for trade issues, like a fair globalisation, that we should have.

All too frequently I hear a silence that is thunderous coming from our peoples in the Region. The result is, people who do not have our knowledge of the black belly sheep, or of any other local or Regional experiences, all too often those people make decisions and interpret for us in our own experiences.

I have no doubt that is the grandfather of the problem that we are now dealing with, where we have only two Governments which have gone the distance of giving the kind of respect to their own institution, when there are people from outside of our Region who respect the institution enough, to come and be willing to serve in it. It is a contradiction in terms that we all have to be able to call it by the spade that it is.

Sir, I think that what this debate needs to do is to give us an opportunity and a new energy in approaching our brothers and sisters in those sessions, which are being held around the Region, to be able to urge the necessity and the alacrity which are required for us to move from talking about our Regional independence and our Regional sovereignty, and to start acting out that Regional sovereignty and that Regional independence, which are required to take Barbados and the Caribbean to the next

level of progress, the next level of economic, social, spiritual and cultural growth that are required, if we are going to be able to use those growth levels to take us where we need to go.

So as far as those issues are concerned, the time is particularly right for this current Administration to go out on a pioneering job, to convert the rest of the Region and remind them that if they do not get converted positively, then they will be converted negatively, because if the British Government is going to disband the Privy Council, anyhow, by whatever name Senator Thompson, it is better that they jump than they get pushed. At least you can control the jump.

Asides.

SENATOR Sir Roy TROTMAN: Sir, we will not jump to any conclusions, but we do have to jump to answer some issues which have been raised regarding the situation of how one deals with issues of Law, since they have been raised before there is fair game for response.

Senator Walters indicated that the Trade Union Movement prefers custom and practice to allowing for an arrangement, where somebody will determine the future, well-being and health of the Labour Movement, especially where there are issues to be resolved.

Sir, I think that the Honourable Senator knows quite well, that people respond to their environment and their experiences. I like to say that I also respond to wisdom when I hear it, that is why when I heard the wisdom from the late Right Excellent Errol Barrow that I responded positively, where he said that "the Law is an ass". I am sure that in that context you will permit me to use that language.

I do not think that he meant that Lawyers do not have sense. I do not think he means that.

Asides.

SENATOR Sir Roy TROTMAN: I think what he meant and what I interpret him to mean is that sometimes the machinations and the mind are like the peace of God. They surpass all human understanding. That being so, I think the Trade Union Movement has to be careful to keep its foot on the ground.

I am not inclined to take the comments of Senator Walters to say that we should go down a road where our experience has taught us that the Law takes a different position to the human suffering, especially of the poor, than the Trade Union Movement does, and that we should then allow the Law Lords, wherever they come from and whichever country they preside in, but which are described by Senator Walters to be middle-class and upper middle-

class, to bring their upper middle-class interpretation of the sufferings of poor people by going the route of tribunals, when in fact, the trade unions' only strength is in the solidarity of its membership and the power of its members. That will not be surrendered to anybody for anything.

I would like to say that though we do not want to anticipate any legislation, the Senator will understand very clearly that trade unions, like any other institution that has interest, will have always to examine their interest against any threats that there may be from foe or friend. That is all I need to say on this issue.

Mr. PRESIDENT: Senator Inniss.

SENATOR Miss P. I. INNISS: Mr. President, I want to make, what I hope is a brief contribution in support of the Constitution (Amendment) Bill, 2009 and to the Caribbean Court of Justice (Amendment) Bill, 2009. The Constitution (Amendment) Bill seeks to amend Section 79 (g) to give that legislative effect to the protocol to the agreement establishing the Caribbean Court of Justice that makes provision for the extension of the tenure of judges during the period which has now been termed the evolutionary phase of the Court.

1.00 p.m.

Sequence 12

Wednesday, May 13, 2009

Senate A15, Sequence 13, 12.50 p.m.

SENATOR Mrs. P. I. INNISS: Sir, I support any measure which seeks to make the CCJ more applicable and relevant to our present issues and challenges. I think that has been borne out in the Other Place. Any attempt to make the CCJ, or for that matter any judiciary, more in tune with the present realities, must be encouraged. It is on that understanding that I support this Bill.

I would even go further, Mr. President, to suggest that to fight such, is to fight what I think would be a social change shame, if our judicial system is allowed to grow to irrelevance and to have probably as a primary goal, more the concept of optimum self-regulation than being a system which, in its effectiveness, seeks to have a greater positive influence on a society. In essence, a resolution, any attempt by a judicial system which in its meanderings seeks to hone in the pulse of a society, must be welcomed.

The point has been made in the Other Place that if any judicial system is to fight positive evolution, without constantly scrutinising the woes of that society in which it operates, it becomes irrelevant. Furthermore, if in that scrutiny it then does not use its wits to strike at the heart of

issues and the problems of the society, Sir, it is not functioning in a manner which can be most effective for a society, and therefore, in its rulings, and its judgement, demands better for our society. These are important changes and evolutions, which must occur within any relevant judicial system.

Mr. President, I believe that this has been spoken of, and this is one of the issues that has entertained the thoughts of persons in the Other Place and here, that we may have an appellate Court in London and the question is, how can it be most effective in a society, if it does not have a pulse on the heartbeat of that society?

This is indeed one of the cries that is being made in favour of a Caribbean Court of Justice. Sir, it has been said here so well by many Senators. The reality is that the CCJ has been shown in its membership to be a competent Court of final appeal, comparable, of course, with the London Privy Council.

Mr. President, in looking at the whole issue of the relevance of our judicial system, and in identifying, as has been said in the Other Place, the problems of crime and the problems which the system has to deal with, it had been indicated that poverty, drugs and, in essence, the anger of our young people that these issues are the pivotal points for the increase in crime in our society. So then, how can the judicial system play a positive part in addressing the issues of crime?

Mr. President, I was listening to the television, I think on Saturday or Sunday to a very interesting programme, where we had one of our learned judges making a presentation, educating very well on the Law. What happened during that television programme is that a young lady called in on a matter dealing with child support and in her very short intercourse, she said that the whole matter within the present system was horrific. This is the term that she used, and the learned judge said she was not aware. She did not know.

I was a little disturbed. Well said, this may be an area, as we often talk about the issue of problems dealing with child support, and the number of problems associated with it may not be directly influenced by the judicial system. It may be an administrative system, but it is a societal reality. It is a problem within the societal and for those persons sitting in our Courts not having an understanding of such, is in essence, having persons not in tune with the pulse of the society. Therefore, Mr. President, the reality is that we have changing cultural norms.

I remember, may be some two years ago being surprised when I went into small districts and realised that now, what is a norm is the smoking of marijuana. It is now a cultural norm. It was not so 10 years ago, but this impacts

on our judicial system. You have cases where young men and women now, walk with a marijuana stick in their hands. They no longer hide such, and this is a reality.

Sir, even more so, some two years ago I was shocked when I went into a Constituency, I am no longer shocked by it, but I was surprised then, and I sat in a corner. It was near 3:00 o'clock and I saw a group of little children coming home from school. They dashed into their homes, maybe changed, whatever, and in my time when you came home, you looked for something to eat and you watched Sesame Street. Their social norm now in a lot of areas, they run outside into the area in which a number of children congregate in those areas where there is the smoking of marijuana, and the constant presence of wrongdoing. This is a reality.

I would go into many areas and I would tell the guys to stop that marijuana and they say: "yes Mam, yes man, respect due". But they are there. It may seem distant, but my point is that the Lawmakers, Mr. President, can also have a role in injecting alternatives into our society, and into any society, into keeping a pulse in the society. They can make their rulings more relevant, have a stronger effect on changing the tides and to, in essence, deal with the matter of crime.

We have students in Barbados who, especially around this time of the year, must advocate towards using marijuana, because as they say, it makes them more aware and makes them more calm, and this is a reality.

Sir, a young lady only two, three weeks ago, attempted to explain to me the benefits of taking marijuana, even at this day and age where it does have its benefits but she does not see that it over-rides the positive influences that she has in her, and this is going into the judicial system. This is what we have to deal with, Sir.

Mr. President, this increase in crime is being filtered into a system when they are caught, when they have to be sentenced and even as we see, Mr. President, when we look at crime reports in Barbados, the precedence of the use of cannabis is increasing. It has increased constantly year after year. Therefore, we have a case, Mr. President, where a judicial system can operate but for it to be most effective, it must understand the cultural norms. It must reflect the realities, and therefore, impose sentences and fines that best address such.

It is, I think, a very good idea, may be for our Courts in imposing sentences for marijuana, could possibly also impose sentences to counselling for marijuana users. It is a possibility, and it can be looked at, Sir. Even if we look at the way the Juvenile Court is presently operating, Mr. President, counselling is being offered to the child, but to

the best of my understanding, counselling is not offered to the entire family. It would be very important.

Senate A15, Sequence 12, 1.10 p.m.

Wednesday, May 13, 2009

SENATOR Miss P. I. INNISS: Mr. President, could you please help me because I am being distracted so that I cannot even seem to make my point.

Mr. President, if our justice system, in the case of ordering counselling for a child, can have a system where the counselling is mandatory for the entire family, this would reflect a change in a judicial system, which has an understanding of the big reality, because it has often been said the problem with crime in Barbados is directly related to the breakdown of the family.

We have children who are sent home from school because of anger issues. I heard in the Other Place, even up to yesterday, about that whole issue of the behaviour of children within the schools and the pros and cons toward flogging. Whether it is wrong or right, I am not into that point, but into the injection of alternatives, which can help.

Mr. President, if a child is sent home in this country for 10 days for anger issues, whether or not we can use the whip, what intervention for that 10-day period can our judicial system impose, when the child is sent home? Do you send home a child for 10 days and then send the child back to school?

SENATOR Miss H. E. THOMPSON: On a point of order. Mr. President, I am loathed to interrupt the Honourable Senator, but I do believe that the Rules require that the discussion has to be relevant. We are talking about the Caribbean Court of Justice after all.

The Senator has gone into a parochial discussion about alternative measures in the local judicial system and is not discussing what is before the Chamber. Save us please, Sir. I am not suggesting that is of no value, but it is of no value to what is being debated. It is not connecting at all. It is not relevant and therefore, it is a breach of the Rules.

Mr. PRESIDENT: So that you would understand and not become agitated about the President's failure to rule as perceived in your intervention, I understand the Honourable Senator to be speaking to the issue of jurisprudence. All other Honourable Senators were allowed to speak on jurisprudence. I think that what she is doing is demonstrating the issue which she has raised. That is my understanding. It is my understanding that there is a jurisdiction problem. The Caribbean Court of Justice is the

final Court and she is discussing what is missing. Senator, you may continue.

SENATOR Miss P. I. INNISS: Thank you, Mr. President. I am very saddened if the person who perceives that their eloquence outstrips others does not understand the relevance. Sir, the relevance of this entire discourse, as it relates to making amendments and making any Court more applicable to a society must bear, to my mind, primary importance.

Mr. President, when we may talk, well-intentioned and very well-structured, about the importance of the Caribbean Court of Justice, about the need to delink and about many other issues, one of the most important aspects of any criminal structure must be the manner in which it affects the society, and the manner in which it improves the lives of the persons involved, so the relevance to me is very clear.

Sir, we have situations even within our school context. I cannot see how in any concept this is not relevant, because these are our young people who are indeed going the way of crime. This has to be relevant if we are talking about justice in a society, if we are talking about being proactive and not reactive, and where we are talking about a justice system which helps to save our young people and helps to improve the levels and standards of our society, rather than just dealing with people at the level when they come to a Court.

I am saying that our system, like any other system, in making amendments like this one here today, is doing so and can do so to help better our society by making Laws and changing Laws so that our people are more affected by them and their standard of living is improved, so the issue of decadence is most strongly addressed. Mr. President, that is my area of contention.

Mr. President, if our children have problems in school, you would know the situation. They are sent to the Edna Nicholls School. They may go there once, twice or three times. They operate on anger management and behavioural modification, but there are, to my mind, I would be happy for someone to say otherwise, no other legislative or judicial attempts, no mandatory structures, to assist them.

Sir, I am going to be wrapping up soon because I am sensing a sense of disturbance within the Chamber but I noticed that I have your full attention.

Mr. PRESIDENT: The Chair has no disproportionate difficulties.

SENATOR Miss P. I. INNISS: Thank you so much. Sir, some may see this as irrelevant, but in my case, it is

not. There are instances where on a daily basis a child is sent home for 10 days, because of anger issues. The school may ask for the parents to come, but the parents say they are not going anywhere there. In these situations, can our judicial system impose certain structures to help in those situations?

We have a number of counselling structures in Barbados, this is not really related to our justice system, which attempts to help, and this must be applauded.

I heard of a case, even today, where a young boy who is dealing with anger issues and is being counselled in Barbados got on to a bus, this is probably less than a week ago, and was harassed by another young gentleman. Mr. President, prior to counselling, his recourse would have been to strike at the boy and this would have been another case within our Magistrates' Courts.

Sir, because of counselling, his recourse was to get off that bus and catch another bus. He was very glad that there is now free bus fares, because that would have not been an alternative that could be injected. Sir, the counselling that he is receiving, along with changing social norms, prevented him from fighting where he could have shot the other boy. This is relevant, and could have caused another case, but he chose to get off the bus and catch another bus.

Mr. President, all of these attempts to inject a better way of thinking into our society must be applauded. If the Caribbean Court of Justice, but our judicial system on the whole, is making amendments in an attempt to feel more the pulses of a society to effect change and improvements and a reduction in crime, then they are most relevant and are to be applauded.

Mr. President, I will support any matter before this Senate Chamber that attempts to do such and to make our lifestyles that much more improved.

I thank you, Mr. President.

Senate A15 Sequence 14

1.20 p.m.

Wednesday, May 13, 2009

Mr. PRESIDENT: Are there any other Honourable Senators who wish to speak? Senator Crichlow.

SENATOR the Very Reverend H. E. CRICHLAW: Mr. President, I rise to support the Bills before this Honourable House and to support the points made by most Honourable Senators.

Sir, I would like to warn Honourable Senators that we could discuss the affairs of Barbados in this Honourable Chamber, but that we have to be careful how we assume that other Chambers or Assemblies in the Caribbean are failing to treat matters as seriously as we are doing.

Mr. President, I think the Caribbean Court of Justice has been established on very sound grounds. It is a Regional jurisdiction. It is to settle matters created by problems to do with trade, regarding the Revised Treaty of Chaguaramas and what follows. It is also a final Court for the Caribbean, to those who want it.

Mr. President, in as much as most of the Caribbean Region has given birth to this Court, I am confident that the other Legislatures in the Caribbean would, at some time in the future, come around to signing on.

Sir, I think we have to be careful not to think that the other Legislatures are dragging their feet, that they do not know what they are doing, or that they are against the whole concept.

In the Caribbean, we tend to talk for a long time, then after 20 or 30 years, we make decisions. Therefore, I am just asking that we would be patient with the other Member Countries of CARICOM. Barbados and Guyana have already signed on and I am very confident that the other Caribbean States will eventually sign on.

It takes a lot of time to form associations of the kind we are in now. The first Federation failed because it was imposed and we have gone the way of individual Caribbean territories coming together and forming their own association. Sir, I think we are making progress although, in some areas, this progress is very slow.

Mr. President, in the matter of the Caribbean Court of Justice, I think we have the talent and the intention to settle our own affairs. I think it is just a matter of time before we achieve this. I do not see why we should hurry it along, when the other countries feel that they have reached the stage where they could accept the Caribbean Court of Justice as their final appellate Court. I am sure they would join. Sir, I think we should be patient.

Mr. President, I thank you.

SENATOR the Hon. H. LaV. BENN: Mr. President, I want to take this opportunity to thank all Honourable Senators who rose to support the Bill. I can indicate that we had a good educational session from all who spoke, including Senator Thompson in her support for the Caribbean Court of Justice.

Senator Thompson urged the need for this judicious platform which we are building to be the foundation for the

structures which CARICOM will be putting in place now, and in the future. The Honourable Senator spoke about the platforms for the Caribbean environmental and energy policies, the platforms for global development.

The Honourable Senator also shares our concern about the lack of commitment by some of the leaders who have not seen it fit to look inward. The Honourable Senator sees this as a lack of confidence within ourselves as a Region. Senator Thompson also said that we need to be able to trust each other within the wider CARICOM, and I do share that view.

Mr. President, I am urging that these words do not fall on deaf ears. Senator Thompson indicated that a Court which is external to itself would seem to have what is called a social economic dislocation to what is happening within the CARICOM Region.

Mr. President, we got some confirmation about the financing of the Court. It is to be funded through the Caribbean Commercial Bank. I want to thank Senators Marville and Chandler for their support.

Senator Chandler, I believe like everything else, we would want to put an upper limit on the age. Senator Chandler felt that perhaps in the United States of America there are people in the Legislature there who are probably age 90, but we have to respect the views of the Heads and perhaps at some time to come, they would come back and have it further amended.

Mr. President, I am following the instructions I have seen here. I have not visited the website which indicates there is room for a President and 11 others, but in this legislation, I see there is room for a President and 9 Judges.

Asides.

SENATOR the Hon. H. LaV. BENN: I want to thank all Honourable Senators for their contributions and to say that we will take Senator Crichlow's advice on board.

Mr. President, with those few words, I beg to move that the Bill be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR the Hon. H. LaV. BENN, the Senate resolved itself into Committee on the Bill. Madam DEPUTY PRESIDENT in the Chair.

Madam DEPUTY PRESIDENT: This Senate is now in Committee.

Clauses 1 - 4, inclusive, were called and passed.

The Schedule became the Schedule to the Bill.

On the motion of SENATOR the Hon. H. LaV. BENN, Madam DEPUTY PRESIDENT reported to His HONOUR the PRESIDENT, the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

1.32 p.m.

Wednesday, May 13, 2009

On the separate motions of SENATOR the Hon. Miss M. P.O. McCLEAN, the Bill was read a third time and passed and cited as the Caribbean Court of Justice (Amendment) Act, 2009.

ORDER NO. 2 – CONSTITUTION (AMENDMENT) BILL,
2009

Hon. H. LaV. BENN: Mr. President, as indicated earlier, two Bills were debated as one.

Therefore, I beg to move that the Bill be now read a second time.

The question was put to the Senate and agreed to.

On the motion of Hon. H. LaV. BENN, the SENATE resolved itself into Committee on the Bill, MADAM DEPUTY PRESIDENT in the Chair.

COMMITTEE

Madam DEPUTY PRESIDENT: The Senate is in Committee.

Clauses 1 - 10, inclusive, were called and passed.

On the motion of Hon. H. LaV. BENN, Madam DEPUTY PRESIDENT reported the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of Hon. H. LaV. BENN, the Bill was read a third time and passed and cited as the Constitution (Amendment) Act, 2009.

A division was called for.

The question that the Bill do now pass was put and resolved in the affirmative, the Senate dividing as follows:

Ayes: 17

SENATOR the Hon. H. LaV. BENN, SENATOR the Hon. A. B. WALTERS, SENATOR the HON. D. W.

BOYCE, SENATOR Mrs. V. I. SANDIFORD-GARNER, SENATOR D. McD. ALLEYNE, SENATOR Miss P. I. INNISS, SENATOR P. W. B. GILKES, SENATOR the Rev. P. MILLINGTON, SENATOR D. GRIFFITH, SENATOR Miss H. E. THOMPSON, SENATOR J. A. C. HUTSON, SENATOR R. O. MARVILLE, SENATOR DR. F. L. CHANDLER, SENATOR the Very Reverend H. E. CRICHLAW, Sir John Stanley GODDARD, SENATOR Sir Roy TROTMAN, Her HONOUR SENATOR MISS K. F. IFILL.

Noes: (Nil)

1.40 p.m.

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Wednesday, May 13, 2009

ORDER NO. 3 – RESOLUTION THAT AN ADDRESS BE
PRESENTED TO HIS EXCELLENCY THE
GOVERNOR-GENERAL APPROVING THE PROPOSED
APPOINTMENT OF VALTON DONAVAN BEND,
ESQUIRE TO THE OFFICE OF OMBUDSMAN

Mr. PRESIDENT: Senator Benn.

SENATOR the Hon. H. LaV. BENN: Mr. President, it gives me the greatest of pleasure, and it is my honour, I believe, to indicate how grateful I am for this opportunity to say that I personally feel good about this appointment, Valton Benn, being a relative of mine and an old school mate. Without any further ado, I beg that this Resolution do now pass.

The question was put and agreed to.

ADJOURNMENT

SENATOR the Hon. H. LaV. BENN: Mr. President, this brings us to the end of Government Business for the day. I beg to move that the Senate do now adjourn sine die.

The question that the Senate be now adjourned sine die was put to the Senate and agreed to and Mr. PRESIDENT adjourned the Senate accordingly.

1.43 p.m.

Sequence 17

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3. Value Added Tax, Order, 2009.
4. Customs (Amendment) Regulation, 2009.
5. Customs Tariff (Amendment) Order, 2009.
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7. Reports on the audit of the Accounts of the Office of the Auditor General for the Financial Years 2006 to 2007, 2007 to 2008.
8. Duties, Taxes and Other Payments (Exemption) (Coast Guard Relocation Inc.) Order, 2009.
9. Annual Report of the Barbados Vocational Training Board for the year 2005.
10. Annual Report of the Barbados Investment and Development Cooperation for the year 2008.
11. Duties, Taxes and Other Payment (Exemption) (Yankee Garments Limited) Order, 2009.
12. Annual Report and Accounts of the Barbados Agricultural Management Company Limited for the Year ended June 30, 2006.
13. Annual Report and Accounts of the Barbados Agricultural Management Company Limited for the Year ended June 30, 2007.
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THOMPSON, Senator Miss H. E.

TROTMAN, Senator Sir Roy

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EDITORIAL NOTES — NOT PART OF THE REPORT

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

EDITORIAL QUERIES

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

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

Q2. Notice and Order No. 3. The proposed Ombudsman is named ‘Valton Donovan Benn’ in the Governor-General’s message but ‘Valton Donovan Bend’ in the notice of the Resolution and in the heading of Order No. 3. Printed as in the source.

Q3. Order No. 1, third reading. The third reading of the Caribbean Court of Justice (Amendment) Bill is recorded as on the motion of ‘SENATOR the Hon. Miss M. P.O. McCLEAN’, although the Deputy President announced at the start of the sitting that Senator McClean was away in Cuba; all other motions were made by Senator the Hon. H. LaV. Benn. Printed as in the source.

Q4. Order No. 1, Senator the Hon. H. LaV. Benn’s reply. Senator Benn says the Court ‘is to be funded through the Caribbean Commercial Bank’; Senator Dr. F. L. Chandler had referred to a US\$100 million Trust Fund administered by the Caribbean Development Bank. Printed as in the source.

Q5. Order No. 2. The procedural lines record the Constitution (Amendment) Bill as read a third time and passed, and only then ‘A division was called for’ on the question ‘that the Bill do now pass’. Printed as in the source.

Q6. Speaker labels. Senator Benn is headed once ‘SENATOR the Hon. H. L. BENN’, and Senator P. I. Inniss appears as both ‘Miss’ and ‘Mrs.’. Printed as in the source.

DEBATE SUMMARY

(Editorial summary — not part of the record.)

The Senate met on Wednesday, 13th May, 2009 at 11.10 a.m., with the Deputy President in the Chair until the President took it during the opening speech; prayers were led by Rev. Father Errington Massiah. A message from the Governor-General was read proposing the appointment of Valton Donovan Benn, Esquire, as Ombudsman. The Deputy President announced excuses from the Leader of Government Business, Senator the Hon. Maxine McClean, who was in Cuba with the Prime Minister, from Senator

Kerry Symmonds, who was observing the elections in Malawi, and from Senator Velma Newton.

Senator the Hon. H. LaV. Benn laid fourteen papers, among them the Value Added Tax Order, 2009, two Customs Tariff (Amendment) Orders, the reports on the audit of the accounts of the Office of the Auditor General for 2006 to 2008 and the Annual Report of the National Sports Council for 2006-2007. Four Bills were read a first time, including the Criminal Appeal (Amendment and Miscellaneous Provisions) Bill, 2009 and the Money Laundering and Financing of Terrorism (Prevention and Control) (Validation of Functions) Bill, 2009, and notice was given of the Resolution on the Ombudsman.

With the Senate’s agreement, the Caribbean Court of Justice (Amendment) Bill, 2009 (Order No. 1) and the Constitution (Amendment) Bill, 2009 (Order No. 2) were debated together. Senator Benn explained that they gave effect to a Protocol signed by Barbados on June 3, 2007 allowing the tenure of judges of the Court to be extended during its Evolutionary Phase, raising the retirement age from 72 to 75, and that Barbados and Guyana were so far the only two Member States to accept the Court’s appellate jurisdiction. He traced the Court’s history from the 1970 recommendation of the Heads of Government to its inauguration on April 16, 2005.

Senator Miss H. E. Thompson supported the Bills, arguing that longer life spans justified the change and that the failure of other Caribbean states to join the Court showed a lack of self-confidence and of trust in one another. Senator R. O. Marville described the Court as an expression of the Region’s sovereignty and explained its original jurisdiction. Senator Dr. F. L. Chandler asked about the number of judges and about funding after the initial US\$100 million Trust Fund. Senator the Hon. A. B. Walters, who was reminded by the President that the Rules do not permit anticipating legislation, said the amendment should have been processed in 2007. Senator Sir Roy Trotman, Senator Miss P. I. Inniss, after a point of order from Senator Thompson on relevance, and Senator the Very Reverend H. E. Crichlow, who urged patience with the other Member States, also supported the Bills.

In reply Senator Benn thanked Senators and said the Government would take Senator Crichlow’s advice on board. Both Bills passed through Committee, with the Deputy President in the Chair, and were read a third time and passed; on the Constitution (Amendment) Bill the Senate divided, 17 Ayes to no Noes.

The Resolution approving the appointment of the Ombudsman was then moved by Senator Benn, who said

the appointee was a relative and an old school mate, and | was agreed to. The Senate was adjourned sine die.

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