

Leave of Absence

Tuesday, April 08, 2008

SENATE

Tuesday, April 08, 2008

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Conrad Enill and Sen. The Hon. Dr. Emily Gaynor Dick-Forde who are out of the country.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MR. FOSTER CUMMINGS

WHEREAS Senator Dr. Emily Gaynor Dick-Forde is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, FOSTER CUMMINGS, to be temporarily a member of the Senate, with effect from 8th April, 2008 and continuing during the absence from Trinidad and Tobago of Senator Dr. Emily Gaynor Dick-Forde.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 3rd day of April, 2008.”

Senators' Appointment
[MR. PRESIDENT]

Tuesday, April 08, 2008

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MR. JOEL PRIMUS

WHEREAS Senator Conrad Enill is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOEL PRIMUS, to be temporarily a member of the Senate, with effect from 8th April, 2008 and continuing during the absence from Trinidad and Tobago of Senator Conrad Enill.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 3rd day of April, 2008.”

OATH OF ALLEGIANCE

Senators Foster Cummings and Joel Primus took and subscribed the Oath of Allegiance as required by law.

TEACHING SERVICE (COMPENSATION) BILL

Bill to provide for the payment of compensation in respect of members of the Teaching Service who suffer injury or die in circumstances arising out of and in the course of employment with the State, brought from the House of Representatives [*The Minister of Education*]; read the first time.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Arima Corporation for the year ended September 30, 2000. [*The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne)*]

2. Annual Report of the Integrity Commission for the year 2007. [*The Vice President of the Senate (Sen. George Hadeed)*]
3. National Action Programme to Combat Land Degradation in Trinidad and Tobago: 2006—2020. [*The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith)*]

ORAL ANSWERS TO QUESTIONS

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I have been advised that answers to questions Nos. 8, 10 and 31 are ready and in respect of written questions, Nos. 35 and 37. The others are not yet ready.

The following questions stood on the Order Paper:

Licensing Authority (Computerization of)

4. Would the hon. Minister of Works and Transport inform this Senate when the Licensing Authority will be fully computerized in order to bring relief to the drivers of this country and particularly to protect against any fraudulent activities within the Authority? [*Sen. W. Mark*]

Tertiary Education (Grant of Financial Assistance/Scholarships)

11. A. Could the hon. Minister of Community Development, Culture and Gender Affairs inform the Senate whether her Ministry has provided financial assistance or awarded scholarships to persons desirous of pursuing studies at universities in Trinidad and Tobago, the Caribbean region and/or internationally?
- B. If the answer is in the affirmative, will the Minister provide this Senate with the following information:
 - (i) a list of the names of persons who have benefited from such assistance for the period 2002 to December 2007;
 - (ii) the amount of financial assistance provided to each person; and
 - (iii) the names of the institutions involved? [*Sen. W. Mark*]

Mr. Douglas Mendes SC
(Details of Retention of Services)

12. Could the hon. Attorney General provide the Senate with:
- A. a detailed list of the matters in which Mr. Douglas Mendes SC has been retained by:
 - (i) the Government of Trinidad and Tobago;
 - (ii) the Integrity Commission;
 - (iii) the National Lotteries Control Board;
 - (iv) the Telecommunications Authority of Trinidad and Tobago; and
 - (v) any other state enterprise and/or statutory authority during the period January 01, 2002 and December 31, 2007?
 - B. Could the Attorney General also provide a detailed breakdown of the fees paid to the said Senior Counsel during the same period? [*Sen. W. Mark*]

Ministry of Community Development, Culture and Gender Affairs
(Funding/Grants and/or Financial Support to Organizations)

13. Could the hon. Minister of Community Development, Culture and Gender Affairs provide the Senate with:
- A. A list of all organizations that have received funding/grants and/or financial support from the Ministry of Community Development, Culture and Gender Affairs during the period January 02, 2002 to December 31, 2007?
 - B. Could the Minister also provide the details of the amount provided and for what purpose? [*Sen. W. Mark*]

Granting of Scholarships/Funding
(Committee Members)

15. A. Could the hon. Minister of Community Development, Culture and Gender Affairs provide the Senate with a list of the Members who comprise the committee in the Ministry of Community Development, Culture and Gender Affairs charged with the responsibility for determining the grant of scholarships/funding to needy individuals?

- B. Could the Minister provide the Senate with copies of the brochures/pamphlets containing the procedure and criteria adopted by the committee for determining the eligibility for scholarships/funding? [Sen. W. Mark]

**National Service Programme
(Structure of)**

16. A. Could the hon. Minister of Community Development, Culture and Gender Affairs provide the Senate with the details of the structure of its National Service Programme?
- B. Could the Minister also inform the Senate of the amount of money allocated to this National Service Programme on a yearly basis for the years 2002, 2003, 2004, 2005, 2006 and 2007?
- C. Could the Minister indicate to the Senate the total number of citizens who have benefited from the National Service Programme and what type of programme was offered to these citizens during the period? [Sen. W. Mark]

**Multimillion-Dollar International Waterfront Project
(Status of)**

25. With respect to the multimillion-dollar International Waterfront Project, could the hon. Minister of Planning, Housing and the Environment inform the Senate:
- (i) how many contracts were signed between the State and UDeCOTT, for the management of the project;
 - (ii) the names of any other company that signed contracts with UDeCOTT for project management and construction from the commencement of the project to December 31, 2007;
 - (iii) the details of the amount of money paid to each of these contractors;
 - (iv) whether these contracts were the subject of competitive tendering or a sole selective basis; and
 - (v) if the contracts were on a sole selective basis, what were the rationale and reasons for same? [Sen. W. Mark]

**Official Residence
(Details of Payments)**

26. A. Could the hon. Minister of Finance provide the Senate with the details of the final cost of the construction of the Prime Minister's residence and Diplomatic Centre?
- B. Could the Minister also provide the Senate with the details of payments of value-added tax, income and corporation taxes, and all other corporate taxes by the Shanghai Construction Corporation of China during the period of construction of the said Prime Minister's residence and Diplomatic Centre? [*Sen. W. Mark*]

**Conduct of the Chief Justice
(Legal Advice Offered on)**

28. A. Could the hon. Prime Minister make available the official legal advice offered to him by Dr. Lloyd Barnett, Q.C. and Mr. Mark Strachan, Q.C. from Jamaica and the United Kingdom respectively on which his decision to have the President of the Republic establish a tribunal to investigate the conduct of the Chief Justice? [*Sen. W. Mark*]

**Todd's Road
(Status of Land Distribution)**

34. A. Could the hon. Minister of Agriculture, Land and Marine Resources provide the Senate with the rationale, if any, for the allocation and distribution of the 3,000 acres of land cultivated with citrus located at Todd's Road?
- B. Could the Minister also state whether these lands were sub-divided and if so, by whom?
- C. Could the Minister further inform the Senate whether the final distribution and allocation exercise was approved by Cabinet and if so, when? [*Sen. W. Mark*]

**Securities and Exchange Commission
(Government's Measures to Strengthen)**

42. Could the hon. Minister of Finance state the measures, legislative or otherwise, the Government intends to take to strengthen and support the Securities and Exchange Commission in its efforts to ensure that companies

listed on the Trinidad and Tobago Stock Exchange submit annual reports on a timely basis to allow shareholders to be better able to monitor and protect their investment? [*Sen. W. Mark*]

**Hi-tech, Closed-circuit Television (CCTV) System
(Implementation of)**

43. Could the hon. Minister of National Security inform the Senate whether the Government plans to fully implement a hi-tech, closed-circuit television (CCTV) system in urban areas in Trinidad and Tobago to facilitate proper and timely policing in these areas? [*Sen. W. Mark*]

US Dollar Value in the Global Market

44. (a) Could the hon. Minister of Finance state whether the Government is aware that the value of the US dollar is on the decline in the global market?
- (b) If the answer to (a) is in the affirmative, could the Minister advise the Senate of the effects of the decline on:
- (i) the foreign reserves of Trinidad and Tobago;
 - (ii) the Heritage and Stabilization Fund; and
 - (iii) the foreign debt of Trinidad and Tobago?
- (c) Could the Minister also advise what steps the Government intends to take to protect the Trinidad and Tobago dollar? [*Sen. W. Mark*]

**Ongoing United Nations Development Project
(Computerization of the Licensing Office)**

45. With respect to the ongoing United Nations Development Project for the computerization of the Licensing Office, could the hon. Minister of Works and Transport advise the Senate:
- (i) what is the status of this project;
 - (ii) what was the sum of money allocated for this project;
 - (iii) how much money, if any, has been spent on this project so far; and
 - (iv) whether the project has been abandoned or is there a new completion date? [*Sen. W. Mark*]

**V.T. Shipbuilding International
Interim Facility Contract
(Details of)**

19. A. Could the hon. Minister of National Security inform the Senate whether the two interim vessels procured under an interim facility contract with V.T. Shipbuilding International were delivered in October, 2007 as promised by the hon. Prime Minister in his statement to the House of Representatives on April 20, 2007?
- B. If the answer to (A) is in the negative, could the Minister outline the reason or reasons for the delay?
- C. Could the Minister state what is the revised delivery date of these vessels? [*Sen. B. Ali*]

**Industrial Court Judges
(Disparity in Retirement Benefits)**

53. A. Could the hon. Attorney General please inform this Senate whether there is a disparity in retirement benefits between judges of the Industrial Court and that of similar officers of the regular Judiciary?
- B. If the answer is in the affirmative, could the Attorney General state what steps are being taken to rectify this discrepancy? [*Sen. M. F. Rahman*]

**Medical Treatment Abroad for Citizens
(Government Underwriting of Cost)**

54. Could the hon. Minister of Health advise this Senate whether the Government has any plans in place to underwrite the cost of medical treatment abroad for citizens suffering from diseases or injuries which cannot be treated locally? [*Sen. M. F. Rahman*]

**Air Pollution Rules and Hazardous Waste Rules
(Time Frame for)**

55. Would the hon. Minister of Planning, Housing and the Environment indicate a time frame for the Air Pollution Rules and the Hazardous Waste Rules to be laid in Parliament? [*Sen. Dr. A. Nanan*]

**Meteorological Services Division
(Daily Weather Forecasting)**

56. Would the hon. Minister of Planning, Housing and the Environment indicate the advances made in the Meteorological Services Division from 2002 to present with respect to daily weather forecasting including storm tracking? [Sen. Dr. A. Nanan]

**Doppler Radar in the Central Range
(Status of)**

57. Would the hon. Minister of Planning, Housing and the Environment give a status report on the Doppler Radar facility in the Central Range? [Sen. Dr. A. Nanan]

**Employee Injury and Disability Compensation
(Delay of)**

58. Could the hon. Minister of Labour and Small and Micro Enterprise Development state what is the reason for the delay in bringing legislation for the Employee Injury and Disability Compensation before Parliament? [Sen. M. Annette]

Questions, by leave, deferred.

**Trinidad and Tobago Fire Service
(Details of)**

8. **Sen. Wade Mark** asked the hon. Minister of National Security:

Would the hon. Minister of National Security inform this Senate whether:

- (i) The Fire Service of Trinidad and Tobago is sufficiently equipped to combat fires in high rise buildings now being constructed in Port of Spain and environs and San Fernando?
- (ii) If the answer to (i) is in the affirmative, would the hon. Minister inform this Senate of the type of equipment provided to the Fire Service?
- (iii) If the answer to (i) is in the negative, would the hon. Minister state what steps are intended to remedy the situation?

The Minister of National Security (Sen. The Hon. Martin Joseph): Thank you very much, Mr. President. The Trinidad and Tobago Fire Service has put the necessary mechanisms in place and it is sufficiently equipped to deal with any fire

or emergency situation that may occur at the high-rise structures being constructed in Port of Spain and environs and San Fernando.

Hon. Senators are advised, however, that, integral to the definition of a “high-rise” building is the concept that there are storeys within the building that are at a height that exceeds the effective working reach of available aerial fire fighting apparatus. Therefore, whereas external access for fire fighting and rescue for low and medium-height buildings is acceptable, with high-rise structures, there is greater emphasis on installation of internal mechanisms to facilitate effective fire fighting.

Notwithstanding, Mr. President, hon. Senators are assured that the external fire fighting equipment being used by the Trinidad and Tobago Fire Service for high-rise structures, is compliant with recommended international standards. However, in terms of dealing with high-rise structures, the fire service's role as the body responsible for certifying and ensuring compliance with building safety codes, is more critical. The Trinidad and Tobago Fire Service is guided, in treating with high-rise building requirements, by the provisions of the National Fire Prevention Association (NFPA) Codes.

The NFPA serves as the world's leading advocate of fire prevention and it is an authoritative source on public safety. The NFPA's 300 codes and standards influence every building process, service, design and installation in the United States, as well as many of those used in other countries. The association's code-development process is accredited by the American National Standards Institute (ANSI). Specifically, the Trinidad and Tobago Fire Service adheres to the following NFPA standards and related guides in identifying requirements for buildings:

- NFPA 70—National electrical code 2002 edition;
- NFPA 72—National fire alarm code 2002 edition;
- NFPA 10—Standard for portable fire extinguishers 2002 edition;
- NFPA 13—Standard for the installation of sprinkler systems 2002 edition;
- NFPA 14—Standard for the installation of standpipe, private hydrant and hose systems 2000 edition;
- NFPA 20—Standard for the installation of stationery pump for protection, 1999 edition;
- NFPA 90A—Standard for the installation of air-conditioning and ventilation systems 2002 edition;

- NFPA 96—Standard for ventilation control and fire protection of commercial cooking operations 2001 edition;
- NFPA 30—Flammable and combustible liquids code 2000;
- NFPA 58—Liquefied petroleum gas code 2001 edition;
- NFPA 101—Section 9.6.2.1 - signal initiation of fire alarm;
- NFPA 101—Section 7.9.1 - emergency lighting;
- NFPA 220—Standard type of building construction 1999 edition;
- NFPA 5000—Building construction code;
- ASME/ANSI—A 17.1 - Safety code for elevators and escalators.

In keeping with the provisions of these codes, the fire service stipulates that all high-rise buildings implement specific protective and response mechanisms, including:

- Sprinkler systems throughout the building;
- Emergency controls of lifts or dedicated lifts to allow for fire service mobility when an alarm is raised;
- Fire alarm throughout the building;
- Raising mains and equipment to allow fire fighting operations on any floor;
- An emergency control centre to monitor and control the systems throughout the building;
- Designated water storage facilities to supply emergency operations; and
- Structural and pressurized systems to restrict the migration of smoke and fire from the floor of origin.

Mr. President, it is an international standard and requirement that these built-in structural technological and equipment features are incorporated within high-rise buildings to facilitate their protection from fire and to mitigate life risks, since it is impractical to access major structures from their exterior.

Moreover, it is important to note that although generic principles will apply, each building is unique, based on its use, management, structure and the culture of its owners and occupants. Individual assessment, planning and response regimes must therefore be established for each structure.

1.45 p.m.

As the body responsible for certifying that all safety measures are satisfactorily met, the fire service deploys fire inspectors and fire-fighting crews to conduct site visits and familization tours at all high-rise structures, to ensure compliance and to identify risks. Fire prevention personnel also conduct site visits on an ongoing basis during construction, to ensure adherence stipulations issued by the Chief Fire Officer.

In light of the growing number of high-rise structures, the fire service has also established, and is in the process of staffing a dedicated high-rise emergency readiness and response team with the following terms of reference:

1. Record and confirm all fire, life and safety requirements necessary for each individual high-rise;
2. Ensure the establishment, approval and testing of all required evacuation plans, emergency management structures and procedures;
3. Facilitate the testing, inspection and maintenance of emergency protection, alarm and response systems;
4. Co-ordinate liaisons, training and information necessary for the development and maintenance of personnel and property safety at all high-rise buildings; and
5. Establish and test emergency response plans for all high-rise structures.

Mr. President, from the foregoing, it is quite evident that the Trinidad and Tobago Fire Service is prepared and well equipped to ensure that an effective response is provided in the event of any fire or emergency that may occur at these high-rise structures.

Moreover, hon. Members are ensured that, as the country's infrastructure becomes more sophisticated, the Trinidad and Tobago Fire Service will continue to keep abreast of international best practices so as to maintain its readiness for any eventuality.

In the circumstances, part (iii) of the question is not applicable.

Thank you, Mr. President. [*Desk thumping*]

Sen. Mark: Mr. President, could the hon. Minister indicate to the honourable Senate, what mechanisms as he indicated in his opening remarks, are being put in place to combat potential fires in these high-rise buildings in light of the upcoming Summit of the Americas and the Commonwealth Heads of Government Conference?

Mr. President: I do not know how that follows on from the answer that was given.

Sen. Mark: No, No! Sir, did you listen to his opening? Did you listen to his opening, Sir?

Mr. President: Senator, a question that follows on is designed to elucidate the answer given. I do not know if there is anything more that the Minister could say in that regard. I will leave it to the Minister's discretion, but I do not see that there is anything there at all. If the Minister declines to answer, so be it.

Sen. The Hon. M. Joseph: Mr. President, you have indicated—I do not think there is anything more I can say in response to the supplemental. I have indicated all the measures that have been put in place about the fire service's ability to deal with the question about fires.

Sen. Mark: May I ask this question, Mr. President? Could he indicate to you and this honourable Senate what type of equipment—because that is the question I raised—is available to deal with fires in these high-rise buildings?

Mr. President: I heard the Minister say—he talked about sprinklers, water storage tanks and fire hydrant facilities on each floor and so on. I heard the answer and I am pretty sure the question was answered.

Sen. Mark: Mr. President, may I ask you a question because you seem to be very interested in covering up for the Minister. *[Laughter]* So I will put the question to you because the Minister needs to answer.

Mr. President, from what you have said, could he then indicate whether these mechanisms as you have described, are adequate to deal with any potential fires in these high-rise buildings?

Mr. President: Sen. Mark, I overlooked your comment about I am trying to protect the Minister and I will accept that today, but only today. What I heard the Minister describe were standards that are internationally accepted and recognized. I think the question was asked and answered. Let us move on to question No. 10, please.

Sen. Dr. Nanan: Thank you, Mr. President. Can I ask the Minister, in terms of equipment, if the fire service considered the recommendation of the purchase of a plane with respect to putting out fires in high-rise buildings as well as fires in the Northern Range?

Sen. The Hon. M. Joseph: Is that a supplemental?

Mr. President: This is not a valid supplemental. The Northern Range issue has nothing to do with—[*Crosstalk*] I did not understand the question. If you would say it again, I certainly did not understand what you said.

Sen. Dr. Nanan: Mr. President, I asked the Minister in terms of the type of equipment, if the fire service considered the recommendation of the purchase of a plane. These planes are equipped with storage tanks and they can put out—[*Crosstalk*]

Hon. Senator: No, he is asking a question. You do not want us to ask questions?

Sen. Dr. Nanan: I am asking if that was considered in purchasing of equipment for high-rise buildings and the protection of high-rise buildings utilizing a plane. That is modern-day technology. That is the question I asked, Mr. President.

Mr. President: Now I understand you. I will allow that question.

Sen. The Hon. M. Joseph: Mr. President, hon. Members, the fire service has indicated that on the basis of the equipment available to it and the mechanisms to ensure that high-rise buildings are properly secured as it relates to the possibility of fire, those things have been considered and presented. I am not aware of the consideration of a plane.

Sen. Rahman: When I saw the 9/11 tragedy, I saw many people leaping out of the top of buildings and this is a very serious problem. I am wondering whether the Government has given consideration to heliports being placed at the top of these high-rise buildings and systems being implemented where people can go to the top when there is a fire below, so that they can be taken out by helicopter or by some sort of escape system that could be put at the top of the building. These are very important issues because we have a lot of human lives at risk. Thank you.

Sen. The Hon. M. Joseph: That is something that is worth consideration, Mr. President, and it is—[*Interruption*]

Sen. Mark: You put a high-rise building and you did not put—[*Interruption*]

Sen. The Hon. M. Joseph: But it is not a high-rise considering the kind of storeys that we have in other places.

Mr. President: Question No. 10, Sen Mark.

Sen. Mark: Question what, Sir?

Mr. President: Question No. 10.

Sen. Mark: I thought this was the laptop question, Sir.

Magistrates' Court
(Details of CAT Proceedings)

10. Would the hon. Attorney General inform this Senate when she expects to have full computer aided transcription of court proceedings in the Magistrates' Court in Trinidad and Tobago?

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Thank you, Mr. President. The Judiciary has advised that it has no plans to introduce full computer aided transcription of court proceedings in the Magistrates' Court in Trinidad and Tobago. However, one of the Judiciary's major strategies towards improving the efficiency of the administration of justice has been the implementation of more efficient and technologically sound systems of recording proceedings in all courtrooms, in place of the archaic, and inefficient system of taking handwritten notes (longhand). To this end, over the past 12 years, various solutions involving computer aided transcription have been explored and introduced. These include computer aided transcription, commonly known as CAT reporting.

In June of 1996, Cabinet by Minute 1537 approved the establishment of a CAT Reporting Unit in the Judiciary comprising 34 established positions of CAT Reporters. The unit is currently staffed by five local and five foreign CAT Reporters and these persons have been assigned to sittings of the Court of Appeal, capital murder matters, matters of national importance or concern and judges' summations.

Additionally, the Judiciary elected to implement an Audio Digital Court Recording system, referred to as ADCR, for the recording of court proceedings and the production of timely, yet accurate transcripts. Accordingly, a pilot project was successfully carried out in 2003, utilizing a digital audio recording method for the capture of proceedings. This pilot project was carried out in selected courtrooms located in the Hall of Justice and in the Port of Spain Magistrates' Court.

After the successful completion of the pilot project, Cabinet by Minute No. 2234, dated September 04, 2003, approved the implementation of ADCR to replace the system of handwritten notes. The use of the ADCR system in courtrooms increases the pace at which judicial officers can conduct their hearings. Since 2004, the Judiciary has been pursuing a policy of procurement, implementation and installation of ADCR systems.

Installation of the ADCR systems has been completed at the following court locations:

- Hall of Justice—18 courtrooms;

- Hall of Justice—7 conference rooms;
- San Fernando Supreme Court—9 courtrooms, 6 conference rooms;
- Tobago Supreme Court—3 courtrooms, 2 conference rooms;
- Port of Spain Magistrates' Court—15 courtrooms;
- Tobago Magistrates' Court—3 courtrooms;
- Arima Magistrates' Court—3 court room; and
- Family court—8 hearing rooms.

Installation of the ADCR system has commenced at the following court locations:

- San Fernando Magistrates' Court—3 courtrooms;
- Couva Magistrates' Court—1 court room which should have become fully operational by the end of March of this year;
- Sangre Grande Magistrates' Court—2 courtrooms which should have become fully operational by the end of March this year.

Further installation in the following locations is expected to be completed during the year 2008:

- Princes Town Magistrates' Court—2 courtrooms;
- San Fernando Magistrates' Court—3 courtrooms;
- Point Fortin Magistrates' Court—2 courtrooms;
- two additional hearing rooms will be done in the Family Court in Port of Spain;
- Tunapuna Magistrates' Court—4 courtrooms; and
- Chaguanas Magistrates' Court—3 courtrooms.

Installation at the following locations is expected to be completed during the year 2009:

- Mayaro Magistrates' Court;
- Rio Claro Magistrates' Court; and
- Siparia Magistrates' Court.

The ADCR has proved its effectiveness in those courts in which it has been installed and has been operational. An initial survey of the users has indicted a high level of satisfaction with this system. The time required to complete the average preliminary enquiry into a capital murder charge has been reduced from six months to six weeks. It must be noted that the procurement, installation and implementation of ADCR systems, while projected to be completed by 2009, will in reality be an ongoing endeavour. New court facilities may be acquired, new courtrooms rules may be added to existing facilities, and relocation of court facilities are all factors that will require additional systems.

I thank you, Mr. President. [*Desk thumping*]

**Economic Partnership Agreement
(Full Disclosure of)**

31. Sen. Wade Mark asked the hon. Minister of Trade and Industry:

With respect to the recently concluded Economic Partnership Agreement signed between the European Union and Cariforum, could the Minister.

- (i) state whether it is the intention of the Government to provide full disclosure of the agreement by having it tabled and debated in Parliament;
- (ii) if the answer to (i) is in the affirmative could this Minister indicate when this would take place; and
- (iii) if the answer to (i) is in the negative, could the Minister explain the Government's rationale or reasons for not wishing to disclose the contents of the agreement?

Sen. Mark: May I ask, Sir, would the Minister who is acting for the Minister of Trade and Industry be able to entertain supplemental? I see Hon. Mustapha Abdul-Hamid is here. So I just want to ask you whether you could find out from him.

Mr. President: [*Inaudible*]—come on business.

Sen. Mark: No, no, Mr. President, I need to—

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): I was not aware Sen. Mark was making acting appointments for Ministers.

Sen. Mark: [*Inaudible*]

Sen. The Hon. Dr. Saith: I think you said Hon. Mustapha Abdul-Hamid is acting.

Sen. Mark: No, Sir.

Sen. The Hon. Dr. L. Saith: Good! Mr. President, I have the answer in hard copy, not electronic and I am prepared to answer it. However, if the Senator wishes to await the return to the country of Hon. Dr. Rowley, he can defer the question.

Sen. Mark: Mr. President, if I could ask through you, would the Leader of Government Business be willing to entertain the supplemental? That is all I am asking.

Sen. The Hon. Dr. L. Saith: Mr. President, I will be willing to entertain it, whether I could answer it or not is the question. I do not know what the supplemental would be.

2.00 p.m.

Mr. President, in order to give rights to the rights and obligations contained in the Economic Partnership Agreement (EPA), the Government of Trinidad and Tobago is required and intends to bring legislation, of which the agreement would be part, before the Parliament for debate, as it would do with any other piece of legislation.

The Senate is asked to note that the agreement is available on the Ministry's website, <http://www.tradeind.gov.tt>, and has been so since January 21, 2008.

There are several steps which must be completed at the multinational, regional and national levels before the agreement comes before Parliament. Parties to the agreement, that is, the States in the grouping referred to as Cariforum, on the one hand, and the EU on the other, are currently engaged in a legal scrub of the text of the agreement. Once this has been completed, the Caricom Secretariat would be required to present the agreement to the regional Ministers with responsibility for trade.

This is in part a fulfilment of the commitment given by all Caricom member States in Article 80(4) of the Revised Treaty of Chaguaramas which states:

"Where trade agreements involving tariff concessions are being negotiated, the prior approval of COTED shall be required."

As such, the Council for Trade and Economic Development (COTED), which would have received reports of the negotiations at various stages, will be required to give the approval to the negotiated text. This approval, together with the prior consultations at the level of the COTED, the Conference of the Heads of

Government—a mechanism would have been established by the conference in fulfilment of the commitment made by member States pursuant to Article 80(2) which sets out that:

"The Community shall pursue the negotiation of external trade and economic agreements on a joint basis in accordance with principles and mechanisms established by the Conference."

Once this process is completed, the Cabinet of the Republic of Trinidad and Tobago would be required to give its approval, and instruct the Chief Parliamentary Counsel's Office to prepare the necessary Bill to take to Parliament.

Sen. Mark: Mr. President, could the hon. Minister indicate to this Parliament whether the Government of Trinidad and Tobago is prepared to review this Economic Partnership Agreement in light of several positions being advanced as to its benefits to the people of the region?

Sen. The Hon. Dr. L. Saith: Mr. President, this agreement is not negotiated on a bilateral basis by Trinidad and Tobago and the EU, but is really by Caricom/Cariforum. To that extent, as I indicated here, each government will now look at a scrub text and meet as COTED and the Heads of Government. They will review the final text, and any input that any government has would, in fact, be done at that time. But I stress that it is not a bilateral agreement between Trinidad and Tobago and the EU.

Sen. Mark: In that particular context, could the hon. Minister indicate whether Trinidad and Tobago is reviewing, on an individual basis, the contents of that agreement so that when it meets with COTED it would be able to have its input on behalf of the people of Trinidad and Tobago?

Sen. The Hon. Dr. L. Saith: I expect that every government in the Caribbean, when the scrubbed text comes back, the clean text would be reviewed, including a review by the Government of Trinidad and Tobago.

Sen. Rahman: I have great concerns on this matter, because as Sen. Mark was trying to point out, there has arisen a very great need to review this Economic Partnership Agreement. It seems from all the writings—

Mr. President: Do you have a question?

Sen. Rahman: Yes, Sir. Sorry, Sir, that was meant to be a preamble to make the question viable. Is the Government prepared to consult with the population on this matter of the EPA, because the population is being disadvantaged?

Sen. The Hon. Dr. L. Saith: Mr. President, my understanding is that consultations have, in fact, taken place on this matter. The sovereign governments have got together as a group, have agreed and are now reviewing the agreement. If there is further discussion that needs to take place, it will take place among the governments.

I keep saying that no single government could unilaterally alter this, except to say, "We are no longer part of the agreement". I can assure the hon. Senator that in the process of reviewing, all that is necessary will be taken into account.
[*Interruption*]

Sen. Rahman: My concern is whether it is still possible, at this stage, judging from what you have said, that the Trinidad and Tobago Government could withdraw from this agreement or it is a dead issue and we are in it for good or bad.

Sen. The Hon. Dr. L. Saith: Mr. President, I would not presume to indicate whether the Government could, would or should withdraw. All I could say is that the Government keeps its obligations. It treats its treaty obligations very seriously and always operates in the context of treating its treaty obligations very seriously.

Mr. President: I think we have gone far enough. We are straying from the main question anyway.

ANSWERS TO QUESTIONS

Sen. Wade Mark: Mr. President, once again I rise to indicate to you that several questions have gone unanswered, even though they have been on the Order Paper for between five and 10 weeks, even up to 11 weeks; both in terms of questions for oral answers and those for written answers. We have not heard from the hon. Acting Leader of Government Business when exactly these questions would be answered.

Mr. President, in those circumstances, I refer you to Standing Order 18(1) in which every question that is approved by you must be answered, in the sense that the ministers must rise and indicate to you and this Parliament whether they are in a position to answer the questions. You have allowed, Sir, and you have been flexible in that regard, the Minister to just get up and say that three questions are ready, even though there are 29 or 19 questions on the Order Paper.

In accordance with Standing Order 18(1), each question that you have approved must be answered. I should not say must because you have said "dey eh bound to answer it"; but, at least, there "must" be some indication through you to the Senate whether these questions are going to be deferred and for how long. At

least, the Senate deserves that. I have seen where you have allowed a practice to develop where the Minister can just rise and say that he is answering three today and the next 18 questions are allowed to go without any specification as to the period of time for deferral.

I would like you to consider Standing Order 18(1) so you can rule that at the next sitting they must rise in this House and indicate to you and this Senate what is the position. I just want to get your guidance on that.

Mr. President: Sen. Mark, the conduct of this Senate falls under my purview and mine alone. I shall be the final judge when it comes to the interpretation of Standing Orders. Standing Order 18(7) makes it very clear that any question not answered falls to be answered on the following day. That is the practice; that is my interpretation, and I so rule.

WRITTEN ANSWERS TO QUESTIONS

The following questions were asked by Sen. Mohammed Faisal Rahman:

Linkage to the US Dollar (Maintenance of)

35. Could the hon. Minister of Finance provide the Senate with the justification for maintaining this country's continued linkage to the US dollar, in light of that currency's growing decline against world currencies?

Rationale Behind Trinidad and Tobago's Currency Policy

37. Could the hon. Minister of Finance provide the Senate with the rationale behind Trinidad and Tobago's currency policy?

Vide end of sitting for written answers.

STRATEGIC WATER SUPPLY PLAN (WASA)

The Minister of Public Utilities (Hon. Mustapha Abdul-Hamid): Mr. President, the following statement is made on behalf of the Government of Trinidad and Tobago.

The Republic of Trinidad and Tobago is progressing steadily towards the achievement of developed country status by the year 2020. In this context and with specific regard to the water sector, this Government reaffirms our commitment to providing the people of Trinidad and Tobago with a safe and reliable supply of water. Accordingly, the Government has established water as a

top priority in keeping with the mandate of Vision 2020. This will, of necessity, include a major investment in water production infrastructure and expansion and upgrade of our distribution network and a dramatic improvement in the quality of services in the waste water subsector.

The achievement of Vision 2020 demands that standards are established consistent with international best practice. These are standards that are associated with developed country and include a balanced utilization of all water sources to maintain a secure and dependable water supply. Indeed, water must be available 24 hours a day and seven days a week, but this availability must be balanced by responsible use by all consumers. The quality of our water must also be consistently high, free from any discolouration and bacteria.

In the First World system to which we aspire, consumers will be informed of any planned disruptions caused by maintenance to the transmission and distribution grid. Unplanned disruptions will be rare and minimized by swift restoration together with the appropriate communication to customers, in the event of unusual delays.

Roadways and other infrastructure that are disturbed due to restoration works conducted by the water utility will be reinstated to an acceptable standard, in short, our water sector must step up to ensure a higher standard of living for all citizens. To this effect, this Government, through the Water and Sewerage Authority (WASA), contracted the services of Geneva Consultants to prepare a water and waste water master plan and implementation policy for Trinidad and Tobago, at a cost of US \$6.9 million. Geneva was engaged on May 04, 2007, and their work is expected to be completed by November 2008.

The master plan and policy is the first major revolutionary step to address the various problems that have frustrated the adequate provision of water and waste water services to the citizens of Trinidad and Tobago for many years.

The Water and Sewerage Authority is currently producing 222 million gallons of water daily from surface water, ground water and desalinated water sources broken down as follows: 125 million gallons or 56 per cent is produced from surface water sources; 70 million gallons or 32 per cent is produced from ground water sources; 27 million gallons or 12 per cent is produced from the desalination plant.

In this regard, 26 per cent of WASA's customers receive a 24 hours a day, seven days a week supply. These are referred to as Class 1 customers; 32 per cent receive water 120—168 hours per week, otherwise know as Class 2 customers; 27 per cent receive water 72—120 hours per week, Class 3; 3 per cent get water 48—

72 hours per week, Class 4, and 12 per cent receive water less than 48 hours per week, Class 5. This last category is supplemented with truck borne supplies, where possible.

2.15 p.m.

Mr. President, regrettably, approximately 40 per cent of the 222 million gallons of water produced on a daily basis is classified as unaccounted-for water. Unaccounted-for water is an international term that includes water lost as a consequence of leaks in the pipelines, infrastructure, illegal connections and inefficient use by existing customers. In the international context, an unacceptable level of unaccounted-for water is below 25 per cent. Our level of unaccounted-for water is simply unacceptable.

Mr. President, climate change is a phenomenon that is engaging the attention of the world's scientists as never before. The concept refers to any long-term significant change in the normal historical weather pattern of any region. This includes changes in the average temperature, rainfall and wind patterns. Many regions of the world are now experiencing unusual fluctuations in their normal weather pattern. The result is that some are experiencing extreme weather behaviour with severe drought on the one hand and flooding episodes on the other. The fact is that flooding and drought are extremes and are both devastating to the water sector of any country since they adversely impact on water resources and freshwater ecosystems; in short, they threaten our water security.

Mr. President, widespread physical development is a natural consequence of the tremendous economic growth currently being experienced in Trinidad and Tobago. Such development inevitably increases the area and speed of water run-offs. During the rainy season, this results in high turbidity, that is to say, a heavy presence of mud, stone and other sediments in the rivers, which often causes damage to WASA's intake facilities and forces disruptions in service to customers.

Mr. President, this heavy dependence on surface water sources for the production of potable water is of major concern to the Government because it leaves our country vulnerable to the erratic effects of climate change, as well as the increasing consequences of physical development. The Government proposes, as we plan our water sector, that we will ensure that our country and water supply are properly protected from the volatility associated with climate change and physical development.

Mr. President, for well over 100 years, groundwater aquifers have been an important source of water for Trinidad and Tobago. Traditionally, the

groundwater was sourced from shallow sand and gravel aquifer systems. In response to the country's rapidly accelerating growth and development, and the uncertainty associated with surface water sources, WASA entered into a consortium to explore the deeper groundwater aquifers to boost the supply of potable water. This initiative has already produced significant success, particularly in Tobago; however, groundwater is not without its own challenges.

As is the case throughout the world, groundwater frequently contains high levels of minerals and chemicals leaked into the soils. This requires expensive treatments to make the groundwater safe for drinking. In addition, groundwater, like surface water is also affected by climate change and physical development. Drought and rapid run-offs both affect the aquifers' ability to recharge themselves.

While both surface and groundwater sources have been and will continue to be important sources of potable water for Trinidad and Tobago, we must guard against total and exclusive reliance on these water sources. We must ensure that there is better balance in our water source system so that we are not left exposed and vulnerable in the event of sudden changes in any one source's ability to supply. It is for these reasons, Mr. President, that we must now look toward the desalination options.

Desalination combined with planned improvements to our surface and groundwater systems will provide Trinidad and Tobago with a flexible, balanced and reliable water source system. Given all the uncertainties mentioned earlier, as well as our historical realities, the Government proposes to ensure that there is a water supply system that has the capacity to withstand drought for at least three consecutive years and to assure our water security as we proceed with our national development.

Mr. President, the master plan will provide a comprehensive assessment of all aspects of the water and wastewater sectors. This will include infrastructural requirements necessary to improve substantially the delivery of services to the population of Trinidad and Tobago. Indeed, the Government is pleased to report that the preparation of the master plan is now on schedule and is now more than 50 per cent complete.

So far, consultations on this master plan have been held with members of the public in the form of town meetings in Port of Spain, Arima, Chaguanas, San Fernando and Tobago. A group consultation was also held in Port of Spain with corporate Trinidad and Tobago inclusive of business organizations, Chambers of Commerce and leaders of industry. There is another similar group consultation scheduled to take place in south Trinidad.

The consultants and WASA also propose to elicit the input of the agricultural sector in particular, along with other equally important stakeholder groups. The consultants have also been meeting with the Government and WASA on a regular basis making presentations and soliciting comments on the general direction of the master plan. Everyone is being provided with an opportunity to have their views considered given the critical importance of the task of the development of this master plan.

Mr. President, arising out of the work that has been completed thus far, WASA has presented the Government with a strategic water supply plan aimed at accelerating the availability of a 24-hour per day, seven days per week water supply to citizens by the year 2012. The key elements of this strategic water supply plan are as follows: the construction of five new large desalination plants and the expansion of the existing desalination plant to increase the supply of water as follows:

- (i) the construction of a 20 million-gallon per day facility in the south-west peninsula in the area of Point Fortin;
- (ii) the construction of a 20 million-gallon per day facility in north-west Trinidad in the Chaguaramas area;
- (iii) the construction of a 20-million gallon per day facility in Ortoire/Mayaro;
- (iv) the construction of a 5-million gallon per day facility in the south-west area of Tobago;
- (v) the construction of a 25—40-million gallon per day desalination plant at Point Lisas that will utilize the exhaust heat from PowerGen's simple-cycle power generation plant; and
- (vi) increasing the capacity of the Point Lisas Desalination Plant from 25 million gallons per day to 40 million gallons per day.

The second major intervention is the construction of a new dam in Moruga with a storage capacity of 5 billion gallons and production of 25 million gallons per day; the third is the expansion of the Arena Dam from a storage capacity of 10 billion gallons to 14 billion gallons with an increase in production of water from 75 million gallons per day to 95 million gallons per day; the fourth is the construction of a new national water transmission and distribution pipeline network.

Mr. President, devastatingly, a considerable volume of water is lost on a daily basis as a consequence of the poor state of the pipeline network. High proportions of WASA's pipelines are over 60 years old and are made of cast iron material. Over the years, these pipes have become encrusted with iron deposits which have narrowed their diameter, reducing considerably the volume of water they can transport and also making them brittle and more prone to breakage and leaks. These lines must be replaced and upgraded taking into account the expansion in population in various parts of the country.

The new transmission and distribution grid will be a new pipeline network system, constructed in such a manner that will allow water to be moved from any production facility in the network to an area where there may be a shortfall for some reason. This will allow the authority to ensure that no area in the country will be left without water for any extended period of time.

Fifth is the implementation of an aggressive demand management programme of universal metering. This involves the installation of meters to residential customers to measure accurately the amount of water used. Studies have shown that with the installation of these meters, customers increase conservation practices in their consumption of water. In other words, we pay for what we use. Without metering, no amount of water we produce will ever be enough.

Mr. President, while for years we have been speaking about the value of universal metering in Trinidad and Tobago, it is now more than just a concept. WASA has recently completed two domestic metering projects in Tobago involving 378 households in Bacolet and Calder Hall. The successful completion of those projects actually paves the way for the implementation of the system nationwide. In the context of the master plan, Government confirms its commitment to this strategy which will ensure that precious water produced and distributed to households at great cost, is used wisely for the benefit of all.

The sixth major initiative focuses on a proper water supply system for the industrial sector, the veritable engine of the economy. The completion of the Beetham Water Re-Use Project will provide approximately 22 million gallons per day of water treated from effluent for use by the industrial estates. This project involves the purification of the effluent currently produced by the Beetham Wastewater Treatment Plant, to industrial water standard, transporting it via submarine transmission pipeline to the industrial estates at Point Lisas in the short term, and expanding as necessary to San Fernando and Point Fortin. This would allow approximately 20 million gallons per day of desalinated water to be released for use by domestic customers.

Mr. President, it has been estimated that the implementation of this strategic water supply plan will cost approximately \$10 billion over the next five years. It is anticipated that with the implementation of this plan, the following objectives will be achieved by 2012:

- (i) Water production will increase from 222 million gallons per day to approximately 407 million gallons per day;
- (ii) The number of customers receiving a supply 24 hours per day and seven days per week will increase from 26 per cent to at least 60 per cent and no consumer will have a supply of water for less than three days per week;
- (iii) The country's water source portfolio will be balanced by better proportioning our reliance on surface water, desalinated water, ground water, and "new" water obtained from the treatment of wastewater; and
- (iv) The country will secure a level of water security on which the country's investments and economic growth can be predicated.

Thus, Mr. President, the Government is seeking by judicious planning and strategic interventions to improve the services provided to the citizens of Trinidad and Tobago through investment in sound infrastructure to facilitate the exploration, production, treatment, transmission, distribution, management and monitoring of water resources for the greater benefit of all of Trinidad and Tobago.

Mr. President, I thank you.

2.30 p.m.

CARIBBEAN COURT OF JUSTICE (HEADQUARTERS) BILL

Order for second reading read.

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Mr. President I beg to move,

That a Bill to provide for the implementation by the Government of the Republic of Trinidad and Tobago of the Agreement Establishing the Seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission between the Government of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission, be now read a second time.

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The Bill before this honourable House is to provide for the implementation by the Government of the Republic of Trinidad and Tobago of the Agreement establishing the Seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission between the Government of the Republic of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission. In accordance with the stipulation contained in Article III, paragraph 4 of the Agreement establishing the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission, the Government of Trinidad and Tobago and the Court and the Commission are required to conclude an agreement related to the seat of the Court and the offices of the Commission.

Further, Article XXXVIII stipulates that contracting parties shall take all necessary action, whether of a legislative, executive or administrative nature, for the purpose of giving effect to the Agreement establishing the Caribbean Court of Justice.

Trinidad and Tobago signed the Agreement establishing the Caribbean Court of Justice in February 2001 in Bridgetown, Barbados. In keeping, therefore, with the undertaking to take all necessary legislative, executive or administrative action to give effect to the Agreement establishing the Caribbean Court of Justice, this Bill seeks to give the force of law to the headquarters Agreement which was signed in Port of Spain on February 23, 2005 by the Minister of Foreign Affairs on behalf of the Government of Trinidad and Tobago and by the President of the Caribbean Court of Justice in his dual capacity as President of the Caribbean Court of Justice and that of chairman of the Regional Judicial and Legal Services Commission.

The Caribbean Court of Justice is the Regional Judicial Tribunal which was established on February 14, 2001 by the Agreement establishing the Caribbean Court of Justice. The conception of this Court can be traced back to the year 1970 when the Jamaican delegation to the sixth Heads of Government Conference held in Jamaica proposed the establishment of a Caribbean Court of Appeal in substitution for the Judicial Committee of the Privy Council. Thereafter, there was a long hiatus. Interest in a regional tribunal was revived in the year 1992 when the West Indian Commission recommended the establishment of a Caribbean Supreme Court in substitution for the Privy Council and, further, that such court be vested with an original jurisdiction to interpret and apply the Treaty of Chaguaramas.

The Caribbean Court of Justice, as this honourable Senate is aware, has a critical role to play in the structured development of the Caricom Single Market and Economy in the exercise of its original jurisdiction to interpret and apply the Revised Treaty of Chaguaramas. This jurisdiction is original as the court

discharges the functions of an international tribunal applying rules of international law. The jurisdiction is also exclusive as no other court has been vested with the authority to interpret or apply the Revised Treaty of Chaguaramas. The Caribbean Court of Justice's original and exclusive jurisdiction in respect of the revised treaty is, of course, separate and distinct from its function as the court of last resort in civil and criminal matters in those member states of the Caribbean Community that accepted its appellate jurisdiction.

It is noteworthy that while all contracting parties to the Revised Treaty of Chaguaramas have accepted the original jurisdiction of the Court, thus far it is only Barbados and Guyana which have accepted the appellate jurisdiction of the Court. There has been historical resistance to the establishment of a Caribbean Court of Justice. Opposition to this Court is informed by various considerations, among them firstly being, suspicion of the unknown and resistance to change. This reason shall always resonate with the biblical doubting Thomases' of the world, but that is no real reason to inhibit change. I submit that when the reasons of the opponents in this category are unmasked, it is generally recognized to be informed by nothing more than inertia.

Secondly, reservations have been expressed about the ability and willingness of member states to provide adequate funding for the Court on a sustained basis. But built into the Agreement are provisions for funding by the establishment of a trust fund which has been capitalized in the sum of US \$100 million. Also, extra-regional support for funding has been identified. More importantly, there are penalties to be imposed where financial obligations have not been met.

Opponents have also argued that there is a likelihood that the Court shall not be able to attract to its benches, judges of the required expertise and legal erudition to inspire confidence among members of the legal community and litigants, generally. However, the current composition of this Court puts rest to any such argument. Further, opponents argue that there is the need for the dispensation of justice to be handled by persons removed from the social environment who can be dispassionate in interpreting and applying law. However, it is the antithesis of this argument that supports the need for a regional municipal court of final appeal, as Duke Pollard then of the Caribbean Secretariat so aptly argued, and I quote.

“Law is not a static corpus of abstract normative principles to be applied mechanistically in order to arrive at objectively valid solutions to resolve problems of human intercourse. Law is the normative outcome of the cut and thrust of human interactions based on collectively determined or generally accepted social values and subject to a process of continuing adjustment to its environment of control.”

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Mr. Pollard concludes:

“Consequently persons interpreting and applying the law should be attuned to the relevant dynamics of social interaction which determine the quality and intensity of human intercourse, and the values conditioning such dynamics.”

In those very stated reasons are found justification in the establishment of the Caribbean Court of Justice. The region needs a regional court of final appeal not only to complete the process of independence started over 40 years ago, but also to ensure that our laws shall mirror the collective social ethos of our people. In the words of Bishop Benjamin Hoadly of Bangor of Wales as quoted by Professor Simeon C. R. McIntosh, the Dean of Faculty of Law at the Mona Campus of the University of the West Indies, in a paper he delivered at a conference in St. Lucia to mark the 40th anniversary of the Organization of Eastern Caribbean States’ Supreme Court, and I quote:

“whoever has absolute authority to interpret any written or spoken Laws, it is He who is truly the Law giver to all intents and purposes and not the person who first wrote or spoke them.”

To apply that quotation to the arguments of the detractors of the Caribbean Court of Justice would mean that our people as personified in legislators are no more than mere scribes.

This Court has its seat in Trinidad and Tobago which was inaugurated on April 16, 2005. Article IV of the Agreement at paragraph 1 provides that:

“Judges of the Court shall be the President and not more than nine other Judges...”

Article IV, paragraph 6 of the Agreement provides that:

“The President shall be appointed or removed by the qualified majority vote of three-quarters of the Contracting Parties on the recommendation of the Commission.”

Thus far, the President has been appointed pursuant to Article IV, paragraph 6 of the Agreement and six other Judges have been appointed by the Commission.

The Court, the Commission and their officers now enjoy privileges and immunities in Trinidad and Tobago pursuant to the privileges and immunities of the Caribbean Court of Justice, Regional Judicial and Legal Services Commission and the Caribbean Court of Justice Trust Fund Order, 2004, made by the President of the Republic under section 9(2) of the Privileges and Immunities (Diplomatic,

Consular and International Organizations) Act. This Order is deemed to have come into effect on August 22, 2003 when the Commission actually began to operate in Trinidad and Tobago.

It is accepted in the Caribbean Community that independence of the judiciary is a vital and essential ingredient of the rule of law and a basic principle of social engineering in member states of Caricom. Unlike the situation in the European Union where the judges of the European Court of Justice are appointed by ministers of government, Justices of the Caribbean Court of Justice are appointed by a Regional Judicial and Legal Services Commission. Care has been taken to ensure that the 11-member Commission is independent from the executives in the Caribbean member states.

The revised agreement for the trust fund entered into force on January 27, 2004, upon signature by 10 of the Caricom member states listed in the annex to the Agreement. Article III of the revised agreement stipulates that:

“The purposes of the Fund shall be to provide the resources necessary to finance the biennial capital and operating budget of the Court and the Commission in perpetuity.”

According to Article IV of the revised agreement:

“The resources of the Fund shall consist of:

- (a) the contributions of Members;
- (b) income derived from operations of the Fund or otherwise accruing to the Fund; and
- (c) contributions of third parties being contributions which are not likely to prejudice the independence or the integrity of the Court.”

The annex to the revised agreement sets out the respective members' share of the fund.

I wish to inform the honourable Senate that Trinidad and Tobago contributes the largest share of the fund, at 29.73 per cent. The other contributors are Jamaica, whose contribution is 27.09 per cent; Barbados, 12.77 per cent; Guyana, 8.33 per cent; Suriname, 3.92 per cent; Belize, 3.44 per cent. Six of the member states of the OECS contribute 2.11 per cent each while Haiti and Montserrat contribute 1.68 per cent and 0.42 per cent, respectively. Trinidad and Tobago has committed some US \$29.73 million as resource to the CCJ Trust Fund which has been capitalized in the sum of US \$100 million. The fund is managed by an independent board of trustees, the members of which are drawn from throughout the region.

Very importantly, the financing of the fund is to be governed by considerations of economy, efficiency and cost-effectiveness and the need to safeguard the independence and sustainability of the Court and the Commission. The devise of the trust fund is intended to minimize the possibility that governments who have to contribute to the funding of the recurrent expenses of the Court could thereby exercise undue influence and so undermine the independence of the Court.

Article I of the Headquarters Agreement provides that the “offices of the Commission” and the “Seat of the Court” shall mean those premises provided by the Government of Trinidad and Tobago in accordance with paragraph 4 of Article III of the Agreement establishing this Caribbean Court of Justice.

2.45 p.m.

Article II of the Headquarters Agreement provides that the court and the commission shall possess full juridical personality and in particular, the capacity to contract, acquire and dispose of the immovable and movable property and to institute legal proceedings.

Article IV renders the court, the commission and their property immune from legal process unless in a particular case the President has expressly waived immunity. No search, acquisition, confiscation, expropriation and any other form of interference with the property of the court and the commission is permitted unless a waiver has been granted by the President under paragraph 1 of this Article.

The immunity provided for in this Article, however, does not extend to investigations into accidents involving motor vehicles belonging to or operated on behalf of the court or the commission.

Article V stipulates that the archives of the court and the commission and in general all documents held by them shall be invaluable wherever located.

Article VII provides that the property of the court and the commission is exempt from direct or indirect taxation, not including taxes that are no more than charges for public utility services; customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported for official use and customs duties, other levies, prohibitions and restrictions in respect of import sale and export of their publications.

Article IX stipulates that in order to fulfil the functions with which they are entrusted, the judges, officers of the court and members of the commission, when engaged in the business of the court or the commission, as the case may be, in Trinidad and Tobago, shall be accorded the status, privileges and immunities

normally granted to high officials of inter-governmental organizations, including immunity from legal process in respect of words spoken or written and all acts done by them in their official capacity; immunity from personal arrest or detention in relation to acts performed by them in their official capacity; immunity from inspection of personal and official baggage, except in cases of flagrante delicto; exemption from any form of direct taxation of salaries, remuneration and allowances paid by the court or the commission and from customs duties and imports in respect of articles imported for personal use.

Further, counsel appearing in proceedings before the court also enjoy under Article X, availability of all papers, documents and materials relating to the proceedings before the court; immunity from personal arrest or detention in relation to words spoken or written or acts performed by them, in relation to proceedings before the court; exemption from immigration restrictions, alien registration requirements and national service obligation and the same privileges and facilities in respect of currency and exchange restrictions in relation to their appearance in proceedings before the court, as are accorded to representatives of government on temporary official missions.

Article X makes it clear in paragraph 2, that counsel will continue to enjoy the same common-law immunity from legal process relating to words spoken or written and acts done by them in the conduct of proceedings before the court.

Paragraph 3 of this article makes it clear that the privileges, immunities and facilities mentioned in this article are only intended to assist counsel in the efficient representation of clients in proceedings before the court and shall not be employed to circumvent applicable laws and regulation of Trinidad and Tobago.

Article XIII obligates the President of the court to make appropriate provisions for the settlement of disputes arising out of contracts and other disputes of a private law character to which the court or the commission is a party; disputes involving any judge or officer of the court or counsel conducting proceedings before the court, enjoying immunity, if such immunity has not been waived by the persons empowered to do so. Any disputes between the Government and the court or the commission arising out of the interpretation or application of the Headquarters Agreement and which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to an arbitral tribunal.

It is therefore evident that although the court, commission, judges and other officers of the court have been afforded the privileges and immunities recognized under international law to international organizations and their officials, a national

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of Trinidad and Tobago who may have a dispute with the court or the commission, or an officer of either organization or even with counsel appearing before the court, has been provided with a form of redress for any wrong that may have been done to them.

When enacted into law, the Bill before this honourable Senate would provide a proper statutory foundation for the functioning and operation in Trinidad and Tobago of the Caribbean Court of Justice, an international organization which has been established by treaty and is headquartered in Trinidad and Tobago. The court has taken its place among the growing number of organizations and institutions including the Association of Caribbean States and the Caribbean Court of Justice Trust Fund that have found in Trinidad and Tobago, an environment conducive to the carrying out of their operations.

Looking at the Bill, with respect to its provision, clause 2 defines certain terms used therein. It defines the terms, "Agreement", "Court", "Government", "Headquarters Agreement", "Officers of the Commission", "Minister" and "Seat of the Court".

Clause 3 provides that contributions by Trinidad and Tobago under the Headquarters Agreement shall be a charge on the Consolidated Fund and any sums received by the Government of Trinidad and Tobago from the Regional Judicial and Legal Services Commission shall be paid into the Consolidated Fund.

Clause 4 gives the Headquarters Agreement the force of law in Trinidad and Tobago. The Headquarters Agreement is contained in the Schedule of the Bill.

Clause 5 allows for the amendment of the Schedule by order of the Minister for Caribbean Community Affairs, so as to facilitate the incorporation of any subsequent amendments to the agreement.

The Caribbean Court of Justice is a critical component of the matrix of institutions of the institutional character that must grow and develop if the goals and objectives of the regional integration movement are to be realized. We recognize that in the national community we need laws, rules and institutions to adjudicate on disputes if the society is to advance. One of the pillars of Vision 2020 is to promote effective government. For the purpose of emphasis, among the goals of that pillar are: to ensure that Trinidad and Tobago has modern, technologically advanced, legal, regulatory and enforcement systems and that all citizens would be assured of fair and equal justice.

In the Caribbean Community, we require a proper legal environment of certainty and predictability arising from an accepted corpus of rules if the regional

integrational movement is to deliver the social and economic improvements that the people of the region aspire to and deserve.

As host of the court and the commission, the Government of Trinidad and Tobago is under an obligation arising from its treaty commitments, to do its part to facilitate the success of these two regional organizations by helping to put in place the physical, institutional and legal infrastructure required for the court and the commission to carry out the task set out for them in their constitutive instruments.

This Bill represents a continuation of the institutional building process we have embarked on in the Caribbean Community, by establishing the Caribbean Court of Justice that has the power to adjudicate on disputes touching on the interpretation and application of the revised Treaty of Chaguaramas, as well as to serve in substitution for the Judicial Committee of the Privy Council as the final court for civil and criminal appeals from those jurisdictions that accept its appellate jurisdiction. The court ensures uniformed interpretation and application of the Revised Treaty of Chaguaramas, thereby underpinning and advancing the Caricom Single Market and Economy. As the final court of appeal for member states of the Caribbean Community, it is expected to foster an indigenous Caribbean jurisprudence.

Signature of a treaty under international law signifies on the international plain to the international community, that the state's signing is in general agreement with the provisions of the treaty that would have been painstakingly elaborated by representatives of all negotiating states. It is a matter of historical record that the treaty establishing the Caribbean Court of Justice was signed on February 14, 2001, during the 12th Inter-Sessional Conference of Heads of Government on behalf of the Republic of Trinidad and Tobago, by the then Prime Minister of the Government of Trinidad and Tobago and the present Leader of the Opposition, Basdeo Panday. The signature of the agreement testified to the belief that the establishment of the Caribbean Court of Justice was in the best interest of the development of Trinidad and Tobago.

If we rewind the tape of time a bit, we would discover that during the period 25—29 January, 1999, the then Attorney General of Trinidad and Tobago who is the current Chief Whip, the hon. Member for Tabaquite, chaired the special meeting of the Legal Affairs Committee of Caricom in Port of Spain. A press release issued on February 01, 1999, under the authority of the chairman and the other attorneys general present, stated among other things, that the attorneys general reaffirmed that there had been regional consensus for the establishment of a Caribbean Court of Justice to replace the jurisdiction of the Judicial Committee

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of the Privy Council as long as three decades ago and considered the reports of the working committee established to consider and report on the capital and recurrent budgets for the Caribbean Court of Justice. The Legal Affairs Committee also considered the report of the working committee which was established to consider the legal implications of the decision of the Conference of Heads of Government to invest the Caribbean Court of Justice with original jurisdiction in respect of the interpretation and application of the treaty.

The corpus of accepted rules embodied in law creates the certainty, predictability and consistency required for many human activities to flourish; for societies to develop and for people to prosper.

The press release of 1999 and the signature in February 2001, by the then Prime Minister testify to a recognition by the major players of the Opposition of the salience of that fact. The correctness of the position that the Members of the Opposition, who were then the government, adopted in 1999 and 2001 has been vindicated with time. I trust that the position espoused when they were on this side of the Senate will continue to guide the deliberations and support in this debate.

3.00 p.m.

We need certainty, predictability and consistency in the law. We also need unity to take Trinidad and Tobago and this region forward towards the realization of their full potential. In recommending this Bill to all Senators, I wish to pay homage to all the unsung heroes past and present; those committed believers in the Caribbean people, who, in the face of the stubborn incredulity displayed by many of our people, have held fast to a vision of Caribbean integration and who, at their personal sacrifice and at the expense of their health, have traversed the airways of Caricom to advance the philosophy, the purpose, the message, the intent and the benefits of Caricom and to build its structures and institutions, including that of the Caribbean Court of Justice.

Mr. President, I, therefore, without hesitation, recommend that hon. Senators support this Bill to provide for the implementation by the Government of the Republic of Trinidad and Tobago of the agreement establishing the seat of the Caribbean Court of Justice and the offices of the Regional Judicial and Legal Services Commission between the Government of the Republic of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission.

Mr. President, I beg to move.

Question proposed.

Sen. Wade Mark: Thank you very much, Mr. President. I rise to make a contribution to a Bill to provide for the implementation by the Government of the Republic of Trinidad and Tobago of the agreement establishing the seat of the Caribbean Court of Justice and the offices of the Regional Judicial and Legal Services Commission between the Government of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission.

Mr. President, almost three years, one month and about 12 days ago, this particular agreement was signed and it took effect in the sense that whilst we are debating this Bill today, most of the provisions contained in the articles have already been effected. So the Parliament, once again, is being used as a tool by, not only this Government, but also I dare say other regional governments. The Government has brought a Bill today and all the provisions contained in the agreement establishing this so-called headquarters agreement for the establishment of the CCJ and the Regional Judicial and Legal Services Commission have already been effected as far as we are aware.

I want to disabuse, from the very outset, the cloudy interpretation that the Attorney General has—or maybe she sought conveniently to put into the record of the Parliament a one-sided interpretation of the events which led to the agreement being signed on October 14, at a special inter-sessional meeting of Caricom Heads of Government, by the UNC, through the then Prime Minister. The hon. Attorney General forgot to tell the Senate that there was a reservation clause in that agreement and that the then Prime Minister and Attorney General—it is on record in the Parliament—indicated that the agreement was signed, in principle, subject to consultation with the population of Trinidad and Tobago. I do not think it fair for the Attorney General to give the impression that it was a *carte blanche* arrangement when there was a reservation clause and a clear undertaking when the statement was made in the other place that the people of the Republic of Trinidad and Tobago must be consulted on this very crucial matter.

You know the rest is history. The PNM came into power and they never consulted the people and proceeded to impose their will on the people without any kind of consultation with the masses.

We have made it clear, Mr. President. I want to indicate that all the talk about sovereignty and independence and seeking to complete the process of independence is a lot of hogwash. We know that, based on what the hon. Attorney General has told the Senate, that the President of the CCJ, by a three-quarter majority vote from the Heads of the Caricom Conference—politicians sitting as Prime Ministers—three quarters can kick out Mr. Justice de la Bastide tomorrow

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morning as President of the CCJ. That is in the record of the agreement. That is why we have always advocated that this political interference into the operations of the CCJ will make it dangerous for the organization to deliver justice to the Caribbean people.

If a president of a court as high as the Caribbean Court of Justice, the final appellate court, can be kicked out by politicians of Caricom, are they telling me that I should have confidence in such an institution? Where in the Privy Council do we have such an arrangement, or where, right now in our own Constitution do we have such an arrangement? *[Interruption]* There is something called security of tenure. You cannot remove a judge in Trinidad and Tobago just so. You can try, but in Caricom, under the CCJ arrangement, you can remove the president by a three-quarter majority of Caricom heads saying they no longer want him, and he is history.

We have no faith whatsoever in this organization. It is the plaything of Caricom Heads of Government and it will never be able to deliver justice to the people of Caricom. That is why today, as admitted by the Attorney General, there are only two countries, Barbados and Guyana—and Guyana was always out of the Privy Council since a fuehrer called Forbes Burnham hoisted on the Court of Appeal his party flag, in the same way they tried to put a balisier on the Caribbean Airlines.

Guyana was never part of anything called the Privy Council since Mr. Burnham was in charge, and Barbados recently joined this arrangement. What has happened? We have established the CCJ and can you imagine that only two Caricom countries are affiliated to this particular dream and ambition that started in the 1970s? Why is it that only Guyana and Barbados are into the arrangement at the appellate level? The reason is that the people of the Caribbean region have no confidence in the Caribbean Court of Justice. Even the so-called Prime Ministers who come, wine and dine with our Prime Minister and make all kinds of false promises, have not entered into the appellate dimension of this court.

This Caribbean Court of Justice is a waste of time and taxpayers' money. This CCJ is like medicine in search of a disease. Do you realize what is going on, Mr. President? The President of the CCJ is begging for cases; literally begging Guyana and Barbados to send more cases. They did not know when they were establishing the CCJ that only 23 cases from the whole Caribbean reached the Privy Council? Did they expect things to change overnight? Now that there are only two members at the appellate level, how many cases have gone before them? One was from Guyana, one from Barbados and one pending. And these eminent

jurists are wasting away and enjoying handsome rewards for doing nothing. Is that not a cardinal sin? Are we not told in the Bible to earn wages by the sweat of our brow? Why are these judges, eminent as they are, earning moneys, I would not say under false pretences, but they are earning moneys, huge amounts, on a monthly and annual basis, and now we come with a Bill to give them more immunities and privileges, and what do we have?

3.15 p.m.

Let us not fool ourselves. What this hon. Attorney General should tell us today is what is the cost of maintaining the Caribbean Court of Justice (CCJ) to date. Tell us how much money it is costing us to maintain the Caribbean Court of Justice. Tell us how the citizens of Trinidad and Tobago have benefited from this Trojan horse or white elephant. It is a huge building somewhere on Henry or Park Street with state-of-the-art technology. If you go there, you would feel that you are working in space. The carpet is so thick. They have all the technology, but they have no work and they are drawing moneys, plenty moneys, for doing nothing.

The hon. Attorney General has come here today—I could only excuse her because I believe that she is innocent. She really does not understand what is taking place. [*Interruption*] “Yeah”, but your Prime Minister, Patrick Manning who is now in office, then Leader of the Opposition is on parliamentary record—when Mr. Robinson, the former Prime Minister, introduced the idea of the CCJ—as saying and it is in the *Hansard*, that he was not in support of the CCJ. Do you know why? He did not support Prime Minister Robinson. That is why he was not in support of the CCJ. That is Prime Minister Manning when he was in opposition. He was not supporting the CCJ because he did not like Mr. Robinson. He said that Mr. Robinson could not be trusted. That is what your Prime Minister said, Sen. The Hon. Dr. Lenny Saith. You seem to be running short of your memory stick. You need a flash drive. [*Interruption*] I think?

Mr. President, I want to let you know that we need to know how the citizens are benefiting from this wasteful and excessively obscene monument that is located somewhere on Henry Street or Park Street, Port of Spain. How are we benefiting from that? What are the advantages the Caribbean Court of Justice is bringing to the people of this country? Could you imagine we are paying close to \$400 million towards a trust fund, almost 30 per cent, and we have a white elephant located in Port of Spain, receiving two cases per year? I do not know if the Attorney General could tell us if there is any application for interpretation or application of the concept of a dead organization called the Caricom Single

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Market and Economy. It is dead and I will show you how the recent Economic Partnership Agreement will bury it completely. This whole talk about the CCJ being the final and exclusive body to interpret the application of the single market and economy concept will be a waste of time.

As far as we are concerned, justice has nothing to do with sovereignty, nationalism and independence. Because, if it had, tell me how is it, in Trinidad and Tobago, the equal opportunity law was passed in this Parliament and when the PNM came into power they opposed it and never implemented it? They then appealed the matter and sent it to the court for interpretation. The High Court struck it down and said that it was unconstitutional, invalid and cannot be implemented. We went to the Court of Appeal, the same interpretation, unconstitutional, invalid, null and void and of no effect. We took it to the Privy Council. Do you know what the Privy Council did; the people whom we said we must abandon? They told the Government of Trinidad and Tobago, in spite of what the Court of Appeal and the High Court said, that the equal opportunity legislation is legal, constitutional and valid. The Government was ordered to implement the Equal Opportunity Commission. It is coming. The Privy Council serves a role. *[Interruption]* The Caribbean Court of Justice? We do not have any confidence in the Caribbean Court of Justice. You should not look for support from the UNC Alliance as it relates to this monument that you have established somewhere in Port of Spain called the Caribbean Court of Justice.

May I also advise you, even if these Caribbean leaders wanted to really reflect the balance of forces in the region, that there are 1.4 million Indo-Caribbean people in Suriname, Guyana and Trinidad and Tobago. They have appointed between six and nine judges to the CCJ, not one single Indian in that balance. Do not tell me that we do not have prominent Indo-Trinidadians who are prominent and well established judges on the judicial landscape in this country. Even when you look at the composition of the Caribbean Court of Justice, it leaves a lot to be desired. Where is the justice that the hon. Attorney General is talking about?

It is not that people have not applied. I know of persons who have applied. It is on record that they have applied. Do you know what they have told them? They wrote them back and said: "Your application is under active consideration." It is still under active consideration up to this time. Tell me, where is the justice in this particular Caribbean Court of Justice and the Regional Judicial and Legal Services Commission? We are spending roughly \$400 million or we are contributing roughly US \$30 million to this trust fund. Right now, in our country, the whole system of justice has collapsed or is collapsing. Why do we not take

that money that we are spending on the Caribbean Court of Justice and fix our Magistracy or the Judiciary in our country? They are crying out for resources.

Let me summarize for you, the statement made by the then acting Chief Justice, Justice Roger Hamel-Smith at the opening of the 2007/2008 law term. Do you know what he called for, hon. Attorney General, seeing that you are now in the driver's seat? In his opening address, he called for the construction of five additional courts to assist in the disposal of the backlog of cases. We understand, you can correct me if I am wrong, that there is probably close to 450,000 cases in the system as we speak. Every time you go to the Magistrates' Courts and you are called before the magistrate, adjourn, adjourn. They are adjourning you year in year out. Where is the justice for the ordinary man or woman in this country? We want to invest \$400 million in a trust fund to bring into being a body that is not doing any work whatsoever.

Hon. Attorney General, I want to advise for your consideration the following, why not take these eminent jurists who are receiving moneys without working for it properly to those countries where we do not have the CCJ as the final appellate body? Could we not amend the agreement, bringing into being the CCJ, to release those eminent jurists to sit in those countries at the Court of Appeal level to help in the backlog? At least they will be earning their keeps. Why not do that? Why not get creative and innovative, rather than have people receiving \$60,000 and \$80,000 for doing nothing. Everything is free: car is free, house is free. They are living a nice life. What are they doing? I am proposing to the hon. Attorney General that one of the ways of utilizing these eminent judges/jurists is to allow them to go to work at the level of the Appeal Court in those jurisdictions where the CCJ is not the final appellate body. Maybe they can do so and earn their keeps.

In fact, we understand that in the OECS countries there is a backlog of cases in the High Court and the Magistrates' Courts, as it is throughout the Caribbean. This is why we are suggesting that these eminent jurists can sit at those levels, by amending the CCJ Act, in order to permit them to practise to sit it the High Court and the Court of Appeal, maybe not the Magistrates' Courts, to help clear the backlog.

Another suggestion we would like to put to the hon. Attorney General, as it relates to this monstrosity that "lay a waste" on Henry Street, is if you are serious about the CCJ and continue to waste money at that level, another level that you can carry this thing to, if you wish, is to make the CCJ the Court of Appeal for the Caribbean. Why not make the CCJ the Court of Appeal for the region and leave the Privy Council as the final Court of Appeal?

Mr. President: Sen. Mark, I have given you a fair amount of latitude so far, but, you really need to come back to the Bill. The issue here is not whether or not there should be a CCJ; the issue here is only to bring into law the agreement to have the seat of the CCJ here in Trinidad and Tobago. The issue as to whether or not there should be a CCJ is not really for debate. I have given you a fair amount of latitude. You have spent half of an hour. I ask that you come back to the Bill, please.

Sen. W. Mark: Mr. President, I thought I was advancing some very rich ideas. I thought that is my role to advance rich ideas, suggestions and recommendations, because at the end of the process, it is you, us and the people of this country who are financing this operation. If we are convinced, based on the information before us, that these judges, eminent jurists, are not being properly and productively utilized, I am suggesting some alternatives as they relate to using those people in a more productive manner. But if it is, Sen. The Hon. Dr. Lenny Saith does not want to hear this and he has his own ideas, I would then deal with some other matters that were raised by the hon. Attorney General.

We heard a lot about the exclusive jurisdiction of this particular court as it relates to application and interpretation of the Caricom Single Market and Economy. I would like to get from the hon. Attorney General, through you, Mr. President, whether she is aware that there is conflict between the provisions of governance for the establishment of the Economic Partnership Agreement which entrenches the joint council of the European Commission and the Cariforum States and gives that council the power to make legally binding decisions on the parties who are obliged to carry them out on pain of being submitted to dispute settlement provisions of the agreement and the whole establishment of the Caricom Single Market and Economy.

3.30 p.m.

Mr. President, if we are establishing a court in order to interpret and apply the provisions of the Revised Treaty of Caricom and, in this instance, the Caricom Single Market and Economy—we have recently signed an agreement with the European Commission to establish an Economic Partnership Agreement (EPA), and this EPA that we have established has a joint council that is going to have powers to legally bind the Caribbean region—what will be the implications for the future of this so-called Caricom Single Market and Economy? I think the Attorney General needs to clear the air as to whether there is conflict between the organs of governance of the EPA on one hand, and the provisions of the Treaty of Caricom; which is going to prevail?

I want you to understand that there is an inextricable link between this Caricom Single Market and Economy and the role of the CCJ in interpreting and applying its provisions at the recently concluded EPA. Mr. President, do you know the power that this EPA has given to the European Commission? It is going to make your hair stand.

Today, we are debating in this Senate the Headquarters Agreement for the establishment of the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission, when in truth and in fact there is a serious problem that is involved here. Is Caricom going to have greater regional autonomy, or with the establishment of the EPA, is there going to be less autonomy for Caricom to shape its future? This is a very challenging matter. I do not know if the Attorney General is in a position to provide this Parliament with an answer to this question. This matter, as it relates to this EPA, is being debated throughout the Caribbean.

Mr. President, we are being asked to approve a Bill that is going to give the CCJ carte blanche immunities. Where is the accountability for this money? Who is going to account to us for this money?

I would like the Attorney General to tell this honourable Senate—there may be 10 or 15 cases—how many cases have been heard by the CCJ as we speak today? Could the Attorney General provide us with the description of the nature of these cases that have been heard by the CCJ? I think it is important for us to understand from the Attorney General of this country: how many matters or cases of appeal are pending before the CCJ? We would like to know, because we want to give them more power. The Attorney General should provide us with a description of these cases.

Mr. President, because of the moneys that taxpayers are being called upon to carry for this particular court, it is incumbent upon the Attorney General to tell us, as it relates to the functioning of the CCJ, the total costs incurred in respect of salaries to date by the judges and officials of the Regional Judicial and Legal Services Commission, as well as the employees.

We would like to know from the Attorney General, with respect to this matter of the CCJ and the establishing of this Headquarters Agreement—they are taking moneys directly out of the Consolidated Fund under this particular clause—Mr. President, may I quote the clause for you? It is clause 3 and it says:

“All sums required to be paid by the Government of Trinidad and Tobago for the purpose of meeting the obligations of Trinidad and Tobago under the Headquarters Agreement shall be a charge on the Consolidated Fund.”

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So, if you are going to take moneys out of the Consolidated Fund to finance the operations of this organization, I think it is important for us to have a system of accountability.

Mr. President, we need to know the total costs incurred in respect of fringe benefits, perquisites and other benefits since the court was established, and the total amount of salaries received by the president of the court. We need to get that information from the hon. Attorney General.

We know that there are about six to nine judges. I think that nobody knows, in a real way, what are their fringe benefits, perquisites and other benefits. We do not have a sufficiently good understanding of it. We do not know about their pension and gratuity commitments.

Mr. President, do you know that we are renting a building on Henry Street for the CCJ? It is incumbent upon the Attorney General to tell this Senate how much moneys have been paid so far for rental of offices of the CCJ since its inception on December 20, 2005. I think it is only fair for us to know in this Parliament what we are paying for and how much we are paying.

I also believe that the hon. Attorney General should tell us whether there are any plans to construct a headquarters for the CCJ in Trinidad and Tobago. Are you going to establish a permanent building for the CCJ in Trinidad and Tobago? Maybe the Attorney General could tell us how this is benefiting our country so far.

Mr. President, I want you to go to clause 4 of the Bill and it says:

“Notwithstanding any other written law, the Agreement shall have the force of law in Trinidad and Tobago.”

I do not understand what this means. The supreme law of the Republic of Trinidad and Tobago is the Constitution. When you put into legislation a provision that says:

“Notwithstanding any other written law, the Agreement shall have the force of law in Trinidad and Tobago.”,

what does it means? You do not mean the Constitution! You definitely cannot mean that. So, you need to tweak this clause so that it is not misinterpreted.

Mr. President, clause 5 says:

“The Minister may, by Order, amend the Schedule for the purpose of bringing the Headquarters Agreement into accord with any amendments made thereto under Article XIV...”

Now, does the Minister have this kind of power? How can a Minister, by Order, based on some agreement that the Government has with Caricom Heads or counterparts, amend the Schedule for the purpose of bringing this Headquarters Agreement into accord?

Mr. President, let us go to Article XIV which deals with “Entry into Force”. It says:

“This Agreement and any agreement supplementary thereto shall enter into force immediately upon signature.”

I made the point earlier in my contribution that this Headquarters Agreement was signed on the 23rd day of February, 2005, and this provision says:

“This Agreement and any agreement supplementary thereto shall enter into force immediately upon signature.”

So, immediately after our former Minister of Foreign Affairs, Mr. Knowlson Gift, signed this document or this agreement on the 23rd day of February, 2005, every provision in this agreement and every article in this agreement was already enforced. So, what is the role of the Parliament?

We are coming three years later to debate a Bill with an agreement attached thereto. We believe that we are making a reasonable intervention, and we can try to persuade the Government that something is wrong and needs to be corrected or reviewed, but we do not have such powers. As soon as Mr. Knowlson Gift or the former Minister of Foreign Affairs signed off on this document, this agreement had the force of law. So, that is why this institution that we are trying to establish called the CCJ, if it does not have accompanying institutions, it will not work.

Where is the Caricom Parliament? Do you think that this could happen in the European Union? There is a European Parliament within the European Union and you cannot make this decision in Europe without taking these matters before the European Parliament for the European parliamentarians to deliberate on them. So, the Government is using us today as a rubber stamp. Why are we debating this matter today when this is already in force? This is law.

Mr. President, this tells you that the Government of Trinidad and Tobago does not respect the Parliament. If this Government had respect for this Parliament, it should have said: “Hold on, we have to take this matter, before it is signed, to the Parliament, because the Parliament is the law-making body, and before this can become law, it must be approved by the Parliament.”

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That is why when we signed in 2001, we signed in principle. There was a reservation clause, and we said that we would go to the people via consultation and possibly a referendum to get their input on this matter.

If you look at Article IX "Judges and Officers of the Court", it says:

"Judges and officers of the Court and members of the Commission, when engaged on the business of the Court or Commission...shall enjoy:

- (a) immunity from legal process...
- (b) immunity from personal arrest or detention..."

3.45 p.m.

Exemption from immigration restrictions; the same protection and repatriation facilities in times of international crisis are accorded to them. Look at the kinds of privileges that they have. What are they doing with these privileges? They are not using their talent in a productive way. They are wasting their time and they are not performing their duties as they are required to or was envisaged.

Mr. President, go to Article XI on page 14. Look at the facilitation of travel for these judges who are not doing anything; well they must be travelling all the time, because they are on vacation leave all the time, because they are not doing any work. Why is the Government using our moneys to support an institution and personnel who are not functioning? They are going to be given an uninterrupted passage within Trinidad and Tobago for entry and departure. Hear who are going to be covered by it: judges of the court and members of their families forming part of their household; members of the Commission; they could come when they want and leave when they want with their family; officers of the court and members of their families; parties to and applicants in proceedings before the court; persons other than officers of the court; other persons invited to the seat; the executive administrator is also involved. Visas required by these persons shall be granted expeditiously and free of charge. Look at the kind of immunities and privileges that these people are having.

Mr. President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. A. Nanan*]

Question put and agreed to.

Sen. W. Mark: Mr. President, how can we have confidence in the justice system in the region and in Trinidad and Tobago? How can we put our confidence in an institution called the CCJ? The Mustill Report, which was tabled here recently, is another illustration of the unwisdom in abolishing the Privy Council. Even our Prime Minister did not choose any of the judges of the CCJ. [*Desk thumping*] He knew the confidence question was critical, but instead he chose members—the gentleman who chaired, as you recall, Mustill, was a former member of the Privy Council, and it has to do with the whole question of confidence.

I would like to advise the hon. Attorney General—fix the Magistrates' Courts first; that is the poor man's court. Fix the High Court first. See about the business of the people first and do not waste moneys on this institution that you are trying to establish, that is not going anywhere fast.

I want to let you know that in 2006, when I sought to get some clarification on the operations of the Caribbean Court of Justice, which we are financing, you know what I was told by the then Minister of Community Development, Culture and Gender Affairs? I was told by the former hon. Minister, Joan Yuille-Williams that if I need information on the Caribbean Court of Justice I must write, as a citizen, to the Regional Judicial and Legal Services Commission for information.

Could you imagine that? We are parliamentarians; we are being called upon today to approve a Bill that would establish a direct charge on the Consolidated Fund to the tune of \$400 million and as a Member of Parliament, as Senators, we are being told that if we want to get any information on the CCJ we must write to the Regional Judicial and Legal Services Commission. So, what is the purpose of this CCJ? The Caribbean Community established the CCJ but the CCJ appears to be above the Caribbean Community and its institutions. I want to ask the hon. Attorney General if she has paid any attention to Chap. 9.

[MR. VICE-PRESIDENT *in the Chair*]

Mr. Vice-President, Chap. 9 of the Revised Treaty of Chaguaramas, establishing the Caribbean Community, including the Caricom Single Market and Economy talks about disputes settlement. In this particular chapter, they talk about when a trade dispute develops between member states, how they must go about expeditiously resolving those disputes. And they gave you, under Article 191, various mechanisms that you can use: arbitration or adjudication; good offices; mediation; conciliation. All these things are entered into the Revised Treaty of Chaguaramas.

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What, therefore, is the purpose—if you have a trade dispute between Barbados and Trinidad and Tobago or Barbados and let us say, Guyana; there are mechanisms in Caricom outlined already as to how we must settle disputes. What then is the role of this so-called CCJ? That is why I have asked the hon. Attorney General to tell the country, through the Parliament, how many trade disputes have gone before this particular CCJ since its establishment on December 20, 2005.

The CCJ has been in existence for almost two years and a few months. If there is any justification for its work, bring the data, share with us the facts, that this CCJ really is working; it is meaningful and there is justification for us spending \$400 million of taxpayers' money in that particular organization through a trust fund. We need to get facts from the hon. Attorney General, because this institution is turning out to be a bogus institution. It is turning out to be a white elephant.

Why is the Government of Trinidad and Tobago continuing to spend very scarce resources that could have gone to subsidize food for poor people in the country? Riots are taking place in different countries and I want to warn this Government, you are playing with fire, Sen. Dr. Lenny Saith, if you all continue to ignore the masses.

I heard on the news this morning, an angry gentleman and you know what he said, Mr. Vice-President? He went to a supermarket in Marabella and bought two pounds of rice. A pound of rice in that particular supermarket, \$10; that is what he said; he could be exaggerating, Sir; I do not know.

Mr. Vice-President: Sen. Mark, as the President had ruled, I think the Bill is whether or not to provide for the seat of the Caribbean Court of Justice. I think you are straying from the point and could you get back on track in terms of—

Sen. W. Mark: I thought you would have agreed with me that the poor people are crying out for justice. People are crying out for justice, Mr. Vice-President, and justice is not only about going before the court, you know. Justice has to do with people being able to access things at a reasonable level in our country, whether it is food, health care, education; that is justice; it is all intertwined.

All I am saying is that the hon. Attorney General needs to justify to us and to the country, why for instance, we must continue to invest this amount of money. The hon. Attorney General talks about governance. You would have heard her when she was winding up, that in Trinidad and Tobago today, the PNM Government, as it relates to governance, is committed to the principle of governance and we were told that the Government is committed to effective

government and that is going to be manifested through modern, technologically legal regulatory mechanisms and systems and fair and equal justice. That is what we were told.

In Trinidad and Tobago today, there is no fairness and there is no equality in the justice system in this country. There is one law for those who are in power and there is one law for the others who are in Opposition.

Sen. Browne: Bull!

Sen. W. Mark: Mr. Vice-President, "yuh hear what he say?" Is that parliamentary language? He said "bull". Is that parliamentary language? Mariano Browne said "bull". Is that parliamentary language, Sir? You allowing that? *[Laughter]* So, I could say that, Sir? Mr. Vice-President, I could say that?

Mr. Vice-President: Well, no. I did not hear the hon. Senator, but I am sure if that is what the hon. Senator said, he would withdraw it.

Sen. W. Mark: Well, I will wait.

Sen. Browne: I will withdraw it. I should instead say "nonsense". *[Laughter]*

Sen. W. Mark: Thank you very much. That is a good one, yes. Mr. Vice-President, I know my colleague and so on, he is very intemperate at times; very intemperate, so, I take that as just another episode. You know he told a journalist, because he was sweating under an interview, and when the journalist kept pounding him, he said, "listen, you better go and study economics at the University of the West Indies". Anyway, Mr. Vice-President, let me continue. *[Interruption]* Thank you very much, Sen. Dr. Lenny Saith.

Mr. Vice-President, we have made it very clear from very early, we do not support the establishment of the Caribbean Court of Justice; we are consistent with our position as it relates to this matter and therefore the Bill that is before this honourable Senate is not consistent with our philosophy at this point in time. We do not believe that this Government and the region is ready for this particular kind of political institution.

The CCJ could easily amount to a political institution where those who have more corn will be able to feed more fowls. This Prime Minister that we have here has a tendency to move towards a particular direction and what we are seeing are tendencies towards that direction. And what is that direction? Autocracy and totalitarianism! That is what, for instance, this Government wants to do, and they want an institution like the CCJ, that they could manipulate so when they give, like Mc Nicholls, orders to jail Panday, then Mc Nicholls will carry it out.

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Mr. Vice-President, there is one law for the PNM and one law for the UNC, and I want the hon. Minister of Health to tell this Parliament, when in an interview sometime ago he said that the PNM takes care of its own and have cases thrown out in its favour, you must tell the country what you meant by that.

Sen. Narace: Mr. Vice-President, on a point of order. I never made any such statement.

Sen. W. Mark: That is what all “yuh” want. Mr. Vice-President, can I bring to this Parliament that statement? [*Interruption*]

[*Mr. Vice-President stands*] [*Crosstalk*]

Mr. Vice-President, may I just wind up now?

Mr. Vice-President: Yes, could you please wind up, because—[*Laughter*]

Hon. Senator: Wind down. Wind right down. [*Laughter*]

Sen. Browne: Well done.

Sen. W. Mark: Mr. Vice-President, I just want to indicate that this matter is very serious and grave and we do not support this measure. We have indicated to the Attorney General some ideas for her consideration in better utilizing the human resources of the persons who comprise that court. I just want to indicate to her: one, she can have some of these judges go and work at the High Court and Court of Appeal levels and let them earn their moneys. And, the second area I would like her to consider once again is to make the CCJ the Court of Appeal, the second level for the whole of the Caribbean; retain the Privy Council and over a period of years, in time people will gain more confidence in the system. I believe in 10, 15 or 20 years’ time people will be able to accept this particular CCJ more than they do today, but not today; maybe 20 years from now, but not today.

Mr. Vice-President, I thank you for allowing me to make my contribution.

Sen. Basharat Ali: Thank you, Mr. Vice-President. I intend to make a very short contribution on the Caribbean Court of Justice (Headquarters) Bill, 2008. I have been here along with my other colleagues for two other CCJ Bills which resulted in the Caribbean Court of Justice Act of 2005 and the Caribbean Court of Justice Trust Fund Act of 2006.

I personally have no difficulty in supporting the Bill before us and I say so in advance because we have been through many things here relating to the

headquarters Bill and the privileges and immunities and we have gone through that a number of times before.

Hon. Senator: Just last week. [*Laughter*]

Sen. B. Ali: My friend there says last week, so I will not get into that at all. As I say, I support that having supported the other Bills before in 2005 and 2006. I would like to look at the other items and I believe I will follow from the hon. Attorney General's discussion of the function of the CCJ in its original jurisdiction where the CCJ has compulsory and exclusive function of an international tribunal to apply the rules of international law in respect of the interpretation and application of the Caricom Treaty. I think that is something that every one of the members has an obligation to perform.

The other part of the function of the CCJ relates to its appellate jurisdiction and as the hon. Attorney General said, there are only two countries that have reached that stage, and they are Guyana and Barbados within the Caricom area. The rest of us still remain tied to the navel string, or whatever it is, of the Judicial Committee of the Privy Council.

I would like to speak to that for a little while. The Caribbean states have a very dubious distinction of being the very last region of the old British Empire to retain or to rely on the British court system of appeals. I think after having achieved Independence 45 years ago we should now be taking the final step towards our complete independence by agreeing to the CCJ as our final appellate court. That is my personal view and I hold it very strongly that we need to get there. I do not think the Privy Council wants us and we are hanging on to it for whatever reason. [*Interruption*]

So, this is my position and there are other reasons why, because there are quite serious cost implications in running the CCJ. The CCJ trust fund has been established and the hon. Attorney General read what the purpose was. I only want to mention two words in that and that is at the end of the sentence reciting the purposes of the CCJ and to say it I have to read the rest:

“to provide the resources necessary to finance the biennial capital and operating budget of the Court and the Commission in perpetuity.”

So we are committed in perpetuity to make contributions to this trust fund whether we are in the final appellate jurisdiction or in the original jurisdiction. I believe the hon. Attorney General also mentioned from the initial endowment of US \$100 million, we have contributed or caused to be contributed US

\$29.7 million, which is our share of the initial capital of the CCJ trust fund, but more important even than that is the fact that if there are any shortfalls in the income of the CCJ trust fund in later years—and it may be already there—then we are still obliged to come up with a proportion or the share of the shortfall or the requirements for keeping the trust fund alive.

Once again the hon. Minister did give us the numbers and I will repeat them, if I may. The share from the principal members will be: Trinidad and Tobago, 29.73 per cent; Jamaica, 27 per cent; Barbados, 12.8 per cent and Guyana, 8.33 per cent. If we add all up, just these four, that is 78 per cent of the requirement of capital, and under recurrent expenditure if we fall short at any time in terms of the income from the trust fund. So, we have a serious commitment in this and \$30 million as basic capital and even the additional—I think it comes up to US \$1.3 million a year of what may be seen as the expenditure of the CCJ as time goes on. It is still a certain amount of money.

I believe in value for money and we are not getting value for money as long as we keep the CCJ in its original jurisdiction. If we want to go to the next step then we will have the position where we are foregoing a lot of costs which take place now when we have to go to the judicial committee of the Privy Council. So, outside of these amounts I looked in the CCJ Trust Fund Annual Report for 2006 and I noted that the disbursement to the CCJ in 2006—and that is a calendar year—was US \$3.564 million. That came out of the income. In fact, the income was sufficient to cover that; the income from the \$100 million invested.

I would have liked to know what the level of the expenditure in 2007 was and I think that report is probably imminent now—the Annual Report of the Caribbean Court of Justice—but I would expect it to be of the order of \$4 million to \$4.5 million at its present level of operation. So, I would like either the hon. Minister who is the expert in such matters or the hon. Attorney General to reply to that so that we all here would get a better feel as to how much we are contributing on an annual basis to these funds. I tried, in fact, to look at some of the public accounts for the last few years and I did note that in fiscal year 2005, in our public accounts of October 2004 to September 2005, we did disburse from the Consolidated Fund, from the Ministry of the Attorney General, TT \$8.1 million to the establishment of the CCJ. So there is a little gap there which I would like filled out so that I can feel more confident as to where we are going.

As I said before, I do not think that Trinidad and Tobago, at least, is getting its value for money. Maybe Guyana and Barbados have a lower level of contribution. Guyana is 8.33 per cent and Barbados is 12.77 per cent, and they have taken that

step which I think is a progressive step. So, I am of the view that Trinidad and Tobago needs to go that route. What do we need to do to go that route? We have to change the Constitution and we have to get a constitutional majority of three quarters; 75 per cent in the other place and two-thirds in this Senate.

I would respectfully like to put to both sides here that we need that non-partisan approach to get together and go that way. We speak of local content and then we speak of regional content, how are we going to continually say, well, we are not ready or the judges will be prejudiced and everything else if we do not take that step?

I am saying finally, let us see whether we can do it, and the only way we can do it is by both parties getting together. I am sure the Bench on which I sit will help if a two-thirds majority is required from this Senate to pass that Bill. So, I am saying let us take the bold step to final independence in the matter of the jurisdiction of our local court.

Thank you.

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Thank you, Mr. Vice-President. I rise to add my voice to this debate on a Bill to provide for the implementation of the establishment of the Seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission between the Government of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission.

I would like to thank Sen. Basharat Ali for his sensible and reasoned comments on the provisions and certainly the financing of the CCJ. It certainly throws into stark—

Hon. Senator: Comments.

Sen. The Hon. M. Browne:—contrast—Thank you, the comments and the numbers quoted by Sen.—shall I use “honourable” in Marc Anthony sense? [*Laughter*]—Wade Mark. [*Interruption*] “Sen. The Hon. Wade Mark”.

Where can I start? Let us start at the very beginning. Let us put the CCJ in some context. When the Caricom as a region was set up, it was characterized by protectionism, import substitution, economic development and inward economic development based upon the ownership and control of the resources which are available to us. We talked about nationalization and we saw that in the context of sugar, we saw that in the context of bauxite, both in the case of Jamaica and

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Guyana. We saw Trinidad and Tobago itself pursue from fairly aggressive attempts in the field of its own economic endeavours with regard to energy and the energy sector.

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At the same time, while we were doing all these national things, we still enjoyed the protectionism given to us by Lome 1 and we still had preferential access to the EEU. I think the last time sugar made money was in 1975/1976, a year which was also characterized by a certain degree of civil unrest in Caroni Limited and we also had the cold war. But then, the economics changed and the environments changed. We talked about the collapse of the Soviet Russia, the emergence of one super power and the decision of the leaders of the European Union or the EEC to establish a single treaty, a single economic space which put us into a prejudicial position. As a result, many of the ideas, thoughts we had from an economic development perspective, failed.

The provisions of the treaty in 1973 relating to the rights of establishment, provision of services and movement of capital by nationals was not in terms of obligations, but in terms of desires and it was often followed by non-compliance and the structures that were put into that treaty at that time, failed. In effect, we got caught up in semantics, theory, rather than practical measures to make regional integration a reality.

The arbitration machinery established by the treaty of 1973 was largely dysfunctional and not a single dispute was settled during its lifetime. As a result, when economic conditions in our space started to worsen, economic conditions changed, certainly for the worse in the case of Guyana and Jamaica, there was a recognition that we needed to do something a little different. That difference came slowly over time and it is embodied in the Revised Treaty of Chaguaramas, which in fact gave rise—the provisions of this CCJ are established and caught up in that Revised Treaty.

In fact, we moved towards the CSME and a single economic space. We also understood by very much part and parcel of the economic actors and the people who developed the Act at the time, that Revised Treaty needed to be founded in a sound appreciation of law and that the law needed to play an indispensable role in the economic dimension and it needed to establish permissible parameters of political, social and economic interaction. It required outcome predictability in the operational environment which is certainly a function of the applicability of the rules of law.

As a result, we moved very quickly to the establishment—I would not say very quickly, because it took us a long time to get there. Between 1993/1994 and 2008 is quite a long time and my hon. colleague clearly established the dating and the rationale for the establishment of the court. But the regime established by the Revised Treaty of Chaguaramas, establishing the Caricom and its Single Market and Economy, operates at an international plane and creates rights and obligations for sovereign states as subjects of international law. And that is the genesis, the reality, the backbone and the importance of the CCJ. Other colleagues coming behind me will speak to it in greater detail.

Suffice it to say, that the CCJ was important as a rule-based institution and as also the final embodiment of the law to sort out all of our jurisdictional issues and the issues of disputes arising between sovereign states. So it is a very strong basis in economic fact that sets the tone for its existence. It also has the additional benefit of dealing with our heritage; of dealing with our history; of dealing with the fact that as sovereign states we need and needed to, and still do, need to take control of our destiny and our place in this world.

There is no better example of the contradictions inherent in the use of the Privy Council than the Bill referred to by Sen. Mark, the Equal Opportunity Bill, which in its original form in the United Kingdom jurisdiction was really intended to protect a minority, a minority on the basis of colour, a minority on the basis of economic space. When that Bill came before the Privy Council, all of the basic arguments for the abolition of the Privy Council are exactly the arguments that we see. It was completely out of touch with the development and the space that we call the Caribbean region.

There are other examples and my learned colleague will deal with those, but I go back to some of the points raised by Sen. Wade Mark. This is a copy of the original agreement establishing the Caribbean Court of Justice and this is on the signature page. I do not see any reservations here, there are none attached. There are no codicils to this agreement, so it is signed. I do not know where one signs an agreement with reservation, you either sign it or you do not. Let us read what Article 32 says. It very clearly says—because I did read it and I do not see that the provisions of Article 32 were invoked: “Agreement may be amended by contracting parties”, that is Article 32. “Entry into force”, which is Article 35. I think you are talking about Article 39, Reservations? Articles 32 and 39—a reservation may be entered to Article 25 of this agreement with the consent of the contracting parties. Do you have a copy of the reservation? I did not see any and I

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have never seen any published. So if there is some reservation, I would clearly like it to be brought and to be read into the minutes of this Senate for me to see because I have not seen any and there is none that is on record.

With regard to the reservations established or articulated on this side when this was first mooted, perhaps I could paraphrase the words of Gandhi. Sen. Mark referred to the hon. Prime Minister and he said he did not support the Bill initially. If I am not mistaken, Gandhi said something and it went like this:

Judge me not on the ideas to which I subscribed yesterday, but on the relevance of my ideas to the position that I am in today. Yesterday is gone.

The court faces challenges, but it is to the credit of the Heads of Government that the provisions of the agreement and the treaty relating to the court, provide the court with greater protection than any other against political or any other form of interference that has been afforded to any other court. Every caution has been taken to ensure the independence of the judges of the CCJ. They are appointed by the Regional Judicial and Legal Services Commission, a body on which no politicians or political nominee or office-holder has a seat. The commissioners are expressly enjoined by their agreement not to seek or receive instructions from any body or person external to the commission.

The commission was also fortunate to have as its founder members, a group of dedicated and distinguished Caribbean men and women which included the Chief Justice of Barbados, Sir David Simmons; a former Chancellor of Guyana, Prof. Aubrey Bishop; and a former Chief Justice of the OECS, the Right Honourable Sir Vincent Floissac. The President of the Court is appointed by the Caricom Heads of Government, but no one can be appointed by them unless he or she is recommended for appointment by the commission.

Further, the President and the judges also enjoy security of tenure and cannot be removed from office before they reach the age of 72, unless a tribunal comprising three persons who hold or have held high judicial office, advises that they ought to be removed because of inability to perform their functions or for misbehaviour. The only flaw that the Privy Council was able to find in these arrangements made for the protection of the CCJ, was the possibility that they might be changed by an amendment of the agreement. Given that for such an amendment to be effective, it would have to be ratified by all parties to the agreement, the risk of that happening is slim or to put it in the words of the former Chief Justice, "fanciful".

One form of protection given to the court which is unique is the creation of that very trust fund and Sen. Mark keeps referring to it. How much did he say, \$400 million? My last arithmetic suggests that 30 million multiplied by 6.3 cannot be more \$190 million, it really cannot. And I know Sen. Mark is an intelligent man, I know that his calculator works as well as mine, so I am not certain where he got his \$400 million figure from, but certainly that is not it.

In addition, the capital sum is placed on a trust fund in the hands of an independent board of trustees, who have the responsibility of investing the fund and providing for the court from time to time with the moneys which is needed for its biennial budgets. In short order, their purse strings have been freed from any third party. The court makes available to all and sundry, all of its decisions. It is accessible and user-friendly.

Much has been made of the work of the court and in fact we have been asked to say exactly what work it does. I just want to compare it to at least two other courts. New courts, like new businesses, take a long time to be established and the Chief Justice of the New Zealand Supreme Court which replaced the Privy Council, said this and I quote:

"When the High Court of Australia was set up in 1903 there were fears that the judges would not have enough to do. The Supreme Court of the United States in fact had nothing to do—for the best part of three years. It languished for its first ten years, existing on the fringe of American awareness."

In the case of the CCJ, in the year 2005, one application was heard and two appeals were filed.

In 2006, eight applications and six appeals were filed. All of the applications have been determined; five of the appeals were heard and one is to be heard in May 2008.

In 2007, 14 appeals were filed. Applications and case management conferences had been heard in seven of the 14 appeals and one appeal is listed for hearing in April 2008. Decisions on preliminary issues have been given in three matters. The record of appeal is to be settled in another six matters.

In April 2008, an application for special leave was filed in the original jurisdiction of the court. The cases in which judgments have been delivered are available on the website.

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The judges of the court in addition to hearing appeals have been writing, researching and reading. They have also been drafting detailed rules of procedures for both jurisdictions.

The main arguments established or said against the CCJ were set out by Sen. Wade Mark. One of the arguments is that it would be a political tool. I think I have demonstrated that nothing could be further from the truth. For 400 years, we have been directed by outside parties, it is about time we stand up.

Mr. Vice-President: Hon. Senators, it is now 4.30 p.m., I think we could take the tea break now and we will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

[MR. PRESIDENT *in the Chair*]

5.00 p.m.: *Sitting resumed. [Interruption]*

Sen. The Hon. M. Browne: Mr. President, I was on my feet before the break, responding to Sen. Mark. I am speaking to his chair at the moment, as I have been for the last 15 or 20 minutes, and his colleagues.

In his contribution, Sen. the hon. Mark made reference to the comparison between the Caribbean Court of Justice (CCJ) and the European Court of Justice. He said that we could not possibly do what we were doing, because we have not followed the proper rules, procedures and so on. I just want to make the point that in the exercise of appellate jurisdiction, the CCJ considers and determines appeals both in civil and criminal matters from common law lower courts within the jurisdiction and member States of the community. In fact, the CCJ will also be discharging the functions of an international tribunal, applying rules of international law in respect of interpretation and the application of the treaty.

In this regard, the Caribbean Court of Justice will be performing functions like the European Court of Justice, the European Court of first instance, the Andean Court of Justice and the International Court of Justice; in short, the CCJ is a hybrid institution. It is a municipal court of last resort and an international court with compulsory and exclusive jurisdiction in respect of the interpretation application of the treaty.

It is different from the European Common Market and the European Court of Justice, in that the European Common Market Treaty created its own legal order, which was directly applicable both to member States and to nationals. What the treaty held was the result of a partial transfer of a sovereignty from the member

States of the community to sovereign body. This has not happened in our case and, therefore, it cannot be compared to the European Court of Justice; it does not follow. The European court recognized the partial transfer of sovereignty that is a feature of the treaty, and that distinguishes it from all other European treaties, in addition to which, it gave up a certain amount of political sovereignty; this Revised Treaty of Chaguaramas does not do so.

Sen. Mark also went on to make a number of points with regard to the challenges, in terms of interpretation of law, and given the provisions of the Act, that the CCJ was, in fact, superior to the Constitution. That is not so. It certainly is so where the law: municipal law, common law, is in conflict with its decisions; then its decision would take precedence; but it does not take precedence over the Constitution in any form or fashion.

Sen. Mark also went on to make a number of points. He emphasized and harped on the issue of how much it was costing and what it was doing, as well as the fact that the justices of the court were immune; that they could do what they wanted. I know that Sen. Mark is an intelligent man, and I know that he has read the Bill, because this is approximately the third time we are debating it here, so by now he must be accustomed to the provisions.

In fact, I know that he was commenting from privileges and immunities which are probably buried in clauses 2 and 3 of Article IX. But in the first paragraph, second sentence it says:

"Judges and officers of the Court and members of the Commission, when engaged on the business of the Court or Commission..."

In other words, such immunity as it applies, applies only when they are in the course of their work. Immunity does not walk with them; they are not immune with respect to any civil or criminal matters. They are subject to the laws of the land as any other party. However, when persons appear before the court and when the members of the court act in their role as members of the court, then they are immune, when they are "engaged on the business of the Court".

"...similarly such exemptions that are allowed in respect of import, sale and export of publications..."

This is with regard to customs duties and so on. In other words, it would be subject to normal duties:

"will not claim exemptions from taxes which are in fact no more than charges for public utility services."

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They have to pay standard things just like everybody else, but they do have certain privileges; there is no question about that. They enjoy freedom of communication in their official communications. There is nothing that sets them apart from the law that makes them separate and individual parties above the national jurisdiction. There is nothing in this Bill that allows for that. Clearly Sen. the hon. Mark misread, I would think, some of the provisions of this Bill.

Sen. Mark in his contribution also made reference, and was corrected by Sen. Dr. Nanan, with regard to the reservation clause at Article 39. It was signed with reservations; I dealt with that. But in perusing the "Report of the Nineteenth Meeting of the Conference of Heads of Government of the Caribbean Community" which was held in Castries, St. Lucia from June 30—July 04, there were a couple paragraphs worthy of mention.

Paragraph 230 says:

"With regard to the matter of the seat of the Court, Member States expressed support for Trinidad and Tobago to host the seat of the Court provided that that Member State participated in both the original and appellate jurisdictions. It was stated that participation by Trinidad and Tobago in a limited way would compromise the integrity and reputation of the Court."

In other words, if we were to set up the Caribbean Court of Justice in Trinidad and Tobago, we would not want it to be in a jurisdiction that did not subject itself to or conform to the realities of both the appellate and original jurisdictions.

Paragraph 231 says:

"Trinidad and Tobago reaffirmed its offer and continued willingness to host the seat of the Court and undertook to withdraw its offer in the event that it could not secure the required parliamentary approval for the full participation in the Court."

That was June 30—July 04, 1998. I wonder who the Attorney General was at that time, and the Prime Minister. It would have had to be the Members on the other side. Clearly there was an intention from yourselves that the CCJ would be hosted in Trinidad and Tobago, and not only that, but that we would agree to be part of both the appellate and original jurisdictions. That was the clear intent of paragraphs 230 and 231. [*Interruption*]

Sen. Dr. Nanan: If you go to Article 39 it speaks about Article 25 which deals with the appellate jurisdiction with respect to the abolishment of the Judicial

Committee of the Privy Council. The UNC government Cabinet took no decision to remove the Privy Council.

If you go back to Article 39 you would see that it makes reference to Article 25, which is for the consenting parties to agree. You would see in that Article where the position of the UNC government came from with respect to the provision in that particular treaty.

Sen. The Hon. M. Browne: Thank you for the clarification, which does not clarify it. [*Laughter*]

You said that you signed it subject to reservations. There is no reservation that is appended to this Article; no reservations were ever filed; no reservations were ever made.

I quote the final part of the declaration of the meeting of July 04, 1998:

"Endorsed the change in appellation of the Court to the Caribbean Court of Justice:

Agreed to

- (i) invest the Caribbean Court of Justice with original jurisdiction in respect of the interpretation and application of the Treaty;
- (ii) extend the notification period for withdrawal...

Also agreed to establish a Working Group to consider and make recommendations on accommodating the differences of the legal systems of Member States for the effective functioning of the Court;

Noted the offer, and continued willingness, of the Government of Trinidad and Tobago to host the seat of the Court and the undertaking of that Government to withdraw its offer in the event of its inability to secure the required Parliamentary approval for full participation of Trinidad and Tobago in the Court;"

I submit, Mr. President, that it was always the intention—maybe I should not speak to the intention—there clearly was a willingness to submit both to the appellate and original jurisdiction and also to make the CCJ its home in Trinidad and Tobago. That clearly was the intention of the government at the time, and the intention which was given effect to by its signature to its treaty on February 14, 2001, approximately two and a half years later, to give effect to that intent, which was set out in Castries, St. Lucia on July 04, 1998. In pursuance thereof, the CCJ has been established.

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There is a clear case that the intention of appeals to the Privy Council is incompatible with the notions of decolonization, sovereignty and independence in the Caribbean. Furthermore, Privy Council appeals prompt a variety of psychological considerations. English judges are no better than judges on Caribbean matters, than judges in the Caribbean in terms of matters dealing with the Caribbean.

The point is linked to the idea that Caribbean people have not been allowed to demonstrate our independence on judicial matters. We submit that the CCJ is a good investment; it is an investment in our future; it is an investment in our sovereignty; it is an investment in our independence. On that there is no price. The figures commented by Sen. the hon. Mark are completely out to sea. We have paid a reasonable price for this; it is doing its work and we clearly support this. I ask my colleagues to support me as well and to support the hon. Attorney General.

Mr. President, I thank you.

Mr. President: Minister, I would just like to advise you that Senators on this side are merely called by their names; Senator and their name, not Senator The Hon. The "Hon." is left for ministers who have Cabinet rank. [*Laughter*]

Sen. Mark: That is no problem, you can call us that. Do not worry, even the President calls us honourable as well.

Sen. Dr. Carson Charles: Mr. President, thank you for the opportunity to contribute to this Bill before us.

I begin by congratulating the Attorney General, who is not here at this time. I congratulate her nonetheless for actually spending the time this afternoon to present this Bill to us. Unlike previous presentations made by Members on the Government side, on this occasion we were actually given a little background and some reasons for supporting the Bill. So I must congratulate the hon. Attorney General for doing her duty and showing the Senate the courtesy, the respect it deserves. Now we have an understanding of things.

Of course, in doing that she went into very many areas of government policy, and she invoked a number of aspects of public policy to support the Bill, so it might be difficult for me to become irrelevant if I actually refer to all the various things she took us into.

Mr. President, our hon. Minister in the Ministry of Finance, while you were not here, also took the liberty to go all over the place in painting a picture regarding why we had the CCJ and why we have the headquarters agreement before us.

5.15 p.m.

Notwithstanding all that, I am going to make a few points and I begin by saying that I consider it unfortunate indeed that standing in the Senate this afternoon I cannot support the Government's Bill for this Headquarters Agreement and I will tell you why it is unfortunate. It is unfortunate because the Government's focus is all wrong.

The Attorney General said that opposition to this Bill and similar proposals by Government—and I am paraphrasing it—tend to be based on a fear of the unknown, and she referred to people who opposed for opposing sake and to the general tendency to oppose without reason. The impression was given that there is something wrong with opposing the Government's well-thought-out proposals and no doubt with very good reasons.

At the same time, we note when the United National Congress formed the government with the assistance of the NAR at that time with Mr. Panday as Prime Minister, we actually played a major role in advancing Caribbean unity in terms of signing the agreement to establish the court and we even went back to a previous time when the Prime Minister of today, then Opposition Leader, could not find it possible to support the Government in anything, or in any Caricom matter, far less the establishment of the Caribbean Court of Justice.

It is clear that the problem has much to do with where people sit and I thank the hon. Minister of Finance for giving us that little explanation about Gandhi. I am no expert on Gandhi, but I like his explanation. He is really telling us that the reason that the Prime Minister of today could promote this but could not support it back then is because yesterday was yesterday and today is today. We have to read behind that, what he really said is that people do not have confidence in the other side. When you sit on the Opposition Benches, you have a different experience from the one you have when you sit on the Government side. *[Interruption]* Well, I am here, so I have a unique perspective, I am one of the newest Members and I am one of the oldest but this is precisely the problem, and that is why I started by saying it is unfortunate that I cannot support this because I think that the vast majority of citizens of Trinidad and Tobago want to believe in Caricom and Caribbean society.

We want to believe that we can put aside the Privy Council, we are also very nationalistic at heart and would like to recover a lot of that I think, even in the presence of all the power of the international environment that we have to face. Nonetheless, there is this spirit of nationalism, although some say it is something that is long gone in the world and the concept is no longer relevant, but I think in

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the Caribbean our people are very keen on completing the cycle which we started, of achieving true nationalism, true independence and perhaps after achieving it, we could decide what to do with it. If we are post-nationalistic we must first get to nationalism before we can go post. So we want to complete the work we started way back, not in the 50s, the 60s or the 70s but way before that.

We have had our revolutions over time all towards the aim of achieving true independence. We want to believe in it and as a people we want to be led by those in authority—those who call themselves leaders—to the stage where we can believe in them. Not only the Opposition now, your problem has much less to do with the Opposition than with the population. Getting the support of the Opposition is not your main problem. I know people come here with the attitude that we are going to pass this Bill anyway, and who cares what the Opposition has to say, and you have the majority. That is why I congratulated the Attorney General in her absence for giving us a proper presentation so that we can appreciate her Government's point of view, but your problem is more with the population.

I submit that the difficulty with the Caribbean Court of Justice is the same we have with so many other things in our country today, which is that there is no confidence, the people of this country do not have confidence in those in authority and this is not the Government alone, people are speaking of those in authority. People are not convinced that those in authority are seeking their best interest and it is the responsibility of the Government to take the lead in this regard and get the population in its confidence, that is why you are the Government. That is your first duty—to get the population in your confidence, not to operate as though what the population thinks does not matter.

When you operate that way, one of the simple matters is that you operate as if the population's pains are not yours and what it is going through is not important to you because you have more important matters to see about. You continually compare us with the worst outside there. If something is bad, you find somewhere where it is worse and you compare us with that, so you never inspire the country to achieve and be better because you constantly pick out the worst to compare us with, whether it is crime or food prices. When you do that, you do not inspire confidence and if the people do not have confidence in those who are in authority, the last set of people who are going to throw their confidence behind you is the Opposition because we cannot do that until the population does it, especially in Opposition. Our duty is to be watchdogs on behalf of the population and we at least want to see you demonstrate that you are making the effort to obtain the confidence of the population in taking us through these various steps.

So we only oppose the Headquarters Agreement and the Bill to provide for the headquarters and to finance it because we have a problem with the court itself, and the problem we have is that you really have been “chinksin” instead of facing the matter head-on so we can get past this Privy Council business. Instead of facing it head-on and working with the Opposition and the people to get us to the point where we all have sufficient confidence that we can actually fashion something that people believe in, you “chinks” and get around it and establish a court which has nothing to do, just to say you have established a court. That is what happened.

You establish a court that has nothing to do and now you are going to establish headquarters for a court that has very little to do, and put everything in place as though independence of the court has anything to do with the financing arrangement in our circumstances. That is a theoretical construct. You create a formula for financing the court because somebody tells you that people cannot be independent if you hold the purse strings. That is true, but that is not the only source of interference.

We have had the experience of continuous interference with the Judiciary by the administration now in office. It is fresh in our minds, so how do you expect in these circumstances, when this experience is so fresh that suddenly everybody has confidence in the Government? Yes, we should have the court fully established, fully equipped and fully financed but financing is not the issue you have to address now. You have your formula, fine. The issue you ought to be addressing is how to obtain the confidence of the population and thereby the confidence of the Opposition, but you are not going to get the Opposition’s support until you get the population’s support and that is your duty. You are to try to get the confidence of the population and get them behind you and that is my difficulty. That is the reason I am speaking on this matter and taking this particular perspective, and I am saying it is very unfortunate after all these years we have something on paper but we have gone no further in dealing with a matter of such critical importance to what we call our sovereignty and our future as a nation because people constantly “chinks” on it and skirt the issue and would not address the main matter at hand. That is my problem. I am expressing my point of view; I am not “chinksin”.

Mr. President, you cannot build confidence unless you demonstrate to people that their pain is your pain. That is the major difference between ourselves and what we call the developed countries. All this developed country status nonsense is irrelevant, all the talk about that is because you have some big plan for Vision 2020. It is a big book. The main difference we are facing between ourselves and what we call a developed country is the same as the main obstacle we are facing

in terms of supporting you. In what we call developed countries, the people are convinced that those in authority are seeking their interest, that they are working towards solving their problems, that they have respect for their opinions. So when they express them, they are respected for them because when they put these instruments of power into your hands they want to believe that you are not going to abuse it. That is another problem people have in terms of putting authority—and this is a case of transferring authority.

We cannot say that establishing the headquarters is something to be divorced from the court because why are we opposing the headquarters? Simply because we have the position that the court itself has not been established in proper context and we are going to spend money behind it. We cannot support you in spending money behind it because you are asking us to authorize \$200 million as a charge of the Consolidated Fund to spend money on the court. You cannot ask us to spend money on the court to charge the expenses of the court on the Consolidated Fund, meaning that Trinidad and Tobago has a primary responsibility for financing the court to that extent and cannot say it is through some other funds, it is through the primary source of revenue of the country.

You cannot expect us to do that if we have a difficulty with the court itself so why should we spend money on that? The difficulty is not in having a court but it is in the way in which you have been proceeding regarding having the court accepted within the society. I do not want to simply sit as a Member of the Senate and refuse to lend my voice whenever I have the opportunity to nudge the Government in the right direction, to address the central issue that has to be addressed. Forget whether this one supported it when he was in government or opposition, that is not the central issue in my opinion, because we would all find ourselves guilty if we go down that road.

Mr. President, institution building is something that is very challenging for us in the developing world because you know politicians can wreck anything, and this is not Trinidad and Tobago alone, it is worldwide; they are masters at warfare, that is why they are in position of authority, it is because they conducted battles of various kinds and won.

5.30 p.m.

Some have won more seats than others, but they conducted battles and won. So politicians are masters of warfare and they can destroy anything, and institutions are put up—they are established—to remove the arbitrariness, and so on, to some extent to protect people from the arbitrary use of power by the politicians.

But you cannot hide behind all the institutions completely; you can hide to some extent. You need your politicians to be prepared only to go so far. If they demonstrate they are prepared to go as far as is necessary in destroying institutions, no mechanism you come up with will protect you. So it is also important that the politicians do not go beyond what is considered reasonable. This is one of the things we get when we remain tied—our navel strings are still connected up, and so on. That is one of the things we get by being linked up. We get a little bit of an education process so that we know how far to go and how far not to go.

That is one of the things we still benefit from, with all due respect to my colleague, Sen. Ali and I share his enthusiasm on the matter. He also spoke a lot about support for the court. I do not think he was talking about the headquarters; he was talking about supporting the court itself, and I share his enthusiasm completely, but I just add that part of it, that, in fact, we do get some benefits from having this connection. It is an education process that is important, in my view. We have not completed the education process yet at all, not by a long shot. But we must make sure and set ourselves on the course to complete the education process and not leave it up to whether at some election you happen to get enough seats, because this is what is going on.

Instead of working on the matter of developing confidence with the population and with the Opposition and learning to work together—because that is what it is all about. After independence we were left with all these things hanging here because we had to have some time to work on these things, of learning to live with each other, and instead of working on that—of learning to live with each other and learning to inspire confidence and to work in a harmonious fashion and to use power where and when it should be used and to the extent that it should be used; not to the fullest extent that it can be used—instead of working on those things, people have simply been hoping that one day you will have a special majority by election and then you would simply impose yourself upon everybody else and pass whatever, and we will have all the courts and the headquarters and all the various things that we need to have because you think it is the best thing.

I want to advise that that is not the way to go and I cannot thank the people of this country enough for not giving you that kind of majority you wanted.

Sen. Browne: Next time.

Sen. Mark: You are going out, boy!

Sen. Dr. C. Charles: Trinidad and Tobago is not on its way to becoming a failed State, by the way, and do you know why?

Sen. Browne: We agree on that. [*Desk thumping*]

Sen. Dr. C. Charles: It has nothing to do with the PNM. It has to do—I am told that you can digress for less than five minutes. It has to do with the fact that whenever things are really bad, you can count on the population to throw you out.

Sen. Mark: Yes. If PNM call an election tomorrow, they lose.

Sen. Dr. C. Charles: You can count on that. So we are not going to be any failed State. When we are fed up with the politicians of that side, the population will throw you out and it may be that we would have to do our duty again and fix back the country. We are prepared to do it.

Sen. Joseph: Who “we”?

Sen. Dr. C. Charles: You forgot where I came from, Minister? These were my colleagues then, you know, and they still are. The original construct included us all, you know.

Sen. Annisette-George: How long will it last?

Sen. Dr. C. Charles: It will last as long as the will is there and I am sure that will be a long time, have no fear. I am not like my predecessors. It will last a long time; have no fear. Mr. President, these people want me to become irrelevant so I cannot take them on.

I want to say that the bottom line in this matter is that we all share the same goal of wanting to see Trinidad and Tobago and our Caricom partners—because all of us are in the same boat; we want to see our region reach a certain standard in the world and part of that is being able to have an institution like the Caribbean Court of Justice. I have no quarrel with the quality of personnel on the court. As to the make-up of the court, I have no comment on that, but I have no quarrel with the quality.

We all aspire to seeing ourselves sometime sooner rather than later in a position to manage our own affairs in the field of jurisprudence, not only in the fields that we have been pursuing so far, and we would like the Government to change its attitude in the economic sphere at the same time and do not take us backward; take us forward; put us back on track of trying to become economically independent as well. But that is an aside.

We all aspire to this state, but we are not going to get there by people simply throwing blame and people simply seeking to impose their will when they happen to be in the driver's seat. We are not going to get there that way. We are not going to get there by agreeing to establish a headquarters and spend a couple hundred million dollars on it, without focusing on what is really at stake. What is really at stake is not whether you pass or not pass the Bill. The court is established; there must be a headquarters; we should congratulate those who, in fact, negotiated the Headquarters Agreement so that Trinidad and Tobago gets the headquarters, because Trinidad and Tobago has been seeking to be the centre of action in the Caribbean for the longest while. Whether it was the ACS or the Caribbean Court of Justice, whatever it is, an economic centre and so on, we have been pursuing these things for a long time, so I cannot really quarrel with anybody who negotiates on behalf of our country in such a way that we get the headquarters in Trinidad and Tobago. We believe in this, across party lines.

Our problem simply is that you are proceeding on the wrong foot; proceeding on the assumption that what is important is what is written on the paper, on the financing mechanism that you have established on paper, knowing fully well the ability of politicians to transcend all of that and throw away all the paper, and that people just do not have confidence in all of this because they have had bad experiences and for so long that it would take a whole lot of work for them to become confident now; bad experiences in the abuse of power. [*Interruption*] I am not talking about the bad experiences pre-1986 of mashing up the economy; I am talking about bad experiences in the abuse of power. Do not tease me or tempt, Minister, to go back to that time and talk to you, you know. Because you are on an economic footing, you might take us the same place again, you know, where we were before. I am hoping that you learn the history lessons. Mr. President, they want to get me irrelevant, you know; they are working very hard at it.

I am making the point that people have had bad experiences in terms of the tendency of the administration of the PNM to abuse power. They have had bad experiences with abuse of power by people in authority generally, and that is a serious problem in the country. That is one of the reasons people have this difficulty in saying, let us support the march towards total independence and let our judiciary be able to stand on its own, because they fear that once the last court is going to be an indigenous court, somebody is going to corrupt it; somebody is going to subvert it. That is what we fear, and you cannot win a society ignoring the concerns and fears of the people, just because you happen to be more confident and you believe that it will work. It does not happen like that.

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The business of politicians is to take people into our confidence and give them reason to believe that this can work and, therefore, they will wholeheartedly agree to a Bill like this. A measure like this should automatically have been able to attract the support of the entire House, but it cannot because you are ignoring fundamental issues here and you are not demonstrating an interest or willingness, even, to address the root causes of the problem.

In any sphere of governance, as far as I can see right now, there is not this demonstration of the willingness to address the root causes of the problem, but I trust that you, Ministers, who came into this term with unnecessary arrogance, will have learnt a bit over time, and I do see evidence of some softening around the edges to begin to understand their duties in this House a little better. I like to say it as I see it. I do see evidence of lessening of that—as I said, I have been on different sides at different times and it is very easy to develop the attitude when you are in Government and you think that you are doing all the right things; it is very easy to develop the attitude that “these people are all just in my way; they are all causing trouble, because I am working so hard; I am doing all the right things.”

It is very easy to develop that attitude. You think you are doing all the right things and you are working really hard at it, and why you have all these obstacles, and so on. So you have an intolerance towards obstacles. You have to avoid these things. *[Interruption]* *[Laughter]* Well, we did not have enough opposition from Manning and those fellows; there were not enough of them. Sorry, Mr. President. We only had a few fellows opposing us. When you do not have enough opposition, you tend to have too much infighting. That is history. *[Laughter]* You learn lessons from the past. We are not going to repeat those mistakes in the future, but we are in a position to advise the Government, get rid of the arrogant attitude, and so on. As I said, I am happy to see some Ministers actually changing their manner and their approach. I am very happy to see that. I think that although I am not supporting you in any way, politically, the country will be happier to see a greater degree of concern with the everyday problems. These simple things like showing by your words, your actions, a greater concern for the everyday problems of the citizens, these are the things that will cause people to have confidence in the authorities. The confidence would not be in the PNM alone, it would be in those who are in authority in general. That is the kind of confidence people ought to have, that those people in authority in this country are actually working on different sides but all working towards seeking the interests of the people.

That is when they give you the kind of support that you can say, “all right, Privy Council, bye-bye; we can stand on our own feet; we can have the CCJ

operational and we are proud to have it in our own country here in Trinidad and Tobago so we can support the headquarters agreement.” That is when you can get that done. Although you cannot get it done today, I would at least like to see you demonstrate an interest in working towards that direction.

As I said, I cannot support you today on this measure, principally because I do not see the evidence that that has been happening, but I am a very optimistic man with hopes that even the PNM Ministers can do better than they have been doing these past months.

Thank you very much, Mr. President.

Mr. President: Senator, thank you very much for your contribution. I would just like to draw your attention to one thing. In the early part of your contribution you referred to the Attorney General on several occasions as “she”. In this Chamber we try to avoid that, and lady Senators would be referred to either as “Senator” or “the Minister”. I would be grateful if all Senators would observe that protocol. Thank you.

Sen. Subhas Ramkhelawan: Mr. President, thank you for giving me the opportunity to speak on this Bill with regard to the establishment of the seat of the Caribbean Court of Justice. I did not intend originally to join this debate because I thought it was rather a simple matter of determination as to whether we would vote for or against the seat, having dealt with, in other pieces of legislation, the more complex issues of the court and the whole question of the financing of the court.

But I thought I would join the debate because some broader issues have been brought to the fore and it may be a time simply to pause to ask whether we are accomplishing at the broader level, as a Caribbean people, what we would have set out to do in the context of a Caribbean Court of Justice. We all aspire, and I do not think that there is anybody in this honourable Senate who has objections to the formation of a stronger, more united Caribbean people, of which the Caribbean Court of Justice would be one of those institutions that would lend to this particular goal or vision of one Caribbean people.

So that I thought that it was a simple matter. There was a treaty which our Government entered into and a promise is a promise and, therefore, we sign off on it, but there is the broader issue in terms of this whole question of a Caribbean people. I say it is time to pause because we are seeing some results coming out of the legislation that are not necessarily in sync with the intent and aspiration of legislation and treaty that have gone before.

5.45 p.m.

In my simplistic mind, I thought that the legislation across the Caribbean was intended to achieve two particular objectives, dispute resolution and the establishment of a final appellate court. It is time to pause because at this point in time, only two members of the Caricom community have signed for the appellate court. Trinidad and Tobago is not one. It is not a simple matter to say as I was guided by my learned colleague, Sen. Ali, that you need a special majority and that has not been forthcoming. He has given ample support to the notion of us passing such legislation that will allow for the Caribbean Court of Justice as the final appellate court.

That has not happened. We have to ask why that has not happened in the majority of jurisdictions in the wider Caribbean. Sen. Dr. Charles raised that important point of confidence or more particularly, the crisis of confidence that obtains within the wider Caribbean region. Look at our institutions. What institutions do we have in the Caribbean? The Caribbean Court of Justice is probably the most recent that we are trying to establish, so that we can have some broader form of governance in the Caribbean.

Sen. The Hon. Mariano Browne spoke so eloquently about the notion of one Caribbean people to which we should all aspire and yes, we do. When you bring the various institutions into their component parts, whether at the level of the Legislature, the Judiciary or the Executive for our Caribbean people, we see that we are far behind more complex societies that have been able to establish a European Parliament and a European Union. The issue is why have we not been able to achieve this Caribbean Court of Justice to do one of its two primary functions which is the Court of Appeal.

It raises the question of maturity. One Senator spoke about maturity. I feel that it is not that we are an immature Caribbean people, but a mature Caribbean people questioning whether the time has arrived for some of the institutions that have been put in place, one of which is the Caribbean Court of Justice. I want to make it very clear that I am all for Caribbean integration having come out of that tie of Caribbeanism. When you look at this question together with the other questions from an economic perspective, we are being re-colonized as a Caribbean people. The notion of ownership is falling further and further away from the grasp of the people of the Caribbean. We saw in a recent matter, that of RBTT/RBC we moved one step away from the question of ownership. In an economic sense, ownership creates belongingness and the Caribbean Court of Justice, from the sense of judicial probity, creates a sense of belongingness that we are going to get the right

treatment by our people and the laws justly meted out. There is some crisis of confidence. As others, we do not need to have a referendum to establish that. The various parliaments in Caricom have reflected hopefully, in their wisdom, the will of their people and have chosen not to accept the Caribbean Court of Justice as the final court.

I started by saying that there are broader issues at the economic level, the Judiciary and in the political sense because we have not been able to get to the state of a union or federation or any form of legal coming together as other more complex countries with different languages and histories of war have been able to do. With due respect to all the hon. Senators, I do not think that it is a simple and easy matter. Having said that, I see no reason why we should not support this Bill because it sets out on what will be essentially, a long and hard road to get to the position where we can establish a proper and clear foundation for going forward.

One Senator said that it might take five, 10 or 20 years. The Chinese say that a journey of 1,000 miles begins with one step. We have taken a couple steps in terms of previous legislation for the establishment of the trust fund and the court. Let us not walk away after the vote has been cast believing that we have found the answer, simply by voting for this Bill. We are searching for the answer in various areas, economic, political and social. Many of the problems have to do with confidence. There is the problem of legitimacy in terms of the Caribbean Court of Justice. If there were not, this matter would have been settled a long time ago and we would have had several jurisdictions of the Caribbean voting for the Caribbean Court of Justice being an appellate court. We have a long road to travel. Let us not fool ourselves whether at the level of the Judiciary; the economics of the Caribbean or at the executive level.

In the 1960s, we talked federation and it failed because one from 10 left zero. If we look at what is happening we would see that the major players of Caricom whether it be in terms of the population; economic strength or other measures of seniority, are turning aside from many of the areas or issues that lead to nation-building or region-building. There are countries that have turned away from the Caribbean Court of Justice being the last court of appeal. I appeal to my fellow Senators to take these matters into clear consideration because if we do not we would pull the wool over our eyes and not put ourselves in a mode of thinking in the right frame of mind, to seek solutions at a broader level. If we cannot find solutions at the broader level and look at the problems in a holistic way, we would never find solutions for those problems and 50 years from now, we would be talking about the same kinds of issues of our Caribbean people. We have not

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strengthened our institutions. The institutions that are Caricom are weakening, whether it be cricket or our learning institutions or even Caricom.

This is my appeal to my fellow Senators. Sometimes they say on this side or that side. I think that we are all on one side of the country. Let us keep that firmly focused in our minds as we go forward. Having said that, I give support to this Bill as we make the next step in that 1,000 or 10,000 mile journey.

Thank you.

Sen. Mohammed Faisal Rahman: Mr. President, on American independence day in 1998, when the then prime minister and government signed the agreement to which Sen. The Hon. Mariano Browne alluded, the Caribbean Court of Appeal was an excellent idea. That was 10 years ago. In the course of time, one might say that through a series of events the idea has become dated, particularly so, because a very good idea was mishandled and bungled by the government that came into power shortly after that.

Many events have taken place since that time, not the least of which is the Economic Partnership Agreement (EPA) with the CSME and the European Union to which Sen. Mark alluded. Effectively, that renders the purpose of the Caribbean Court of Justice null and void. We would be subject to European law in any dispute that arises between them and the CSME. The idea that the Caribbean Court of Justice may have been formulated to solve disputes among the Caricom communities is also rendered void, since the Treaty of Chaguaramas has its mechanisms for resolving these disputes.

The Caribbean Court of Justice stands as an institution that is being given legitimacy by this attempt to come into a situation that is totally foreign to its original intent. The first point that I would like to make—and I do not know if I am wrong because it does not seem to have been ventilated here, except peripherally by Sen. Ali—is that our Constitution defines what constitutes the judicature of our country. We have the High Court and Court of Appeal and the Judicial Committee which I think is the Privy Council constituting the parameters of our system.

6.00 p.m.

We are about to legitimize a creature that has been allowed to develop in our community and that is poised somewhere along the line to replace the Privy Council. This is a clear intent because it seeks to be the final court of appeal for the entire Caribbean community, not only in inter-island disputes, but also on a

total scale. We are in effect being asked here this evening to legitimize something that our Constitution does not countenance. If we are to do it at all, we have to have a two-thirds majority. Do we understand what we are setting out to do here?

This is not a small Bill. It is one of momentous significance. We are going into conflict with the Constitution and we will have to look at that. It is not as if we can say at the end of the day that we are being overtaken by events. We cannot disregard the provisions of our Constitution so lightly. [*Interruption*] I would rather not give way, if you do not mind. I do not want to be delayed.

Sen. Dr. Saith: You should be because you are wrong.

Sen. M. F. Rahman: If we have the Privy Council as the final Court of Appeal for this land, how can I be wrong when I am being faced with a creature that is about to push it out? If you had been paying attention to what Government Senators have been saying and you had visited the website, you would find that the objective of the CCJ is to be that final Court of Appeal.

Whether you have it in the Bill or not, you are trying to bring a replacement to the Privy Council through the back door, and it is just like changing the Standing Orders illegitimately and bringing rules and regulations to rule this body that have no legitimacy in the book of rules by which you operate.

I do not know whether this is too foreign for you to pass, but the reality is that we are tampering with the whole institution of law. Do not tell me I am not making sense here because this seems to be crystal clear. I cannot imagine that you would want to deny what is flagrantly open to everyone. I am very sorry that Sen. Seetahal SC has left the Chamber. I was waiting for her contribution before I got up to make mine.

If we are seeking to establish a seat of justice in Trinidad and Tobago, we cannot overrule the Constitution. The Constitution says that the only courts are the High Court, the Court of Appeal and the Privy Council. You are putting in an institution. It is not a foreign embassy we are bringing in where they can operate by their laws. We are bringing a court—the President of the CCJ is asking for cases to be brought to it. How can it preside over cases within the boundary of this country and its citizens when there is no provision for its function in the Constitution? The question of appeal must be confined to the Privy Council according to the terms of our Constitution. This is an extremely fundamental issue. If this Senate passes this Bill tonight by the majority that the Government enjoys, it will be subject to challenge. If the Government would like to go that route, there is no problem. We will face that when the time comes.

I have heard conflicting positions again and again in this Chamber from Senators on the Government side. On the one hand, they want to be global and open up the boundaries and enter foreign agreements and, on the other hand, they want to have an insulation of the community.

As Sen. Ramkhelawan just pointed out—I am so glad he said this—we have just opened the door to foreign dominions all over again. Whether we realize it or not, the fiscal and economic sovereignty of this nation resides in the boardrooms of the banks. This effectively took place when the Minister of Finance, Mottley, and the administration of that day gave control of the currency to the banks. We have just allowed a foreign bank to buy over perhaps 50 per cent of our banking industry. They will have more foreign exchange at their disposal than our Central Bank.

We need to understand what currency control means and how we have gone the route of continued devaluations from 1984, when the slide started, and then our Prime Minister is proud of sabotaging the dollar and sinking it with a US anchor. Let me say that we are now back into the economic colonization of which Sen. Ramkhelawan spoke. I am glad because this is a matter I have repeated for years. We cannot be speaking about sovereignty in terms of a judicial context and look for a foreign Commissioner of Police. We are looking for one today who is not a Trinidadian and we are talking about sovereignty.

We have Mr. Utharo Rao, who controls land distribution and who is not Trinidadian, and we are talking about sovereignty. We have Mr. Calder Hart, a Canadian, looking after all the buildings on the land for Mr. Rao, and we are talking about sovereignty? Where is the whole concept of sovereignty? And then we are going to link with the EPA.

The good Senator says that the Government has to be very concerned with its obligations to foreign treaties. When I was attempting to place a further supplemental question—I did not get the opportunity—but I want to say now that the Government is very concerned with its obligation to its foreign treaties, but it is not concerned with its obligations to the citizens of this country. We continue to violate the citizens of this country. Everything is crashing down and we take this very lightly.

Sen. Dr. Charles says we look for the worst outside to justify our slide. We hear the Government saying repeatedly that they cannot do anything about the rising cost of living. The price of flour and milk went up and Nutrimix came into the picture; the National Flour Mills suddenly found a way to save money and to

reduce the prices of commodities. Now that Nutrimix is out of the picture for six weeks or six months—I am not too sure which one—the National Flour Mills has hiked prices again and we are being told that we can do nothing.

We continue to be linked to the US dollar, which is going through the tubes. Everything else is increasing in cost; we continue to have our currency devalued and then we are seeking to make stop-gap measures to be able to dole out a little increase here and there to keep the population happy. Mr. President, I feel passionate about this because we are mishandling our economy and all the Government is concerned about is the billions of dollars at its own disposal to spend to cushion its own beds and palaces. All we see is a disconnect of consciousness and reality with the suffering of the people of the land.

Imagine a Minister can say it is a routine affair to have a truck pillaged on a highway within the precincts of the city! *[Interruption]* It is very relevant because the entire matter relates to justice. The Caribbean Court of Justice is what we are talking about. How can we talk about justice at a level that is beyond the reach of the common man who is bawling in pain. *[Desk thumping]* If you continue to violate the people, you will have need for an armed force. You will have a revolution. You are looking to establish the Caribbean Court of Justice for whom? For the elite? For the people who are in cushioned circumstances? For the people who have—

Mr. President: Senator, you have really gone way off course. This is not about the establishment of the CCJ. The question is not: to be or not to be; the question is where. You are going into the realm of revolution. All we are talking about is whether the court should be placed here or not; not whether it should or should not exist, but where it should be placed. Confine yourself to the comments on the Bill and the schedule.

Sen. M. F. Rahman: Mr. President, that is like asking me to say whether we should allow the fellows to rob the armoury or not.

Mr. President: Senator, you will not question my ruling. If I ask you to return to the Bill, then do so. If you decline to do so, I will instruct you to take your seat.

Sen. M. F. Rahman: Mr. President, I do not challenge you. I will say that I cannot support the Bill because it violates the Constitution. I would say that I cannot support the Bill because justice is being denied the people of the land. I would say that I cannot support the Bill because the very Bill has contradictory provisions. I will go on to that now if I may.

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Mr. President, the funds of the court—I think that was included in the Bill—are inviolate and I am wondering whether there are any safeguards contemplated for the use of those funds. We have heard that the President of the court has security of tenure.

6.15 p.m.

Here, again, we have the CCJ being brought in. I find it very difficult to support the establishment of a court that enters with injustice to the other courts. This, to me, strikes at the root of justice. There is a serious complaint that has been ventilated by Senior Counsel Jairam, regarding the provisions that have been made for the judges of the Industrial Court, who must now sit with their \$5,000 pension and look at the Caribbean Court of Justice secured personnel enjoying every imaginable perk. Even those who have been retired from their other practices are enjoying their pensions and largess upon largess—further reason for objecting to the court.

Now, let us deal with the Bill itself. I have noticed, Sir, that there is one notable omission from this Bill, which I learnt from our experience with the Bill on the Basel Convention. We do not seem to place any need for people who are sane, according to the terms of the Bill on mental health, which are referred to in the Basel Convention; to secure people of reasonable sanity serving as officers. There is no reference to this in the Bill that we are being presented with today. It means that we can have questionable mental cases holding very high office. I am not too concerned about that, because that seems to have been a very great point that was made when we went through the Bill on the Basel Convention.

In addition to that, in Article 1, the term “officers of the Court” is mentioned. The “officers of the Court” include the president and the registrar, but those terms are not defined. I do not know if that is normal but many of the terms are defined. Yet, the terms such as registrar, president and officers of the court are not defined in the Bill. They are under a blanket description of “officers of the Court”. I do not know if that is acceptable.

I want to concur with Sen. Mark and one of the prior speakers who mentioned that we have a tremendous backlog of cases in Trinidad and there may be found some means of making the court serve that purpose as well. For fear of going too far again, I would leave that as it is. The CCJ is begging for work. They are underutilized.

Sen. The Hon. Mariano Browne mentioned that the precedence of the New Zealand and American courts justifies this. It seems to indicate our setting up a

court prematurely, without going through the safeguard of amending the Constitution. We can set up a court to languish here for 10 years. That is A-okay. “Doh mine dat.” We will be spending millions of dollars in the interim.

One of the problems that I am faced with today, along with the rest of my colleagues, is that we are being presented with a fait accompli, a development of circumstances and events, whereby we are presented with a Bill and we are told: “Approve it or do not approve it. Do not say much about anything else, but tell us if you are going to vote for it or not.” I think that the Senate is being severely compromised and disadvantaged when we have not been given the opportunity to determine the origins of institutions but we are being asked to establish institutions in a way that, I believe strike—*[Interruption]*

Mr. President: Senator, we have a procedural motion.

PROCEDURAL MOTION

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I beg to move that the Senate continue its sitting until its completion of the debate on this Bill, notwithstanding we have a number of speakers. I want to finish it today. We will sit until the debate is completed.

Question put and agreed to.

CARIBBEAN COURT OF JUSTICE (HEADQUARTERS) BILL

Sen. M. F. Rahman: Thank you, Sir. Following upon the intent of the CCJ and those who have caused it to become an institution without prior consent, we are wondering whether the seat of justice for the Caricom area, which we are seeking to establish without our co-operation, will have the capability of independence and freedom from not merely direct, political interference. We all have the things that prevail upon us and influence us in one way or the other.

I do not know that the CCJ will be capable of the detachment and insularity to be able to deal with Caribbean matters with the same detachment that its soon-to-be predecessor, the Privy Council, would have had. One of the prior speakers also mentioned the situation where this Government brought in foreign judges to determine a recent issue here, even though we had a CCJ already functioning, to determine a matter in order that the charge of influence and bias could not possibly be made.

I believe that I have opened up some areas which our friends on the other side may seek to refute, but I strongly suggest that the requisite majority be sought in this Bill, because I do maintain that it disregards the provisions of our Constitution. Thank you very much, Sir.

Sen. Corinne Baptiste-Mc Knight: I thank you, Mr. President. When I realized that this Bill was on the Order Paper for today, I really never thought that there would be a debate as such. This is not because I did not prepare for a debate.

Let me try, briefly, to say why. I am of the impression that over the years this Parliament agreed to the establishment of the Caribbean Court of Justice (CCJ), therefore, that is not a matter for decision today. I got the impression that we agreed to the terms of the trust fund, its establishment and our participation in it, therefore, that too, I did not think was a matter that we would be discussing today.

I have listened, more or less, very seriously, and there are a couple of things that I want to take up because, quite frankly, they have confused me. One of them is the matter of confidence; the need for us to have confidence in ourselves and for the people whose business we are supposed to be attending to, to have confidence in us.

Now, there are times when my reasoning is very simplistic. I will indulge in that now. It goes like this. A government of Trinidad and Tobago, elected by the people, agreed to the establishment of the CCJ and, further, that same government offered Trinidad and Tobago as the seat of the CCJ. Everybody agrees that it is a matter of pride for Trinidad and Tobago to host a prestigious institution. I would readily agree that the Caribbean Court of Justice meets that criterion.

Another government comes in and executes the policy of the former government and continues the process of participating in the CCJ, negotiates the hosting of the seat of the CCJ and accordingly sets up the building, which I am told is on Henry Street. I am sure it is there because I went there—I did not ask anybody—and got documentation about the CCJ and on what it does. At least, I know that it has papers.

Having done that, we have now reached to the point where we have to pass legislation to make this agreement legal and there is a problem of confidence. Confidence in whom? Confidence in the first set of people who said it was in the interest of the people of Trinidad and Tobago to do this, or confidence in the next set of people who say: “Yes, we agree; it is in the interest of the people of Trinidad and Tobago to do this”? [*Desk thumping*] Mr. President, I am very happy for this opportunity to say to the people of Trinidad and Tobago that I think it is a wonderful idea for us to host an institution such as this. [*Desk thumping*]

Sen. Rahman: It is illegal.

Sen. C. Baptiste-Mc Knight: It will be legal as soon as we do our duty, Sir. [*Desk thumping*]

One of my colleagues, Sen. Mark, wants to question the immunities that are part of the agreement. I would like to tell him that it is my personal knowledge and experience and I am sure that this is an experience that was shared by the hon. Minister of Agriculture, Land and Marine Resources, because we have had the honour of representing this country abroad. The immunities referred to here vary in no way and add absolutely nothing to the basic Vienna Convention immunities for diplomatic personnel and property. Your files are inviolate and you are allowed to represent your country/institution in peace.

Mr. President, we are giving away nothing. We are just underscoring our maturity and the fact that we understand what is required of us as a member of the international community. [*Desk thumping*]

6.30 p.m.

Mr. President, let me just close by saying that this Bill needs to be passed, because we have come too far. We have accepted the jurisdiction of this court, in terms of its original jurisdiction, and this has nothing to do with the EPA. Every single convention that we have signed with the Europeans, from Lome I, has its own dispute settlement mechanisms. This court deals with the single economy of the Caricom Treaty. We have already acceded to that, and we are not going to put them out on the road now. Let us agree to sign this agreement and get on with our international life.

I thank you. [*Desk thumping*]

Sen. Dr. Adesh Nanan: Mr. President, thank you. I rise to make a brief contribution on this Bill to provide for the implementation by the Government of the Republic of Trinidad and Tobago of the Agreement Establishing the Seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission between the Government of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission.

Mr. President, this debate started with a historical perspective with respect to the formation of Caricom and then the Caricom Single Market and Economy, and I would like to start along that line, just to give an idea of how I am going to approach my contribution.

In 1973, with respect to the Treaty of Chaguaramas and the setting up of the Caribbean Community and the Common Market, Sen. The Hon. Mariano Browne spoke about the lack of cooperation in terms of the enforcement and the poor administrative perspective at that time with respect to the Revised Treaty of Chaguaramas and the strengthening of the administrative arrangement.

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Mr. President, as the Bill purports, the agreement was signed to establish the CCJ at Bridgetown, Barbados on the 14th day of February, 2001. As I pointed out to the Minister in the Ministry of Finance—Article V and the reservation allowed in Article XXV dealing with the appellate jurisdiction—although the agreement was signed, there was that reservation, and there was the consent of the contracting parties.

We heard in this debate, with respect to the UNC administration, the former Prime Minister, Mr. Basdeo Panday, signing the agreement and committing the country to this appellate jurisdiction. Mr. President, that is not true, and I would like to clear this up. I am very happy that somebody pointed out that we are dealing with the original jurisdiction.

In the debate in the other place, the Bill was amended to deal only with the original jurisdiction, and that is what we are dealing with. I just want to put that to rest, in terms of the Minister's statement that once we signed the agreement, we are committed to it.

The Minister in the Ministry of Finance, coming from that country which had signed on to the appellate jurisdiction, which is Barbados, although this administrative arrangement is in place, when there was the dispute between Trinidad and Tobago and Barbados with respect to the maritime boundaries, where was it taken? [*Desk thumping*] It was not taken to the CCJ, but it went to an international tribunal. That is the situation we are faced with. It is very clear that the Revised Treaty of Chaguaramas made allowances for arbitration, but here we see a classic example—

Sen. Browne: On a point of order.

Sen. Dr. A. Nanan: What is the point of order?

Sen. Browne: It is for clarification.

Sen. Dr. A. Nanan: I would give way later.

Hon. Senator: Arrogance!

Sen. Browne: There are two separate treaties.

Sen. Dr. A. Nanan: Mr. President, I do not want to deal with unnecessary roughness with respect to the Minister in the Ministry of Finance. [*Laughter*] I want to stay on track with respect to the island of Barbados. We heard from the Attorney General that Barbados and Guyana have signed on with respect to the

Treaty and the removal of the Judicial Committee of the Privy Council. We had a classic example where Barbados could have utilized the CCJ and they went above that and went to an international tribunal.

In this particular Bill, clause 3 deals with a charge on the Consolidated Fund, and it is my information—I am going to give way for the Minister in the Ministry of Finance to clarify the utilization of the US \$100 million. It is reported that out of that US \$100 million, the sum of US \$6 million would be expenses for the year for the CCJ, and out of that US \$6 million, one-third of that sum, which is US \$2 million, would be used for salaries and gratuities for the nine judges. I am going to give way to the Minister in the Ministry of Finance, if I am wrong, with respect to the expenses of the CCJ. That is the situation. We are looking at an initial expense of US \$12 million and US \$88 million to be placed in a trust fund for the CCJ to regulate. That is the situation we are faced with—the kinds of expenses—and we must compare. This is a classic situation.

Mr. President, although it is quite true that these immunities and privileges are allowed with respect to the Vienna Convention, that is nothing new.

There is a situation that I have to make reference to. Many Senators would recall with respect to the Caribbean Examinations Council that there was a similar situation in terms of the privileges and immunities given to that particular body. We have to ask the question, in terms of the Caribbean Community and the Caribbean perspective—many Senators would recall the Caribbean proficiency examination, and this is a similar situation with respect to the CCJ, in terms of the Caribbean's perspective and moving away from the English examining body to the Caribbean examining body, and having to sign the same privileges and immunities for members of the Council.

We are seeing that kind of analogy here where the CCJ is in the same kind of environment as this particular situation. They are both based in London—the removal of the GCE to CAPE—one is a London based examination and the other a Caribbean based examination, and we have the Privy Council which is based in the United Kingdom, and now the setting up of the CCJ.

I want to let the country know that the UNC government, led by Mr. Basdeo Panday, took a watching brief with respect to CAPE. As the Minister of Education at the time, we took a watching brief, because in terms of this particular examination, we did not have the belief, because of the leakages of so many examination papers, and the body did not have the capability or the confidence. So, when we hear about confidence in the Caribbean Community, it begs the question.

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Mr. President, with respect to the Judicial Committee of the Privy Council and the CCJ—as we are dealing with this particular seating of the court in Trinidad and Tobago—there is another area which needs to be clarified with respect to the CCJ, and its deals with the removal of the appellate jurisdiction.

In terms of the requirements of a three-fourths majority and a two-thirds majority, we heard that Barbados and Guyana have signed on to this particular arrangement, and we want to know how many such cases are there in terms of the CCJ. I do not know if the Minister in the Ministry of Finance mentioned it in his contribution. He was saying so much which was outside of the context of the Bill and, eventually, he came back to the Bill. In this kind of transgression and tangential approach to the debate, we have to ask that question.

We heard about 23 or 24 matters coming up in a year with respect to the Caribbean Community, and if you compare this sum of money, it has to be pointed out—whether it is going to be outside of the scope of the debate itself is questionable. We are dealing with US \$100 million which is a large sum of money. *[Interruption]*

We heard of percentages in terms of the contribution of Trinidad and Tobago and this particular injection of capital, and we have to ask the question: What about our local Judiciary? We also heard about the state of the Magistrates' Court.

Mr. President, when the Judiciary asked for \$22 million they received \$4 million from the Government. Under the present administration, if you look at the various allocations to the Judiciary—in terms of what they have requested and what they have received—I am sure the Minister in the Ministry of Finance is aware of this because he would have seen the documents. They had asked for \$22 million and they received \$4 million and an extension of \$2 million. That is the situation. We are dealing with an allocation of US \$100 million, and a large percentage of this amount is being contributed by the Trinidad and Tobago Government, and look at what is happening with our own system. The Government should strengthen our Judiciary first and look at the Caribbean Community after. That is what we are saying.

We have seen protests in this country with respect to poor conditions—this is in terms of the allocation of resources by this Government. *[Interruption]* We have to question that. *[Interruption]* Unless the President stops me, I am going to continue.

With respect to the allocations, in terms of this particular arrangement for the CCJ and the seating of the court, we are not against that, because that is a fillip for

the Caribbean, but we have to question the benefit of it. We are suffering, and we heard this from other speakers.

In terms of the suffering, only yesterday in this country we have seen where thousands of children had to stay at home because of the untimely reopening of schools and repairs that had to be done. In terms of incompetence, this is a major part of this particular administration.

So, when they talk about confidence in a system and that the Opposition has to support this Government with this particular measure, in every sector and in every ministry there is the total abandonment of duties, in terms of the requirements of the citizens of this country—the non-performance of the Government. It is very clear to me, in terms of the necessity and the requests by the population that this is low down on the priority listing.

6.45 p.m.

Part of this Act also deals with the Consolidated Fund. The Constitution talks about the Consolidated Fund and how the administration of this Fund is obtained. I also want to point out when we are dealing with the contributions of Trinidad and Tobago's percentage into this Caribbean Court of Justice, there is the perception that because you are paying a certain portion of their salaries and gratuities you would have control on the judges that are being appointed.

So, for the Minister in the Ministry of Finance to talk about the removal of the Judicial Committee of the Privy Council, and the Judicial Committee of the Privy Council having no idea of what is happening in the Caribbean, is totally false. We have seen in terms of the distance of the Privy Council, away from— The Privy Counsellor was the President of the CCJ and still is, and how could you make a statement like that with respect to being totally unaware of what is happening in the Caribbean Community.

In terms of confidence, we have seen in our own society with respect to this particular administration, the Chief Justice and the kind of approach to the removal of the Chief Justice and the important role of the Privy Council in safeguarding the democracy of our country and it is a fact. The friend of the Prime Minister, the Prime Minister of St. Vincent and the Grenadines, made the point that you should improve the infrastructure within your own country before you go towards the Caribbean Court of Justice. One of the Prime Ministers of the region has that view, so it is not only the view of the Opposition; there are other supporting views, even from the Prime Minister of St. Vincent and the Grenadines.

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In terms of the appellate jurisdiction and the original jurisdiction, it was felt that the original jurisdiction is okay, because you have that requirement under the Revised Treaty of Chaguaramas to set up this kind of body that will deal with disputes. Now, having set up this Caribbean Court of Justice and the role of the judges, we have seen and heard in terms of the number of cases being handled and the request for cases. That is a classic example of this particular Caribbean Court of Justice not having work to do, and initially it probably was a good idea, but now as we have seen as time progresses, we have to question and the present Government must question, is this a viable way to go?

We have seen it in other areas; we have heard the European Community and the European approach and the United Kingdom. The Attorney General pointed out that the Ministers actually appoint the judges in the United Kingdom as compared to this particular jurisdiction. In this agreement, we heard of three-fourths of the Prime Ministers of the region being able to remove a judge, the president of the court.

So that is the situation, you still have that control, whether you say you are setting up an independent body, which is the Regional Judicial and Legal Services Commission, once you are paying salaries and gratuities from the input, we still have that possibility of control. It is this particular situation that we have to guard against and that is why when we speak about confidence that is one of the areas that we are dealing with in terms of confidence.

Another aspect with respect to the Caribbean Court of Justice and the society as a whole, you would have seen in terms of the hangman's court and that situation where people are afraid. There are many people objecting to the Caribbean Court of Justice, because they say it might be a hangman's court; that is another area. So, those are some of the reasons that were put forward in terms of why there was not that position taken to go with the appellate jurisdiction. [*Crosstalk*]

The other area I want to deal with is based on the Constitution, actually and the structure of the Judicial and Legal Services Commission—that is section 110 in the Constitution. It states:

"...Judicial and Legal Service Commission

- (a) the Chief Justice, who shall be Chairman;
- (b) the Chairman of the Public Service Commission;
- (c) such other members...as may be appointed..."

But what we saw in terms of the intervention of the Prime Minister with respect to the Chief Justice in our own society—[*Crosstalk*] yes, Mr. President—what we are seeing in our own society is the arm of the Executive interfering in the Judiciary. That is what we have seen and the Judicial Committee of the Privy Council pointed in that direction and that is why today we have a situation where the defendant in that particular matter—

In fact, it is public knowledge so I could call names, Mr. President. [*Interruption*] Of course, and for your information—sorry, Mr. President—with respect to that situation, the actual people who are doing the tribunal set up—in fact, our Constitution allows that opportunity for a Prime Minister to intervene and have a chief justice either impeached; that is the situation we have here. With respect to allegations, when I read that I was totally shocked; we are dealing with spurious allegations coming from a chief magistrate and a chief magistrate—

Mr. President: Do not go there.

Sen. Dr. A. Nanan: Just one point.

Mr. President: You have made your point.

Sen. Mark: You have the President ruling in your favour, boy. You happy?

Sen. Dr. A. Nanan: Anyway, I would not go there, but I would get back to the Constitution because the Constitution actually points in a particular—

Sen. Mark: These things are public knowledge, what is the problem. We have a Mustill Report, you know.

Sen. Dr. A. Nanan: I do not know why— Anyway, I would not stay with the Chief Magistrate because I do not want to say, Mr. President, that the Chief Magistrate wanted to direct the court; I do not want to say that, so I would not say that. [*Interruption*] The Chief Magistrate said that they should not have the impeachment trial going on with the criminal proceedings. Sorry, I was just trying to clarify something for the Attorney General, Mr. President.

Sen. Mark: Why is the PNM afraid? You all playing “mas” and “fraid” powder?

Dr. A. Nanan: I do not know. We heard the argument here about sovereignty and we heard from the Minister in the Ministry of Finance with respect to the independence and removing the colonial relic from our society, but why can we not say—and this is an opportunity to say—we are truly independent in terms of a

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Caribbean Court of Justice, but we still have to ask those questions. When you see a government operating in that kind of scenario with respect to the independence of the Judiciary and moving in such a direction, we would have to question these things.

We could have come here and supported this *carte blanche*, but the environment is total—in fact, when I open my debate I always talk about the landscape and what is happening in our society. We need to look at what is happening with the landscape in our society. We are seeing total breakdown in law and order. So, how can we support something like the Caribbean Court of Justice when we are seeing no justice in our society? [*Desk thumping*] There is complete breakdown of the justice system. This is an opportunity for the Government to work with the Judiciary and build and strengthen our Judiciary. So, Mr. President, that is why I stayed on that particular area with respect to the landscape and our society being trampled upon by the Government.

One minute the Prime Minister makes a statement, "We are going to help all the people in the south-western peninsula"; that is the front page headline. This time people in La Brea uprising because of the situation that they have to tolerate. In various parts of the country, we have fires all over—for what. For what? For what, Mr. President? In today's society, US \$103 a barrel for oil. Why must people go and burn tyres and beg for roads to be repaired? Why is that necessary? That is justice denied. That is why I feel so passionate about this particular debate. [*Crosstalk*] It really affects the small man; you might not think so, Minister in the Office of the Prime Minister. Although we are debating this particular issue, you all will have an added fee for the small man to be able to access this court, which is not really in terms of the Judicial Committee of the Privy Council; the expenses are much smaller, they can access that directly without much additional cost. So, that is another factor that has to be considered in terms of the small man.

If you want the support of the Opposition, you have to show us how we can have confidence in this measure and confidence in the Government. If tomorrow the Government calls the Opposition to talk on this issue, national security matters and formulate some plan to help the country, but no, you always abandon the Opposition's recommendations and move on your own plan and that is why you are suffering.

Sen. Mark: Throw the Opposition Leader out of the Parliament! Jail the Opposition Leader!

Sen. Dr. A. Nanan: That is their whole plan. And you know, as you talk about that, Senator, I did not want to go there, but we need to look at it in the perspective of the Caribbean Court of Justice and justice on the whole, because it is an orchestrated plan to throw the Leader of the Opposition out of Parliament and restart the trial.

Mr. President: Senator, Senator, I have been giving you all sorts of signals in the nicest way possible; asking you to talk about the Bill, but for half an hour you have not mentioned any clause in this Bill yet, or the Schedule. I would be grateful if you would at least make some mention of the Bill and the Schedule. *[Laughter]*

Sen. Dr. A. Nanan: You know, Mr. President, when I prepare for debate—*[Interruption]* *[Laughter]*—I deal with the current scenario first and I deal with the past after. In this particular debate, I dealt with the past first, the current last and that is why I am kind of going off in a little role. The point is, that I always make reference to the Bill, what I do not do is call the clause number. *[Laughter]* I always try. I could call the clause number, because if you listen to my contribution you will see that it deals with the Bill. If you want me to call the clause I could call the clause, but I am on the Bill.

Anyway, I do not want to waste my time, but I started off with the agreement; I gave you the date and that was part of the Bill, actually. Then the courts; I dealt with the headquarters agreement and I went on and on; then I went to talk about the treaty. If you want me to call the clause I am dealing with, I will do so. I dealt with clause 3, in terms of financing arrangements and I can go on to do the articles.

I mentioned also with respect to Article XXV of the agreement and the allowances, so I did stay within the parameters of the particular debate.

7.00 p.m.

Before I take my seat I just want to go to a few points with respect to the exemptions and the judicial officers, and that is Article IX in the Bill. We are giving the judges and officers of the court and members of the commission—that is Article IX on page 11:

“...when engaged on the business of the Court or Commission, as the case may be, in Trinidad and Tobago, shall enjoy:

- (a) immunity from legal process...”

And we have heard about the inviolability of all papers, documents and materials. Now it is similar in terms of those various conventions for immunities and privileges, but there are certain questions that we have to ask with respect to these privileges, immunities and exemptions.

The Minister in the Ministry of Finance talked about this is normal with respect to customs duties and tax exemptions.

“With respect to the scenario of something happening to one of these judicial officers who is actually in Trinidad and Tobago to be part of the CCJ, if for some reason, through no fault of his actually, he is attacked and happens to, in confrontation—he might be armed—shoots one of our nationals, in terms of that particular incident, will he be subjected to—I know the Minister of National Security will jump up and answer that question—our laws?”

Let us say that the person actually discharged a firearm and a national got wounded, in terms of privileges, immunities and exemptions—I was always curious about that particular issue under the particular part for the judges and officers of the court—if that happens will he be liable or will he be treated within the confines of our law or will he have the privileges and immunities applied at that particular time?

I am sure the former Minister of Foreign Affairs would be well aware of that particular situation in Canada with respect to diplomatic immunity. I do not know if that would happen here. For example, in Trinidad and Tobago, if we ever introduce the breathalyzer—it is a possibility—and one of these officers is stopped on the road and a breathalyzer test is done and the officer is suspected to be over the limit, what will happen then? [*Interruption*] But the Minister of Foreign Affairs was not charged in Canada?

Hon. Senator: “Oh God, oh God.” [*Laughter*]

Sen. Dr. A. Nanan: Sorry, Mr. President.

Sen. Mark: But no, he is just asking a question; he is not implying it. He just asked a question. [*Crosstalk*]

Sen. Dr. A. Nanan: I just asked in terms of the privileges and immunities. [*Interruption*] So, there are two laws then, one for Trinidad and Tobago and one for Canada, that is what you are saying, Minister in the Office of the Prime Minister?

That is one area and the other area I want to deal with before, [*Interruption*] was the exemption from foreign exchange controls, Article VI. What happens here?—and this is a little confusing; I think the Minister in the Ministry of Finance needs to clarify with respect to Article VI about foreign currency.

“(a) to purchase from authorized dealers, hold and make use of negotiable currencies, operate foreign currency and external accounts and purchase through authorized dealers, hold and make use of funds and securities;”

Is it the commission or is it the officers this particular provision makes allowance for?

“(b) freely transfers its funds, securities and foreign currencies to or from Trinidad and Tobago or within Trinidad and Tobago and to convert any currency held by it into other currency.”

This speaks about the court and the commission for its official use only. So does it only mean with respect to the court or does it mean the officers? I could be wrong. I am just asking a question with respect to this particular issue.

The other one I wanted to actually look at is the cooperation with competent authorities, because we are dealing with the CCJ and we have set up in our law books the environmental commission which is a superior court of record. If we are dealing with a situation of the Revised Treaty of Chaguaramas and we are dealing with tribunals and international tribunals, one of the major areas in terms of the interpretation of the Law of the Sea Convention—and that is very important, especially when we are an island surrounded by other islands and there are maritime matters. So, we are dealing with the superior court of record which is the environmental commission—in fact that particular commission is called the Environmental Court of the Caribbean or the Caribbean Environmental Court because it is the only one set up in the Caribbean actually, that is the environmental commission.

Other countries actually could utilize our facility because this talks about cooperation with competent authorities. How will the CCJ in its original jurisdiction, dealing with a matter on the Revised Treaty of Chaguaramas for a maritime—let us say Tobago and Barbados end up in a situation where there is a matter of flying fish dispute again.

Sen. Browne: Trinidad and Tobago.

Sen. Dr. A. Nanan: Okay, well Trinidad and Tobago. We have that situation developing and we go to the CCJ for resolution—[*Interruption*] Yes, I know we have the treaty, but we also have a situation where we can also access in terms of

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the environmental commission another area which is the superior court of record; which one takes priority? That is the situation, you can file a class action suit using the environmental commission or you could go directly to the CCJ to deal with the matter. One is for countries and one is for parties. It is just some clarification needed in respect of this particular area because you have that kind of conflict that can develop.

Then we have another situation, before I close, which is dealing with the—because I am dealing with the original jurisdiction which is part of the Bill. The original jurisdiction involves dispute resolution for the parties, but my question is: Are you bound under this treaty to stay within the confines of the CCJ or can you bypass the CCJ, as we saw in Barbados, and go to an international tribunal? *[Interruption]* We have to ask that question, are you bound by this particular treaty in the CCJ? If one of the countries that sign the agreement, if that particular country refuses to go to the CCJ and say, “No, I have no confidence in the CCJ, I want to go outside”, is that against the treaty?

Hon. Senator: *[Inaudible]*

Sen. Dr. A. Nanan: Okay. One more little item before I close, which was the point made about entry into force. I am a little confused because on page 16 of this particular Bill it says:

“This Agreement and any agreement supplementary thereto shall enter into force immediately upon signature.”

So, as my hon. colleague pointed out, once the Minister of Foreign Affairs signed it would have been automatically enforced. Well, if that is the case then we have a situation here when we ask would the Government reconsider, or what steps in terms of the procedure, and I am sure that the Attorney General—*[Inaudible]*—okay. So, that is why I get back to the original amendment. You have that reservation under Article XXV in the agreement to amend, once you have consent of the contracting parties.

Thank you, Mr. President, for allowing me to make this contribution.

Sen. Michael Annisette: Mr. President and fellow Senators, from the outset let me make it clear that I do support the Bill. I do it in the context that as a Caribbean man, as a trade unionist and as a person who continues to champion the right for the Caribbean to be independent and to get rid of all the so-called symbols that had shackled us in the past, I think we have a responsibility, that if we are serious about moving forward as a people and as a society to shape and form our own institutions in our own image and likeness.

I, therefore, have a fundamental problem with those speakers who oppose the Bill and also the setting up of the CCJ. I see their refusal to candidly confront the sheer absurdity and contradiction of talking about Caribbean unity, about building a society, of building a people, of building trust and building relationship as we move forward, and in that context they are still not understanding that our salvation, as a people, as a region is rooted in our explicit faith and trust in our own ability and intellectual capacity to form and shape our society.

In other words, we have to devise laws and institutions that are situated in our own Caribbean reality. And that is a must if we are serious about moving forward. What I am a little concerned about also is that while we talk and try and hold on and put our arms around the Privy Council they are saying, enough is enough and Caribbean must get their own Court of Appeal.

Sen. Mark: Where is the evidence for that? Who said that?

Hon. Senator: [*Inaudible*]

Sen. Mark: No, give us the evidence. [*Inaudible*]

Sen. M. Annisette: You are entitled to your disagreements, “brother” Mark. [*Interruption*] You see, I will deal with “brother” Mark again. [*Laughter*]

Hon. Senator: Not “brother” Mark, Sen. Mark.

7.15 p.m.

Sen. M. Annisette: Sen. Mark has a capacity for coming to this Senate and misleading the public and the newspapers continue to print what he says and not correct him. Let me give you an example of how he misled this Senate today. He made a statement that the Caribbean governments can dismiss the judges.

Sen. Mark: No, no.

Sen. M. Annisette: Yes, you did make that statement.

Sen. Mark: On a point of order, Sir. I never made that remark. Mr. President, on a point of clarification. Just to correct the record, I made the point that the three-quarters majority of the Heads of Conference can remove the President, I never said judges. So my colleague, I never said that.

Sen. M. Annisette: The President?

Sen. Mark: Yes.

Sen. M. Annisette: I stand corrected. But having said that, when you made that statement, I found it rather strange, so I asked for the document and I will

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read it for you.

“Subject to Article IV, paragraph 5, the President shall be removed from office by the Heads of Government on the recommendation of the Commission:

if the question of the removal of the President has been referred by the Heads of Government to a tribunal and the tribunal has advised the Commission that the President ought to be removed from office for inability or misbehavior referred to in paragraph 4.”

And paragraph 4 outlines what are the circumstances.

So when Sen. Mark made the statement without going into detail with what the relevant provision says, it conveys the impression that the Heads of Government, which his leaders can just willy-nilly say, “President move”, and then that is it. The Senator did not put the conditionality that says how they can be removed and that is what I am talking about. We have to continue not to unvarnish the truth. We have to continue to stop misleading the public [*Desk thumping*] because this is blatant—I will continue, and I believe I have a responsibility here that if any Member misleads this Senate, I will correct them. Be it PNM, [*Desk thumping*] be it Independent, and be it UNC Alliance, I have that responsibility. So you can say I am a PNM. I know I am an Independent, so then I will start and I will continue.

He is disturbing me, Sir. Do you want to make a point? Make the point, I will sit down. You want to make a point? Go on.

Mr. President: Sen. Annisette, please continue.

Sen. M. Annisette: I welcome Sen. Mark. Any fire that you have, I welcome it. Make that clear because I am not afraid of that. Okay?

Sen. Mark: [*Inaudible*]

Sen. M. Annisette: Well, you are entitled to your views and I believe that you continue to mislead the public daily.

Mr. President: Sen. Mark, the Senator has asked for my protection and I am giving it. I am going to ask you to keep your voice down, now.

Sen. M. Annisette: Having said that, Sir, I am not yet persuaded. I am more convinced that this Bill does not warrant the approval, because what it seeks to do is to set in motion—and it is not about the Caribbean Court of Justice. Let me read it for the public. The Act is:

“...to provide for the implementation by the Government of the Republic of Trinidad and Tobago of the Agreement Establishing the Seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission between the Government of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services...”

That is what we are taking about. Therefore, Sen. Mark, if you accept that what I am saying is correct—what you are saying is that it is an attack, continue to believe that. All right? That is not an issue.

As I go on to say that when we talk about self-reliance, what is self-reliance? Self-reliance is the maximum use of our country’s own resources and the resources mean human resources and other resources. So we cannot continue to talk about self-reliance and not set up the institution within the Caribbean that will make us independent, as a people. All the other groupings are doing that; the European groupings are doing that. [*Desk thumping*] So why we in the Caribbean continue to make the fundamental mistake of being the crab in the barrel, a historical fact that we continue as a people to make?

Let me make it clear. Just like my learned Senator and comrade from the trade union, I do not support the issue of bringing foreigners into Trinidad and Tobago. I do not support it and I have a principled stand on it. I do not support it, but what I will say, that if you are bringing them in, it has to be within the context that we do not have the skills to do the particular job and you have to ensure whoever comes here, transfer that to our locals. That is what we have to do. [*Desk thumping*] You understand? So when I take a stand, it has nothing to do, as some people believe, in supporting any party, it has to do with whether or not the issues are fundamental; whether the issues are in the context of taking the country forward; or whether the issues will be beneficial to the people I have the honour to represent, the working class of Trinidad and Tobago. So let it be known.

I will continue to say, Mr. President—[*Interruption*]

Sen. Mark: We are the Opposition; we are minority and “he attacking we”. [*Laughter*]

Sen. M. Annisette:—the irony of some of the speakers still believing that we in the Caribbean are still obligated to the English law lords to guide us on the methodological, philosophical and intellectual levels that we should carry our jurisprudence to. We have to be very careful about that, if we are serious about competing in this environment where we are competing. Let us begin to understand, like in any other society, every society has its faults—[*Interruption*]

Sen. Mark: [*Inaudible*]

Mr. President: Sen. Mark!

Sen. Mark: I cool, Sir.

Mr. President: No more outbursts.

Sen. Mark: I cool, Sir.

Mr. President: Then be quiet. No more outbursts or I will do something about it.

Sen. Mark: [*Inaudible*]

Mr. President: Sen. Mark, I am going to caution you. I am going to caution you very seriously. You have made some comments here about the Senator and I have protected everybody's interest in terms of their motives; you will not say those things; you will be quiet.

Sen. Mark: Peace.

Mr. President: Very good.

Sen. Mark: Peace.

Mr. President: You are warned. Sen. Annisette.

Sen. M. Annisette: Mr. President, thanks for your protection, but let it be known that as a dock worker, I am accustomed to and I can protect myself [*Laughter and desk thumping*] pretty well, if need be. If need be, I can protect myself pretty well, but being an obedient citizen of Trinidad and Tobago and someone who likes to uphold the law, I will seek your protection. [*Laughter*]

Hon. Senator: At least in here.

Sen. M. Annisette: So the point I am trying to make, Mr. President, is that in societies, nothing is static, everything is evolving, and the only way a society can develop and move forward, is if we have the confidence in ourselves to take on the big issues, to develop our own institutions, and as I say, those institutions must be rooted in our own culture and our own sociological setting. That is what we learnt from the other developed nations and notwithstanding the fact that those other nations are developed, they still falter along the way.

The Caribbean is a small, small society. Our history is very small, and therefore, we are going to make mistakes. It is a fact of life, but what I know is that if we continue to look at England as our saviour—and given the

independence that we seek, I believe in bringing about this Bill it is most progressive. This is what this Bill seeks to do, this is what the Caribbean Court of Justice seeks to do, to let us be free from the last, last shackles of slavery. Therefore, anybody who seeks to say that we should not set up a Caribbean Court of Justice, who says that this Bill should not be passed, does not have a proper sense of our history and their thinking is rooted in the colonial past.

I thank you. [*Desk thumping*]

Sen. Cindy Devika Sharma: Thank you, Mr. President, for being allowed to speak on this Bill, the Caribbean Court of Justice (Headquarters) Bill, 2008, which I want to read again, will “provide for the implementation...of the Agreement Establishing the Seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission between the Government of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission.” I think it is important because I suspect all the arguments in favour or not in favour of having a Caribbean Court have been dealt with in the extreme, if not today, in the past.

My major concern is related to one of the comments made by the honourable speaker who just spoke, Sen. Annisette, and it relates to the question of our idea of ourselves as a Caribbean people. For me, it brings into mind the dynamics that we are existing in, and the Caribbean Court that we are seeking to establish, reflects the existing tension between tradition and change. Anytime there is some change or innovation that has entered into a system, there is always going to be this reactionary force against embracing that change. Nothing is wrong with that because it seeks to make sure that whatever things come into place, they are done so using the correct procedure, ensuring consultation with all parties that are going to be affected, and everyone at the end of the day who will be affected.

It is important that we make mention of these issues, because while it is all well and good that people support the establishment of a Caribbean Court—because it suggests very strongly that we do embrace the idea of a Caribbean people and a Caribbean unity at the regional level and nationally, of course—there is also the disturbing fact which is evident in the fact that only two nations so far have taken on the Caribbean Court as their final Court of Appeal, despite all the arguments that have been posed in its favour. I do not sense a big rush by many of these nations to even go that route.

So we have the majority of our countries in the Caribbean, under Caricom, taking a sidestep off the issue and saying, “Hear what, we do not want to take it

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on as the final Court of Appeal just as yet. We are not ready for that, so let us go back to what it was originally set for, which is to rule on matters related to CSME in particular.” Unfortunately, again, it moves to the point that CSME itself, perhaps, is not as widely functioning as it should be in its initial stages, if this is the case, and as such, we have to ask serious questions at this point, since we are putting a very large investment into an organization which is not actually doing its role. It is, in fact, begging for work.

7.30 p.m.

Perhaps it is because regionally, bodies—perhaps like the business sector, I am not sure if governments as well—are not completely aware of the exact role that the Caribbean Court of Justice (CCJ) is playing for them or how they could benefit from it. This is a real concern of mine, because it is always sad to see an investment bringing in very low returns; sadly, that is the case today.

I am just wondering, given the past, which I think is relevant, because the historical genesis of the argument for having a Caribbean court probably has its germination from the time of the West Indian Federation until today. It is important that we really think about it. We have been having a tug-of-war with this issue for so many years and, of course, we are still having it today. It brings into mind one of the things that Sen. Annisette spoke about, which was the lack of confidence being displayed by speakers who do not wish to support this Bill. It was interesting that he made the point, because it is not only Trinidadians on the Opposition side who are in opposition to this Bill or to having the Caribbean Court in all its manifestations. It is something seen at a wider regional level. It is not as if the Trinidad and Tobago Opposition alone is against establishing the Caribbean Court of Justice. I think it is a matter of the procedure involved and a matter for the people at large to become very aware of all the issues that are at play.

Again, one of the important clauses which makes this such an immense undertaking by our Government is clause 4, which gives the Headquarters Agreement the force of law which, in effect, is very important, because it is suggesting that this will now become the final court for any dispute that needs to be resolved with regard to, at least for now, economic disagreements. That is important because if this has to become the final Court of Appeal, people want to ensure that there is justice and equity at the end of the day, because this is what the law is all about.

I suspect that there is always going to be this perception, real or imagined—and I am not saying whether it is true or not—that there is always going to be

some kind of collusion taking place, that people locally and regionally are more easily prone to being influenced politically by interfering governments or governmental agents. This is a real concern that the Government needs to address or work on with its connection with the Caribbean Court and, perhaps, lessen the impact of these negative perceptions that persons have about the court, so it would not be something viewed in such a negative light.

Those are my main points. Thank you, Mr. President. I hope that in the future we do not have to rehash these debates in a manner that seems to me sometimes quite hostile, because we are all seeking the interest of the people, at the end of the day. We might have different views on how it is done, but I suspect, at the end of the day, we want to ensure that we do the best job for everyone concerned.

The Minister of Health (Sen. The Hon. Jerry Narace): Mr. President, I rise to join the debate to support this Bill, which seeks to give the force of law to the Headquarters Agreement, which was signed in Port of Spain on February 23, 2005. I can understand some of the misunderstandings that took place today in trying to debate this Bill. It is clear that some of our colleagues on the other side really do not have an understanding of the Caribbean Court of Justice (CCJ), the Caricom Single Market and Economy (CSME) and sometimes the leadership that is required to really liberate this region and take it where it ought to go.

It is against this background that, firstly, I want to congratulate and associate myself with some of the speakers who recognized the importance of this Bill and the importance of the determination of our future as a regional people and, indeed, the removal of those colonial shackles. [*Desk thumping*]

Mr. President, I intend to be brief. I intend just to answer a few matters raised by Sen. Mark and, I think, one by Sen. Dr. Nanan on one or two issues. I think it is important that I just remind Members on the other side that the Caribbean Court of Justice is really the Regional and Judicial Tribunal established February 14, 2001, by the Agreement establishing the Caribbean Court of Justice. The court is designed to be more than just a court of last resort for member States of the Caribbean Community. In addition to replacing the Judicial Committee of the Privy Council, if we were able to get the appellate jurisdiction which obtains only to two member States, the CCJ is vested with an original jurisdiction in respect of the interpretation and application of the Treaty establishing the Caribbean Community.

When we say that only two members are using the court, it is in the appellate jurisdiction; therefore, without this court there can be no treaty, there can be no disputes. This is where we interpret those disputes. I am trying to be as brief as I

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can, but I also want to share that in the exercise of its original jurisdiction, the Caribbean Court of Justice would be discharging the functions of an international tribunal, applying rules of international law in respect of the interpretation and application of the Treaty.

In this regard, the CCJ will be performing functions like the European Court of Justice, the European Court of first instance, the Andean Court of Justice and the International Court of Justice. The reason I bring that to our attention and to say what are some of the functions is because I heard Sen. Mark say today, "So why dey eh take de money and put it in five more courts." Really, people who did not understand the difference between these two courts would agree and say, "If yuh spending \$100 million, then build some more courts", but this is not that type of court.

Why do we need this type of court? Why is this court important? We seem to forget that there was something called the Free Trade Area of the Americas (FTAA). When we heard that there were 800 million people and that there was going to be one hemispheric arrangement, people in the region panicked. I remember those days very well. I want to say to Sen. Mark in particular, that it is the PNM Government that has shown the vision to build the future for business opportunities and the creation of new platforms. [*Desk thumping*]

It was in the early 1980s when a PNM government saw that things were bad, they said, "You know what, let us make an investment in the manufacturing sector." It was a PNM government in those days that went on to lose an election, that made the concessions to say, "Let us get the manufacturing sector going." It was a PNM government in the early 1990s that realized that the world was heading to liberalization, and said, "Let us bring on foreign exchange liberalization." Everybody all over the place was making noise.

Mr. President, as I return to this Bill and the CCJ, I want to say that this is a wise thing. The other day I gave credit to those who signed the agreement. I have now realized that they did not realize what they had signed. [*Laughter*] I said, "Let us share the credit", because it was vision on the part of the National Alliance for Reconstruction (NAR), greater vision on the part of the UNC, and the PNM saw the opportunity and, as usual, ran for it. [*Laughter*]

I want to go to a document here; let me see if I could find it. In February 2001, the then Prime Minister of Trinidad and Tobago, in his address to those gathered, noted that the region's political leadership was yet to convince the stakeholders, and he assured the conference of the continuing commitment to and support of the CCJ. None of you remember, but I do, and I happen to know, because I have been

involved. Do you know what they told Caricom? They said that did not believe the then PNM administration would support it. The Caricom Secretary General had to go to the Opposition Leader and say, "We understand that you are not supporting this thing." The then Prime Minister said that he would support it. You know, Mr. President, today he said that he signed in principle. [*Laughter*] I only hope, Sen. Mark, that is not the kind of loan you sign with the bank, because I would advise the bank to be very careful. [*Laughter*] [*Crosstalk*]

I learnt very early that once you open up a debate, I am entitled to correct it. [*Crosstalk*]

Sen. Mark: I will not be provoked again.

Sen. The Hon. J. Narace: This signing thing is serious. I want to congratulate the Independent Senator who said that this is a matter of confidence. When you sign a treaty, it is the future of our children that is at stake. If you get a reputation for not taking your treaties seriously, you will be considered as some jokey State; nobody would deal with you.

So when we think that this Bill is just something that did not have work to do, the big investors—all this RBC and so on that they spoke about today—will only come here as opposed to other close neighbouring States, because they have trust and confidence in the word of the people of Trinidad and Tobago, because we have honoured our agreements. [*Desk thumping*]

It took a certain political leader, of a certain party, quite some time to understand that the man who signed his form for him to become political leader, did not agree with it in principle. [*Laughter*] It took him some years to find that out.

We are here to do the people's business, to ensure that this Bill is passed. I take the opportunity to speak a little on it. [*Laughter*] [*Crosstalk*] They made all kinds of statements. They said, "Three years since de agreement and now dey come here giving the impression dat people spending money black is white and having a party", these very goodly people.

Sen. Mark: I know you were in a big party last Friday!

Sen. The Hon. J. Narace: This Bill seeks to supplement the limitations of an order and to ensure the comprehensive protection of the court and the Commission. There was an order signed in 2004. I am trying to go through as quickly as possible. That Order gave some limited privileges. I am trying to be as brief as I can. This Bill seeks to completely remedy that situation and move this thing into law.

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They talked about wasting money and that it was \$100 million, all those kinds of things. Trinidad and Tobago is putting 29 per cent of \$100 million. If you look at the disaggregation you would see Jamaica is putting 27 per cent, Barbados is putting 11 and so on. When we look at the trade figures, Trinidad and Tobago enjoys US \$2.397 billion of an overall intraregional domestic export of 2.7. It matters not what is happening.

7.45 p.m.

Remember when we saw the FTAA coming and these global mega blocs emerging all over the place, we said let us quickly try to consolidate our strengths into the CSME, and I can boast today because of a PNM administration, and because of the seriousness of a Prime Minister who understood the importance, we are enjoying these figures today. Not only that, we have a Caricom Single Market and Economy that is functional and people and trade can move. That is why all these large organizations internationally are now interested in coming to Trinidad and Tobago to invest. Sen. Mark even made the point that everybody is running to Trinidad and Tobago.

I want to make one more point, Mr. President, that it is not just about trade. If you understood the concept of the single market you would understand it is about developing small people. In 2007, I believe it was, at some Heads of Conference Meeting, we agreed to include teachers, hospitality workers, domestics, artisanal workers, and regular small people—I know Sen. Mark likes to talk about small people.

They said that they had to go through a process to be able to enjoy that freedom of movement, and do you know what it was? They had to be trained and certified and it spoke to the creation of a whole new range of training and development of people and, therefore, once you train, develop and empower people that is what real leadership is about and that is for what I want to congratulate the Members on this side—for having the wisdom and vision to bring this Bill today to get that process in furtherance.

Mr. President, there is much I could talk about, but I do not want to talk too much. I want to say one thing of the establishment of a seat of a regional body. Just last week I was speaking to someone from Panama and they are attracting all these international bodies, and that alone is a source of development and sectoral advancement for Panama and, therefore, as we get the ACS and the CCJ and so forth, we in our own rights are developing a hub of sorts and are looking to diversifying the economy. I know my good friend, Sen. Dr. Charles will always ask what are we doing to diversify the economy and these are subtle ways in doing that—our waterfront and so forth.

Mr. President, my intention was just to make a very brief intervention and I think I have done that. Sen. Ali made the point of the Privy Council and the fact that we needed to really get serious about it.

I want to quote from an address given by Justice Michael de La Bastide on the occasion of the inauguration of the Caribbean Court of Justice and he quoted Lord Brougham who was Lord Chancellor of England between 1830 and 1834 and is credited with the remodelling of the Judicial Committee of the Privy Council which was effected by an Act of Parliament in 1833. This is what Lord Brougham had to say in 1828:

“It is obvious that, from the mere distance of those colonies and the immense variety of matters arising in them, foreign to our habits and beyond the scope of our knowledge, any judicial tribunal in this country must of necessity be an extremely inadequate court of redress.”

On October 10, 2003, Lord Hoffman was the feature speaker and again de La Bastide quotes from him saying:

“Although the Privy Council has done its best to serve the Caribbean and, I venture to think, has done much to improve the administration of justice in parallel with improvements in the United Kingdom, our remoteness from the community has been a handicap.”

The second passage:

“But my own view is that a court of your own is necessary if you are going to have the full benefit of what a final court can do to transform society in partnership with the other two branches of government.”

Mr. de La Bastide further said:

“There are now only three independent countries outside of the Caribbean which still retain a right of appeal to the Privy Council. They are Tuvalu, Kiribati and Mauritius. You may or may not have heard of the first two, but they are chains of small islands in the South Pacific. Tuvalu has a population of 10,000, Kiribati of 103,000.”

In other words, we have to recognize that we have a duty to our children, this region, and I want to congratulate the people who made some of the contributions today. I think there is much hope for Trinidad and Tobago, and in those circumstances, I associate myself with those comments and I want to support this Bill.

Thank you very much for the opportunity.

Sen. Helen Drayton: Mr. President, let me say outright that I support this Bill to provide for the implementation of the Agreement establishing the seat of the Caribbean Court of Justice, and in reviewing the provisions, I certainly have no issue with any of them. I think they are certainly in keeping, as has been previously said, with institutions of such status as an international court.

Mr. President, this court has had a very long history, as it was some 61 years ago in 1947—some of us were not born yet—when the West Indian Governors expressed the need for a West Indian Court of Appeal. I will follow from what the hon. Minister had just said.

Now, it is noteworthy that it was in 1970 at the Sixth Heads of Government Conference that the Caribbean Court of Appeal was proposed as a substitute for the Privy Council, and when the hon. Attorney General mentioned 1970, I could not but think of the significance of that year, as it was one that marked events which have had a major impact on the social and economic landscape of Trinidad and Tobago. These were events which gave urgency for the need for very productive responses towards the call for social equity and justice.

To the credit of the member States, they have pursued with commitment—although not the desired speed—the development and implementation of the various components and framework to realize the goals of the treaty. The aim of this treaty is to transform the socioeconomic landscape of the region by creating a single economic space where people, goods and capital move freely.

The court was inaugurated in April 2005 as a major platform for the smooth process and integration of the region, indeed the pillar upon which the community should grow from strength to strength. Given the social and economic strides made by members of the region, and all too often, we seem to place so much emphasis on the negative and wallow in a system as if we are victims of various forces—that is psychologically—rather than to see the wisdom of forging our own destiny in moving productively towards the full cycle of independence.

We have made many advances. Given the leadership status of Trinidad and Tobago, given the significant regional developments, and given the contribution of Trinidad and Tobago in the region, our entrepreneurship as evidenced by the sustained success of our business people, and, of course, remembering the geographic location of the treaty, I think it is only fitting that the Caribbean Court of Justice has its seat in the capital of Trinidad and Tobago. It is my hope that eventually it will be a beacon for justice in the region both at the original and appellate level.

Much has been said with respect to the court at the appellate level and, of course, there are many arguments grounded in principle for and against. As was said before, it is a necessary platform which would facilitate integration, it certainly is a symbol of Caribbean unity and strength, it will be a symbol of Caribbean jurisprudence and, of course, it is proffered that justice at the appellate level is presently removed because of the remoteness of the Privy Council.

On the other hand, it is argued that because the Privy Council is removed from local influence and political pressures, this augurs well for judicial independence, fairness and objectivity, and that decisions will be based solely on law with no extraneous pressures.

It is also said that since we cannot manage our local courts, why take on this challenge? Our local justice systems will not be as competent as the judicial committee of the Privy Council, this is what those who are against the establishment of the CCJ at an appellate level are saying, and that we should utilize our scarce human and financial resources towards improving what we have now.

Let me say that from where I stand I do not believe that sovereignty and independence have any bearing whatsoever on the Caribbean Court of Justice at an appellate level. I do not think that independence is a concept that has anything to do with the fact that a sovereign nation would engage international or regional services and, indeed, the Caribbean Court of Justice is an instrument that I do not think is inconsistent with the intent of the Constitution of Trinidad and Tobago given the fact that you have a Privy Council.

In any event, with the internationalization of capital, labour, communications and indeed mass protests as we see when we switch on our cable, sovereignty in the 21st Century certainly has been relegated to second place to what is human rights and the individual will. So what is really relevant, is whether the region has the resources and whether it has the depth and breadth of experience and other attributes, and whether the CCJ will deliver justice efficiently and with integrity at the appellate level and whether the appointees have the ability to contribute to Caribbean jurisprudence and will dispense with justice fairly.

It has been asked: Will the public have confidence in this court especially given recent events? Will members of the legal profession and citizens treat its decisions and judgments with the same degree of respect as they treat those emanating from the Privy Council?

With respect to distance, there is no evidence whatsoever in our history to suggest that distance begets any greater objectivity. There is no empirical

evidence to show that whatsoever and, in fact, I think if we examine our local situation—notwithstanding the unfortunate events in our justice system recently—there were always people—eminent legal minds—people of integrity to thwart interference.

8.00 p.m.

We are a very, very watchful society and it is evident that we have the ability, the talent and the intellectual capacity to make decisions with respect to a Caribbean Court at the appellate level. At this point, I would just quickly quote from an article in the *Graya Magazine*, which is a publication of Gray's Inn, UK. That quote would show that maybe the thinking of eminent persons, legal minds, would be very consistent with those here who are against the CCJ at its appellate level, and it is said by no other than Lord Bingham. What he says here is that:

“It provides an economical means of gaining access to a high level court. Large and wealthy countries can sustain an independent court of appeal, but for small countries with a relative trickle of business deserving attention of a high level court, this may be different.”

But the evidence is, as the hon. Minister has just said, with the exception of a handful of Commonwealth countries, which will be Caribbean members and the two others mentioned, they have all moved on. And with respect to the whole notion of free access, this must be viewed in the context of the overall cost of representation. He goes on to say:

“Remoteness from the local scene is seen as a virtue. ‘Divisive issues arising in any society large or small, and the judges may have to decide on them...But the smaller and the more deeply divided, a society, the harder it is for a judge to be independent, impartial and immune from local pressure...’”

The years 1970 and 1990 indicated that our judges are not afraid of making decisions that went totally against the grain of all public sentiment. He goes on to say:

“‘There are some independent states such as Bahamas which are important financial centres, operating in a global market and regard the existence of the appeal to the Privy Council as a valuable public guarantee of their financial integrity.’”

That may have some relevance to Trinidad and Tobago in the context of a financial centre and that is open to debate. He goes on to say that:

“One of the reasons has to do with the reverse side of an argument for ending it...”

That is ending the Privy Council:

“and that the authorities (in the region) ‘may be victims of their own rhetoric and the difficulty of securing a constitutional amendment’ as in the case of Jamaica and no doubt Trinidad and Tobago. This has to do in part with the call for the resumption of the death penalty.”

Evidence, of course, will show that the Privy Council has been very proactive with respect to hanging—it is against hanging. So, in effect, it is, to some extent, trying to establish policies of governance and we have to ask ourselves whether that is appropriate. [*Desk thumping*] It goes on to say:

“Generally, it is felt that the quality of the decision making of the Privy Council is high, notwithstanding some bad judgments...”

I just wondered if two of those bad judgments had to do with their posturing in 1970 and 1990, because if there was ever a travesty of justice in Trinidad and Tobago it was the result of 1990, and if those very Law Lords had to make judgment in a similar situation in a British jurisdiction, there is no way terrorists were getting away. [*Desk thumping*] It goes on:

“He was clear in his statement that ‘the UK, having granted independent constitutions guaranteeing a right of appeal to the Privy Council, would not unilaterally seek to abrogate that right, although the states themselves may of course do so.’”

And, of course, they have been doing so.

But, you know, we need to go back probably just a little, before I conclude and look at the genesis of the Privy Council itself and what it holds for us in that respect. When the Privy Council was established, it was established as an instrument to cement or hold together the British Empire. So let us fast-forward in terms of the Caribbean Community and the CCJ. Those days of a British Empire have long gone and it certainly is time that we move on; we move with confidence; we stop berating ourselves; we stop wallowing in the negative headlines and take control.

Thank you, Mr. President. [*Desk thumping*]

Sen. Annette Nicholson-Alfred: Mr. President, in pursuit of regional pride and independence, we need to recognize that the Caribbean Court of Justice has the capacity to make an important contribution to the integration movement of the region and to give to the Caribbean people the full benefit of what a final court can do to transform the Caribbean society.

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As a child of independence myself, I seek strongly to follow people, nations and countries that seek their independence. It has been proven that when you go out there and try to do something for yourself, it may look hard, but if you persevere, you are going to succeed.

I stand to give full support for the Bill which is before us, a Bill to provide for the implementation by the Government of the Republic of Trinidad and Tobago of the Agreement establishing the seat of the Caribbean Court of Justice and the offices of the Regional Judicial and Legal Services Commission between the Government of Trinidad and Tobago and the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission.

I am very happy that there are still people in the House who will hear my short contribution, because I was really thinking of getting on the plane, but when I heard that I had to sleep in Trinidad, I said, "Well, take your papers out; you will have to say something." There are fears which have made the acceptance of the Caribbean Court of Justice as part of the judicial system of the region, questionable. There is the feeling that the Court will be controlled by politicians and the Government, however, we hope that the system of appointment of the judges by an independent Regional Judicial and Legal Services Commission should leave little room for political interference.

Finances of the court also cause concern, as there is a popular belief that there will be a burden on the member State in which the court is located, as in this case, our Republic of Trinidad and Tobago. The story of the Trust Fund established by all the member States with technical assistance from the Caribbean Development Bank is recorded for all to see.

On separating oneself from his or her parents, through marriage or otherwise, there is sometimes the fear of what lies beyond. However, there are many success stories and I firmly believe that the story of the CCJ will be one. We know that the road to independence is never easy to tread and an indigenous court consisting of regional judges is best suited for us and we should not be fearful of trying our own people. We should give them the opportunity; this would contribute to the development of a regional jurisprudence.

According to Madame Justice Desiree Bernard when she addressed the Barbados Public Workers Cooperative Credit Union at its 36th anniversary function, she said certain things to them. One was that aim or that effort to make use of what you have, to get rid of the dependence on the colonial system and to become independent. She advised that it is time we assume responsibility for the

dispensing of justice to our own people, in our own courts according to our customs and our culture. She could not be more right when she said that, because we have had this idea that everything British or everything from our colonial masters is the best, but we have proven, time and time again that we have judges of the calibre of those over there. But, alas, we, in Trinidad and Tobago, tend to disregard the weight of our judges. I do hope now that we would consider the weight and the ability of our Caribbean judges to man our Caribbean Court here in the Caribbean region.

Mr. President, Members of the Senate, we could not go wrong at all, I believe, if this story of the establishment of the CCJ is done in Trinidad and Tobago. People would think that we are debating about the court; something that has already been passed, but I think to be able to understand what we have been asked to do, you must refer at times to some of what happened before and what is possible. I feel good that I could have been here to say my bit and I trust that what we seek at this time would find success among the Senators here.

Thank you, Mr. President. [*Desk thumping*]

Sen. Gail Merhair: Mr. President, I rise in support of the Bill to provide for the implementation by the Government of the Republic of Trinidad and Tobago for the agreement establishing the seat of the Caribbean Court of Justice and the Offices of the Regional Judicial and Legal Services Commission.

Not only do I support this Bill but I also wish to signal my unequivocal support for the Caribbean Court of Justice as the final appellate court of Trinidad and Tobago. [*Desk thumping*] I think that the time has come in our country's history to make that fundamental step with respect to the development of our own jurisprudence. There are a number of people who oppose the Caribbean Court of Justice as the final appellate court and I think their views have to be heard. After all, we do live in a democratic society and each citizen must be allowed to share his or her own grievances. It is our duty, however, I think, as progressive leaders—and I want to say here I have heard that there are only two other countries which have signed on to allow the Caribbean Court of Justice to be the final appellate court, but I want to say here that I think that Trinidad and Tobago are progressive leaders of the region and I think it is in that vein that we should, in fact, seek to abolish the appeals to the Judicial Committee of the Privy Council.

8.15 p.m.

It is also an insult to the people of Trinidad and Tobago, for Trinidad and Tobago to be the seat of the Caribbean Court of Justice, but not to ascribe to it as

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the final court of appeal. [*Desk thumping*] It places our country in a particular position of being host, but we do so refusing abjectly, recognition of the terms of the central role that this new court must play in our regional development. Some might say that we have a long history of the Privy Council and it dictates a certain degree of prestige. This may be so but in no way precludes or diminishes the value of the Caribbean Court of Justice as a pioneering institution within this region of the Commonwealth.

Many Commonwealth countries retain appeals to the Privy Council including 17 independent countries as well as nine dependencies. However, the process of the abolition of appeals to the Privy Council has begun. My research has shown that in 1932, appeals from Ireland were abolished; Canada followed between 1933 and 1949, and Australia in 1968, for federal jurisdiction and 1986, for state jurisdiction. In Australia, Canada and many of the newer Commonwealth nations, considerations of nationalism have featured prominently in the abandonment of the right of appeal to the Privy Council. I must also state that Papua New Guinea, Barbados and Guyana no longer provide for appeals to the Privy Council. The time has come for Trinidad and Tobago to resume its rightful leadership role in the establishment of the Caribbean Court of Justice.

I know that many people argue for the retention of the Privy Council and basically, that argument is because they think that appeal to the Privy Council in constitutional theory is appeal to Her Majesty, the Queen in Council. This theory is reflected in the practice of the Law Lords of the Judicial Committee of the Privy Council and not normally their individual judgments, but collectively delivering an opinion of the Queen. Advocates for the retention of the Privy Council, the judgment for appealing at the final court and appeal to the Queen in Council do not amount strictly to the existence of a further tier of appeal within the judicial hierarchy, but an appeal directly to the fount of justice. It is right for the appeal not simply the right to an additional tier. Many people misunderstand that when they appeal to the Privy Council, they are appealing to an additional tier. In theory that does not exist. It links us to the sovereign. The last time I checked, Trinidad and Tobago attained Republican status and our Head of State is His Excellency, The President. Therefore, the preceding arguments hold little water for what many people have been articulating.

I will quote what I found in my research. It may assist my colleague, Sen. Michael Anisette in answering some of his questions when other Senators chose to interrupt him during his contribution. In Trinidad and Tobago, the retention of the Privy Council may not have taken into account that reform in the Judicial

Committee of the Privy Council may yet occur because constitutional changes in the United Kingdom may require this. The advent of Article 6(1) of the European Convention on Human Rights which was incorporated in the United Kingdom law by the Human Rights Act of 1998, raises the prospect of a challenge to the Law Lords' position as members of the legislature. The devolution of legislature and executive functions to new Scottish, Northern Ireland and Welsh institutions has given the Judicial Committee of the Privy Council new responsibilities. According to Le Sueur and Cornes, *The Future of the United Kingdom's Highest Courts, 20001*, the permutations of constitutional reform in the United Kingdom are as likely to lead to reform or abolition of the Judicial Committee of the Privy Council as much as the desire of the present government here in Trinidad and Tobago to end the right of appeal to London.

Supporters of the Privy Council argue that the Caribbean Court of Justice may be influenced or controlled by politicians and governments of the region. This is a myth and further from the truth. When we look at the European Court of Justice, we would see that their justices are appointed by ministers of governments. The judges of the Caribbean Court of Justice are appointed by an independent, regional and legal services commission. When we look at the composition of the court, it is comprised of two representatives each of the Regional Bar Association; two jurists nominated by the regional universities and the Council of Legal Education; the chairman of one of the Judicial Service Commission of a member state; two persons from civil society nominated jointly by the Secretary General of Caricom and the Director General of the Organization of Eastern Caribbean States and two persons nominated jointly by the Bar and Law Association of the member states. The only office not appointed by the commission is that of the President of the court which is appointed by the Heads of Governments of the region on the recommendation of the commission. I see no collusion of political interference or intervention.

I will quote from Justice Desiree Bernard's address at the Fourth Annual Olive Trotman Memorial Lecture organized by the Barbados Public Workers' Cooperative Credit Union in May 2006. It states:

“Applications...are considered from qualified persons from all over the Commonwealth, and is not...only from the region. I can see no room for political interference or control in appointments of the judges, and to suggest that these persons can be influenced by politicians is an insult to the integrity of those who comprise the Court.”

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Justice Bernard in that same lecture went on to state:

“The Court (CCJ) is now a reality, and there is no turning back. We can only go forward and strive in the years ahead to craft jurisprudence for the Caribbean Region of which we can all be truly proud. The time has come to throw off the last shackles of colonialism and assume responsibility for dispensing justice to our own people in our own court and according to our own customs and culture.”

Another very prominent jurist in the region, Justice Adrian Saunders, former Acting Chief Justice of the Eastern Caribbean Supreme Court, while addressing a conference of the Bar Association of the Organization of Eastern Caribbean States in September 2007, argued that the CCJ must be able at all times, to command support and receive encouragement from the legal profession. He also noted that the region’s legal profession was the natural constituency of the CCJ. Justice Saunders dismissed as false and without merit, claims made by some critics who said that the CCJ was called a so-called “hangman’s court” to support their fervour of retaining access to the Privy Council in London. Speaking with 19 years experience in private practice as an attorney, Justice Saunders said that it was important for the CCJ and the development of the Caribbean jurisprudence that there be the widest possible access to the regional court as a final appellate institution, instead of continuing to depend on the Privy Council.

While addressing the OECS Bar Association, Justice Saunders reminded his audience that:

“The broad platform on which this Caribbean jurisprudence rests is...common historic, political, economic and cultural experiences (we enjoy in this region); our mutual history of slavery, indenture, displacement, resistance and struggle...colonialism has bequeathed us a legacy of democratic structures and traditions premised on those that exist in (Britain)...With few exceptions, we boast the same imitations of the Westminster parliamentary system, a comparable body of pre-independence law and written Constitutions modelled along the same lines.”

The solid edifice of a shared body of law and judicial decision-making, Caribbean jurisprudence was being strengthened with the CCJ.

“It is an authentic jurisprudence that exists and has contributed and continues to contribute to enrichment of the common law.”

Justice Saunders could not think of a more fitting description to label this jurisprudence as “Caribbean” and to declare that there is no suitable equity to promote it than the Caribbean Court of Justice with the support of the region’s fraternity.

The history of the Caribbean Court of Justice has been plagued by much debate and indecisiveness. If you will allow me—one of the things that I pride myself in doing when I began this new role that I have adopted as an Independent Senator is to base what I am saying on facts and not hearsay. Many of my contributions would be based on what I have read by those I think are reputable persons within the region.

I will read into the *Hansard* excerpts from an article published in the *Barbados Nation Newspaper* on January 27, 2008. It is entitled, “Whither the Caribbean Court”:

“The Caribbean Court of Justice was conceived as the final appellate court for civil and criminal matters from English-speaking members of the Caricom Community. In its original jurisdiction, it would be the tribunal for resolving disputes that arise from the Caricom Single Market and Economy, as well as adjudicate in matters referred to it by the national courts of participating countries.

To date, only Guyana and Barbados have signed up on the CCJ as the final court in all matters, although leaders of almost the entire Caricom membership gave verbal assurances of their commitment to the principle and signed on for a US \$100 million trust fund, to be managed by the Caribbean Development Bank.

The signatory countries include Dominica, Antigua/Barbuda, Barbados, Trinidad and Tobago, St. Kitts-Nevis, Jamaica, Grenada, St. Lucia, St. Vincent and Belize.

Since the establishment of the CCJ a few influential Caribbean people in Jamaica and elsewhere have taken the position that there is nothing wrong with the system of referring cases to the Judicial Committee of the London-based British Privy Council instead of switching to the CCJ. In the context of contemporary Caribbean affairs, this is a most appalling attitude to adopt.

We exist in an increasingly globalized world and it is perceived, even by politicians, that there is need to establish a stronger Caribbean identity. Political leaders, as much as everyone else, should be conscious of the question of sovereignty, precious as this is within the context of the CCJ and the regional integration movement.

At nearly every regional conference leaders ignite a flicker of hope that pan-Caribbean unity is high among their priorities.

Unlike some of the smaller states which now give every impression of making a disgraceful about-face, Jamaica, a notable standout from the now defunct Federation, might now be tending towards closer cooperation by raising the likelihood of a referendum to determine whether it would join the CCJ.

A few days ago, St. Lucia's newly appointed Prime Minister Stephenson King is reported as having suggested that he sees nothing wrong with the Privy Council. His predecessor, the late Sir John Compton, a committed regionalist, would be devastated were he still alive.

What does such an utterance do for this region? We can understand the need for amendments to some countries' constitutions to facilitate a switch from the Privy Council to the CCJ, but what we are hearing is a savage blow to those who cherish the dream of a thoroughly united Caribbean to see that others in high office are setting their faces strongly against the regional court."

8.30 p.m.

"A few might be happy to become pawns of bigger states. But have they no sense of shame that what they are doing is a reflection on the image of their countries? Do they have no sense of dignity?"

What would be the real future of the Caribbean Single Market and Economy that the CCJ was established to serve? Are we in danger of becoming mendicant satellites of some Eastern or Western country?

At the very start of 2008, King's declaration is a crushing blow to the regional integration movement. These islands must demonstrate that they truly stand for something to which they now appear to have been giving only convenient lip service. It really is quite appalling that these statements should be made at this time...

The whole scenario now presenting itself is terrible for these islands if this is the kind of stand the leaders of these less developed CARICOM countries want to take, going in a direction that makes no sense when viewed against the background of a professed commitment to regional cooperation and development.

Where are we going as a predominantly West Indian people? British citizens have recourse to the European Court of Justice even though the House of Lords is located in London. Do we realise that the Privy Council is on record as urging countries such as those in the Caribbean and elsewhere in the Commonwealth, to seek remedies in their own domestic or regional jurisdictions?

There should be a groundswell of the strongest censure by Caribbean people for paper leaders that strut and posture at every opportunity to massage their egos within the region and elsewhere."

This is the end of the article.

We in Trinidad and Tobago must take the lead as we go on to allow the CCJ to become the final appellate court; I reiterate that, in my opinion, the CCJ will help develop our jurisprudence and reduce the Courts of Appeal. Many people who are underprivileged and would like to seek higher justice can now get these appeals done within the Caribbean. Also, we want to make sure that the judicial system is more accessible to our population. The road is long and hard, but we must have a clear vision and we must include our own courts. People must be able to determine, not only their future, but also their destiny.

I conclude by reiterating the stated vision of the CCJ and that is to provide for the Caribbean community an accessible, fair, efficient, innovative and impartial justice system built on a jurisprudence reflective of our history, our values and our traditions while maintaining an inspirational, independent institution worthy of emulation by the courts of the region and worthy of the trust and confidence of its people.

I urge all members of this honourable Senate, as well as Members of the other place, to support this legislation because, as Trinbagonians, we need to move forward as a Caribbean people and identify who we are.

Mr. President, I thank you.

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Thank you very much, Mr. President. I would like to express my deep gratitude to the Ministers who spoke in support of the Bill and to the Senators of the Independent Bench who have all made the task of winding up much easier for me.

However, at the expense of protracting this debate, there is need to clear up some matters that have arisen, particularly from the contributions of the Senators on the Opposition Bench. I would particularly like to refer to the contributions made by Sen. Wade Mark and Sen. Dr. Adesh Nanan, with respect to the immunities of the court, the commission, the judges, officers and counsel appearing before the court.

Sen. Baptiste-Mc Knight dealt with the immunities, clearly coming from her experience in the diplomatic corps. I thought her contribution would have been one that we all would have readily accepted, however, from contributions that came after hers, it seems that there is still some confusion, particularly when Sen. Wade

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Mark made reference to the fact that since the passage of the Headquarters Agreement in 2005, according to him, three years, one month and 12 days ago, that the members of the court, the commission and their officers and the members have been operating in Trinidad and Tobago with immunities in the absence of any legal base.

I would remind this Senate that reference was made in my opening contribution to the privileges and immunities of the Caribbean Court of Justice, the Regional Judicial and Legal Services Commission and the Caribbean Court of Justice Trust Fund Order, 2004. This Order came into effect by Legal Notice No. 99 of 2005 and by virtue of this Order the immunities and privileges of the members of the Court, the Commission, the judges, officers and counsel were established. However, the effect of the present Bill is to widen some of the immunities which Sen. Baptiste-Mc Knight referred to as the usual immunities given to members of the Diplomatic Corps under the Geneva Convention.

I would also like to deal with the subject of the perceived manipulation of the judges of the court by the executives of the member States. I am not going to spend much time on that because I am of the view that Sen. Annisette and others dealt quite clearly with that, especially with respect to the appointment and removal of the President of the Caribbean Court of Justice.

However, Mr. President, I would like it read into the record that the Caribbean Community is the only integration movement whose judges are not directly appointed or elected by the member States. The hon. Minister of Health spoke to that when he gave examples of the court under the European Union and the Andean Court, the members of which are all appointed either directly by the member States or by the executive.

With respect to confidence in the Privy Council, I would like to refer to the article in the *Newsday* of Wednesday, April 02, 2008 at page 10. I commend this article to hon. Senators on the Opposition Bench. In another place, their colleagues have hailed this newspaper as the best in Trinidad and Tobago. I refer to the article captioned, "Region's colonial mindset", written by George Alleyne. I quote:

“One of the contradictions of the Independence gained by Commonwealth Caribbean States, an Independence won after long and bitter struggle, has been the insistence by most of the successive regional Administrations on the retention of the United Kingdom's Privy Council as their countries' final Court of Appeal.”

The article goes on several paragraphs later:

“Ironically, today, now that we are Independent and in a position to determine our future and our lives and to say who will sit in judgement of us, we hold on

to the Privy Council, even as the British have made clear that they would prefer us to have our own final Court of Appeal.

Sir Isaac Hyatali, late Chief Justice of Trinidad and Tobago, would declare in anguish: 'It is offensive to the sovereignty of independent nations, and therefore politically unacceptable, to have a foreign tribunal permanently entrenched in their Constitutions as their final Court.'"

In closing, the author makes the point:

"The Commonwealth Caribbean's post colonial mindset, an apparent refusal to have faith in itself, preferring instead to convey the impression that, for the most part, only its former colonial masters should dispense justice for the region at the highest level must make us the laughing stock of all other former colonials. Is it that we will legislate the CCJ as our final Court of Appeal only when the United Kingdom Government tells us we are 'big boys and girls' and that the time for us to be on our own and listen to the advice of Hyatali has come?"

Sen. Drayton made the point that, while the Privy Council may be well known for making landmark decisions, we forget that the Privy Council itself makes mistakes. We recall in the year 2003, the Privy Council, in the case of Roodal versus the Attorney General, ruled that the death penalty in Trinidad and Tobago was discretionary. It was not a full year later when the very Privy Council reversed itself in the case of Charles Matthews versus the Attorney General and held that the death penalty was mandatory. That body, in which we place all the confidence, has left us with a terrible legacy from which we still suffer today.

As far as the reservation both Sen. Mark and Sen. Dr. Nanan referred to, the Caricom Treaty, Article 237 refers to reservations, but these reservations must be with consent. Neither of the Senators who referred to the reservations gave any evidence of the reservations they said we made. It is almost as if those were ghost reservations or that they were written with invisible ink. However, Mr. President—

Sen. Mark: Go to the *Hansard* record.

Sen. The Hon. B. Annisette-George: That is where the difficulty comes. It relates to clause 4 of the Bill, which gives the agreement force of law in Trinidad and Tobago. I think Article 14 of the Headquarters Agreement says that upon signing, the agreement comes into force. There is a two-pronged regime. The agreement comes into force by virtue of Article 14 upon its signing in the international region and sphere because it is made between nation states. But to give it the force of law in Trinidad and Tobago, the Bill now has to be legislated into an Act.

8.45 p.m.

That ties in with the point that was just made by Sen. Wade Mark, in that something may have been said in this honourable Senate or the other place concerning a resolution, but that would have had no force because, on the international sphere when we signed the treaty, we signed no reservation and, therefore, there would have been that treaty binding without a reservation in the international sphere.

The hon. Minister of Health made the point—I was going to carry us through a chronology but in the interest of time—and he referred to the statement at the 12th Inter-Sessional Meeting of the Conference of Heads of Government of the Caribbean Community in Bridgetown, Barbados on February 14, 2001. This is the speech of then Prime Minister of Trinidad and Tobago, hon. Mr. Basdeo Panday. The hon. Minister of Health read to us a part of that speech where the then Prime Minister said to the effect:

“...let me assure the Conference of the Government of Trinidad and Tobago’s continuing commitment to and support for the establishment of the Caribbean Court of Justice.”

I would submit that the hon. Minister of Health did us a little injustice by stopping short and not reading the following statement that says:

“Indeed, the temporary Headquarters of Port of Spain for the Court will be ready for occupancy by the end of April 2001.”

I do not know that there is any reservation. I would really, again, excuse Sen. Sharma, in her youth and innocence, when she spoke about process and consultation and that this statement certainly left no room for consultation.

With respect to the benefits to citizens, I would like, again, to refer to a statement by Mr. Duke Pollard then of the Caricom Secretariat. This is in response to a question posed to him:

“Would the absence of such a court...”

meaning a regional court

“adversely affect the development and functioning of the CSME?” His answer was:

“Definitely! The Caribbean Community is not known for significant capital accumulation. Consequently, it is largely a capital-importing region. Foreign investors seeking to invest normally prefer a stable macroeconomic

environment based on predictable laws, in order to determine outcomes. Such an environment can and must be created by the CCJ!”

Further, Mr. Duke Pollard went on to explain:

“The CCJ has been configured to ensure that the laws of the CSME are uniformed and predictable. Firstly, the CCJ will have exclusive jurisdiction in respect of the interpretation and application of the Treaty. If it had concurrent jurisdiction with other courts of the community, there is a likelihood of conflicting opinions on important economic, commercial and financial issues thereby creating uncertainty and unpredictability in the business climate and the macro economic environment.”

When we talk about the benefits of citizens; the benefits of citizens, to the citizens of Trinidad and Tobago will flow through the benefits that accrue to the country of Trinidad and Tobago, through the predictability which nurture and attract foreign investors.

Further, an issue was raised with respect to the conflict, which may arise with the CCJ interpreting treaties. One specific reference was made to the EPA. Another reference was made by Sen. Dr. Nanan, with respect to the maritime dispute with Barbados. Sen. Baptiste-Mc Knight made the point that each treaty has its own dispute resolution mechanism. However, it seems that the point might have escaped Sen. Dr. Nanan.

Again, I refer to a statement by Mr. Duke Pollard from the Caricom Secretariat in answer to the question:

“So what happens where another court in the Caribbean Community is seized of an issue which involves a question concerning the interpretation and application of the treaty? Must the Court decline to accept jurisdiction and pronounce on the case?”

His response was:

“No! The Court must accept jurisdiction and refer the particular issue to the CCJ for determination before delivering judgment, which must respect the CCJ’s determination of the relevant issue.”

If there is conflict; if it is that another court in the jurisdiction has a matter that refers to the treaty, it must give way to the CCJ.

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With regard to the other point with respect to conflicts with other treaties, one must remember that each treaty has its own mechanism. The matter with the maritime dispute was covered by the Law of the Sea and, therefore, the Law of the Sea Tribunal would have had jurisdiction.

With regard to clause 4 of the Bill and the apparent inconsistency with the supremacy of the Constitution, section 2 of the Constitution of Trinidad and Tobago reads as follows:

“This Constitution is the supreme law of Trinidad and Tobago, and any other law that is inconsistent with this Constitution is void to the extent of the inconsistency.”

Also, section 54(5) of the Constitution reads:

“No Act other than an Act making provision for any particular case or class of case, inconsistent with provisions of this Constitution...shall be construed as altering any of the provisions of this Constitution, or...any of the provisions of the Trinidad and Tobago Independence Act, 1962, unless it is stated in the Act that it is an Act for that purpose.”

Therefore, when you read clause 4 of the Bill, together with sections 2 and 54(5) of the Constitution, I think they lend clarity and it shows that there is no way that it can be interpreted as trying to circumvent the supremacy of the Constitution.

Through you, Mr. President, I would like to address the point made by Sen. Mark, with respect to the advice he attempted to proffer to the hon. Attorney General regarding what uses can be made of the expertise of the members of the court. He suggested that the hon. Attorney General should deploy these resources to the Court of Appeal of the Eastern Caribbean States. I want to assure Sen. Wade Mark that for as long as I hold the office of the Attorney General of Trinidad and Tobago, I pledge to the citizens of Trinidad and Tobago to remain open to any suggestion which shall redound to the benefit of Trinidad and Tobago and to its citizens, but I also pledge to act within my jurisdiction and to act within the law. I am certain that there is no jurisdiction that resides in the Attorney General of Trinidad and Tobago and that the Attorney General of Trinidad and Tobago has no authority to make any appointments to the court of the OECS.

Further, I would like to make the point that it would appear, from some of the contributions of the hon. Senators of the Opposition, that Trinidad and Tobago has been making financial contributions to the CCJ and denying making contributions to the improvement of the administration of justice of Trinidad and

Tobago. They spoke about denying resources to the courts of Trinidad and Tobago. I would like to remind this honourable Senate of the model court of the Family Court located in Port of Spain. I would also like to remind this honourable Senate of the commitment of the Government of Trinidad and Tobago to the rebuilding of Magistrates' Courts in Arima, Sangre Grande, Chaguanas and San Fernando. This is not just an empty commitment. This commitment has been backed by the allocation of funds. It is really the acquisition of suitable lands to construct these courts that has delayed this process.

I would further like to remind this honourable Senate that it was only late last year, I believe it is October 2007, that a parcel of land was acquired in East Trinidad to establish a special criminal court in Trinidad and Tobago to deal with offences such as kidnapping, gun-related crimes and drug trafficking.

Last week this Government approved the visit of a team comprising representatives of the Judiciary, a judge, the DPP and representatives of the Ministry of the Attorney General to visit the United Kingdom to view systems and processes to improve the courts and the administration of justice in Trinidad and Tobago.

I would also like to remind hon. Senators of the investment made by the Government of Trinidad and Tobago to install audio digital recording systems in the court buildings and the Magistracy, consistently from 2004 and continuing. That debunks any claim that the Government of Trinidad and Tobago has been ignoring the needs of the Judiciary in Trinidad and Tobago, while financing the Caribbean Court of Justice.

Again, as regards the independence and provisions made to secure and insulate the judges of the CCJ, Sen. Mark asked that the Attorney General give information and details concerning the remuneration of the members of the court. I hasten to respond that I am not in a position to do so because the members of the court, the judges, are not paid by the Attorney General of Trinidad and Tobago. The fund, which we have heard so much about today, has been established and that sees about the recurrent expenditure of the CCJ, which will include the remuneration. [*Interruption*] I could get it from the Internet just like you can.

Mr. President, in the circumstances, I beg to move.

Question put and agreed to.

Billing accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

9.00 p.m.

Clauses 1 to 5 ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

Question put and agreed to, That the Bill be reported to the Senate.

Senate resumed.

Bill reported, without amendment, read the third time and passed.

ADJOURNMENT

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I beg to move that the Senate do now adjourn to Tuesday, April 15, 2008 at 1.30 p.m., at which time we will deal with item (v) under Government Business which is a Bill to amend the Retiring Allowances (Legislative Service) Act, and time permitting we will deal with the Government Motion in respect of setting up the parliamentary committees.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 9.06 p.m.

WRITTEN ANSWERS TO QUESTIONS

**Linkage to the US Dollar
(Maintenance of)**

35. Sen. M. F. Rahman asked the hon. Minister of Finance:

Could the hon. Minister of Finance provide the Senate with the justification for maintaining this country's continued linkage to the US dollar, in light of that currency's growing decline against world currencies?

The following reply was circulated to Members of the Senate:

The Minister of Finance (Hon. Karen Nunez-Tesheira): The principal reason for the current alignment with the US dollar is the fact that an overwhelming concentration of Trinidad and Tobago's trade is denominated in US dollars. By way of illustration, 90 per cent of total exports is denominated in US dollars. Similarly, approximately 70 per cent of imports are dominated in the US currency. Accordingly, the bulk of our trade, both imports and exports is in US dollars. As a consequence it will not be prudent to realign our currency at this time since that would expose Trinidad and Tobago to undue risk of currency volatility.

The euro, which is considered an alternative reserve currency, is only about seven years old and has not been tested. It is in use only by the forty members of the European Union and is not considered a major reserve currency at this time. It is significant that the two countries with the largest holdings of international reserves, Japan and China, continue to have the majority of their reserves dominated in US dollar assets.

A decision to realign our currency to another currency or a basket of currencies would be a major policy issue and for the reasons outlined above, is not considered appropriate at this time.

Rationale Behind Trinidad and Tobago's Currency Policy

37. Sen. M. F. Rahman asked the hon. Minister of Finance:

Could the hon. Minister of Finance provide the Senate with the rationale behind Trinidad and Tobago's currency policy?

The following reply was circulated to Members of the Senate:

The Minister of Finance (Hon. Karen Nunez-Tesheira): We take the term "currency policy" to mean exchange rate policy. The current exchange rate policy is a managed floating rate. This policy has been in existence since April 1993 following the liberalization of the trade and foreign exchange markets.

Prior to 1993, Trinidad and Tobago operated a fixed exchange rate regime which meant that the Trinidad and Tobago dollar was exchanged at a fixed price against the US dollar. This was supported by an exchange control regime where access to foreign exchange was controlled by the Central Bank with authority delegated to the commercial banks under certain guidelines.

With the sharp fall in oil prices during the 1980s, the economy experienced a severe recession and entered into a structural adjustment programme with the International Monetary Fund. The exchange rate was adjusted downwards and public expenditure reduced. In 1993 a decision was taken to adopt a floating rate exchange regime in an effort to stimulate exports and introduce greater competitiveness in the economy.

The adoption of a floating exchange rate regime has given the economy greater flexibility to respond to shocks in both the domestic and external economic environment by allowing market forces to work more freely in determining the exchange rate and allow Trinidad and Tobago to become more competitive.

Since the floating of the exchange rate, the economy has become more competitive and has experienced 14 consecutive years of economic growth. This is evidenced by an examination of the foreign reserve positions as detailed below:-

FOREIGN EXCHANGE RESERVES

December 31	Net Official Reserves – US\$ Millions
1992	-83.85
1993	74.2
1994	261.9
1995	296.03
1996	509.05
1997	684.83
1998	765.49
1999	949.79
2000	1387.95
2001	1858.53
2002	1907.42
2003	2241.88
2004	2976.83
2005	4869.60
2006	6514.7
2007	6658.7