

STATEMENT BY THE MINISTER OF JUSTICE CONCERNING LEGISLATION ESTABLISHING THE CARIBBEAN COURT OF JUSTICE

Later today, I will be introducing legislation by which the Caribbean Court of Justice will be established as an integral part of our Judicial System. Legislation will also be introduced for the repeal of section 110 of our Constitution which provides for appeals from our Court of Appeal to Her Majesty in Council and substituting the Caribbean Court of Justice as our final Court of Appeal.

It is to be noted that this amending legislation does not specifically mention the existing right of appeal to Her Majesty in Council by special leave of the Judicial Committee of the Privy Council.

There are two compelling reasons for this non-inclusion at this point in time.

First, this right of appeal by special leave exists outside of and independently of our Constitution. It is therefore desirable that it be dealt with by separate legislation rather than to include it in legislation amending the Constitution.

In the second place, and of no less importance, we have been having discussions with the Opposition and others as to the possible benefits and technical feasibility of continuing this right of appeal for some limited period of time after the Caribbean Court of Justice begins to exercise the appellate functions conferred by the amendment of our Constitution.

At the end of that limited period, specific legislation would be brought to Parliament abolishing this right of appeal by special leave.

There is the hope that, by the time the legislation which I am introducing today comes to be debated early next year, I will be in a position to advise the Senate whether or not it is proposed to abolish the right of appeal by special leave simultaneously with the other rights of appeal to the Privy Council. The appropriate legislation will then be introduced in the light of whatever decision flows from the discussions mentioned above.

There is an added feature. The question has arisen here in Jamaica as to whether the right of appeal to Her Majesty in Council by special leave of the Judicial Committee of the Privy Council can be abolished other than by means of some elaborate procedure. We are satisfied that this issue has long been settled by Judgments of the Judicial Committee of the Privy Council itself in appeals emanating from Canada and Ceylon (now Sri Lanka).

In any event, there is a case currently before the Judicial Committee of the Privy Council, on appeal from Jamaica, in which the issue of how this right to obtain special leave to appeal to Her Majesty in Council can be excluded or abolished, will be considered. That appeal should be heard and the Judgment delivered during the final quarter of this legislative year which will come to an end on March 31, 2004.

A.J. Nicholson, Q. C.
Minister of Justice
12th December, 2003