

**STATEMENT BY THE ATTORNEY GENERAL AND MINISTER OF JUSTICE
TO THE SENATE ON FRIDAY, APRIL 30, 2004**

Members of the Senate will recall that on February 13 last, I made a statement advising the Senate that an action had been filed in the Supreme Court by the Leader of the Opposition. In this action, he sought various Declarations and Orders aimed at preventing any debate taking place here or in the House of Representatives in respect of three Bills dealing with the Caribbean Court of Justice and the Judicial Committee of the Privy Council. Similar actions were also filed by certain other claimants.

The government, in response, filed an application seeking to have these actions struck out on the ground that they were premature and had no reasonable prospect of success. Following the prorogation of Parliament on the 31st March, these Bills were re-tabled in the Senate on the 16th April.

The application to strike out the actions came on for hearing before the Full Court presided over by the Chief Justice on the 19th day of April 2004. At the conclusion of the hearing, the court gave judgment on Wednesday the 21st of April. The court granted the application and ordered the actions struck out on the ground that they were premature. The court stated that reasons in writing for their decisions would be given in due course.

I am advised that an appeal has been filed against the ruling of the Full Court. However, as I said in my statement of February 13 and I repeat now, we do not propose to consent to any lengthy delay of the debate on this matter. Any such action on our part would be a breach of the government's treaty obligation to have these Bills considered and, if Parliament so decides, enacted into law so that the Caribbean Court of Justice can be established in the course of this calendar year.

I wish to state emphatically and so that there is no misunderstanding in the public mind, that the ruling of the court does not prevent the applicants, if they so wish, from bringing their action challenging the constitutionality of the legislation after these bills have been enacted into law. They are also free, if they so desire, to take their claim all the way to the Judicial Committee of the Privy Council seeking to have the legislation declared null and void.

The ruling of the court is concerned with the timing of their claims. If these actions have merit, which we strenuously deny, they can be pursued at the appropriate time. Any suggestion therefore that these claimants are being deprived of their right to challenge the validity of this legislation is false and mischievous. I hope that those who are supposed to be learned in the law and who claim to be champions of the rule of law and the upholders of the constitution will not attempt to mislead the public as to the meaning and effect of the ruling of the court.

We thought it necessary to oppose the bringing of these actions at this time because it is our view that the recognition and preservation of the separate and distinct functions of the Parliament, the Judiciary and the Executive must at all times be enforced and upheld. It

would be subversive of the proper functioning of this or any government if persons were free to invoke actions by the courts that would amount to interference in the process of Parliamentary debate and the passage of legislation. After Parliament has done its work, it then falls within the competence of the Judiciary to determine the constitutional validity of what has been done.

I am now therefore formally advising the Senate that these three (3) Bills concerning the Establishment of the Caribbean Court of Justice will be brought on for debate at the earliest convenient time in this present quarter of this legislative year.

Jamaica Information Service
Kingston, Jamaica
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