

HOUSE OF REPRESENTATIVES*Wednesday, June 24, 1992*

The House met at 10.05 a.m.

PRAYERS[MADAM SPEAKER *in the Chair*]**COMMUNICATION BETWEEN MEMBERS AND THE PRESS
(NEW ARRANGEMENTS)**

Madam Speaker: Hon. Members, I have established some new arrangements in the House with respect to the communication between Members of Parliament and the press as well as members of the public. These arrangements will remain as they are for members of the public; with respect to the communication between Members of Parliament and the press, I recognize that there will be some difficulty.

What I am going to do is to meet with members of the press so that we can work out a solution as to how this communication can take place during the session.

Certain members of the media have already communicated with me and said that there will be a little difficulty and have indicated the nature of the difficulty.

I am quite willing to respond to their suggestions, but the present arrangements will remain as they are for the time being.

PETITION**Amarjyoth Sabha**

Miss Hulsie Bhaggan: Madam Speaker, I beg to present the petition on behalf of the members of the Amarjyoth Sabha who are desirous of constituting the Sabha into a corporate body by private bill.

I now request that the Clerk be allowed to read the petition.

Petition read.

Question put and agreed to, That the promoters be allowed to proceed.

PAPERS LAID

1. Report of the Auditor General on the Accounts of Small Business Development Company Limited for the year ended December 31, 1991. [*The Minister of Local Government (Hon. Kenneth Valley)*]
To be referred to the Public Accounts (Enterprises) Committee.
2. Report of the Auditor General on the Accounts of the Water and Sewerage Authority for the year ended December 31, 1985. [*Hon. K. Valley*]
3. Report of the Auditor General on the Accounts of the Chaguaramas Development Authority for the year ended December 31, 1988. [*Hon. K. Valley*]
4. Report of the Auditor General on the Accounts of the Chaguaramas Development Authority for the year ended December 31, 1989. [*Hon. K. Valley*]

Papers 2 to 4 to be referred to the Public Accounts Committee.

ORAL ANSWERS TO QUESTIONS**Prison Construction**

48. Mr. Ramesh Maharaj (*Couva South*) asked the Minister of National Security:

Would the Minister inform this honourable House:

- (a) What sum of money the Government of Trinidad and Tobago intends to spend on the construction of the new prison?
- (b) How the Government intends to raise the said sum in the light that no mention of any such expenditure is contained in the Estimates for 1992?

The Minister of National Security (Hon. Russell Huggins): Madam Speaker, the Cabinet of the last administration took the decision on October 3, 1991 that a maximum security prison complex should be constructed at Golden Grove at a total cost of \$2,296,800.00 (VAT inclusive). In view of the binding commitments entered into at that time, the loan agreement was executed between the Government of Trinidad and Tobago and Royal Merchant Bank and Finance Company Limited on March 30, 1992 for a loan of up to \$250 million for the implementation of the said project.

The project is to be executed on the basis of the design/construct/finance mechanism with drawdowns made against payment certificates certified by the project engineer. These drawdowns do not represent an immediate liability to the Government. However, on the completion of the works which are scheduled to be within 30 months after the signing of the loan agreement, permanent bonds representing the total cost of the project and with maturities of 15, 20 and 25 years will be issued to the lenders. It is only at this time, that is, September 1994, that Government assumes liability of the loan. Thank you, Madam Speaker.

10.15 a.m.

The following questions stood on the Order Paper in the name of Mr. Trevor Sudama (Oropouche):

**Energy Sector
(White Paper)**

55. Could the Minister of Energy and Energy-based Industries state when will the White Paper on the energy sector be laid in Parliament as promised in the Prime Minister's contribution in the 1992 Budget debate in mid-January?

Tax Arrears

56. Could the Minister of Finance state:

- (a) The total arrears of income tax owed by individuals as at the end of 1990 and the number of taxpayers involved?
- (b) The total arrears of corporation tax owed by businesses as at the end of 1990 and the number of businesses which owe in excess of \$100,000?
- (c) The total arrears of value added tax as at the end of 1991 and the number of debtors involved?

Foreign Debt Obligations

57. Could the Minister of Finance state:

- (a) The foreign debt obligations of the Government (both direct and contingent) for the remainder of the year?
- (b) The names of the external creditors and the respective amounts due to them?

- (c) Whether sufficient foreign exchange reserves are available to the Government to satisfy these obligations?

Madam Speaker: The Member for Oropouche is not here.

Questions, by leave, deferred.

Mosquito Eradication Programme

59. Miss Hulsie Bhaggan (*Chaguanas*) asked the Minister of Health:

Would the Minister state:

- (a) Whether there is a programme to eradicate mosquitoes in Caroni Village, La Paille Village, Frederick Settlement, Felicity, Warner Village, Pierre Road, Chaguanas Settlement, Petersfield and other areas in Chaguanas?
- (b) If the answer is in the affirmative, the number of officers directly involved in this exercise, the type of equipment and chemical used and the frequency of action?

The Minister of Health (Hon. John Eckstein): Madam Speaker, the Insect Vector Control Division of the Ministry of Health is conducting an ongoing *Aedes aegypti* eradication programme in all the areas named in the question. There are 30 perifocal operators deployed in these areas which have a total house population of 26,000. The operation involves both focal and perifocal inspection and treatment cycles every 10 to 12 weeks.

The focal treatment involves the treatment of potable water containers—tanks, barrels, cisterns, *etc.*—with temphos one per cent sand core granules, in order to prevent the survival of larvae in the water. Perifocal treatment involves the spraying of all other types of containers capable of collecting water—bottles, cans, tyres, *etc.*—with Malathion wettable powder, which is dispersed in suspension from a spray can. This application prevents breeding and kills any adults which may rest on the containers in the process of laying eggs.

During the first cycle of this year, there has been a decrease in the *Aedes aegypti* index in most areas—not all—compared to the last cycle of 1991:

Area	1st Cycle 1992	4th Cycle 1991
Caroni Village	4.0%	2.9%
La Paille/Frederick Settlement	2.4%	2.1%

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Area	1st Cycle 1992	4th Cycle 1991
Felicity	3.7%	13.4%
Warner Village/ Charlieville	0.9%	3.2%
Pierre Road	1.2%	3.0%
Chaguanas Settlement	1.2%	30%
Petersfield	3.3%	6.0%
Munroe Settlement	4.8%	5.7%

With regard to other species of mosquitoes which breed in the swamp, rice fields, clogged drains and watercourses, the Municipal and Regional Corporations are responsible for clearing, grading and oiling of drains and watercourses, while Caroni (1975) Limited is responsible for insect vector control in its cultivation areas.

Health gangs of the corporations carry out monthly programmes of cutlassing, cleaning, desilting and sweeping inverted and concrete drains and spraying with malaria oil. Approximately eight workers are directly involved in the spraying, and four-gallon knapsack sprayers are used. Earthen drains are cutlassed, edged and cleaned, as required, by gangs. Household garbage is collected daily in the urban areas and three days per week in other areas. Garbage dumps are monitored on a regular basis.

The corporations collaborate with the County Medical Officers of Health in the removal of derelict vehicles.

The Caroni (1975) Limited programme involves:

1. A mosquito surveillance programme of rice cultivation fields conducted in monthly cycles by four daily-paid workers trained by the Insect Vector Control Division of the Ministry of Health.
2. The use of indigenous fish species as a biological control agent to reduce the incidence of mosquito larvae.
3. The flushing of rice-field water by way of irrigation channels and canals at monthly intervals or three times per crop.

In addition, aerial spraying of crops using Malathion and Eviset primarily for the control of agricultural pests also assists in reducing the mosquito population in these areas.

Unfortunately, notwithstanding the efforts as identified in the areas that form the subject of this question, there has been an increase in the indices for three species of mosquito.

Mr. Palackdharrysingh: Madam Speaker, a supplemental question. Is the Minister aware, in spite of all these actions, that there is still a preponderance of mosquitoes in these areas?

Mr. Eckstein: Madam Speaker, I concluded my response by the remark that, unfortunately, notwithstanding the efforts in the areas which have been identified in the question, there has been an increase in the indices for three of the species of mosquito identified.

Mr. Palackdharrysingh: A supplemental question, Madam Speaker. What further action does the Minister intend to take to reduce this situation?

Mr. Eckstein: Again, as I indicated in my response, the responsibility is divided between three governmental agencies: The Ministry of Health, which has the responsibility to deal with the *Aedes aegypti* mosquito, and there is no problem there insofar as that particular species of mosquito is concerned. The other two agencies of Government are the Municipal Corporations or the County Councils and Caroni (1975) Limited.

The Minister of Health proposes to hold discussions with these agencies with a view to having them intensify their programme.

Chaguanas Main Road (Traffic Congestion)

60. Miss Hulsie Bhaggan (*Chaguanas*) asked the Minister of Works and Transport:

Would the Minister state:

- (a) Whether his Government has plans to alleviate traffic congestion along the Chaguanas Main Road and its environs?
- (b) If in the affirmative, when his Government intends to effect these plans?

The Minister of Works and Transport (Hon. Colm Imbert): Madam Speaker, the answer to part (a) of the question is, yes.

The answer to part (b) is as follows: The Traffic Management Branch of the Ministry of Works and Transport is, at present, undertaking a review of Chaguanas and its environs with the objective of formulating a short-term solution to the traffic problem in the area.

The branch is also examining proposals for medium-term solutions for alleviating traffic congestion up to the year 2005. Survey work by the Ministry connected with this review is now 85 per cent complete. An analysis of data is being conducted at present. Discussions have also begun with support units from other Government departments, such as the Town and Country Planning Division. Formulation of the Traffic Management Plan is scheduled for completion in September of this year and implementation will follow shortly thereafter, after consultation with the relevant authorities.

The following questions stood on the Order Paper in the name of Mr. Mohammed Haniff (Princes Town):

Rental of Buildings

- 61.** Would the Prime Minister state:
- (a) How many buildings are presently being rented by government and state agencies?
 - (b) Where are these buildings situated and which ministries, departments or agencies are occupying these buildings?
 - (c) What is the individual cost of rental to the Government of these buildings? Who are the owners of these buildings?

Building Construction

- 62.** Would the Prime Minister state:
- (a) Whether the Government has any plans to construct buildings to house ministries or agencies presently housed on rented premises so as to reduce the cost incurred annually?
 - (b) If the answer to (a) is yes, where and when are these buildings due to be constructed and for which ministries, departments or agencies?

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, I ask that both questions be deferred for a further period of one week.

Questions, by leave, deferred.

**Trinidad and Tobago Development Finance Company
(Recipients of Loans)**

The following question stood on the Order Paper in the name of Mr. Basdeo Panday (Couva North):

- 63** Would the Minister of Trade, Industry and Tourism state:
1. The names of the recipients of loans and/or other financial assistance given by the Trinidad and Tobago Development Finance Company as its subsidiaries during the years 1985 to 1991 (inclusive) stating the amounts given to each recipient and the purpose therefor?
 2. The numbers of non-performing loans, the names of the recipients, the years and amounts of each such loan and the purpose for which it was given?
 3. The names of all applicants for loans and for other financial assistance from the Trinidad and Tobago Development Finance Company and its subsidiaries for the years 1985 to 1991 (inclusive), the purposes for which such financial assistance was sought and the reason(s) for refusal, if any?

Madam Speaker: This question is deferred for a period of one week.

Question, by leave, deferred.

Oil and Water Board

The following question stood on the Order Paper in the name of Mr. Chandresh Sharma (Fyzabad):

- 65.** Would the Minister of Energy and Energy-based Industries state:
- (a) Whether there is presently functioning an Oil and Water Board?
 - (b) If the answer to (a) is in the affirmative, who are the Members presently appointed and in charge and from where it functions?

- (c) If the answer to (a) is negative, how soon can the people of Trinidad and Tobago expect the said Board to be appointed, and what are the present means whereby citizens can seek redress on matters affecting same?

Question, by leave, deferred.

10.25 a.m.

Mr. Sharma: Madam Speaker, I ask you to recognize that some of these questions are sometimes two months old, and in the meantime people are suffering.

Firearm User's Licence

66. Mr. Chandresh Sharma (Fyzabad) asked the Minister of National Security:

Would the Minister state:

- (a) How many firearm user's licence applications are presently pending?
- (b) What is the criteria employed in the processing and granting of the applications for the said licence so as to ensure the fair and equal treatment of all applicants?

The Minister of National Security (Hon. Russell Huggins): Madam Speaker. I wish to advise that there are 337 applications for firearm user's licence pending.

All applications are referred by the Commissioner of Police to the officer in charge of the Division in which the applicant resides, for investigation.

The applications are investigated and forwarded to the Commissioner of Police who, in accordance with the provisions of the Firearms Act, Chap. 16:01, has the sole discretion for the grant of a Firearm User's Licence.

The office of the Commissioner of Police has advised that in order that an application may be given favourable consideration, the following conditions must be satisfied:

- (i) The applicant must have no criminal convictions;
- (ii) The applicant must not be someone who is of intemperate behaviour;

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- (iii) The applicant must establish that he has some interest to protect or pursue, and that there are no other means of so doing except that he is allowed to own a firearm.
- (iv) The applicant must justify, having regard to the circumstances of his case, that there is need for a firearm to allow him to protect or pursue his interest.

Mr. Sharma: Madam Speaker, is the Minister satisfied that the present system is working to the satisfaction of the applicants?

Hon. R. Huggins: Madam Speaker, from information in my possession, I am satisfied that it is working satisfactorily.

Resident Status (Applications for)

The following question stood on the Order Paper in the name of Mr. Chandresh Sharma (Fyzabad):

- 67.** Would the Minister of Foreign Affairs state whether any efforts and representations are being made by the Government to ensure that citizens of Trinidad and Tobago in any foreign country receive fair and equitable consideration in their application for residency status?

The Minister of Local Government (Hon. Kenneth Valley): Madam Speaker, allow me to explain to the Member for Fyzabad. The answers to most of these questions have to go before Cabinet, which meets tomorrow. Some of them would be answered on Friday. [*Crosstalk*] As I explained on the last occasion, there seems to have been some mix-up. Questions came in on, or around, the 15th and were released sometime late. We have corrected that problem, but we are asking for a deferral.

Question, by leave, deferred.

The following questions stood on the Order Paper in the name of Mr. Ramesh Lawrence Maharaj (Couva South):

Pending Court Matters

- 68.** Would the Attorney General and Minister for Legal Affairs state how many matters in the following categories were pending on December 31, 1981 in the courts indicated and in the civil and criminal divisions specified:—

1. In the Magistrates' Courts:
 - (a) Criminal (excluding Inquests)?
 - (b) Civil (including Family Matters)?
2. In the High Court of Justice:
 - (a) Civil Jurisdiction?
 - (b) Criminal Jurisdiction?
3. In the Court of Appeal:

From the High Court—

 - (a) Civil Appeals?
 - (b) Criminal Appeals?

The Attorney General and Minister for Legal Affairs (Hon. Keith Sobion): Madam Speaker, I indicated to the Member for Couva South that I would need a deferral of two weeks, at least, to answer this question. The information sought goes back to 1981 and the Registrar is trying to put the information together.

Mr. Ramesh L. Maharaj (Couva South): Madam Speaker, on this particular question, I think it is a reasonable request having regard to the length of time, but I think that with respect to the questions which are being deferred, we, on this side, think the Government ought to recognize that questions are an important part of the parliamentary process. The Standing Orders provide that we cannot get answers until three weeks. What has been happening is that questions are delayed and it is causing us concern.

If I may refer to page 181 of *How Parliament Works* by Paul Silks:

"Erskine May tells us that 'the purpose of a question is to obtain information or to press for action'. . . . Questions, then, are part of the process by which the government is held to account. They are one of the best known, but misunderstood, features of the House of Commons, and it is on the procedures in that House that we will concentrate."

Questions are asked in the House in order to make the Government account to the population. I recognize that, at times, there would be difficulty—and we on this side are reasonable but I ask the Government to try and see whether they can give us the answers within the time.

Mr. Valley: Madam Speaker, really, as a fact, this Government is very conscious of the importance of questions and, as we have seen today, our answers are informative and lengthy.

I attempted to explain to Members on the other side that a number of questions—and as you know there are quite a number of questions on the Order Paper—were received quite late. For example, question No. 63 was received on May 18 and released on May 27. The 21 days are counted from the time it was received, it seems. The number of questions, if one is to go through the list—one was received on May 14 and released on May 28, and qualified for the Order Paper on June 6. So, whereas the 21 days are counted from May 14, the Government had merely 3 1/3 days to prepare an answer for the question.

That is the problem, Madam Speaker.

Madam Speaker: What you are saying then is that the questions are not received on time by the particular Ministers?

Mr. Valley: That is right, Madam Speaker.

Madam Speaker: I will look into that aspect of the matter to see whether we can find some solution. I was thinking maybe at the relevant time a copy could be sent to the Minister involved, but we will discuss it and see how best we can solve that problem.

Mr. Valley: Madam Speaker, let me just say that I have spoken with the Clerks, and I am sure there are corrective measures in place. I think this was merely because of the CPA Conference.

Industrial Court (Pending Matters)

69. Would the Minister of Labour and Co-operatives state how many matters were pending on December 31, 1981, in the Industrial Court?

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion): Again, Madam Speaker, I have the similar difficulty as with the previous question.

Questions, by leave, deferred.

The following questions stood on the Order Paper in the name of Mr. Sahid Hosein (Siparia):

**Scott's Road
(Repairs to)**

73. Could the Minister of Public Utilities indicate to this House when will WASA release funds to the Highways Division of the Ministry of Works so that Scott's Road can be repaired?

**Clarke Rochard Government School
(Toilet Block)**

74. Can the Minister of Education indicate to this House:
- (a) Whether anything is being done to effect replacement of the toilet block at the Clarke Rochard Government School?
 - (b) If the answer is in the affirmative, how soon?
 - (c) If funds were released in previous years to effect this replacement?
 - (d) If the answer to (c) is in the affirmative, in what year and what was done with these funds?

**Land Acquisition
(Moneys Owed)**

75. Can the Minister of Planning and Development indicate to this House:
- (a) How many persons does the Government owe moneys to for land acquisition?
 - (b) What sums are involved?
 - (c) How does the Government intend to address this situation for (a) and (b) giving a breakdown on a yearly basis?

Questions, by leave, deferred.

**Entry Visas
(Latin America)**

The following question stood on the Order Paper in the name of Miss Hulsie Bhaggan (Chaguanas):

77. (a) Would the Minister of Foreign Affairs indicate whether he is aware that women from Latin American countries are granted a seven-day visa when

they enter Trinidad and Tobago while their male counterparts are granted a fourteen-day visa?

- (b) If the answer is in the affirmative, would the Minister indicate whether he intends to ensure equal treatment for women from Latin American countries who may enter Trinidad and Tobago?

Mr. Valley: Madam Speaker, I am asking for a deferral of one week for this question.

Question, by leave, deferred.

Paediatric Surgeons

85. Dr. Carl Singh (*Tabaquite*) asked the Minister of Health:

Could the honourable Minister state to this honourable House the following:-

- (a) How many paediatric surgeons are attached to the San Fernando General Hospital?
- (b) How many paediatric surgical beds are available at the San Fernando General Hospital?
- (c) How many paediatric surgical procedures are performed on an average per month or over the last six months; and
- (d) How many paediatric surgical cases survived/died?

The Minister of Health (Hon. John Eckstein): Madam Speaker, at present, there are no paediatric surgeons attached to the San Fernando General Hospital.

Mr. Sudama: In a whole hospital?

Hon. J. Eckstein: Forty paediatric surgical beds are available at the San Fernando General Hospital. From December 1991 to May 1992, 156 paediatric surgical procedures were performed—an average of 26 per month. Of the 156 paediatric surgical procedures performed over the six-month period, December 1991 to May 1992, 155 were successful and there was one death.

Dr. Singh: Madam Speaker, a supplementary question. Could the Minister explain why beds are available for surgical procedures for paediatric cases, and there are no surgeons available for that service? Could the Minister also explain

where are these patients transferred to, how are they transferred from San Fernando and where treatment is meted out?

Hon. J. Eckstein: Madam Speaker, I indicated, in my response, that 156 paediatric surgical procedures were performed in San Fernando during the period. General surgeons are able to perform surgery except where there are very serious and involved cases. Only such cases are transferred to the Eric Williams Medical Complex, and we have had, at that complex, 623 successful procedures performed, many of them, the result of referral from the San Fernando General Hospital.

Dr. Singh: Madam Speaker, a supplementary question. Now, these patients are transferred from San Fernando for treatment to the Eric Williams Complex. Who pays the cost for this transfer and treatment there? And, again, the period of time that the general surgeons are performing surgical procedures on paediatric cases, is there medical coverage—insurance-wise—for the general surgeons in case of litigation?

10.35 a.m.

Hon. J. Eckstein: On the question of insurance cover, I think the Member will have to put that as a direct question. I am not prepared to respond. I do not know the response at this particular point in time, but if he puts it as a question, I will certainly look at it and come back with the response.

On the question of who pays the cost at the medical complex. Once a patient is referred from any of the institutions to the Mount Hope Medical Complex, the Government pays the cost of the procedures.

Mr. Sharma: I know this Minister is caring, but when a patient is referred from San Fernando General Hospital to the Mount Hope Medical Complex, there is a waiting period of 18 months. Deaths do occur during this period. Is the Minister aware that the waiting period for a paediatric surgeon to see patients is 18 months?

Hon. J. Eckstein: I am not aware that the waiting time for paediatric surgery at the Mount Hope Medical Complex is 18 months. That is the first thing and that has to be clearly established. I am not sure that is a fact. I do not have any evidence that any patient transferred from San Fernando to the Mount Hope Medical Complex has died as a consequence of that. If information is adduced by the Member, I could look into it and a response can be made. I am not aware of the claims the Member is making.

School Bus Service

Dr. Carl Singh (*Tabaquite*) asked the Minister of Public Utilities:

86 Could the Minister state to this honourable House when will his Ministry restart the school bus service in the following rural areas:—

- (a) La Vega, Pepper Village, Gran Couva route?
- (b) Tortuga, Claxton Bay, Couva route? and
- (c) Mayo, Whitelands, Bonne Aventure, Gasparillo?

The Minister of Public Utilities (Hon. Morris Marshall): The Government is well aware of the hardships experienced by the school children especially those in rural areas. However, Government feels that any approach to expanding the school bus service should be a comprehensive one.

In this regard, as hon. Members are aware, a committee was established with the following terms of reference:

- (1) To review the operations of the re-introduced school bus service and assess the need for its further expansion.
- (2) Should it be found that the service needs to be expanded, to advise on the degree of expansion required, and to highlight all implications of so doing, with recommended course of action.

The committee is due to report by September 1, 1992. Based on the report of the committee and the financial resources available, a decision would be taken as to whether the areas in question can be served. The representative for Tabaquite would be so advised.

Dr. Singh: Could the Minister state whether there are other avenues available to these students for travelling in the interim, while investigations are proceeding?

Hon. M. Marshall: Madam Speaker, other avenues are the maxi-taxi service and other services available by hired cars. We would be happy to provide 100 per cent service to all school children in the country, but obviously, as we are all aware, the financial resources are just not available to do that. So, to answer your question, the other services available are those that are provided by maxi-taxis and hired cars. I am sorry, but I cannot tell you anything better than that.

Mr. Sharma: In many areas where bus service is not available, the Government has hired a number of maxi-taxis. Are there maxi-taxis available for these particular areas and if not, why?

Hon. M. Marshall: Yes, we have provided maxi-taxi service in some areas depending on the situation there. Whether there is one in this particular area, I really cannot say, but I can check that. There is also the regular public transport bus service. We have provided a service in quite a number of communities.

Knolly's Tunnel

The following question stood on the Order Paper in the name of Dr. Carl Singh (Tabaquite):

87. Could the Minister of Works and Transport state to this honourable House the following:—

- (a) The financial outlay involved in the development of the Knolly's Tunnel in the Tabaquite constituency?
- (b) The recurrent expenditure in the maintenance of the said project?
- (c) How many tourists visited the project over the last six months?

The Minister of Works and Transport (Hon. Colm Imbert): This question was one of those which arrived a bit late. On examination, it does not fall within the portfolio of the Ministry of Works. I believe it may fall within another Ministry.

May I respectfully request a deferral of one week so that the relevant Minister can answer the question?

Madam Speaker: The Leader of Government Business has requested that the answers to these questions be deferred to the period after lunch. Question 55 was directed to the Minister of Energy.

Mr. Valley: Question 55 is to be deferred, but questions 56 and 57 will be taken after lunch.

Mr. Sudama: May I make a comment? The hon. Prime Minister had made certain statements with regard to the subject matter of question 55. I do not know if he is in a position to answer for the Minister of Energy and Energy-based Industries. It is a rather simple question as to when the White Paper which was promised in his contribution in the budget debate will be laid before this House. I have no choice in the matter.

Question, by leave, deferred.

Miss Bhaggan: The Minister of Foreign Affairs is here now. I wonder whether he will be able to answer question No. 77.

Mr. Valley: Madam Speaker, we asked for a deferral of that question. It was not a matter of the Minister not being here.

Madam Speaker: The position then remains that the answer is deferred for a period of one week.

MAINGOT VILLAGE SUMATEE SABHA (INC'N) BILL

Question put and agreed to, That a bill to provide for the incorporation of the Maingot Village Sumatee Sabha and matters incidental thereto, be now read the first time.

Bill accordingly read the first time.

RESCUE MISSION (INC'N) BILL

Question put and agreed to, That a bill to provide for the incorporation of the Rescue Mission and matters incidental thereto, be now read the first time.

Bill accordingly read the first time.

ORDER OF BUSINESS

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, I beg to move that leave be granted to proceed with Bills Second Reading under Private Business before we deal with public business.

Question put and agreed to.

AHAMAD TRUST (INC'N) BILL

Question put and agreed to, That a bill to provide for the incorporation of the Ahamad Trust and matters incidental thereto, be now read a second time.

Bill accordingly read a second time.

Bill referred to a special select committee of the House appointed by the Speaker as follows: Mr. D. Allum (Chairman), Mr. H. Breaux, Mr. J. Narine, Dr. C. Singh.

10.45 p.m.

MUNICIPAL CORPORATIONS (AMDT.) BILL

[SECOND DAY]

Order read for resuming adjourned debate on question [June 15, 1992]:

That the bill be now read a second time.

Question again proposed.

The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Keith Rowley): Madam Speaker, we spent quite sometime at the last sitting of the House dealing with matters which arose out of an attempt to amend an existing piece of legislation. I want to spend a few minutes to put this into its correct perspective this morning, otherwise we may end up spending all of today doing the same thing we did at the last sitting.

What the Government is seeking to do is to bring to the Parliament amendments to Act No. 21 of 1990, which created regional corporations. The previous administration had brought to this Parliament legislation relating to substantial changes in the distribution of local government units. At the time, there were points of views expressed from the Opposition Benches, where we sat at the time, and one of the views we held was that 13 local government bodies were too many.

In the other place, there was a point of view expressed by the Independent Benches that, in fact, local government should be abolished completely because Trinidad and Tobago is too small a country to have a central government and another layer of bureaucracy called the local government. That was another point of view. We did not share that point of view. We agreed that there is a place for local government in the public management of Trinidad and Tobago. We agreed with much of what was said by the Member for Siparia with respect to that close nexus between the person and the household, what we commonly call the "man in the street" and the local government body, the link between the county councillor and the housewife in the back-street, where the problems of roads, drains, mosquitoes, and garbage disposal exist. We agreed that a local government body, as part of the public management, can bring better service to the public. We also agreed that there was a need for some reform of the existing system. While we were not in agreement with everything the Government had put forward in 1990, we too had our position.

Subsequent to 1990, there was a general election in this country and we had the opportunity to state our position, before the election, as to what our point of view was with respect to the number of local government units which should exist in Trinidad and Tobago.

Madam Speaker, I would like to draw your attention to the position taken by the PNM before we went to the polls. So that those who were asked to vote knew before the election what the PNM's position was with respect to Act No. 21 of

Municipal Corporations (Amdt.)
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1990. Permit me to read for you what the PNM had to say about local government; its position which was documented before we went to the polls.

Page 44 of the manifesto states, and I quote:

"Local Government:

The PNM reaffirms its commitment to a system of local government which ensures that the people have the opportunity to assume authority and management of their own communities.

The PNM is conscious of the fact that participation at the local level requires the development and strengthening of other community institutions such as village councils and youth organizations to ensure the widest possible participation in the local government process.

While the PNM endorses the establishment of Chaguanas as a borough and the establishment of corporations in the areas formerly served by County Councils, we disagree with the proliferation of Regional Councils provided for in the new Municipal Corporations Act. We find these latter arrangements cumbersome and unnecessary and will therefore amend the Act to correct this deficiency and to remove other areas which we consider to be inconsistent with good public policy".

Madam Speaker, we could not have stated it more clearly.

One of the fundamental changes of Act 21 of 1990, was that we move to create the municipal corporations to replace the county councils. We agreed with that. We did not agree with a number of the sub-management unit layers appointed by the Minister. The Member for Couva South tried to make the point that the Member for San Fernando East had taken a position then, which is at variance with the position now. I want to make it quite clear that was a misrepresentation of the position. What the Member for San Fernando East was saying in 1990, was that those provisions in Act No. 21, of 1990 which permitted the Minister to make a number of appointments to serving units of the corporations would have had the effect of giving the Minister more control than the spirit of what we wanted to support. We thought that the people who were elected through the municipal elections should have that control and they should not be subjected to subsequent ministerial appointments to committees which would affect the functioning of the committees. It is from that point of view that the position was taken that the Bill was permitting too much interference from the ministerial level.

Today, the position remains the same. If you look at the amendments offered you would see that we had taken out those positions which would have given the Minister those kinds of control. Contrary to the accusation that we are not supporting centralization, by removing those tentacles which would have affected centralization, we are, in fact, coming down on the side of decentralization, which is what we agreed to, in principle, when we agreed with the provisions of Act No. 21, of 1990.

Madam Speaker, having said that, we then contested the elections and won. For the benefit of the Member for Caroni Central, who was playing hop-scotch, jumping from place to place—when he was doing that, we were winning the elections—we contested the elections and won. In keeping with our commitment to public participation, the Minister of Local Government appointed a committee to examine the situation so as to give effect to the position that we wanted to proceed.

10.55 a.m.

We laid in Parliament the documents relating to the committee that looked at the matter, in the context of what we said to the people. Points of views were expressed outside of this House, to the media, that what we are seeking to do is gerrymander the system to get an advantage for the ruling party. Nothing is further from the truth.

For the benefit of Members of this House, and for the records, I wish to go through the composition of the committee. The committee comprises:

Mr. Stephenson Sarjeant—Management Consultant—Chairman

Mr. Augustus Williams, our esteemed Mayor of Port of Spain

Mr. Eustace Seignoret, former Chairman of the St. George West County Council

Miss Debra Alleyne, Attorney-at-Law in the Ministry of Local Government

Mr. Torrance Sooklall, former Chairman of the St. David/St. Andrew County Council

Mr. Oscar Blenman, former City Clerk, Port of Spain Corporation

Mr. Mulchan Seuchan, former Councillor, Caroni County Council

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Mrs. Hazel Rogers-Dick, former Acting City Clerk, San Fernando City Corporation

Mrs. Victoria Mendez-Charles, Director of Town and Country Planning Division

Mrs. Merle La Croix, Acting AOIV, Ministry of Local Government, Secretary to the Committee

Mr. Mahadeo Jugmohan, Area Representative, South National Union of Government and Federated Workers Union; and

Miss Sandra Turpin, Assistant Secretary of the Public Services Association.

Madam Speaker, you could not have wanted a more balanced committee to take a more balanced, sober and responsible view. I wish to commend this committee on the excellent work that was done with respect to pulling together ideas which were expressed by Government on its way into office.

The committee had the power to co-opt members, and it did. Among the members co-opted to work with the committee were:

Mrs. Marlene Coudray, Deputy Town Clerk of Point Fortin Corporation

Mrs. Poonia Beharry, Planning Officer II, Acting CEO, Ministry of Local Government

Dr. Eugene Laurent, Principal Medical Officer

Mr. Athelstan Pascall, President of the Association of Village and Community Councils

Miss Joycelyn Lucas, Chief Elections Officer; and

Mr. Errol Baldeosingh, Officer IV, Office of Organization and Management

What this committee did was to review the entire situation and make a number of recommendations, all laid in Parliament. The Government agreed with most of them but there were a couple with which the Government did not agree. For example, the committee recommended that the number of seats be increased in some areas in Port of Spain and San Fernando. For those who saw it fit to misrepresent the situation and to give the impression that the PNM was seeking to get some advantage, I would have thought that if that was the case, the PNM would have grabbed at the opportunity to increase the number of local government seats in those areas. In fact, keeping an eye on the cost to the public purse and, also,

having given a commitment to make in the not-too-distant future a more comprehensive review of local government as an institution, we saw it fit not to accept that aspect of the recommendation.

One of the principal amendments that we have before the House today is to merge regions. If we said that there were too many regions and we wanted to reduce the number to a lower level—not to bring it back to the original number, but certainly not to leave it at 13—it follows naturally that we would have to merge some of those regions. What did we merge? We merged San Juan and Laventille. It seems pretty obvious that in San Juan and Laventille one could hardly observe a boundary between them. It is a continuous community and it is easy to manage from that standpoint. In fact, if you leave Malick and you are on your way to Petit Bourg, you never know when you leave Morvant and when you are in San Juan. It is pretty much the same and we thought that we could manage that as one unit so we merged them to form one corporation.

We also did not think that we could have Tunapuna as a separate corporation to Piarco. In fact one has difficulty identifying Piarco as a community that warrants the term, municipal corporation, so we have merged Piarco with Tunapuna. So, from Tunapuna into Piarco and the surrounding areas, there is one corporation.

We merged Couva, Tabaquite and Talparo to form one corporation. It was our intention, as was stated earlier, to merge Siparia, Penal and Debe. We had quite strong representation and, in the spirit of give and take, the point was made that Siparia could stand on its own and Penal/Debe warranted some consideration. I think the Minister indicated what he agreed to do there. I think the representation came from the ex-Minister of Finance, the Member for Oropouche. *[Interruption]* May I correct that, please. I am advised by the Member for St. Augustine that he was Minister in the Ministry—an aide to the Minister of Finance.

We also merged Rio Claro with Mayaro because we had some difficulty in accepting the small community of Mayaro as a Corporation. When we looked at the situation, one seat in Arima had more people than the whole of the Mayaro Corporation and we thought, from the point of view of balanced representation across the country, that this did not fit very well and we merged Rio Claro with Mayaro to form one Corporation.

We agreed to allow Diego Martin, Sangre Grande and Princes Town to stand alone.

That is, in fact, the major change that we seek to make in Act No. 21 of 1990.

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There are some others. We made the point earlier that one does not have to be a legal officer to be secretary to the corporation. We heard a number of spurious legal arguments about what that means in terms of going to court. At a later stage, my colleague from La Brea might point out the nature of that comment. That was not a serious comment. We thought it possible to get a secretary for the corporation from any other profession without having to stipulate that it had to be law. With all due respect to my friends in the legal profession on both sides, half of the trouble that we are in today in this world comes from too much involvement from lawyers.

I have now put myself in a position to have to defend myself from both sides. No offence is meant to the Chair nor the legal profession as represented on the benches.

Mr. Humphrey: I thank the Member for giving way and appreciate that he is giving an explanation of what his Government wishes to do in terms of a review of local government. I draw to his attention that a Member of this House has brought a very powerful argument that the Act we are seeking to amend is unconstitutional. Every Member of this House is pledged, on accepting office, to support the Constitution and the law, and it seems to me to be futile to continue to debate the details of the Act and proposed amendments, if the Act is, in fact, unconstitutional.

11.05 p.m.

Dr. Rowley: Madam Speaker, the Member is making a speech. I thought he had a question.

Mr. Humphrey: Madam Speaker, I am making a point.

Dr. Rowley: Madam Speaker, I gave way because I thought he was raising something about what I had said. I was just about to come to that point. In fact, I just prefaced it by saying that part of the difficulty that we are in is as a result of the intervention of lawyers. We had the intervention of the Member for Couva South, who gave us a tremendous discourse.

Mr. Mohammed: Madam Speaker, on a point of order. The hon. Member is imputing improper motives against the lawyers in this House and I think we need to correct the situation. He is talking about spurious arguments and the problems that we have due to the lawyers. He is attacking the integrity of the lawyers of this House—a non-lawyer, a rock lawyer.

Dr. Rowley: Madam Speaker, not only does the Member for Caroni East have no sense of humour, but I am not aware that I am breaking any law for attacking any lawyer. That is my right.

Mr. Mohammed: You are imputing improper motives.

Dr. Rowley: I am not.

Mr. Mohammed: I am a Member of this House and I am a lawyer. Madam Speaker, on a point of order, I seek your protection. I belong to a noble and honourable profession and if this Member is attacking that profession I have a right to stand in this House and speak on behalf of my profession.

Dr. Rowley: Madam Speaker, is the Member on a point of order?

Mr. Mohammed: That is within the Standing Order. He has gone rock bottom with his contribution.

Dr. Rowley: Madam Speaker, until you rule, I think I reserve the right to express my point of view on any profession; I am sorry that I have upset the Member for Caroni East, because he is clearly not—*[Interruption]*. The Member for Couva North has arrived late and he has made the point: The court will determine whether Act No. 21 of 1990 is, in fact, unconstitutional. The court will so do.

Madam Speaker, the Member for Couva South, in his contribution, paid no attention to the matter before the House, which was an amendment or a series of amendments to an existing law, which was passed by this House. It is the point of view of the Member for Couva South that he has the wherewithal, as a legal luminary, to stay in this Parliament and pontificate that Act No. 21 of 1990 is unconstitutional.

Madam Speaker, I have said on numerous occasions, speaking from this position, that the Member for Couva South is free to give legal advice to the Chamber as often as he likes. We are free to consider it and reject it, and we are so doing. The matter before the House is not whether Act No. 21 of 1991 is constitutional or not. The matter before the House is an amendment to Act No. 21 of 1990. As far as we, on this side, are concerned, Act No. 21 of 1990 is not unconstitutional, and that is *en passant*.

Mr. Mohammed: Oh, you are stating your point of view.

Dr. Rowley: Just as he stated his point of view.

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Madam Speaker, several Members of the existing Chamber were in the House when that law was passed. I was not aware that the point of view then was that it was unconstitutional. The Government has available to it legal advice.

Mr. Maharaj: On a point of order. The fact that several Members of the House—

Dr. Rowley: What is his point of order?

Mr. Maharaj: On a point of order. The fact that several—would you—

Dr. Rowley: Madam speaker, the Member stood up on a point of order.

Mr. Maharaj: If I rise on a point of order, the Member should sit.

Madam Speaker: What is the point of order?

Mr. Maharaj: The point of order is that the fact that several Members were in the House and they were lawyers has no relevance to the point, because several Members of the Senate who were lawyers, including Mr. de la Bastide, were in the House when the Maxi-taxi Bill was passed and it was declared unconstitutional. Mr. Tajmool Hosein was in the House when the Cess Bill was passed and it was declared unconstitutional.

Dr. Rowley: Madam Speaker, that is the point I am making.

Mr. Mohammed: Know your history, man.

Mr. Humphrey: Madam Speaker, on a point of order. As one of the Members in this House at the time of the passage of the legislation, I voted against it and it is the votes against the legislation, the Member for Couva South, has argued, which make it unconstitutional.

Madam Speaker: Proceed, please.

Mr. Breaux: Madam Speaker, on a point of order. The Member for St. Augustine is incorrect when he said he voted against that bill in this House. The persons who voted against that bill were the Member for San Fernando East, the Member for Laventille East, the Member for San Fernando East, the Member for Laventille East, the Member for Oropouche, the Member for Siparia and the Member for Naparima, now the Member for Caroni Central.

Dr. Rowley: Madam Speaker—

Madam Speaker: Order, please!

Dr. Rowley: Madam Speaker, with your permission, I will get back to the subject of the debate. It does not matter how they voted.

The point I am trying to make is that the substance of this debate is not whether Act No. 21 of 1990 is constitutional or not. The substance of the debate is the amendment to Act No. 21 of 1990. Certain persons in the House, based on their professional training and expertise, and whatever else, take it upon themselves to advise the House that Act No. 21 of 1990 is unconstitutional. We have heard them.

The government has available to it legal advice, to take into account the point that was raised. Having raised that Act No. 21 of 1990 is unconstitutional, if we agreed with that position, we would responsibly do something about it. The fact of the matter is, we have had that opinion expressed in here for free—gratis, for nothing—for what it is worth. We have examined the situation and we are not of that view. Once we are of that view, we can then safely move on to the substantive point of the debate which is the amendment to Act No. 21 of 1990.

If we take the advice that we have from other legal quarters in which we have tremendous confidence, if it is that the other place where the authority duly lies to deem Act No. 21 of 1990, or any other law in this country, as unconstitutional, the Government would be duty-bound to respond to such a ruling. To give the impression that a Member gets up in the House, gives his personal opinion, based on his professional assessment that Act No. 21 of 1990 is unconstitutional and, therefore, the proceedings of this House ought not to go on, otherwise it would be taking an irresponsible action, is to completely misunderstand the purpose of the sitting of the House and the role of Parliamentarians.

Every lawyer in the House can get up and give his or her opinion. Madam Speaker, I made the point before that when one gets legal advice, there are as many legal opinions as there are lawyers. So the fact that a case is argued forcefully by one lawyer taking a position does not necessarily mean that is correct. One seeks other advice. Until such time as we have a proper ruling in the proper place, the advice that we on this side have is that the position of the Member for Couva South is not tenable. If it has to be tested, Madam Speaker, public management of this country does not permit it to be tested in this House.

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I would ask Members on both sides to pay attention to the substance that is before us. We are talking about how many local government units we are going to have. We are talking about what will happen with respect to the relationship between those units and the central government. We are talking about getting on with having an election so as to put in place local government bodies across the country. If my memory serves me right, a number of Members, including the Member for Siparia, Princes town, and a few others, have been calling for the holding of local government elections so as to be able to put in place, across the country, local government bodies who could come now and serve the needs of the people.

In my constituency of Diego Martin West, and all the neighbouring areas, I can tell you, the population is not being properly served because we do not have in place a properly functioning council. The Government is committed to holding the local government elections. We had a position before we were the Government, the position was that we would hold those elections on the basis of a revised configuration of local government units. We have come to Parliament with what we propose to be the revised configuration. We have put it before the House. We have said we would merge a few councils, we agree with some others. We are now in a position to put that to the House for its approval. When that has happened, we can then proceed to have the people elect their local government representatives and we will have the Diego Martin Council, the Port-of-Spain Corporation, the Princes Town Corporation, the Princes Town Corporation, all the corporations and we will have local government and we can get on with doing what we are properly charged with doing, which is to provide proper public management for the people of Trinidad and Tobago.

If there are those who see their function as dotting “i’s” and crossing “t’s” on legal framework, I beg to say, there is a time and place for that, and this is not the time and place for that.

Madam Speaker, also before us, being taken jointly, is the bill to facilitate the Elections and Boundaries Commission to proceed with the processes as required for the enumeration. We had a debate in this House some time earlier on about problems which existed with respect to the electoral list that was used in December, 1991. We debated at length. In fact, a number of persons on the other side had much to say about the outcome of the election and their arguments were based on certain conditions of the list.

We have brought before the House, Madam Speaker, a special bill which will permit the Elections and Boundaries Commission to publish an up-to-date list of electors. That list will be more up to date than the one that was used on December 16, 1991, for two reasons:

- (1) Those persons who discovered in December 1991 that their names were not on the list and could not have voted then, in the six-month period that would have transpired, we anticipate that they would have taken the proper steps to get their names on the list for the next time around.
- (2) In the six-month period, a number of young persons would have come of age to vote, and if we used the list of December 1991, they would not be allowed to vote when the local elections are called—to facilitate them and to give them the right to vote.

We are asking to have this special bill passed to allow a new list to be published at some time in the immediate future to permit all those young persons who would have come of age in the period between December and now, to get their names on the list so that when the elections are called, there would not be a repeat situation of people going to vote and not finding their names on the list. As the law requires, a preliminary list will be published and then subsequent to that you have your period of electoral registration and then it will close and we will go into the election.

That is what the special bill is all about. That is the sum total of what is before the House. Madam speaker, it is a purely accidental and unnecessary digression for it to be perceived that we are dealing with something that is unconstitutional and what is not. That is not the point at all. I know that there are those on the other side who would seek—

Mr. Maharaj: He said it is not important whether it is constitutional or not.

Dr. Rowley: The Member is right there. I did not say that. I said that is not the point. The point that is before the House is an amendment to an existing law. What the Members on the other side are seeking to do is to drag us on to the chaos of the existing law to see whether the existing law is unconstitutional or not. Madam speaker, I beg to submit that is not the purpose of this bill. *[Interruption]* we have taken that into account and we have dismissed it, so we can proceed. That is the point I am making.

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The Government has taken their point into account, examined it, found it to be of no merit and, therefore, we can now proceed. It is not to say that we did not take it into account.

Madam speaker, having said that, I am signalling that the government intends to proceed with its commitment as laid out in the manifesto. It intends to proceed to take the required steps to enable the Elections and Boundaries Commission to publish a revised list. It intends to proceed to call the local government elections so as to provide the public with local government corporations so that they can be served in all districts of Trinidad. That is what is before this House, and I commend Members on the other side, to focus on the matter before the House, vote responsibly and let us get on with the people's business. Thank you, Madam Speaker.

Mr. Raymond Palackdharrysingh (*Caroni Central*): Madam Speaker, let me thank the Member for La Brea for pointing out to the House that when I was the Member representing Naparima, I voted against Act No. 21 of 1990. Therefore, my fundamental views on that Act still hold and the amendment before us will in no way change my position.

Madam Speaker, I am amazed to hear hon. Members of this House who have been trained in disciplines, other than law, make comments about my being against local government. It surely would seem that some of them have hit rock bottom. Maybe they have been trained to interfere with rocks.

It is always very interesting to listen to the Member for Diego Martin West. I do not think this House comes alive in his absence. At the same time, he attempts to be apologetic for an administration that I do not think he is proud of. It comes across. Therefore, to listen to his arguments, I could not understand that he is making a claim against us about spurious arguments.

Madam Speaker, I am sure that you would agree that the Members for Couva South, Naparima and Siparia made extremely powerful and convincing arguments in the House in their presentations. Then to listen to the Member for Diego Martin West is a sad reflection of his own understanding of the functioning of local government. He attempted to posit what the PNM's position was before they went to the polls. He indicated what the PNM's position was in their manifesto. I am wondering if, merely by saying that they took a position that 13 regional councils was too much, the answer was merely one to reduce the number of regional councils and that would have solved the problems for local government. That is, of course, the message he sought to convey. Then without any sort of justification, he

mentions the merging of certain groups together, like, Laventille and San Juan, Piarco and Tunapuna, and so on. Where is the justification for that?

Madam Speaker, the amendment before us today—and it is in the explanatory note:

"To reduce the number of regional corporations from 13 to 9 by providing for the corporation and councils of the regions of San Juan and Laventille; Tunapuna and Piarco; Couva and Tabaquite/Talparo; and Rio Claro and Mayaro to be merged:

- to provide that the election of councillors should be held within three months of the expiration of the life of the council;
- to provide that the Mayor should hold office for the life of the Council;
- to give to the Public Service Commission powers relating to the appointment of officers of certain corporations;
- to remove the present requirement that the corporation secretary be an attorney-at-law;
- to provide that the Municipal Police Force shall be known as the Municipal Police Service;
- to alter and remove certain miscellaneous functions exercisable by a corporation;
- to remove that part of the Act which deals with disciplinary proceedings against holders of corporate office; and,
- to make amendments to other acts which are consequential under amendments described in paragraphs (a) and (f) above."

Madam Speaker, here you are only seeing an attempt to bring about some sort of cosmetic—I will not even call it surgery—disguise. That has nothing to do with what the heart of local government is all about. If we are going to debate a bill, we have to get to the core of the effectiveness of local government and to put in place mechanisms to make local government much more effective.

Madam Speaker, I am extremely pleased that the government has passed on to us a copy of what is considered to be the Sarjeant Committee's report. I am wondering whether or not, after all the deliberations of that report, the Government took heed of what is being said in the report. To listen to the Member

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for Diego Martin Central coming to the House and saying “we have to get on to the local government elections, that is why we are coming”, is, in my view, a most distasteful approach to justifying local government elections when a report like the Sarjeant Committee's report is in the hands of Members of this House—it ought to have been in the hands of the public also—and not heeding what has been said in this report. I cannot understand the logic.

Mr. Valley: Madam Speaker, I just want to inform the Member that the fact that the report is laid here in the House, means it is in the hands of the public.

Mr. Mohammed: That is technical. It contains no mechanism to involve the public.

Mr. Palackdharrysingh: Madam Speaker, the Sarjeant Committee's report stated, on page 6:

"Constrained by time to complete its mandate, the committee set up four sub-committees:

- (i) A sub-committee to discuss and make recommendations concerning section 36(1) of the Act with respect to the provision of legal services to the local government authorities;
- (ii) The boundaries sub-committee to examine the rationale for the boundaries of the new corporations and to submit recommendations;
- (iii) The markets and slaughter—houses sub-committee to examine parts VIII and IX of the Act; and
- (iv) The sub-committee to examine part XIII in conjunction with the views of the Association of Local Government Authorities and to submit recommendations."

Madam Speaker, we took the Act of 1990, wanted to make changes, and here we have a report that states very clearly what some of the major constraints were, and I do not think that merely in the process to say we want to have elections that the Government should bring such spurious amendments and say we must proceed with this matter.

When we look at what some of the major findings of this report were, we have to wonder whether the PNM knows what it is doing. We have to wonder, because the report indicates, very nicely, with the line that—in their concluding remarks on the philosophy of local government—they wanted to give the opportunities to

local people to assume authority and responsibility for the management of their communities:

"Participation by the people must not be passive and reactive, but rather proactive and dynamic."

That is what they wanted to be. But how can we get people to really participate in local government affairs when we are not concerned about some of the meaningful issues that ought to be considered?

Madam Speaker, I want to quote from the same report, in section 2(2), on page 8. The report stated that:

"The provisions of Act No. 21 of 1990 were discussed within the framework of the views of the government on the Act and the philosophy outlined above. Those views were expressed as follows:

- (1) There was agreement on the principles of decentralization and devolution of authority. However, there were a number of provisions in the Act which frustrated the devolution of authority."

Madam Speaker, I want to ask the Government if they recognize that there were a number of provisions of the Act which frustrated the devolution of authority, and as they have boasted so loud and clear that they are the government and they have won elections, have they taken any steps whatsoever to remove those barriers?

11.35 a.m.

Madam Speaker, the Member for Diego Martin West does not seem to understand the meaning of devolution as against decentralization. That is his problem.

The report also indicated that the rationale for the boundaries defined in the Act was unclear and the number of corporations seemed to be inappropriate in terms of cost and benefits. Madam Speaker, if you look at the maps circulated, you would see how they re-defined the boundaries. They simply inked off a few boundaries on the maps and they call that re-definition of boundaries. I could not believe that. Nothing whatsoever seemed to have suggested that they were concerned about any serious matter of how communities function and what ought to have been done. Later on, I have to talk particularly about Caroni, Tabaquite,

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Talparo and Couva, because it is almost a joke to see what has been done in that situation.

This report identifies village and community councils which should be given a more definitive role and also, that mechanisms should be found to facilitate the movement towards making those councils more effective instruments of local government. That has been suggested and you would appreciate, Madam Speaker, that when you leave out village and community councils from that sort of streamlined decision-making, they are left by the wayside. It is a notion that has been toyed with since 1956, exploited by the PNM and never given the credence or credibility that they ought to have had because they were always by-passed. This is, of course, I believe, the most telling blow against the amendments brought here today.

There was need to examine uniformity of boundaries as they related to interest of Local Government Authorities, Town and Country Planning Division, Ministry of Health, Elections and Boundaries Commission and other state institutions. Madam Speaker, if you read the report you are going to clearly see that that very distinguished committee, of which the Member for Diego Martin West spoke, made certain definite reservations and they did not pay heed at all to it—no heed whatsoever. You see, what existed was the fact that several institutions, though low profile for many years, have had very deep roots in the society and they are not easy to dismantle. Rather than tackle the issues of local government in conformity with the other institutions that existed, they merely wish to by-pass those recommendations and come up just with matters of patchwork, plaster and sore, but you will find that, in the fullness of time, this great attempt by the PNM would result in more chaos and hardship for people at the local community level.

Madam Speaker, I am wondering whether the Government, on page 234 of the report, First and Second Schedules—looked at what was being said, and I want to draw from this report:

"A sub-committee was appointed to examine the rationale for the boundaries of the new Corporations and to submit recommendations. The sub-committee co-opted representatives of the Valuations Division, the Central Statistical Office and the Lands and Surveys Division.

The subdivisions of the remainder of Trinidad into townships is intended to reflect the major regional identities existing at this time, in such a way that each township is defined around a centre of influence such as a

commercial or industrial town or an area identified for extensive development. Special effort has been made to subdivide the island in keeping with the manner in which citizens live and relate at the community level.

The stated rationale for the boundaries of the new Corporations was not borne out in the actual boundaries. The various agencies indicated the boundaries they used for their purposes, the problems they faced with the new boundaries and their recommendations."

Madam Speaker, the report went on to say that:

"The Central Statistical Office advised that their data were based on the former counties."

So it would appear, Madam Speaker, that there was no scientific investigation with respect to certain data. That seemed to have eluded the Government completely, because although it was pointed out to them, I do not think they paid heed to something as important as this matter.

"The Valuation Division representative indicated that his Agency utilized a system based on the former counties and wards, namely, planning regions, settlement areas and enclosures. Valuation work was not likely to be affected by the new Local Government boundaries. There would, however, be a serious difficulty to administer their functions in accordance with the new regions."

So, Madam Speaker, would Government say what they are going to do to correct some of these serious concerns related by other institutions in the country?

"The Lands and Surveys Department representative reiterated the legal requirement for survey plans to be related to the former County, Ward, City or Borough. He identified the need for a change in the legislation relating to surveying to reflect the new boundaries. He also felt that in any exercise of definitions of boundaries, natural boundaries were the most suitable since they facilitated definition and survey. He made a strong recommendation that the exercise of determining boundaries be approached from an information management point of view."

Again, Madam Speaker, what has happened there has put the Lands and Surveys Division in a quandary. Last but not least in this matter, and I quote:

"The Ministry of Health representative advised that the unit areas operated by his Agency were Sanitary Districts which coincided with the former counties.

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In order to conform with the boundaries of the new Corporations, the Sanitary Districts needed to be redefined and the Public Health Ordinance required amendment."

So you see, Madam Speaker, we are going to rush an amendment through and we are going to have certain problems there standing. So when you elect your local government representatives and they go out there to function on behalf of local government, they are faced with many obstacles which have not been cleared by the Government.

Mr. Valley: I wonder whether the Member would continue and state the Committee's recommendation which is stated at page 27, at (6).

Mr. Palackdharrysingh: Madam Speaker, the point raised by the Minister was that in light of the urgent need to restore representation of the people and the need for a detailed study of the boundaries, the undermentioned cities and boroughs be considered for holding of early local government elections pending the detailed study of the boundaries.

Mr. B. Panday: That is putting the cart before the horse. Study it first and then—

Mr. Palackdharrysingh: They have pointed out the difficulties, but you do not allow the tail to wag the dog and that is what he is admitting to. They have, in the past, postponed local government elections for periods beyond two years. That has happened. What is the great justification?

The fact that the Member for Princes Town or the Member for Siparia called for local government elections, does not intend—

11.45 a.m.

Mr. Breaux: Madam Speaker, would the Member give way to a question? Is the Member for Caroni Central saying that we should postpone local government elections for some longer period after the study has been done?

Mr. Palackdharrysingh: Madam Speaker, sometimes questions that are asked really reveal the political infancy of many Members of this House.

I have said no such thing, but what I am pointing out is that there are certain grave difficulties which must be addressed. You have to understand that county councils operate, more or less, from the wishes and fancies of the Government of the day. When all is taken into consideration, the impression they are trying to give

the population that they so care about the early expediting of local government elections, is merely a farce, because to deprive county councils of funds, as they have previously done, is to really deny people the right to the type of basic services that they demanded.

I want you to understand what I am saying today, that here we are coming with a re-definition of boundaries, and the re-definition of boundaries has no bearing whatsoever, in relation to some other fundamental institutions which are set up along boundary lines which have to work hand in hand with county councils. You would see what a management mess that will result in if elections are held, sending councillors into office without giving them, at least, the clearance to function as local government representatives when they are elected into office.

I cannot understand at all, why the Government is pursuing the line that they are, and not dealing with some fundamental issues posed by this committee of learned men, as they say, which has shown them some of the difficulties. Can we trust that Government? They are talking about holding elections; they are talking about a comprehensive review. For 30 years they could not be trusted. Why should we trust them now? Having had local government elections, who is to say that they are going to continue to look into matters of this report?

Mr. Valley: Madam Speaker, in my presentation, I made it clear that Cabinet has already appointed a committee that is chaired by Mr. Seignoret to look at the re-definition of boundaries, as recommended in the report.

Mr. Palackdharrysingh: Madam Speaker, if that is the case, will he be forthright enough to give us a time-frame here when that committee would report and further action be taken? He cannot, because he has no intention—

Mr. Valley: Madam Speaker, I said then, and perhaps I can mention, that was the original intention of asking that this term be for a minimum period of two years, because we thought that the committee would need between 12 and 18 months to do their work properly. Then we would come back and have local government elections after two years. But my friend from Siparia, of course, thought that we wanted to do all types of things.

Mr. Palackdharrysingh: Madam Speaker, it is a matter of credibility. We, on this side, have no trust in the Government.

This report has been the most damaging instrument in our hands at this time, because the Government has never had any will to do anything, to carry on this country.

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I want to come to a situation which is extremely important to us in County Caroni. To talk about merely inking off the division of the corporation of Couva as against Tabaquite/Talparo, would show how deeply insensitive the Government is, with respect to cultural differences, geographical location, industrial development and other issues in areas like these.

I want to refer to a document which the former government, the NAR, termed *The Decentralization Process*. It was made available to Members of Parliament—*Proposals for Reform, 1989/1990*. When they looked at the Couva region, they said in this document:

"Dominant heavy industrial zone in Trinidad and Tobago. This region contains the Pt. Lisas Industrial Park and the Pointe-a-Pierre Refinery, which are to be subject to expansion and upgrading respectively. The Nation's only Cement Factory and Steel Mill are also present, and manufacturers of construction materials abound. Lifestyles vary from that of the industrial residential community to that of the agricultural village. The town of Couva is to be developed in keeping with an Area Plan for the Couva/Pt. Lisas area. Administration, recreational and service facilities are urgently needed and are to be developed to serve the needs of this fast-growing industrial region."

Madam Speaker, page 24 of this document, in describing the Tabaquite/Talparo region states:

"Central Range Agricultural Zone of Trinidad. This region consists of numerous agricultural villages and small towns, with no clear centre of focus. The town of Tabaquite is to be developed as the administration centre, and internal transportation linkages are to be upgraded, with urgent attention being given to the main road linkages into and out of Tabaquite and linking Tabaquite in the south to Talparo in the north. Emphasis will also be placed on water management, especially drainage and irrigation in the Caparo River system. Tabaquite will be undertaken to give further impetus to agricultural expansion in this region."

Madam Speaker, that was the rationale then. I want to suggest that it is no good to come here and say that the reason that Siparia was not annexed to Debe/Penal was that the Member for Oropouche made representation, again is trying an old trick in the book. When you look at Siparia, you can see that Siparia is an area in terms of population and other resources, if joined with Debe and Penal, would have amounted to even more than the whole county of St. Patrick.

What I want to suggest here, is in their haste to “*ad hocacy*”, they did not consider some of the other implications.

11.55 a.m.

Madam Speaker, when we looked at the former Caroni County it had 13 electoral divisions, meaning that you had 13 representatives in the council. Also, as you check the records for those 13 electoral areas, you would see that there would have been about 102,000 persons who were able to vote for these 13 seats in the council.

Now, when you look at the situation, you are going to see that when you add up the population, the new Couva area would have a population of about 54,910 and Tabaquite/Talparo, 39,933, so you are going to come up with approximately 95,000 persons there, more or less, eligible to participate in the election process. What you have is 8 7/15 seats with these two regions coming together. I am wondering what has been changed significantly. If you add on the Borough of Caroni to it with another 35,000 people, you would see that nothing significant has been happening with merely the lumping.

Madam Speaker, if Sangre Grande, with a population of about 55,000 electors could stand on its own, I am wondering why no consideration was given to Sangre Grande being merged with another entity, if the rationale was to reduce the number of councils because they were becoming too cumbersome. That has not been done. Because of the differences of Tabaquite/Talparo, as against Couva, we feel that, inherently, they are going to emerge as different types of communities, one becoming more and more industrialized and the other as more agricultural. Therefore, it would be extremely necessary, in our view—I have consulted the Member for Caroni East on this matter, and he agreed with me—

Mr. Mohammed: I gave him a report.

Mr. Palackdharrysingh:—that Tabaquite/Talparo retain identity if these measures are to stand.

Madam Speaker, I am making this plea because that whole area, more or less, would be the central part of Trinidad. It is a hinterland, and I think they have their own considerations in terms of quality, priority and so on, and serious consideration must be given to that area to keep them separate and apart from the Couva Corporation.

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I believe that is not an unfair request because the Sangre Grande area—if you look at it in terms of the number of people—has an even smaller population. Tabaquite/Talparo is, more or less, quite a sizeable land mass in terms of physical space and it has a different climate in terms of being rural as against the western shores that are becoming industrialized and, maybe, semi-urban at the same time.

So, let me plead with the Minister and, of course, the Government, to consider keeping those two entities apart. Apart from that, Madam Speaker—if you look at what is going to happen—invariably, Couva is being used as a centre and when you have people—

Madam Speaker, I want to use the map they gave to us just to demonstrate the point. If you look at this map, you are going to see that this section here is Couva, and this is Tabaquite/Talparo, taking in two major waterworks, the dams. You would see that there are people nearly as far as Poole, Rio Claro in one area and other points up there, and to have a configuration like this, in terms of travelling, and to have access to a main point of activity, either business or commercial, would be extremely difficult. Therefore, you must keep Tabaquite/Talparo as a region, so as to give them the opportunity to find some measure of focus for development. That is the point. It is highly irrational to merely lump Tabaquite/Talparo with Couva South.

As a matter of fact, there has been some communication to me, and maybe to other Members, from a councillor who knows some of the areas, which states—

"Non-Merging of Talparo/Tabaquite and Couva Regional Corporations:

After intensive consultation and research it was discovered that this is the Central Range Highly Agricultural Zone and Food Basket of Central Trinidad, covering a very large area of land space from Talparo/Mundo Nuevo and Tamana in the east, to the Borough of Chaguanas and Couva region in the west, and Las Lomas, Chin Chin and San Rafael in the north to Bonne Aventure, Tabaquite and Rio Claro in the south.

This large region consists of numerous agricultural villages: Caparo, Mamoral, Todds Road, Flanagin Town, Brasso, Gran Couva, Talparo, San Rafael, Mundo Nuevo, Piparo, Tabaquite, Ravine Sable and many more too numerous to mention; all with mainly agricultural access roads and traces, undeveloped and under-developed due to the lack of availability of funds. This was due to the funds allocated, in the past, being used by the past Caroni County Council to develop the two cremation sites—Waterloo and Caroni south bank and the

Chaguanas market and abattoir, whereas, these agricultural areas continue to remain in the dog house since funds also stopped coming from the Ministry of Agriculture.”

Dr. Rowley: Madam Speaker, I thank the Member for giving way. The Member made a point about the distance from the periphery to Couva, with respect to the Couva/Tabaquite/Talparo suggestion. Is the Member aware that the distance from Toco to Sangre Grande in the Sangre Grande Council is further, and that from Moruga to Princes Town is further than the reference he made. If, in fact, he is making the point that the distance to the centre is too great in Couva/Tabaquite, is he also suggesting that we divide Sangre Grande and Princes Town into two or three so as to deal with that problem?

Mr. Palackdharrysingh: If the Member was listening carefully, he would know that I also indicated that in terms of their population size they can stand on their own. The other point that he must know about those areas, is that communication is extremely poor. When the Member for Tabaquite asked, for example, about the transportation, and so on, he was responding to a need that he feels every day. That has to be taken into consideration.

Madam Speaker: The speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Hon. K. Valley*]

12.05 p.m.

I also want to bring to the attention of the House a document called "Trinidad and Tobago Association of Local Government Authorities" dated April 6, 1990 in which they were concerned with a few things. It states:

"We endorse the proposal that the Town of Chaguanas be made a municipality but we question the continued use of the anachronistic British name "Borough", in the Republic of Trinidad and Tobago. However, we wish to strongly recommend that all local government bodies be upgraded to the level of the Tobago House of Assembly."

If I remember well, this was one of my strong points in the last debate on the bill, because it had to deal with devolution. It also had to deal with the deepening of the local government processes. Therefore, I will not be surprised at all if, as I wish to raise this point again, a number of people would again try to say that Tobago is a special case and, therefore, we must not try to fashion local

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government after the model of the Tobago House of Assembly. This is where the heart of the problem lies in local government. This report went on to say:

“It is accepted that an integral part of the decentralizing process is the adoption of a uniform system of regional definition to serve planning, development and administrative needs of the country, and we hope that the sustained action to bring this about is being taken or will soon begin. The Association reiterates its view that the problems facing local government are caused principally by two factors:

- (1) There are no clear definitions of areas of responsibility as between the Central Government and Local Government bodies.”

This has really led to massive confusion and chaos in the past. I believe that the reason this is so and no one really cares to take action to re-define areas of responsibility is that with a measure of “*ad hocacy*”, certain functions of the local bodies could be usurped.

In the past, we have seen county councils emasculated in terms of some of their responsibility such as street lighting and school feeding. It is important and maybe the time is coming when we have to consider even a constitutional arrangement for local government bodies, that they must be located as a body with rights; as a body that will not be driven about by the winds of indecision by the Ministry of Local Government. That is where it is.

As a matter of fact, the population is made to believe that the local government bodies do serve an important function and they expect certain basic services. When the crunch comes and you see central government withholding funds or taking arbitrary decisions that affect the delivery system of local government, then the whole system fails.

If you notice what has been happening in even some of the countries in Europe—although, there is a union with Britain or England with Scotland and Wales—in terms of devolved power, there are certain constitutional guarantees that are given, so that the local government areas would have some assurance that in spite of political differences, they will not be stifled for funding to carry out the work. More than that, I believe that if that sort of string is cut and there are some more devolved powers with the local government authorities being given the green light, as to plan their own programmes and budgets, and to take on more responsibility, that would bring a fresh life into local government and of course communities, that will be involved in local government.

All this exercise—it does not matter what we do—will be futile, unless included in the changing system of local government, is some constitutional assurance to give municipalities and regional councils the assurance of their existence. Today, we debate local government in Parliament and there are no particular recommendations that have been included from local government, as the voice of local government in our deliberations. We are going to draw from personnel who have served in local government and from communities, but we would not have in this Parliament some of the direct input from those bodies themselves.

The document continues and I quote:

- (2) "The arrangements for the management and funding of the operation of county councils to be changed, so that authority is placed unequivocally in the hands of local government bodies, bearing in mind the principle of accountability."

I have a lot of reservations with how local government bodies are run in certain ways. For example, when you take the distribution of water either by local government bodies or by WASA, it leaves much to be desired in terms of accountability.

I noticed that in the Sarjeant Committee's report an idea was upheld and shown that you should have some measure of accounting organization set up. If these measures are not taken into consideration, merely the changing of boundaries will do nothing whatsoever for the improvement of local government in this country.

As I said before, if you look at the Tobago House of Assembly Act, 25:03, you will see the functions of the Assembly are clearly spelt out. I think it is a good model and this model must of course be followed or at least be imitated, because it gives the sort of devolution of power and security that people need.

There is another little area that I am extremely concerned about. That area is one of village councils or community councils. You know that every single village has its own peculiar characteristics and its own sub-culture. It has been made to play a significant role in the past, with respect to organizing for village activities, either in terms of culture and sports, and at some time it has been abused by those who control local government as an instrument of the ruling regime.

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In spite of all the utility it has, it has never been given the recognition it deserves. When you look at local government you are going to see that you have villages and village councils, then the counties as obtained in the Association of Village Councils and community councils and the national councils. Those grass-root organizations are the organizations that really know the pulse of their special communities. While much has been said about these communities, nothing has been done to give them some standing in local government or some importance, with respect to decisions taken in their own local areas.

12.15 p.m.

Madam Speaker, in my younger days I served in the village council movement and know exactly what happens in that movement. What I am asking today, is whether or not the Government will begin, not merely to recognize village councils as an appendage for their own manoeuvrings, but rather as a unit in the village that can influence in some small or in some appropriate measure the decisions taken that will affect their lives.

With respect to county councils, we had in the past, standing committees; health, finance, roads, whatever it is. The village council movement while we had aldermen, as it was stated, coming from the village council movement—that also is very dubious—there has been no input whatsoever and therefore if this new local government Bill is to have any sort of meaning, the village council movement must be integrated in ways that are meaningful. You cannot merely say you are going to take representation from the national body and bring it into the localities. If you have regional corporations then you must have community development develop along regional corporations and there will be that sort of direct input. If it is on a scale in terms of electoral areas then probably that too has to be considered. Right now, neither the Act of 1990, nor the amendments consider that, although the Sarjeant Committee' report indicated that must also be a very significant item to be considered in the establishment of local village community centres.

When you get down to the little play fields and whatnot, in the particular areas where there are small sporting organizations and clubs competing, and there are no clear lines of authority in the village, it ends up more or less in confusion as to who should use the various grounds *etc.* If these councils are given some measure of recognition and their officers of course, are given some small stipend for their serves in whatever way, I am sure that is going to bring a qualitative improvement in the life of village and community councils and enhance the work of local

government. At least, even in their rush they should consider this because after we get through this piece of legislation if it is passed, you are going to see that nothing would ever be remembered of those little people in the villages, communities and county councils and whatnot.

We have had sometime for debate and reflection on this bill. We have had the opportunity of looking at these measures a second time and we are of the view that the measures proposed by the Government at this time will not do anything at all for local government. It was merely a ploy to give the impression that they were concerned but in terms of devolution of power, in terms of strength, local communities; in terms of giving them even some basic constitutional safeguards as to their operations and their continuity in terms of existence, this has not been done. They have come here with amendments that at best will never really touch the process of local government in terms of change and it is our view that unless we devolve power similar to those in the Tobago House of Assembly Act, we would merely be playing political football with local government in this country.

Madam Speaker, there are one or two other issues which I wanted to touch on but I cannot seem to find my notes at this moment but whatever it is, I am not at all happy with the arrangement. On the other hand, I think the time has also come for a serious look at the remuneration given to local government representatives. That also has to be taken into consideration because over the years, the cost of living has just escalated—and they are not represented by trade unions and the standard of living has fallen. These people have to travel to make representation—these are some of the matters that must also be looked into in order that we continue to attract people who might be willing to serve who are now daunted by the very onerous sacrifices they have to make.

I want to indicate that apart from what has been said, the local government institutions must be strengthened and given a fillip and, of course, there must be a continuing process of integrating local communities according to their characteristics and their unique potential for development. Again, with all that I have said it is difficult for me to support this piece of legislation because it has not brought any sort of qualitative change to local government. It is merely playing around with the changing of boundaries and that makes it extremely difficult, in my view, to give my support to this piece of legislation. I wish that the assurances given by the Government with respect to looking at what the Sarjeant Committee's report has stated and to all the other reports that are being presented by the Association of Local Government Bodies, that the Government is going to

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continue the process of redefining not only boundaries of local government, their role, and functions, but their own constitutionality in the matter. I hope also that even the smallest unit of existence in the village-like village councils would be given some part in local government with at least the minimum degree of decision making.

Madam Speaker, again, on my own behalf and on behalf of the Member for Caroni East, we want to reiterate that we are extremely dissatisfied with lumping Couva and Tabaquite together. Some of the reasons I have already given. I hope when all is said and done that they will ink off the boundary and leave it as it was. All that is necessary is to erase the ink that they put in white and then we will come back to something that is more desirable. It is difficult for me to support this bill and I hope that the Government would take heed.

Mr. Hedwidge Bereaux (*La Brea*): Madam Speaker, I rise to make my humble contribution in this debate which the two learned gentlemen preceding me on Monday last, have succeeded in making a most legalistic affair, not that I blame them nor did I expect anything different because it is usually the case when persons are not as versatile as they would like to be, they stick to areas that they know very well. I generally would expect the Member for Couva South to stick to matters pertaining to the Constitution and to human rights and he has all right to do that. I respect his knowledge.

Madam Speaker, let us examine the bill before this House. The first is a bill to provide for an Act to amend the Municipal Corporations Act and it is to be cited as the Municipal Corporations (Amendment) Bill, 1992. The second is a bill to make special provisions for the publication and revision of the list of persons qualified to be electors in the municipal councils elections of 1992, and to make special provisions regarding the boundaries of the electoral districts for the purposes of those elections. It is cited as the Municipal Councils (1992) Elections (Special Provisions) Bill.

12.25 p.m.

The Municipal Corporations Act No. 21 of 1990 was passed in this House on July 9, 1990—almost two years ago. It was intended to provide for the continuation of existing city and borough corporations, for the erection of certain other municipal corporations and for the consolidation and reform of the laws affecting local government. Fourteen persons voted in favour and five against. I have already identified the names of the five persons who voted against that bill. Of

the persons who were Members in that Parliament, nine are with us today. The others have gone the way of all political flesh—either victims of internecine struggle, rejection by the populace or just plain frustration with the then existing order. What is significant is that in that particular Parliament we had, at least, eight lawyers—a surfeit of legal talent, or, should I quote a former Prime Minister of this country and say, "an embarrassment of legal riches", inclusive of the Member for Couva North, who is the present Leader of the Opposition.

A perusal of *Hansard* will show that amid the flood of criticism levelled at that bill, no-one, not even the legal luminary from Couva North—or should I say the legal candle fly, just bright enough to see, but not enough to clarify or illuminate anything legal—uttered one single syllable suggesting that the bill was altering the Constitution and therefore the bill should be passed with a special majority. Moreover, the Member for Couva South, although he was not a Member in that Parliament, is well-known for his interest in the Constitution and has been very vocal, even out of the House—again I commend him for that—in respect of matters concerned with the Constitution. I think, even at that time, he might have been sharing Chambers with the Member for Couva North. So, they cannot absolve themselves from responsibility. If—and I do not agree that it is correct—Act No. 21 of 1990 is unconstitutional—

Madam Speaker: Honourable Members, the sitting of this House is now suspended. We will resume at 2.00 p.m.

12.30 p.m.: *Sitting suspended.*

2.00 p.m.: *Sitting resumed.*

Madam Speaker: The Member for La Brea may continue with his contribution.

Mr. Bereaux: Madam speaker, before we took the luncheon break, I was saying that when this bill was first passed in the House, in July 1990, a number of persons of legal knowledge and competence were in the House.

I had also referred to the fact that the Member for Couva South, has said in his speech in this Parliament and has been warning the government of the ability of a private individual to approach a constitutional court to declare the Act null and void and to get a conservatory order to prevent the passing of this amendment bill. I would like to find out from him, through you, Madam Speaker, why he did not take that stand in 1990. Is it because, in 1990, he was not sure on which side he

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was? I do not believe that is the case, you know, I am sure he knew where he was. Or is it because he knew that the legal pronouncements which he delivered with such confidence and such finality were, in fact, vacuous, ill-conceived and totally without substance?

I propose to deal with those arguments later in my submission, but at the present moment the amendment proposed in the context of the PNM's position and policy on local government adheres very closely to the PNM's manifesto. The Member for Diego Martin West identified that on page 44 and I want to quote the first paragraph:

"The PNM reaffirms its commitment to a system of local government which ensures that the people have the opportunity to assume authority and management of their own communities."

What happened as a proof of that, so early in the day when this Government came into power, in January of 1992, the Committee was appointed. In February, the Committee reported, and by May of 1992, the report was before the Cabinet and approved. Now we have the bill here.

Remember, Madam Speaker, that since September 14, 1990, the local government constituents have not been able to elect their own representatives, the tenure of the local government representative was extended by a year. Since September 14, 1991, they have had no local government representatives. What we are proposing to do, if we are not disturbed by filibustering and recalcitrance, is to permit the local government constituents to get back their franchise by being able to hold early elections.

Madam Speaker, again I want to read from the PNM's manifesto, the third limb of that policy which says:

"While the PNM endorses the establishment of Chaguanas as a borough and the establishment of corporations in the areas formerly served by County Councils, we disagree with the proliferation of Regional Councils provided for in the new Municipal Corporations Act. We find that these arrangements are cumbersome and unnecessary and will therefore amend the Act to correct this deficiency and remove other areas which we consider to be inconsistent with good public policy."

That was not said two weeks ago or two months ago. That is in the PNM's manifesto and that was said at the run-up to the elections. All we are doing is

trying to keep our election promises. Yes, all of them, as and when the funds and the wherewithal are available. True to our commitment, no attempt has been made to interfere with the Borough of Chaguanas or its boundaries, and this was decided notwithstanding the report of the Committee which at page 25 says:

"The Chaguanas boundaries were in general considered to be too extensive. The Town and country Planning Division proposed new boundaries on the basis of what was identified as the greater Chaguanas area."

In spite of this, the boundaries remain the same because that is our commitment.

On the question of proliferation of regional councils, much has been said about it and the Minister has responded to the request made by the Member for Oropouche, I understand, to have the Penal, Debe and Siparia regions remain separate. I agree with that, because I am from the Siparia region and I realize that would have been too extensive.

Madam Speaker, if our having done that is not seen to be consultation in the true sense, or according to the dictionary of the Opposition, we have no quarrel with that, but we must remind them that we have a policy and a position in local government and legislation by the PNM Government must be aligned in some way to our policy.

Madam Speaker, we have no quarrel with them and we understand their problem. I am very thankful for having received a copy of their manifesto from one of my friends on the other side and I have looked through that manifesto. I have perused it with a certain degree of care and I have not been able to see any policy on local government. It may be because I have not seen it—I think it is there, I hope it is there—it may be because it is so minute that I missed it, or it may be that local government is not important enough for them so they have not identified it in their manifesto. But that is not surprising, in local government as in several other things, the Opposition is agenda free. They are only governed by the basis of expedience. Fortunately for the country, the PNM Government cannot operate like that and has no desire to operate on the basis of expediency. We deal with what is required and what our policy says.

Madam Speaker, if any amendment underscored very closely and very properly the PNM's commitment to local government, and to ensuring that the communities participate to the fullest and they are properly represented in local government, it is the amendment contained in clause 14 of the bill, which states:

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"...which provides for the institution and maintenance of disciplinary proceedings against the holders of corporate office."

According to section 2(1), "corporate office" means:

"...any office of the Mayor, of Chairmen, of Deputy Mayor, of Vice Chairmen, of Aldermen, or of Councillor."

Madam Speaker, the kernel of authority for management of the affairs of the community is for the representatives of the community to be able to put forward the views of that community without fear of reprisals of any sort. This right is no notable and well entrenched that it prevents those of us who are Members of this House from being sued for libel for statements made in the House. It also protects Members from arrest and harassment on the way to this House. At one time, that protection was even extended to the servants of Members of Parliament. Moreover, it is well known, Madam speaker, that an advocate and a representative of the people is first and foremost an advocate and is under an obligation to put forward the case for the persons whom he represents with vigour and without regard for his personal discomfort.

I am certain that notwithstanding the grumbling I am hearing, the Member for Couva South will certainly support me in this. But here is an Act that has a whole part of it that is dedicated to disciplinary proceedings that should occur—and we believe that is correct—should be the disciplinary proceedings contained in the Standing Orders of the particular body, the rule of law, or the ultimate disciplinary process exercised by the electorate. This particular provision for this Act is undemocratic at best and tyrannical at worst.

For the records, Madam Speaker, I am going to read and comment on some of the sections contained in Part XIV, which the PNM intends to repeal as being inconsistent with good public policy. I would have expected those persons who think like I do—and I know they do—to have commented and said they agree with this measure. But no, they wasted time on other things.

Let us look at section 236, which appoints the disciplinary committee:

"The Disciplinary Committee shall consist of nine Members, of whom, one shall be a legal practitioner of at least 10 years standing, nominated by the Association and subject to the approval of the Minister."

Mr. Maharaj: I wonder if the Minister would give way. Do I understand the hon. Member to say that these provisions are unconstitutional?

Mr. Breaux: They are contrary to public policy. Madam speaker, we have a disciplinary committee appointed by the Minister, even though the Minister is a PNM Minister, I do not think he should have that power.

Let us look at the Association. Section 233 is the Association. All Members of the various regional councils or municipal councils are Members of this Association. We have several parties in this country. Having regard to the composition of this, one could find persons using this process to get rid of elected Members who are against them.

Madam Speaker, then you have the Disciplinary Committee; a secretary is appointed. They did not say, who was going to be the secretary or the qualifications of the secretary. But the secretary can recommend a preliminary investigation into an indictable crime.

Mr. S. Panday: I agree.

Mr. Breaux: You agree. Why did you not say so in your contribution? You were wasting time with various irrelevancies and you reminded me of the Latin quotation: "*rari nantes in gurgite vasto*"; whatever you said appeared here and there in a wide ocean of irrelevancies.

Look at the code of ethics, Madam Speaker, to which they refer. In respect of the code of ethics:

"Subject to the approval of the President, the Association shall develop, adopt and keep under review a code of ethics to which its members must adhere and until a code of ethics is so adopted, the code of ethics for parliamentarians, including Ministers, adopted by resolution of Parliament, shall, insofar as it is appropriate, to the conduct, function and duties of members of local government corporations apply *mutatis mutandis*."

You do not have any disciplinary committee for the Members of this House, but this Act put upon the local government members a yoke which they refused to accept for themselves.

The point about it is that when the Disciplinary Committee directs, it has power to suspend. Section 252:

"If after conducting an enquiry under section 247, it is satisfied that proper cause exists for disciplinary action, the disciplinary committee may do one or more of the following:

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- (a) Reprimand the person in relation to whom the enquiry was held;
- (b) Suspend the person from corporate office;"

So you have persons whom the electorate have put there and other persons arrogating unto themselves the power to suspend them from public office. Our bill seeks to remove this and this is the bill that I am hearing some respected persons saying that they cannot support.

Madam Speaker, let us take a look at clause 11 of the bill which provides that election of councillors should be held within three months of the expiration of the life of the council. The Members on the other side have been clamouring for fixed parliamentary terms for a long time. They even went so far as to raise and make the suggestion at the recently concluded Commonwealth Parliamentary Seminar; and I do not think there is anything particularly wrong with that request. But here we are, bringing an amendment to an Act to ensure that there is a fixed term and a fixed period within which elections must be held after the conclusion of that term and what do we get again? Opposition by expediency.

Then there is the point to remove the present requirement that a secretary of the corporation be an attorney-at-law. If I were only to take the narrow view that we want work for our attorneys, I would say leave it in. There are a number of us who are attorneys and I think that they are entitled to make a living. But the question of flexibility, of being able to choose a person of competence to hold an office is important. I think this amendment does not exclude attorneys from becoming secretaries to the various regional corporations, but it does open the door for other professionals who are competent.

Madam Speaker, in the remaining time available to me, I shall deal with some of the comments made by Members on the opposite side and as usual—I cannot blame him—always in the forefront is the Member for Couva South, the legal luminary. He spent a large percentage of his time in an attempt to show that Act No. 21 of 1990, the Municipal Corporations Act had altered the Constitution and, therefore, it should have been passed by a special majority as indicated in section 54 of the Constitution. He then went on to say that an amendment of an Act takes effect from the date of the principal Act. I quote:

"If you are amending an act, you bring to life again the entire Act."

He referred to Trinidad Island Wide Cane Farmers Association, Ramnarine Seereetam Maharaj. Madam Speaker, it just goes to show how quoting the law out

of context can lead to wrong conclusions. I understand why he had to bring that argument, because none of the amendments which are being brought can be challenged as altering the Constitution per se, or as being contrary to section 4 of the Constitution. So he now wishes to attack the original Act. There is a way and a means and place he can do that. I believe—*[Interruption]* Ask him. He is the legal luminary. If you do not know, wait and you will hear. There is a way and a place he can do it.

I believe if he is as convinced of the strengths of his argument, he should be encouraged to follow the advice of the Member for Couva North and get his man of straw and attack the Act in court. But, Madam Speaker, I am going to show you the hollow nature of his contribution. I will read from section 54. All of you have the Constitution, I would just like you to look at it. Get your Constitution and I will teach you.

Madam Speaker, section 54:

"Parliament may make laws for the peace, order and good government of Trinidad and Tobago, so however that the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) the Trinidad and Tobago Independence Act, 1962 of the United Kingdom may not be altered except in accordance with the provisions of section 54."

So it says Parliament can make laws, but there is a particular way in which it can alter the Constitution. Section 54(2) outlines sections 4 to 14, a total of 48 of them, and the manner in which those sections can be altered specifically and section 3 as it applies to those particular sections.

I just want to identify some of the sections and the things they refer to. They are the Recognition and Protection of Fundamental Human Rights and Freedoms; Savings for Existing Law; Emergency Powers; Period of Public Emergency; Grounds for, and initial duration of, Proclamation; Extension of Proclamation—all important functions in the Constitution—Powers of Parliament; Interpretation Act. Then subsection (2), and it says that:

"...a Bill for an Act under this section shall not be passed by Parliament unless at the final votes of not less than two-thirds of all the members of each House."

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So it identifies clearly the areas of the Constitution which would require a two-thirds majority and it goes on further in subsection (3) and then it identifies some 38 sections referring to other important areas and says:

"...a Bill for an Act under this section shall not be passed by Parliament unless it is supported at the final vote thereon—

- (i) in the House of Representatives by the votes of not less than three-fourths of all the members of the House; and
- (ii) in the Senate, by the votes of not less than two-thirds of all the members of the Senate."

2.30 p.m.

Now we come to the section that they have used, or should I say abused, section 54(5). You see, after having indicated how the Constitution should be altered—and in this case "alter" has the Oxford Dictionary plain meaning, a change in characteristics. Subsection (5) says:

"No Act other than an Act making provision for any particular case or class of case..."

Not person or class of person;

"inconsistent with provisions of this Constitution, not being those referred to in subsections (2) and (3), shall be construed as altering any of the provisions of this Constitution, or (in so far as it forms part of the law of Trinidad and Tobago) 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."

What that was intended to do, Madam Speaker, was to prevent any surreptitious altering of the Constitution by implication in the event that you have a government with a majority that could do it. They wanted that if ever we were going to alter the important sections of the Constitution those 86 sections which I identified in subsections (2) and (3), that you had to put in the Act, that it was the intention to alter the Constitution. Unless "other than an Act making provision for a particular case". You would note, when you talk about a particular case, they were speaking about those other areas in the Constitution which they said could be amended by passing an Act inconsistent with it. You will notice there are some other areas in the Constitution and no offence meant, Madam Speaker, but I want to use the example, for instance, section 37—

Miss Nicholson: Link it constitutionally.

Mr. Bereaux: Madam Speaker, why am I hearing this grunting. What is the disturbance? I am referring to section 37 where it speaks about the oath of the President. That is not one of those identified particularly:

“37(1) A President shall before entering upon the duties of his office take and subscribe the oath of office set out in the First Schedule, such oath being administered by the Chief Justice or such other Judge as may be designated by the Chief Justice.”

Let us say, for instance, for some reason or other an Act was passed indicating that the oath would be taken in a different way. That Act is one which would not have to receive, as of necessity, a statement at the bottom of it or somewhere in it that it was intended to alter the Constitution. We have further, “Qualifications for election as member”:

“47. Subject to the provisions of section 48, a person shall be qualified to be elected as a member of the House of Representatives if, and shall not be qualified to be so elected unless, he—

- (a) is a citizen of Trinidad and Tobago of the age of eighteen years or upwards, and
- (b) has resided in Trinidad and Tobago for a period of two years immediately before the date of his nomination for election or is domiciled and resident in Trinidad and Tobago at that date.”

If, for instance, an Act were passed to accommodate a certain Member in this House which would say you could stay out of Trinidad and Tobago in Miami, and then come in and be qualified, that Act would not need to have on it stating that the Constitution is being altered. No. That Act would be permitted to alter the Constitution by the fact that it was inconsistent with it. The major point, Madam Speaker, is this, that section 54 does try to prevent surreptitious altering of the Constitution in certain cases not particularly identified.

In the contribution of the Member for Couva South, he referred to a number of areas where the right to property and certain rights under section 4 might be altered in this manner. It is my considered opinion that the provisions inconsistent with the provisions of the Constitution not being those referred to in subsections (2) and (3) apply there and, therefore, you cannot decide the special method by which an Act must be passed and what has to be recited in it and what has to be

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stated in the Act if it is to alter, effectively, the Constitution in respect of certain fundamental rights and then say that the constitution was altered by implication, because of the passing of an Act contrary to a provision of the Constitution. It makes nonsense of this whole provision.

Further, Madam Speaker, a number of statements were made to identify certain areas in this principal Act which were indicated as altering the Constitution or being contrary to fundamental human rights, or fundamental rights and freedoms; but although the Member for Couva South referred to section 6 of the Constitution, 6(1) says:

"Nothing in sections 4 and 5 shall invalidate—

- (a) an existing law;
- (b) an enactment that repeals and re-enacts an existing law without alteration; or"

and this is the critical one—

"(c) an enactment that alters an existing law but does not derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right."

Now the Act of 1990 repealed—the first statement was—

"An Act to provide for the continuation of city and borough corporations, and for the erection of certain other municipal corporations and for the consolidation and reform of laws affecting Local Government."

That Act repealed, in section 274, the Port of Spain Corporation Ordinance Chapter 39:01; the San Fernando Corporation Ordinance Chapter 39:07; the Arima Corporation Ordinance Chapter 39:11; the Point Fortin Corporation Act, No. 12 of 1980; the County Councils Act, No. 25:04 and the Electoral Candidates Municipal Corporations Qualifications Act of 1987.

When you look at some of the comments in all these Acts—I just picked a few and I am indebted to the Member for Naparima—one of the few lucid areas of his contribution was when he indicated that the present Act, the Municipal Corporations Act, repeated word for word and I quote him—some of the areas from this Act.

Mr. S. Panday: I said some parts.

Mr. Bereaux: You are not listening. He said that. And what is happening is, if you go through this Act and the comments that have been made and the objections which have been taken in respect of certain areas, you will see that in most cases, the provisions that have been enacted in this Municipal Corporations Act were already in existence in the previous Act and that the law, as put in this Act, did not alter, to use the words of the Constitution did not—

"... derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right."

So any derogation from any right which appears in this Act was already existing in some of those Acts which were repealed. So to the extent that they may be contrary to the Constitution now, they are saved by the provisions of section 6(1)(c).

2.40 p.m.

I want to remind the Members for Couva South, Couva North, Caroni Central, Chaguanas and Caroni East, that if you desire to declare this Act null and void, you will have to take the matter to court. If the court declares that the Act is unconstitutional that decision is so important, you might have to take it further and further by appeal. But if this Act is repealed, or a portion of the Act is declared null and void, it would be that portion of the Act that refers to the new Municipal Corporations that refers to the Borough of Chaguanas. I am warning you, do not tamper with the Borough of Chaguanas. Once before I had to warn you, do not tamper with La Brea. I repeat, do not tamper with the Borough of Chaguanas.

Just to prove the point. They referred to section 22(1). This had to do with penal provisions in respect of persons who did not take up their office in municipal corporations, or regional corporations. That already existed in Point Fortin, San Fernando, Port of Spain and Arima.

Section 53, the powers of the Municipal police: The powers given to the Municipal police force are, in effect, no different from existing powers enjoyed by Estate Police under Act No. 11 of 1906, the Supplemental Police Act. The section, therefore, properly falls within the definition of section 6(3) of the 1976 Constitution and section 6(1)(c), of the 1976 Constitution in that it does not derogate from any fundamental right guaranteed by chapter 1 of the Constitution.

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The Powers of Arrest: The powers of arrest given to the Estate Police have always been identical to those of the police service by reason of the Supplemental Police Act. Such powers have always included powers of arrest.

Even the question of taxes, the ability to collect taxes. Local government authorities, and those under the Corporation Ordinances can collect taxes when they are given the power by the central government, and have always had the power to levy rates and taxes. Even if we are thinking in terms of the Chaguanas borough and the other regional councils, the Lands and Buildings Taxes Ordinance has the power to do it. So under the Lands and Buildings Taxes Ordinance there is the power to collect rates. It is nothing new, nothing fundamentally different.

I admire the contribution of the Member for Couva South. I always do. It is what we call, legal footworks. As a lawyer myself, and one of four in a family, I admire good lawyers. But it does not take away from the fact that the law is as it is—

Madam Speaker: The speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by a further 30 minutes. [*Mr. C. Sharma*]

Question put and agreed to.

Mr. Béréaux: Madam Speaker, I am indebted to hon. Members for giving me the opportunity to wind up my contribution. We have to face the facts. We have a Constitution in Trinidad and Tobago. I am not going to argue that we are bound by the Constitution and the law. We, as hon. Members of this House, have sworn to uphold both the Constitution and the law. But the Constitution provides for various segments. You have the Executive, the Legislative, which is, as I agree, somewhat fused with the Executive, and the Judiciary. The power rests with the judiciary, in certain instances, to declare Acts of Parliament invalid if they offend certain provisions of the Constitution. Hon. Members are at liberty to point out if they think Acts of Parliament are likely to be invalidated by virtue of the fact that they offend certain sections of the Constitution. However, after having had the fullness of legal advice and legal consideration, it is quite clear that this Act does not offend the Constitution, nor the manner of its passage did not require any two-thirds majority or any special majority. In the circumstances, I would like to support the amendment to the Act in order that local government would be able to be put on an even keel in Trinidad and Tobago and we could, once more, get on with the business of running this country. Thank you, Madam Speaker.

Miss Pamela Nicholson (*Tobago East*): Madam Speaker, in my contribution with regard to the Municipal Corporation (Amdt.) Bill and Municipal Councils 1992 Elections (Special Provisions) Bill, I would firstly like to shift us away from the Hall of Justice, back into the National Parliament. I feel it is time that we rest and move away from the legal luminaries to the people who have been elected by the people, to do the people's business. As far as Act No. 21 of 1990 is concerned, all I want to say is that I am not a legal luminary, but as far as I know, the Chief Parliamentary Counsel's Office of the Attorney General, and all those concerned, when that same point was raised, argued and stated that, in their view, it was not unconstitutional and really should go ahead with a simple majority. So I would not continue that. I really would like us to come back in here so that the people would feel that they are a part of what is taking place—although, from what took place, I decided that I would like to study law.

2.50 p.m.

Madam Speaker, the Member for Diego Martin Central raised a number of issues. The first point that concerns me very much in his contribution is the arbitrary shift from the 13 municipal regions to 9. Up to now, I have listened very carefully to all the contributions and no one has really stated why, from 13 to 9; on what basis are they doing this, or on what basis is this to be done? I know that when this plan was developed, that is, to decentralize and give some more weight to the local government bodies, a number of things were looked at: against what background they are going to do it; against the background of human resources, financial resources; the potential for growth and development; trends with respect to natural resources of the area and also against the background of industrial development. I must say that when I listened to the Member for Caroni Central, he made some very pertinent points in his discourse.

When you are looking at the local government development after a number of years, you must do it against a certain background. Also, the whole question of the development of townships must come into consideration in that you must look at the characteristics of the area. The whole cultural and social characteristics of the areas were looked at, in order to come up with the 13 municipal areas. Suddenly, we have an amendment which says “let us shift from 13 to 9”.

I also read the document that was produced by the Sarjeant Committee. I was quite unimpressed. Many people said that they were very impressed. I was quite unimpressed by the document because this document should have shown me why

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they are shifting from 13 to 9, and I have not seen that in the Sarjeant Committee's document.

I would like the Member for Diego Martin Central to postulate his arguments this afternoon and tell us how he came to that. I am asking this because when I look in the amendment, certain things are worrying me. In the amendment I see Diego Martin was separated from where she was really formerly. I want the Member to tell me—because I agree with the Member for Caroni Central—why is Diego Martin given this status in front of Couva? I am going to make my points in this way.

If you are going against the backdrop of population, Diego Martin, 91,837; Couva, 95,000, the area that should obviously be given that status should be Couva. If you look at the whole question of industrial development, again because of the Point Lisas plant and everything that evolves in Couva—the representative for Caroni Central argued it quite stoutly—the cement factory and all other industrial activities, Couva is the area that you really should separate and leave as one of the regions and not Diego Martin. If those are the reasons.

So, I am very concerned about how the Government and the Member for Diego Martin Central come up with the position that Diego Martin should be one of the regions in the line and Couva—

Mr. Valley: Madam Speaker, on a point of clarification. The Member for Diego Martin Central did not “come up”. The Member for Diego Martin Central was guided by the report.

Miss Nicholson: Madam Speaker, I want to know how the Government came up with the position that Diego Martin should be a region and not Couva, because if the report is sound, his report should be showing the basis on which you are going to give Diego Martin the number one position in front of Couva. I am saying that the considerations I spoke about, that is, population, industrial development and so on, the area should be Couva.

What compounds the idiocy, in my view—that word might be a little too strong. I am trying to get a softer word. What makes the error more blatant is that you take Couva and link it with Talparo/Tabaquite. You cannot do that, because, number one, Couva should be the region. When you do that, you go into an area where you are going to add something like 66,433—*[Interruption]* I am saying if you are using population as one of your base arguments.

Now, Tabaquite/Talparo is in the central range area, and why she should be left like that was strongly argued by the Member for Caroni Central, because of her agricultural developmental system and also against the background of the policy that the need for that area is communication development, roads and that type of thing. When you develop the inner part that does not have that kind of communication development, it then makes Talparo/Tabaquite a strong township area that would be very busy. That is the reason that area was left like that.

So, I feel very strongly that, one, the Minister should reconsider the regions and how they are put together right now. You just cannot take two or four areas and say this must be one. You must know why you are doing it. I am saying that Talparo/Tabaquite cannot be locked with Couva because of Couva's development right now, and everything that is taking place there. I feel that the Minister should really consider that very seriously.

Secondly, the Member for Diego Martin Central took up the question of discipline. He said that the way in which discipline was handled in the Act means that it should be deleted because it was "totally untenable", I think that was his word. The Act says—

"The Disciplinary Committee shall consist of nine members of whom—

- (a) one shall be a legal practitioner of at least ten years standing who shall be the chairman and who shall be appointed by the Minister.
- (b) eight other Members shall be nominated by the association subject to the approval of the Minister."

If (a) fails I cannot see the Minister going against the position put to him by the members of the Association.

3.00 p.m.

You have county councils elected by the people and the Act says eight other Members shall be nominated by the Association subject to the approval of the Minister. The whole moral fibre of the situation tells you that the Minister has to go along with this because they have functioned already, when the association chooses, even though you have a number of parties with representation in the local government. I can remember that they had an association already. I looked at it over the last five years and they made sure that representation from the various groups were there. They functioned properly. I cannot see how this suddenly becomes a big problem.

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History will show that all municipal bodies functioned with a disciplinary section covering their operations. If you look at Port of Spain City Council, Point Fortin, or all the other local government bodies, you had that. What happened if someone did anything that was atrocious and the council or the municipal body felt that they could not function with that kind of behavioural pattern? What they did was to call all members of the council together; the issue was looked at and action such as suspension was taken. It was done in the Port of Spain City Council. Over the last five years that same action was taken at Caroni. It was also taken at Rio Claro.

The argument that I am making and which the Member for Diego Martin Central must be aware of is that all the bodies functioned with that, but why this change? There was a reason. You had the Borough of Point Fortin. What of the City of Port of Spain that had that same power? What has happened in that city is that the Mayor was the man who abused power. The whole body was represented by the People's National Movement because time after time, the Mayor abused the Chief Executive Officer. Here an example comes up that shows that if you leave them like that, you will have certain municipal bodies where you can never discipline the people. The issues were raised about the Mayor. People wrote—

Mr. Valley: Which Mayor is she speaking about that abused the Chief Executive Office?

Miss Nicholson: I am sorry if I mixed it. I am talking about the Borough of Point Fortin. Did I say Port of Spain?

Mr. Valley: Yes.

Miss Nicholson: I am talking about the Borough of Point Fortin.

Mr. Valley: I still have a difficulty. I cannot see how a Member can stand in this House and abuse a Mayor of a corporation, he, not having the right to respond and is not here.

Mr. Manning: The Member has been in Parliament long enough to know that.

Miss Nicholson: I do not agree with their argument because I am making the case to show why the whole question of dealing with discipline has evolved in this document and because of the new experience people wrote about the matter. One was not able to resolve the matter, because the person who is really abusing, muzzles the press, because he is in control. This is the point.

In the consultations with some of the bodies, that issue was raised and the suggestion was made that the best way in which the councils can be addressed, is that a tribunal be set up of representation from all councils. When the councils meet—

Mr. Valley: I wonder whether the Member would explain to the House how this disciplinary tribunal would avoid a situation in which a Mayor wants to abuse the CEO.

Miss Nicholson: I do not understand how my hon. friend is becoming so worried. I think I am arguing my point very clearly. I have shown that in all the municipal bodies in the Act you have a disciplinary section. I showed you how they handled it.

If councillor “A” behaved badly, other people inside the body would make the case to the Chairman or the Mayor who is in charge. That person would then put it on the Order Paper; a special meeting is called and all councillors would go to the meeting; the matter is raised, discussed and then action is taken. They were in all the documents before. People were suspended. A councillor was suspended for over 120 days, another for over 20 days, people in the Port of Spain City Council. That is what I have shown.

I am now showing you that in another instance the Borough of Point Fortin, the Mayor is the person who is creating the problem. That is the person who is abusing the situation, and he is the same person who would chair the meeting and who, if the councillor would write to, could say, “I am not calling that meeting”. How are you going to handle it? Now that you are going to improve a situation for the councils or the local government bodies all over the country, you must address a situation like that.

Mr. Valley: Is the Member saying that the whole purpose of this disciplinary committee is for the committee to get to the Mayor of Point Fortin?

Miss Nicholson: I think that the Member for Diego Martin Central should be ignored at present. He is becoming very petty. I will just ignore him because I think the case is clearly made. You cannot have your councillors who really need that kind of attention and which have that attention already—you cannot exclude that aspect from any document that you are bringing now, for the improvement and continuation of the city and borough corporations for the erection of certain other municipal corporations and for the consolidation and reform of laws affecting local government. I cannot see how you can be doing that knowing that

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certain problems exist, certain behavioural patterns exist and when confronted with a situation, one could not have handled it because the person who was creating the problem was the man at the head, the Mayor of Port of Spain who is now the Mayor of Point Fortin.

It is needed. To argue that it is untenable is not a proper argument. It is clear that the representative functioned from an uninformed position. He clearly did not look at the other Acts before to see how they functioned and how discipline was handled. You cannot get up here and say we are going to delete this section and you are not putting in a corrective section. In other words, what you will be doing—in the history of local government in the country, discipline was addressed—you will be saying discipline must not be addressed.

That is the case that I am making and it must be addressed. To argue that it is untenable, I cannot see it because in the same Act, it talks about the code of ethics. If you are saying delete the whole section on discipline, you are saying delete how discipline would be addressed and it was addressed before. You are saying no code of ethics for them and this is something new that would be given to us as you have in the national Parliament. I think that would be a gross error that we will be making in 1992. *[Interruption]* Madam Speaker, if it is not a point of order I am not sitting. You have to reply.

3.10 p.m.

Mr. Valley: I just want to get some information.

Miss Nicholson: No, I am not giving you any information. Because remember you will have to reply.

The point I am making and I want to stress, because it is very clear that many people who spoke on the disciplinary section did not inform themselves. They did not look into the Act to see how the local government bodies functioned. They gave the impression in their arguments, as if they did not have discipline taken care of in the Acts. I think it is a gross error that is being made and it must be addressed and history will deal with us comprehensively if we leave that alone. I think the way of handling it with the tribunal with the local government body putting the team together is good; I see nothing wrong with that. Having a lawyer on the team, I see nothing wrong with that. That is needed so that people will know there is a certain kind of behavioural pattern and we cannot interfere with certain areas. We have to be able to deal with certain moral fibre. The whole moral fibre of the local government body situation would be interfered with and, therefore, that must

be looked at very seriously. I do not agree with the Member that it is an untenable situation.

Madam Speaker, the Member for Diego Martin Central argued that we brought a document but did not say how this came about. He gave the impression that the people were not consulted, and that is untrue. Again, an uninformed position. The documents that we are dealing with today, the amendments—no consultation—the people of this country do not know about them. Even on the first day when I came here I should have walked out of the House. I did not even get my document, the Member from Tobago—and it brings out clearly how Tobago must have self-determination. I had to call and argue for my document. I read in the newspapers what we were coming to talk about in the House and I did not have a copy until the Friday evening—I want to make a strong contribution on the business and I have to call. Therefore, the new PNM establishes its clear position of being the old PNM.

The Member comes into the House and said that we came up with this document without consultation. Totally false and I am going to prove that:

Friday, March 16, 1990, the decentralization committee or unit met with the Director of Town and Country Planning representatives, in terms of the extension of Port of Spain and San Fernando.

Monday, April 30, 1990—"Issues Live".

Thursday, May 10, 1990, Decentralization Unit sensitized the Acting Director and the people in the Statistics office, CSO.

Thursday, August 2, 1990—Decentralization Unit met with the executives of the Association of County Councils.

Thursday, September 6—and the one with county councils I thought that the man who chaired that meeting was the representative for Siparia.

Thursday, September 20, 1990—Decentralization Unit met with the Director and Deputy Director of Community Development.

Tuesday, October 2, 1990—Decentralization Unit meeting with the Permanent Secretary, Ministry of Education, Redecentralization process.

Throughout that month meetings with all the governmental ministerial bodies in the country.

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Thursday, November 15, meeting with the council and staff of Port of Spain Borough Council.

Tuesday, November 13, 1990, meeting with Caroni County Council.

Tuesday, November 20, 1990, meetings with St. Andrew/St. David County Council.

Wednesday, November 21 1990, meetings with St. Patrick County Council.

Wednesday, November 28, 1990, County Victoria.

Thursday, November 29, 1990—meetings with Port of Spain City Corporation.

Friday, November 30, 1990—Unit sensitized Health Officers of the Ministry of Health.

Tuesday, December 4, 1990—San Fernando City Corporation—Madam Speaker, I am deliberately doing this. I want it to go down on record to correct the false impressions that came out here in the House.

Thursday, December 6, 1990—Unit met with Council and staff of St. George East County Council.

Wednesday, December 12, 1990—Nariva/Mayaro County Council; and

Wednesday, January 9, 1991—St. George West.

That is Mr. Seignoret's team. He was there. He made contributions. Some of the same statements that are here and I am talking about the Seignoret that is in the Sarjeant Committee saying something else today.

Thursday, April 18, 1991—meeting with community leaders in Charlieville and environs.

I have about 30 others which I could talk about. Also, Madam Speaker, the Minister and the team met again with the Town and Country Planning Association of Town Planners, executive of the Public Services Association, executives of the Association of County Councils, Association of Professional Engineers and the Elections and Boundaries Committee.

I say all of this because I listened and I heard as if they did not meet with Town and Country, they did not meet with the Public Service Commission in particular. The case was argued that as a city corporation—as is the corporate bodies—how

the staff will be addressed. In the Act, it is said that the staff should go under the Statutory Services Commission and it was argued by the Member for Diego Martin Central that the Public Services Association was not met with and I am deliberately stating that they were met with.

Madam Speaker, for anything like over two months, this was placed as a bill on the table in the House. Therefore, it was opened for public comment throughout the country and therefore, if there was ever a bill that has now become an Act, or a thinking that developed into a draft, then into a bill, then into an Act that had consultation in this country—they went to the University of the West Indies and had meetings there—all over the country. Therefore, I cannot sit here as a Member of the previous government and accept the false argument which was brought into this House, that there was no consultation for this document. There was deep and serious consultation. I only hope that point has been made clear.

Madam Speaker, I would like to move away from the points that have been made by the Members for Diego Martin West and Central, into an area that worries me much when I sit in this House. One, the Member for Diego Martin Central referring to the Tobago House of Assembly, as some *highfalutin* County Council—I sat here and and I watched him. Two, we had two Members from the Opposition making an argument that the regional bodies should be given powers as the Tobago House of Assembly. I take umbrage at that and I am not taking umbrage because I am against the areas. I am not taking umbrage for that reason at all because when one speaks from reality, the country with its resources, you cannot have that kind of thing. If Tobago was hinged to the mainland, Trinidad and Tobago we would not have had this debate and thus becoming the Tobago House of Assembly. We would not have had the Member for Tobago West, Mr. ANR Robinson, our former Prime Minister, having to come into this House in 1977 and debating this.

3.20 p.m.

This is a problem that we have in the country so I thought I would say something on it. We here must recognize that Trinidad and Tobago is a twin-island state. It is made up of two islands—one large, one small—Trinidad the larger one, Tobago the smaller one.

I am not going into the detailed arguments that were made by our former Prime Minister, but I want to point out why we had this. It was clearly the geographically apartness, that is, the separation by water, that really created the

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problem and still creates the problem between Trinidad and Tobago. It is pertinent that all representatives of the House understand that Tobago does not want to run away from Trinidad; Tobago does not want to secede from Trinidad, but Tobago had to demand those things because of the way she was ignored as part of the twin-island state and prevented from making a contribution to the economy of Trinidad and Tobago.

You cannot use numbers in Caroni, Princes Town and Laventille, that are on the mainland, to argue that Laventille or Caroni or Princes Town must be similar to Tobago. Tobago's position is an internal self-government position—a hybrid situation between central government and local government. It is very important to talk about this because you have air and sea transport, which is very, very pertinent to the effective functioning of the twin-island state. So, when BWIA functions as atrociously as it has been over the last three months, Princes Town and Laventille do not feel what Tobago is feeling. They cannot feel it. Why? The absence of the plane does not mean the same thing to them. The absence of the plane to Tobagonians means absence of food, business, their health problems not being addressed, because if they have to go to the heart specialist or to the cancer specialist, or for treatment after cancer surgery, they must come to Trinidad. What is happening right now is that there is such a sad situation that I have had to beg for people to be able to go down to the cancer specialist. Coming home, I have had to give persons my seat on the plane. Sometimes in the night when three planes should go, one is going. I do not know if the present Government is aware. I am aware because I travel regularly. I am sure that the former Prime Minister is aware, because we have to travel all the time. It is sad right now. A plane breaks down somewhere, it will still go to Miami, to New York and to Europe, but they are leaving the people at the airports between Trinidad and Tobago, and when you press the argument, they say they make more money out there.

We took a position over the last five years, and right now, if people are functioning effectively, the new system should have been under operation. I am not just raising this to deal with the new Government, but to show Members who are on the mainland the difference in the whole scenario, and why Tobago needs that hybrid level of operation.

All throughout the Caribbean the other islands the size of Tobago, and some much smaller, have their own airport, their own electrical system, their proper water system because they were left independent. Tobago was hinged to Trinidad.

That separateness by water is fundamental. I am arguing that because I do not want people to be making that error in the House again.

This new Government is now interfering with an improvement that has taken place because for the BWIA people to know properly what is taking place in Tobago, what the last government did was to make sure that all the areas that have an impact on Tobago like the Tobago House of Assembly, which is the elected body of the people of Tobago, must not come from the Central Government. The Central Government communicates with the Tobago House of Assembly every year for one representative on those boards so that they would have known the atrocious state of the BWIA operation; they would know what must occur with sea transport. Over the weekend at the deep-water harbour it was sad. There were thousands and thousands struggling and fighting to get on one boat from Trinidad. I am just showing that those are elements important to the survival of Tobago.

If Tobago was independent, she would have had the population of these areas and more. She would have had more than 200,000 people living there. Look at the migration that has taken place from Tobago because of her lack of development and the apartness by water and what it means. I want that point to be made very clear. So, at this time, there should have been representatives from the Tobago House of Assembly on all the boards—BWIA, Airports Authority, Port Authority, WASA and T&TEC.

Mr. Manning: I thank the hon. Member for Tobago West for giving way. I just wanted to assure the Member, honourable Members of this House and the people of Tobago that the arrangements involving representation of Tobago on certain critical state boards is an arrangement that continues. In fact, we have taken no steps to remove anybody from any board and even when boards have been changed, a space has been left to those boards to include somebody from Tobago, in circumstances where it is relevant. Indeed, I meet with the Chairman of the Tobago House of Assembly on Monday, July 6, 1992, so that we can finalize arrangements to fill whatever vacancies now exist on these boards that are relevant to Tobago.

Miss Nicholson: Madam Speaker, I am glad that I am able to postulate the argument and to grind it home to the Prime Minister. All these boards that he is talking about are already established with their new members and therefore the member from Tobago should have been there already.

Dr. Rowley: I am seeking to assist my friend from Tobago West. With respect to the argument on BWIA—one of the boards so far, has not been changed so that the structure is still in place. That board is still as we met it. The Member said that had there been a member from Tobago, they would have known what is taking place in Tobago. The impression is being given that the BWIA Board has been changed and Tobago is not represented. I am just advising the Member that that argument is not really correct because the board remains as is.

Miss Nicholson: I disagree because of what I know and what I know is factual. If the BWIA Board is functional, the person from Tobago is not there.

3.30 p.m.

Madam Speaker, the point that I am making, however, is that the one question for Tobago is internal self-government. I am stating that anything that impacts upon Tobago, the Tobago House of Assembly should have a say. The Act shows that, the debate shows that. Even when the present Prime Minister was a Minister, he understood and he should know why he has to act properly or else certain actions will take place. The Tobagonians will not be resting. He knows how he acted and how the Tobago House of Assembly responded and how the people will respond. I am very serious about this.

A Tobagonian was on these boards over the last five years; T&TEC is functioning with a new board, no Tobagonian from the Tobago House of Assembly. I sat in this House and I listened to the Member for St. Joseph—

Mr. Manning: Madam Speaker, I think it is necessary for me to place it into the record again that there is agreement with the Chairman of the Tobago House of Assembly that we will meet on Monday, July 6 to deal with this question of representation on the relevant boards of a representative from Tobago. For the matter to be put in the way the hon. Member is putting it—

Miss Nicholson: Madam Speaker, is the Prime Minister on a point of order?

Mr. Manning: —is to give an impression which is entirely erroneous.

Miss Nicholson: Madam Speaker, he was not on a point or order. What I am saying is factual. It is over six months since the Government has been in operation. I sat here in the House and I listened to the Member for St. Joseph read a statement to this House with respect to a team of people to deal with an educational plan, if I remember rightly. They have imposed a Tobagonian there. They have not communicated with the Tobago House of Assembly. The person

who is there can be very good, but that is not my argument. I do not want anybody to go away with the mistaken impression. The Tobago House of Assembly, which is the representative body of the people of Tobago, must be communicated with. When the statement was made in this House in my presence I rose but they said it was a statement and I just took my seat quietly. That was done.

You might find that the best individual to represent Tobago on the educational body is not there. The Assembly is elected by the people and therefore they are the people. The central government cannot impose—it is through the Assembly that all actions must take place.

I want to wind up that area. I want to tell the other Members who are raising the other points that Tobago has to be seen in a different context from all groupings that are on what we call the mainland of Trinidad. St. Kitts/Nevis, there is a federal situation. Which islands are smaller than Tobago? Both.

People have to recognize what we talk about when we are talking about apartness by water. We cannot jump in a bus and come up to Port of Spain and buy our materials to build a house. We cannot jump in a bus and get the stuff for the food stores. We cannot jump on a bus and get the stuff for the drug stores. That is the point that I am making. I want Members to understand that there is a difference in the situation.

Madam Speaker: The speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mr. R. Palackdharrysingh*]

Question put and agreed to.

Miss Nicholson: Madam Speaker, I have said and I am sure the Government would be happy to have a copy of this, I will print many copies so that every Member can have a copy in the House. This is the "Tobago Internal Self-Government," full text speech by Mr. A.N.R. Robinson in the House of Representatives on January 14, 1977. This is not a laughing matter. If everybody gets a copy, I think some of the arguments and the misinterpretations with respect to the Tobago case shall be clear.

Madam Speaker, I hope that what I said on the whole question of consultation and the Act; the whole question of discipline with regard to the local government body corporations and the other points which I made re the municipal bodies would be looked at and adhered to by the other side.

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I hoped that the little history that I gave on Tobago and Trinidad to show that Tobago's case is different from the regions on the mainland has cleared the air. I thank Members very much for listening so attentively. Thank you.

Mr. Basdeo Panday (*Couva North*): Madam Speaker, I had not intended to speak in this debate, but having regard to the fact that what I regard to be an important document, which is very relevant to the matter that is before the House, came into my possession maybe less than an hour ago, I think, therefore, Members of the House, ought to know about it. It reads:

"Trinidad and Tobago. In the High Court of Justice, Sub Registry, San Fernando. High Court Action No. S1131 of 1992. In the matter of the Constitution of Trinidad and Tobago, being the second schedule to the Act, No. 4 of 1976; and, In the matter of the Municipal Corporations Act, No. 21 of 1990; and, In the matter of the Municipal Corporations (Amendment) Bill, 1992, on the Municipal Councils 1992 Elections (Special Provisions) Bill; and, In the matter of an application by Frankie Mohammed for redress under section 14 of the Constitution of Trinidad and Tobago for contraventions in relation to him by the legislative arm of the State in enacting Act No. 21 of 1990, and in proceeding to enact bills mentioned herein above between Frankie Mohammed, Applicant, and the Attorney General of Trinidad and Tobago, Respondent."

Madam Speaker, maybe those who feel that law should not be discussed in this House ought to either return to their electors and tell them, "we cannot represent you here any more, find somebody else, or they ought to study a little about law, because I find it extremely strange that a body that has been set up to make laws in this country, people think they should not speak about law, they should not carry any legal arguments, that is for the High Court, they say. Obviously it is because they cannot carry it themselves. That is the reason, not because they do not believe that law should not be discussed in the law-making body of the land. That is what I thought this House was all about: A body to make laws. People say, "do not talk about laws, I cannot understand it here. I cannot understand law".

Dr. Rowley: Who said that?

Mr. B. Panday: You did.

Dr. Rowley: Nonsense! Rubbish! Misrepresenting, as usual.

Mr. B. Panday: So, if they did, if the Members of this House did, then this matter would not have degenerated to this level.

Dr. Rowley: Degenerate is the word.

Mr. B. Panday: But when we raise this matter in Parliament about the constitutionality of the bill, one would not have expected that we on this side would have been treated with contempt. I think people were talking about their legal advisors to Parliament and parliamentary counsel and so on and so forth. That is not really relevant. The question is not the competence of parliamentary counsel, because not only are lawyers wrong, puisne judges are wrong and not only puisne judges are wrong, judges of the Court of Appeal are wrong. That is why there is a Privy Council and even they are wrong and they reverse their own judgments at times.

I do not think the approach should be to try to denigrate people who try to tell you that the laws you are making here are possibly wrong. When that happens what you do is you consult. Madam Speaker, what has happened now is that there is at least one person in the society who thinks that what we are doing here is unconstitutional and the points that have been raised—incidentally, this motion was filed by Mrs. R.D. Sowley and Company, Attorneys-at-law, 33 St. Vincent Street, Port of Spain.

Mr. Valley: San Fernando?

Mr. B. Panday: I do not understand that comment, quite frankly. But then again, I could not expect differently. There are two high courts in Trinidad and Tobago, one in San Fernando and one in Port of Spain. Are you sure there are not three and that we have one in Tobago as well? The action reads:

"Take notice that the High Court of Justice, in the City of San Fernando, will be moved on Friday..."

So-and-so date,

"...1992 at the hour of 9.30 o'clock in the forenoon or as soon thereafter as advocate/attorney-at-law may be heard on behalf of the applicant for the following reliefs:

(1) A declaration that the Municipal Corporation Act, No. 21 of 1990 is unconstitutional, null and void and of no effect."

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The point that was being raised by my colleague from La Brea really does not apply, because I think what he was arguing [*Interruption*] Do you wish to address? I am ready to sit if you wish to stand.

What is being sought in the court seems to me to be a declaration that the Municipal Corporations Act, No. 21 of 1990, is unconstitutional. So the argument that my learned friend from La Brea was addressing himself to, that the argument of my colleague from Couva North—Couva South—

Mr. Bereaux: He will take your place just now.

Mr. B. Panday: And what a boon it will be to the country. Because if that should lead to taking your place that would be an even greater boon, and even better existing arrangements. That is like chalk and cheese.

Therefore, the argument of my friend from La Brea which concentrated on the fact that the appeal that my friend from Couva South was arguing the bill before the House was unconstitutional—it seems as though Frankie Mohammed understood it better than he did. Because, you see, I think the argument really is that if Act 21 of 1990 is unconstitutional, then it is a nullity. It does not exist. How will you amend an Act which does not exist, a nullity? That is the issue, I think they missed it.

Mr. Manning: Could I ask a question? At what point in time would you say, hon. Member, through you, Madam Speaker, that any act, and particularly Act No. 21 of 1990 is unconstitutional? At what point in time is that the case?

Mr. B. Panday: When it is unconstitutional. From the moment it ceases to be unconstitutional, you should know that.

Mr. Manning: But the Parliament has passed the Act, and as of now, the Act stands on the statute books passed by Parliament.

Dr. Rowley: Until it is struck down.

Mr. B. Panday: You should know that when a judge strikes down an Act, as happened with the Maxi-taxi Act recently, he strikes it down *ab initio*.

Mr. Manning: Excellent. Thank you very much. But until such time as it is struck down, it remains the law of the land, does it not?

Mr. B. Panday: And all the acts done thereunder are illegal. That is the point. If those who claim that it is unconstitutional are right—

Dr. Rowley: That is not a judgment.

Mr. B. Panday: It is not a writ.

Dr. Rowley: What is it?

Mr. B. Panday: I will tell you after, I cannot use my time here to educate you in law, I will do it after work.

This notice of constitutional motion [*Interruption*]—I think he does not want me to read this—says in paragraph 2, it seeks a declaration that:

"The action of the legislative arm of the State of Trinidad and Tobago in proceeding to enact the Municipal Councils 1992 Elections (Special Provisions) Bill and/or the Municipal Corporations (Amendment) Bill, 1992 is unconstitutional, null and void and of no effect."

Before going on to paragraph 3, I pause to answer the point raised by my learned friend. It is a *non sequitur*, if I may use that term, to argue that the fact that we are saying that you are bringing an unconstitutional Act before the court means that we do not want to have local government elections. It cannot.

Mr. Valley: It has to, Madam Speaker, because this Act was passed two years ago. They had two years to bring this motion. The fact that they are bringing it now, knowing very well that we are about to call the local government elections has got to mean that they are afraid to fight the local government elections.

Mr. B. Panday: What we are afraid of is engaging in an illegality and an unconstitutional Act. To say that we are afraid is not really the word; it is that we have too much respect for the Constitution to violate and rape her in the manner which you propose. That is the issue, really.

In this matter, the relief being sought is a declaration that the action that the executive arm of the State—in deciding to introduce the Municipal Corporations (Amendment) Bill, 1992, and the Municipal Councils Elections (Special Provisions) Bill, 1992 without having consultation with the major interest groups in the country, the Opposition parties and the country generally—is unconstitutional and illegal. Somebody is going to teach them many lessons in this House.

When a Member speaks in this House about consultation and chooses an occasion not only to announce to the nation that there will be consultation, but actually to violate and to be in breach of an undertaking given to the Leader of the

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Opposition and to the Member for Tobago East, I think he needs to have a lesson in consultation.

Mr. Manning: Madam Speaker, I stand on a point of order. The hon. Leader of the Opposition is wrong and blatantly so, and he knows it.

Before the statement was made, Madam Speaker, the Leader of the Opposition who was sitting next to me was consulted by me and he agreed. In fact, the statement that was made was not in the original speech at all. It was included only because the Leader of the Opposition agreed that it could have been done in accordance with an agreement.

Perhaps I should say, if that is the way you want to play it, there have been discussions taking place, Madam Speaker, between the Leader of the Opposition, the Prime Minister and the Member for Tobago East in respect of this whole process of consultation, seeking, as we are, to arrive at some kind of mechanism that is acceptable to all sides in respect of consultation. The offer of the Government is on all items of legislation coming before this Parliament. I take strong objection to the statement just made by the Member for Couva North.

Mr. B. Panday: From now on; I will travel with my tape recorder when I speak to him.

Mr. Robinson: Madam Speaker, since the Member for Tobago East has been involuntarily dragged into the matter, I think I owe a statement to the House to say that I, too, was shocked at the statement made by the Prime Minister on that occasion after he had requested an undertaking from the Leader of the Opposition and myself not to say anything about the matter as the discussions had not sufficiently progressed and after he, himself, had given an undertaking that he would not say anything. I felt outraged when I heard the Prime Minister had made that statement.

Mr. B. Panday: Madam Speaker, I am not going to permit a debate—

Mr. Manning: On a point of order.

Mr. B. Panday: Unless it is agreed by this House that my time will not be curtailed because if the Prime Minister wishes to reply he has an opportunity to reply. I gave way to the Member for Tobago East because I think he was justified in so doing and I am now going to proceed—Member, will you sit down while I stand.

Mr. Manning: Madam Speaker, I rise on a point of order.

Mr. B. Panday: Is it a point of order? Madam Speaker, is it a point of order?

Mr. Manning: Yes, it is. Madam Speaker, it is very unfortunate —

Mr. B. Panday: Madam Speaker, being unfortunate is not a point of order. That is the story of his life, he is unfortunate, but that is not a point of order.

Madam Speaker: Please continue.

Mr. Manning: Madam Speaker, it is very unfortunate that this matter has to emerge in this way.

Mr. B. Panday: Madam Speaker, that is not a point of order. I ask you to rule that this is not a point of order. If my friend wants to reply, he can reply, not under a point of order.

Mr. Manning: In the discussions, Madam Speaker, it was the—

Mr. B. Panday: Madam Speaker, this is not a point of order. If my friend wishes to reply, he may reply to allegations made in the House. He is not entitled to do it under a point of order. That is not the rule of this House and he should not violate the rules of this House.

Mr. Manning: The hon. Member for Tobago East—

Mr. B. Panday: That is not a point of order and you must not raise it. You are taking my time. You may reply if you wish. You have an opportunity in this House to reply. This is not a point of order. Madam Speaker, I ask you to rule that this is not a point of order.

Madam Speaker: The hon. Prime Minister may continue with his statement.

Mr. B. Panday: A statement, Madam Speaker? I object. He is not entitled to make a statement. I object. I would ask for a ruling, if I have to move a motion against the Speaker of the House I will do it. I want a ruling. There must not be one rule for the Prime Minister in this House and one rule for everybody else. There has to be one rule for everybody. He is not entitled to make a statement in the middle of my speech. He is not entitled to do that and you cannot give him permission to make a statement in the middle of my speech.

Madam Speaker: The point of order, please, Mr. Prime Minister.

Dr. Rowley: Imputing improper motives is a point of order and a ruling was made.

Mr. Manning: Thank you very much for your protection, Madam Speaker. It was the view of the Member for Tobago East that the question of an announcement really was within the competence of the Prime Minister, that was his view. It was because of that—

Mr. B. Panday: My friend is persisting in making a statement. He is not entitled to do that.

Mr. Robinson: Madam Speaker, I am afraid if this continues, I will have to leave this honourable House.

Mr. B. Panday: We will all join you.

Mr. Robinson: The hon. Prime Minister is purporting now to say that I made a particular statement which I did not. It is not the truth.

Madam Speaker: Yes, in these circumstances the hon. Member for Couva North may continue.

Mr. B. Panday: You see, Madam Speaker, the consultation of which my friend speaks is that we are in the presence of a congregation, a meeting is about to start. He is about to speak in two minutes and two minutes before he speaks he turns to me and says I am going to speak about consultation and I said, "I cannot tell you what to speak about." I will tell the Prime Minister what to speak about? I cannot tell the Prime Minister what to speak about. I will point out what kind of Prime Minister we have in this country—assuming he is correct, and he is not, because I told him I cannot tell him how to speak. Having given an undertaking to both myself and the Member for Tobago East, how does he explain making that statement without consulting the Member for Tobago East, as he may have consulted me? How does he do that? That is what is meant by consultation by this Prime Minister.

We want to tell him that when he made the statement publicly, he tried to steal a march. He wanted to give the country the impression that everything is going to be the result of consultation. So that anything he does, the country is going to feel that the Prime Minister consulted about that; it is just we did not know about it. He is there, he is going to consult them. I want to tell the Prime Minister now, before there is any consultation between himself and myself there will have to be an agenda and the most important thing about consultation is what is happening

“Behind the Bridge.” The explosive situation “Behind the Bridge” about unemployment, that is what we must talk about first. Why do Members not want me to represent people from “Behind the Bridge”? They have poor representation, they do not have work.

Dr. Rowley: Madam Speaker, they talk about walking out. If I am to remain in this House, I am asking for a ruling that the Member for Couva North is being totally irrelevant and I ask for a ruling to ask him to get on with the business of the day if I am to remain in the House.

Madam Speaker: The Member has spoken about consultation, can we proceed with the debate.

Mr. B. Panday: Madam Speaker, I had reached the point where I said that a declaration is being sought about the whole constitutionality surrounding consultation, and that is how this matter arose—it is not irrelevant at all, Madam Speaker—the other relief is:

“Such further and other relief as the nature of the case may require.”

Costs and seeks redress in the form of:

"Damages for the contravention of the human and/or fundamental rights which damages should include aggravated and/or punitive damages."

The motion goes on to say:

"And take further notice that the grounds upon which this motion is based are as follows:

The Constitution of Trinidad and Tobago, Act No. 4 of 1976, section 54 mandates that Parliament is not empowered to alter Sections 4 and 5 of the Constitution of Trinidad and Tobago unless a bill for such an Act is passed in the Parliament with a final vote therein in each House supported by the votes of not less than two-thirds of all the Members of each House.

The second ground is that section 6 of the Constitution does not empower the legislative arm of the state to enact any Act the provisions of which are inconsistent with sections 4 and 5 of the Constitution or alter sections 4 and 5 of the Constitution, unless it is an enactment that repeals and re-enacts an existing law without alteration."

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At this point, what was relevant really is Part 2 of the Constitution, as pointed out by my learned colleague from Couva South, which says that.

"Nothing in sections 4 and 5 shall invalidate—

- (a) an existing law;
- (b) an enactment that repeals and re-enacts an existing law without alteration; or
- (c) an enactment that alters an existing law but does not derogate any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right."

Mr. Casimire: Madam Speaker, if the Member would give way to a question, I would like to find out of what relevance is the statement being read by the Member to the proceedings before us? If it is a writ and it is triable before a High Court or judge, then so be it. Let it be there. But I do not see why we should sit here and be read a writ that is filed in the High Court and is being read before the judge.

Mr. B. Panday: This is a public document and it is relevant to this very bill before the House. What could be more relevant than the fact that it is being said that the Act is unconstitutional? I do not know what the Member is afraid of. There is nothing to fear.

Dr. Rowley: We are not afraid of anything.

Mr. B. Panday: If that is the case, why is there such trauma in the House now?

The point I was going to make is—

Mr. Valley: You are wasting the time of the House.

Mr. B. Panday: They are wasting the country's time by being in the government.

The point that I have just raised is that my friend from La Brea referred to Part XIV, Disciplinary Proceedings, which was included in the Municipal Corporations Act of 1990.

He said, if I recall rightly, that that was unconscionable, it was wicked, undemocratic and all sorts of things. If it is all those things, it has therefore got to be unconstitutional.

4.00 p.m.

Mr. Bereaux: Madam Speaker, I am thankful for the statement made by the Member for Tobago West, who indicated that that provision had been in other legislation prior to the one enacted. I was not aware and I thank her very much for it, but I think that will answer the learned gentleman from Couva North.

Mr. B. Panday: In any case, he missed the point. He does not realize he is not repealing this and re-enacting it. That is not what is being done at all. So that by his own argument and admission the Municipal Corporations Act 1990 is unconstitutional and if that is unconstitutional, how do you amend a nullity? That is the argument before the House which is now supported by the Member for La Brea. We are very happy and grateful to him for pointing out that that part of the Act was definitely unconstitutional. That is the point.

Now, the fourth ground upon which this relief is being sought is that section 13 of the Constitution requires that any Act which is inconsistent with sections 4 and 5 requires a bill to be passed by both Houses by votes of not less than three-fifths of all the Members of each House. Now sections 4 and 5 speak of equality. That is extremely important and one of the major points we are making in this bill, Madam, is that the bill treats people unequally. We said that there was no justifiable argument, legal, moral, or otherwise, which would justify treating one local government body differently from another local government body. What is the rationale? Nobody has ever said. We argued that when the last bill was passed, for those who are students of history, and we argue it again: There is no reason why one Local Government body should have more powers than another. No reason at all. It is actually to treat people indirectly unequally. Because in the function of the local government powers, they do not have the powers as other people in the country have.

Now we said that local government bodies should all be treated equally, and as far as possible there should be an equal number of electors in each local government body, so that when you put all the parts together and look at the whole, all the peoples of Trinidad and Tobago are treated equally. I am sorry that my friend from Tobago West seems to take umbrage when Tobago and the Tobago House of Assembly are mentioned. There seems to be a weakness, or sickness in this House. When I talk about people "Behind the Bridge" he gets vex. They get vexed on this side when I stand up to fight for the people from "Behind the Bridge", struggle for them.

Dr. Rowley: Because your objective is not sincere.

Mr. B. Panday: He knows my heart; thank you God! He knows what is in my heart. I am not sincere, he is sincere. So we say, no, no, we have an equal duty in this House. We are Members of Parliament. We represent a constituency but we have a responsibility to everybody in this country, including those “Behind the Bridge” who cannot get work, who are being treated unequally in the society, who are being discriminated against and being totally alienated. So we have a duty to fight for them and we are doing it. You question our motives? They will question the motives, not you. They will decide that. But the point I am making, Madam, now that we have got that over—I was saying that I am sorry that the Member for Tobago West takes umbrage when we speak of Tobago. We have recognized and we do recognize that there is the water that divides Tobago from Trinidad; and we do recognize that Tobago is a special case. In fact, every time we have stood in this House we have argued for it. What we have said is that since we believe in equality of powers for all local government bodies, the Tobago House of Assembly should be the model, remember well.

Now having said that, the Member for Tobago West says that there are certain elements of that Act that are tantamount to internal self-government. We will have no objections to having those sections identified, since it is a special case. Maybe the Member for Tobago West could identify what sections she is speaking about that makes it special and what powers the Tobago House of Assembly has that she does not want Toco/Manzanilla to have. If they can be identified, maybe they are justifiable, I do not know. But then the Member for Tobago West will tell us, “The Tobago House of Assembly has so-and-so powers.” We do not want the local government bodies, Tobago, St. George East, St. George West and so on, to have those powers. I suppose that could be a matter for negotiations, but I want to tell the Member for Tobago East also that when we speak of equality that includes the Member for Tobago East—

Miss Nicholson: Just a little correction—not Tobago East, Tobago West. Secondly, Member for Couva North, the only point I would like to make to you is that if you take away Tobago from Trinidad the country is Trinidad. If you take away Trinidad, the country is Tobago. That is the fundamental point that I am making.

Mr. S. Mohammed: That is understood, we appreciate that.

Mr. B. Panday: All right, I do not think we will argue that here today. I am sure there are other occasions on which discussions on that matter will take place. But the point I am making is about equality—and when I said Tobago East I think she rushed me a little bit, I was also going to say Tobago West, meaning the whole of Tobago. Equality is for the whole of Tobago as well as Trinidad. So that when she is looking at the ability to get medical attention—because someone has to find a plane or a boat or something to come from Tobago to Trinidad—I want to tell her it can be equally devastating when a poor person cannot find a bus from Cedros to reach San Fernando or Port of Spain. Equally devastating. It is as though there was a gulf between Point Fortin and Port of Spain, a massive river, an ocean of alienation between Mayaro and the Mt. Hope Medical Complex. When we are thinking of equality we must find ways and means to treat everybody equal in this society. That is the point we were making. So that, when you treat people unequally you must have a constitutional majority to do so. You have to justify why you do it in law. Because you see, Madam Speaker, the next ground was—and this I thought very instructive—an amendment to the principal Act, the Municipal Corporations Act, 1990 necessarily involved the question whether the principal Act is constitutional—

Mr. Valley: Madam Speaker, on a point of order, Standing Order 36 (2) says:

"Reference shall not be made to any matter on which a judicial decision is pending, in such a way as might, in the opinion of the Chair, prejudice the interests of parties thereto."

Madam Speaker, if in fact a writ has been filed—and the Member seems to be arguing his case here in Parliament—

Mr. Mohammed: That does not influence the court.

Madam Speaker: He is making a reference to the motion filed. I think that is what is happening here.

Mr. Valley: Madam Speaker, it seems to me, what he is doing is taking every point in the writ and arguing a case. In other words, supporting the points made in the writ. That suggests, Madam Speaker, that he is arguing the case here in court.

Madam Speaker: The Member was making a reference.

Mr. Valley: Well, Madam Speaker, it seems to me that he was arguing the case.

4.10 p.m.

Mr. B. Panday: Madam Speaker, I am not arrogant as my friend is and I will just read on. I will comment after.

So that the fifth ground stated in this public document was:

"An Amendment of the Principal Act, the Municipal Corporations Act 1990 necessarily involves the question whether the Principal Act is constitutional as the Parliament cannot lawfully amend an unconstitutional Act.

6. The legislation is not reasonably justifiable in a society which has proper respect for the rights and freedoms of the individual in that the number of regions and their jurisdictions were arbitrarily fixed without proper regard for uniformity of the number of electors in each region, the principles of true decentralization and devolution of power.
7. The Municipal Corporations Act No. 21 of 1990 constitute an alteration of sections 4 and 5 of the Constitution of Trinidad and Tobago in that it makes provision for a particular case or class of case and is inconsistent with sections 4 and 5 of the Constitution. The amendment Bill purports to amend a law which is unconstitutional and does not exist. The other 1992 Bill attempts to implement the 1990 Act. The Act and the Bill are inextricably bound with each other and therefore cannot be severed from each other.
8. By the decision of the High Court in Action No. S-214 of 1989 between the Trinidad and Tobago Unified Teachers' Association, Candace Chin Choy and the Hon. Selby Wilson and the Attorney General, it held at page 19 as follows:—

‘The new provision 54(6) was intended to and in fact had the effect of giving an extended meaning of the word, 'alteration' which was not precisely given to if a bill makes provision for a particular case or class of case which is inconsistent with sections 4 and 5.’
9. The Act makes provision for municipal officers of the Corporations, employees of the Municipal Corporations, the creation of the Corporations, their Constitution, elections, powers, duties, liabilities. It also makes provisions for electors who participate in the election of councillors of the Corporations.

10. The provisions in the Act and bills collide with the right to the enjoyment of property, liberty, the protection of the law, the right to the freedom of movement and other rights as guaranteed in section 4 of the Constitution, and as further and better particularized in section 5 of the said Constitution.

And Further Take Notice upon the hearing of this motion, the applicant will rely upon the affidavits..."

I will not read the affidavits to you, Madam Speaker. That is another matter. This is where this matter is heading. Again, I brought this to the attention of this Parliament for one reason, that the Government would tread warily from here on. They will have no excuse for seeking to push this Act through Parliament without the constitutional majority. That is as much as I wish to say about that. It seems to me that my friends do not care about committing illegal acts in this House because they do not pay the fees for the counsels who represent them.

The point I had intended to make originally, before this document came into my possession was that God must surely love this country, in that from time to time, He presents its leaders with an opportunity to impact upon world opinion. A small country of 1.2 million people, less than 2,000 square miles of earth, had the opportunity so often to impact upon the international consciousness. The history of this country and the Caribbean would indicate that such opportunities have always been thrown to the wind. My argument is going to be that this is such an opportunity here today.

For example, the Federation of the West Indies was a tremendous opportunity placed before Caribbean peoples to indicate to the world—long before there was talk of a globalization of the world economy and so on, an opportunity had presented itself to Trinidad and the other Caribbean countries to impact upon world opinion, by demonstrating that they could get into an economic and political union and set the example for the world, and so show the world that countries are not powerless because they are small, but because of their intelligence, their determination and their will to govern they can impact upon world opinion.

Instead what happened? That collapsed. Before the race began for regionalization, we had that opportunity, as I said, and that collapsed because of a peculiar kind of mathematics, where the leader says, "one from ten leaves nought." Because of this unusual mathematics, we threw away an unusual opportunity to demonstrate to the world that we were a people who had the capacity to live

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together. That was a ridiculous mathematical formula and we shall never live it down in history.

After that fiasco known as the West Indian Federation, we became Independent. As we became Independent, we faced a fragmented population, wounded but waiting to be healed. An opportunity then presented itself to us to show the world again that we can overcome racism, discrimination, alienation, corruption, maladministration and so on. What happened? We blew it again. Instead, during that oil boom period, we became the most corrupt society in the western hemisphere, excelling in maladministration, nepotism, racism, alienation and marginalization. We were the only country in the Caribbean that had \$60 billion in revenue in a period of 10 years and squandered it all and did not provide 1.2 million people with so basic a necessity as drinking water.

I expected someone to get up and say it was not \$60 billion, it was \$40 billion.

Mr. Valley: Madam Speaker, the Member is being untrue to the House because the Member knows better. He knows, in fact, that it was not \$60 billion. But that is not the issue. The issue is one of credibility, because he knows it but he persists in doing it.

Mr. B. Panday: I thought the Member would have taken this opportunity to tell the country that it was not \$60 billion received in revenues.

Dr. Rowley: It was \$100 billion.

Mr. B. Panday: It was \$100, they say, not \$60 billion. Thank you for the correction. So they squandered \$100 billion. It seems as though they do not care how much they squander. If they wish to treat it with contempt, that is all right.

Madam Speaker, no country in the Caribbean, indeed, no country in the Western Hemisphere had such an opportunity to transform its economy, and they blew it. They blew the oil windfall, they blew our national patrimony and they are about to do it again, actually. So that today, instead of taking that opportunity to carry the nation forward, the people "Behind the Bridge", the people in the East/West Corridor are unemployed, are marginalized, living below the poverty line, after all that money spent by that party.

The fourth occasion in which this blessed country had yet another opportunity to provide the world with a formula and a model to deal with, what must be the most critical problem facing the world today, that is the problem of alienation, of

vast sections of national communities, not only in Trinidad and Tobago, but across the entire globe—

Madam Speaker: The speaking time of the hon. Member has expired.

Motion made, That the hon. Member's speaking time be extended by 30 minutes. [*Mr. R. Palackdharrysingh*]

Question put and agreed to.

4.20 p.m.

Hon. Member: Madam Speaker, I think we should take a division on that.

Mr. B. Panday: Madam Speaker, I would love to have a division. It will demonstrate the democracy. That is the problem, you see; they cannot take the truth at all.

As I said, we have this tremendous opportunity to create a model for the world. [*Crosstalk*]

Madam Speaker, my friends do not seem to understand that what happened in Los Angeles the other day, where people rioted, burnt the place was not merely an expression of protest against the decision of a court, which decision was regarded as being racist. That was not the only reason. As it turned out later on, the businesses of Afro-Americans were also destroyed in that process. In fact, what was happening there was an explosion in which people expressed alienation with the society. So that is not relevant to our own society. In Chicago, when the Bulls won the basketball, they only wanted an opportunity—they ripped the city apart. [*Interruption*] So what was it, they were happy? Is that how people express joy? They were happy that the Chicago Bulls won the basketball? [*Interruption*] With you it has to be cow, you know that.

My point is, we have an opportunity now, with this bill—besides the illegality and so on—to again, deal with problems like that that are affecting us. As I said, this is not a problem peculiar to us.

Dr. Rowley: The Member said that there were four opportunities where the country had an opportunity to deal with alienation. He named three, which is the fourth?

Mr. B. Panday: Madam Speaker, these Members should not really be in the Government at all, they are too insensitive. The phenomenon that is now sweeping

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the United States known as "Ross Perot" is an expression of the fact that people are alienated from the American political process. They are rejecting both parties. Do they not look at these things and try to look, inwardly, into their own societies to see whether such situations are developing in our country?

There is only one Member on that side who, in my view, has recognized that, and that is the Member for Port of Spain North, who was reported to have said, in the press, that if you do not do something for the people "Behind the Bridge", they are going to explode. I support that Member totally. He understands the politics. He did not do like the Member for Laventille who tried to use race to get away from the issue. He did not do that. He said, "Do something about unemployment." Sixty per cent of those people are unemployed, they voted PNM, and for that reason alone they felt more alienated because the party they voted for is the one that has turned its back on them and sold out to the conglomerates. They know that. That is potentially what is called a Chicago or Los Angeles situation.

Now, we have this Bill before us. Why do we not take the opportunity to look at local government, look at the problem of alienation, the issue of deepening of the democracy, and the question of decentralization as well as devolution of powers. Why do we not look at all these issues and come up with what is called a consensus decision—a decision in which the people from "Behind the Bridge" feel that they have participated. Right now they feel betrayed. They have voted for a party and when they look at the Government, they see that the people in real control are the people who support the conglomerates; not the people who came to them. That is an alienation that we have to be careful with.

This is an opportunity, I am saying, to look at the local government situation, to look at what we are doing here, and to really create a model that the world can look at. Why can we not do that? Do we suffer from an inferiority complex? Why do we feel that because we are small, we cannot compete internationally with goods, and so on? Why do we feel that? Countries smaller than ours have made an impact upon the international economy. Why do we always suffer from that enormous and debilitating inferiority complex? Why do we feel that we cannot make an impact upon world opinion? Why can we not be an example for the world to follow? Why should we always be following them?

Why can we not have that kind of enormous confidence in ourselves, and in our people? All it takes is a bit of humility. You have to shed the arrogance; the arrogance that says that you have a mandate to rule. That is what you say, you

have a mandate to rule. The truth is that all you have is office; somebody else is ruling. The people "Behind the Bridge" are recognizing it. Why do you think the pressure is so intense? They are recognizing they have been sold out. They are recognizing that they are not in power. They are recognizing that they voted for front men, and somebody else is ruling.

This is the time to get rid of that. This is the time to break that barrier. This is the time to involve them deeply in the system of local government in which they feel they belong. *[Interruption]* For 30 years you have fooled them from "Behind the Bridge", and because you fooled them for another five years, you think you would fool them for the third time. I do not think you will. I think the people "Behind the Bridge" have come to recognize what this Government really is. It goes to them and says, "vote for me" and really somebody else takes power. *[Interruption]* Well, you cannot blame me for being right all the time, can you? You seem to think that there is some premium on being wrong all the time. If I am right all the time, I am right all the time. I cannot help myself.

I am sure everyone sitting in this House today is horrified with the incidence of crime, by and against, the youths of Trinidad and Tobago. It is a scary situation. Children who are 13 and 14 years old are being charged for murders.

4.30 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

Mr. Valley: We have some questions which were not taken this morning. They were supposed to be taken after the lunch break.

Madam Speaker: The Member is not here, so I think that can be deferred.

Mr. B. Panday: When we took the tea break, the point I was making is that in this country, the horrifying incidence of crime by and against youths must shatter the complacency of even the most hypocritical defender of the *status quo*. People who claim that there is no alienation in the society have to find some other cause for this scourge that has overtaken the society. Girls and boys aged 15 are being involved in robbery, murder and crimes of violence.

Madam Speaker: There is a motion under Private Business with respect to the high incidence of crime, so maybe the Member can take note.

Mr. Panday: Yes, I intend to deal with it at that time. What I was saying is that the argument was one of alienation, whether or not we ought to do something

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about alienation in the society, and if we ought to do something, was this not an opportune moment to do it.

It is my humble and respectful submission that in some countries where people are alienated, if they have that kind of history, they resort to guerilla warfare. They carry out a consistent armed struggle of guerilla warfare. We have seen it in some Latin American countries, but that is because they have a history which allows them to do that kind of thing. In countries that do not have that history of armed struggle and guerilla warfare, the alienation expresses itself in different ways.

One of the ways that it expresses itself is in crime. It is really a retaliation against a society that marginalizes them. In my view, that is what really happened in Los Angeles and Chicago. It may be that this rise in crime is an expression of that alienation that people are feeling. We must not sweep it under the carpet. We must not say it does not exist. If it does not exist, we must give an argument as to why it does not exist. Whereas I say, there is no guerilla warfare, alienation often expresses itself in crime, particularly crimes of violence, burning and looting, such as we are witnessing today in other countries.

The alarming rate of suicide is something that sociologists are struggling to explain. Why is there so much suicide, drug addiction, vagrancy and break-up of family life? All these I submit, are symptomatic of a deepening alienation in the society. I thought that I would appeal to the Government on this occasion that instead of rushing this bill through, to use the occasion to deal with this critical problem which is facing us.

More importantly is the fact that there is now pending before the courts, an action that is challenging the validity of the actions of this House. It may be that the House is superior to the courts in some ways, but the fact that a motion has been filed is, in my view, a sufficient reason to pause and take stock, whether they are right or wrong, but even more importantly, even if they are wrong, whether or not we ought to use the occasion, to end that debilitating feeling of alienation that is gripping the country.

This is not only in the South, but moreso in the North, "Behind the Bridge". People from "Behind the Bridge" are becoming more and more alienated and are becoming the most alienated people in the country. They are suffering the gravest hardships under this Government. There has never been so much unemployment; there has never been so much poverty as there is "Behind the bridge. This is a time therefore, for us to pause and take note.

Having brought to the attention of the House the fact that there is action pending before the Supreme Court of this country, concerning the constitutionality of what we are doing, we would be hard put to continue to participate in this debate. Thank you.

The Minister of Works and Transport (Hon. Colm Imbert): Madam Speaker, it is regrettable that the Member for Tobago West has left, because before I entered into the debate on this bill, I wanted to digress, with your permission, to some points that the Member raised regarding the air service between Trinidad and Tobago. I see the Member for Tobago East is here and he will more than do to represent the views of Tobago.

The question of unreliability and difficulty of domestic air service between Trinidad and Tobago has engaged the attention of this Government. As recently as a few weeks ago, the board and management of BWIA were called before a sub-committee of Cabinet to review the operations, and discussions are continuing. The Government recognizes that the domestic air service between Trinidad and Tobago needs some improvement.

I would also like to inform the Member for Tobago East and this honourable House, that this Government is continuing with an arrangement made by the former administration to seek to make arrangements for a dedicated domestic air service between Trinidad and Tobago. Negotiations are currently in progress for this air-bridge as it is called, and it is my hope that these can be concluded at the earliest opportunity. I would also like to inform this honourable House that on that air-bridge committee, there is a representative of the Tobago House of Assembly, in fact, he is the Chief Technical Officer. I believe the air service between Trinidad and Tobago would be successfully improved in the very near future.

Let me turn to the matter at hand. The Member for Tobago West also raised some questions about the manner in which the decision was made to merge certain corporations, and why certain areas would be designated boroughs. I believe the regional corporation of Diego Martin was used as an example. It is my understanding that the committee that examined the Municipal Corporations Act, 1990 with a view to making recommendations for its improvement, took into account many different factors when they looked at the demarcation of boundaries, including geographic consideration, demographics, population concentration and the peculiar characteristics of certain areas.

5.15 p.m.

In the particular case of the region of Diego Martin, this is an area which has a population of some 150,000 people and an electorate of approximately 70,000. It therefore represents some 10 or 12 per cent of the national population. The boundaries of Diego Martin Regional Corporation are comprised of the electoral districts that currently make up the three Diego Martin parliamentary electoral districts and I would think that the committee was properly informed in making a region out of an area that represents over 10 per cent of the population of Trinidad and Tobago. Similarly, it is my view that the committee looked at all other areas in Trinidad and took into consideration population distribution, geographic considerations, and made the decisions to merge the corporations as we see in this special bill to amend Act No. 21 of 1990.

I have looked at the various boundaries they have recommended and I think that they acted quite properly. I do not think that this matter needs to detain us much longer.

Madam Speaker, I would like to draw the attention of this House to the matter at hand. What we are debating here today is the bill to amend the Municipal Corporations Act of 1990, and there are several aspects of this bill. In particular, the bill seeks to reduce the number of regional corporations from 13 to 9 by merging several corporations. It seeks to provide that the election of councillors should be held within three months of the expiration of the life of the council. I am sure that Members on the other side will agree that this is a very laudable objective. It seeks to provide that the mayor should hold office for the life of the council. Again, I cannot foresee any significant objections from the Members on the other side. There is no reason why the mayor should be elected every year while the life of the council is for three years. It seeks to give the Public Service Commission powers relating to the appointment of officers of certain corporations. It removes the present requirement for the corporation secretary to be an attorney-at-law. It makes provision for a change in the description of the Municipal Police Service and it also clears up certain ambiguities which I, as Minister of Works, had found in the original Act. There was ambiguity between the responsibilities of the corporations as defined in Act No. 21 of 1990 and existing responsibilities. There was also some confusion over the responsibilities for drains, roads and other public facilities.

The most important part of this bill, to me, however, is the removal of that part of the Act which deals with the disciplinary proceedings against holders of corporate office. The Member for Tobago West saw nothing wrong with Part XIV of Act No. 21 of 1990 which refers to disciplinary proceedings. But on close examination, what this sought to do was to establish a disciplinary committee of non-elected individuals who would then be given the authority to discipline elected representatives of the people. Let me draw a parallel to this honourable House. If we were to take the provisions of this Act and extend them to our parliamentary representatives, perhaps, we should also elect a disciplinary committee comprising of non-elected individuals to discipline Members of this House. This is what the provision in section 236 sought to do.

In summary, I view Part XIV—Disciplinary Proceedings—which, if you go to section 252, would allow this committee to suspend a councillor, an elected representative of the people, from corporate office—when one considers that this disciplinary committee has to be appointed with the approval of the Minister what, in effect, we have here is a provision that would allow the Minister with responsibility for local government, as we now call it, to remove an elected councillor from office. I think this is entirely undesirable and therefore it is entirely appropriate that it be excised from this bill. Again, I do not think we need to belabour this point.

What we need to do is recognize that we have a situation for many months now where there are no elected representatives in place for making representation to the people at the local government level, with the exception of the mayors of the corporations. It is clear to me, as a Member of Parliament that the people of this country are being denied proper representation. Since I was fortunate to gain the favour of the electorate of Diego Martin East, I have been inundated with requests for assistance for matters which really concern local government bodies and this is because there are no councillors in place at present. Matters regarding the disposal of garbage, the cleaning of minor drains, and so on, are all being brought to my attention.

I am certain that all the Members of Parliament on the other side are also faced with this problem. What we must decide is whether we think it is necessary to have a system of local government where at the local level people can receive appropriate representation. I would think that the Members on the other side would have to agree that this is essential and, indeed, desirable. We cannot continue to have a situation where a resident of an area confined by the boundaries

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of a corporation, who has a matter dealing with local government has nobody to turn to. There is no councillor, no alderman, to deal with their particular situation. You cannot continue to have that situation.

We also have a situation where my Ministry is increasingly being called upon to assist in the functions of the Ministry of Local Government. As a matter of fact, the Member for Couva North, sometime ago, brought to my attention the question of a decrepit bridge in his constituency which properly falls under the authority of the local government system. However, because of lack of funds, and the general confusion surrounding the authority and its responsibility—who is liable and responsible in the absence of no councillor? The hon. Member for Couva North came to me and he said, "as Minister of Works, please assist me in the repair of this bridge." I have consented to do so.

We have a Ministry of Local Government, we have local government bodies and these bodies should be allowed to carry out their functions. There should be a system to allow representation for the people at the local level. The other ministries of the state cannot continue to carry the burden of this responsibility because they have no funds to do so, and they are not geared to do this.

I am certain that Members on the other side will agree with me that the time is long over due for the holding of local government elections and, the election of local government representatives. At this point, I would like to go into a bit of history.

5.25 p.m.

We on this side are often accused of all sorts of things; seeking to delay elections and things of that nature. However, the history of this Act is that it was laid in Parliament in 1990 and certain administrative arrangements were not put in place to allow the holding of local government elections at that time. It is my opinion that at that time, there was a desire not to have local government elections in 1990 for whatever reason. The fact is that no elections were held in 1990, three years after the elections of 1987. The life of the councils was extended to 1991, after that, interim management committees were formed, and since then we have found ourselves in a most untenable situation, where there are no proper arrangements in place to address people's needs at the local government level.

I see the passage of this bill as very straightforward and simple. It is necessary to make the amendments to the original Act so that we can allow the expeditious holding of local government elections because the local government system, as far

as I am concerned, has virtually collapsed at this time. I would say that the primary reason for this is the non-holding of local government elections. Not wishing to delay the proceedings of this House, I think it is essential that we move swiftly to pass this bill and to allow the regional corporations to function.

Mr. John Humphrey (*St. Augustine*): Madam Speaker, as a Member of this House, I have a duty to the people of Trinidad and Tobago. I sat here and witnessed my colleagues making representation for people who were in need in the society and the reaction coming from the other side is that they should not have done so but should stick to representing their own constituency. I was alarmed at that attitude because all of us took our seats in this House having taken an oath of office. I take that oath very seriously, but it seems to me that certain other Members have a different interpretation of their duties as Members of this House.

Let me just quote the oath which each one of us took before taking up our seats after the last general elections—to be found in the First Schedule on page 91 of the Constitution. It is the form of oath or affirmation for a Member of the House of Representatives or the Senate, and it reads as follows:

"I...having been elected/appointed a member of Parliament do swear by...(solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the Constitution and the law, and will conscientiously and impartially discharge the responsibilities to the people of Trinidad and Tobago upon which I am about to enter."

It does not say the people of the constituency. It is extremely important that we, as Members of this House, understand that difference. Every Member of this House is equal under the Constitution, once we are sitting in the House. That is why the Standing Orders make it quite clear that we are supposed to refer to each other by constituency and not to use any other name or title in reference to Members.

Once we take this oath here, our concern is for the business of the people of Trinidad and Tobago. We have sworn to uphold the Constitution and the law. I sat here on the last occasion and was treated to legal arguments, coming mainly from the Member for Couva South and the Member for Naparima which satisfied me that what we were about to do was in breach of the Constitution. I was satisfied, on the basis of those arguments, that the principal Act No. 21 of 1990 is unconstitutional and, left to me, I would have gone no further. In fact, I was able

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to prompt the Chief Whip to prepare a resolution which we could not move unless we were able to get this House to suspend the Standing Orders.

Getting back to section 2 of the Constitution, which, so far, nobody has referred to in this debate. It is a general clause that invalidates any law that is inconsistent with the Constitution to the extent of its inconsistency. That section does not require that you go to the court to determine the validity of an Act. It is automatically invalidated if it is inconsistent according to section 2 which says:

"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."

It does not suggest that the matter needs to go to the court for determination. As Members of this House, sworn to uphold the Constitution and the law, we must be a little familiar, at least, with the Constitution and the law so that each of us can take a determination as to whether something is valid or not. I took the determination on the basis of the arguments led by the Member for Couva South, supported by the Member for Naparima and then, strengthened by the Member for La Brea, that the principal Act is unconstitutional and that if we seek to amend that Act, we will be participating in an act which is unconstitutional.

Something has happened since then. A citizen has used his right, again under the Constitution, and that right is stated in Part 4, section 14(1):

"For the removal of doubts it is hereby declared that if any person alleges that if any of the provisions of this Chapter has been, is being, or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress by way of originating motion."

Madam Speaker, a citizen has so acted and, as a Member of this House, in conscience, believing that what we are doing is unconstitutional, I cannot participate in it. Not only that, every Member of this House is equal and can determine for himself or herself whether what he is doing is correct under the Constitution and we do not need to go to lawyers for that determination. When we are lucky enough to have eminent counsel as representatives in the House as we do, to the further extent of having a Speaker that could be so described, we are blessed, in my view, as lawmakers, because we can rely on our own Members to give expert counsel. I am satisfied that is the counsel that was given. I believe also

it is in breach of the Standing Orders and if I continue to participate in this debate, to the point where this House would take a decision, that, in fact, could affect the determination of the hearing.

5.35 p.m.

I refer, Madam Speaker, to Standing Order 36 (2), and I request at this stage a ruling from the Chair on this point that I am making:

"Reference shall not be made to any matter on which a judicial decision is pending, in such a way as might, in the opinion of the Chair, prejudice the interests of parties thereto."

Madam Speaker, I contend that if we continue this exercise to fruition and we take a decision to pass this legislation that is before us now, we will be unduly influencing the judicial process and the outcome of this determination in the court will be affected. What will happen if this is passed? It cannot be passed by a special majority because I know that Members on this side will not support it. I am not speaking for those on the other side who sit on this side; I am speaking for all the Members of the United National Congress. We will not support this. Madam Speaker, this will then be supported by a simple majority and will not have the special majority that is required.

The actions that we are taking today, in my view, may well demonstrate a contempt for the judicial process, although we are protected because we have special privilege in this House. But if we are conscious of taking actions that are contemptuous of the court, since we have pledged to uphold the Constitution and the law and since the Standing Orders are very clear, it is my view that we should take no further part in these deliberations and to find some other remedy for the difficulty that the country faces.

I do not know if the Chief Whip would wish to discuss what we foresaw with the Leader of Government Business and possibly this afternoon find a remedy that will satisfy the requirements of several principles.

The principle of meaningful consultation. Madam Speaker, the Leader of the Opposition was absolutely right when he said that this gives us an opportunity to demonstrate meaningful consultation in the interest of our people and to put together a law that would enable our people—especially the little people of this country—to meaningfully participate in the governing of their own affairs.

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Let us go back to the Constitution. The Constitution establishes as a principle that every citizen has a right to participate. The preamble states:

"Whereas people of Trinidad and Tobago—

- (c) have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institution of the national life and thus develop and maintain due respect for lawfully constituted authority;"

Madam Speaker, I think this is a golden opportunity for us, for the Prime Minister to begin to truly demonstrate his commitment to consultation, to get together with all sides of this House, the Government and the two Opposition parties who represent the people of Trinidad and Tobago, to put together another bill for local government reform and to find some means to heal the hiatus that exists. I do not think it would be so difficult, because there was a county election that took place in 1987, and there are local government representatives who were voted into office in 1987 and this House has the power to reinstate them pending an early election.

Now, the other thing I want to suggest that the consultation should include, because what is happening here, Madam Speaker, is that the Prime Minister is using his office to set the date for local government elections when, in fact, the law has never given the Prime Minister such a discretion in this country; the date is set by statute. But, on this occasion, because of the circumstances that exist, the Prime Minister is seizing the opportunity to set the date for the elections and from the remarks I have heard from that side, to set such a date in the interest of the ruling party and to the advantage of the ruling party.

Mr. Manning: Madam Speaker, I just want to assure the hon. Member for St. Augustine that when the date for local government elections is set, that date will be set in the interest of the country.

Mr. Humphrey: Madam Speaker, I say that if the Prime Minister sets it without consultation, it is not in the interest of the country. We have conflicting opinions.

I suggest, Madam Speaker, that we consider an alternative approach to resolving this problem. I can see repercussions down the road. It seems to me from what Members opposite have said, that they are determined to push this through with the slimmest of majorities, regardless of the consequences. We are making it clear that we are not supporting it.

Madam Speaker, I am satisfied that if the Prime Minister uses the power that he enjoys under the Constitution in the interest of Trinidad and Tobago on this occasion he can get together—*[Interruption]*

Madam Speaker: Order, please. Will hon. Members desist from insulting each other, please.

Mr. Humphrey: Madam Speaker, I would like to suggest that tensions being expressed in this House are an extension of the tensions that occur in the greater society. I do not want to be an alarmist.

When the Member for Couva North drew the parallel of what was occurring in the United States to what could occur here, you could go further in the world of today than the United States; just go to Europe. Europe is the place on this earth that transformed its societies on the basis of social revolution before anybody else did. You have the oldest system at work in Europe and these systems are collapsing and the level of alienation that exists in all societies, Madam Speaker, that have been unified, have fought wars, two great world wars, ethnic differences are precipitating civil war in far more stable societies than our own.

Madam Speaker, I want to give a word of caution that Trinidad and Tobago, yes, it is a beautiful place, we have beautiful people; I believe the vast majority of our people are positively inclined, but it does not take much to ignite here the kind of fragmentation and destruction that is occurring elsewhere. This is an opportunity for the Prime Minister to put his money where his mouth is on the question of his commitment to consultation and to get together with the leaders of the two other parties in this house and resolve this impasse.

I ask, Madam Speaker, for a ruling from you on Standing Order 36(2).

Madam Speaker: Since the hon. Member has requested a ruling, I hereby rule that Standing Order 36(2) has no relevance to the debate at hand. As a matter of fact, a decision has been taken on the substantive matter that it should proceed by way of a motion filed in court. When one reads section 36(2):

"Reference shall not be made to any matter on which a judicial decision is pending."

That is during a debate which is in progress. If there happens to be a matter that is pending, a Member of Parliament ought not to refer to that matter in the course of the debate unless, of course, if in the opinion of the Chair it does not prejudice the parties.

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It is a far different cry from the matter at hand. In this case, it is the substantive issue before the Parliament and a decision has been taken by the Opposition to test this matter in court.

Mr. Maharaj: On a point of order, the decision was not taken by the Opposition and you have no evidence of that.

Madam Speaker: I beg your pardon—I do apologize to the hon. Member—by a member of the public and I rule that 36(2) has no relevance.

The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion): Madam Speaker, for a fair portion of the two sessions dealing with these two bills, some time and energy has been expended on dealing with the constitutionality of Act No. 21 of 1990.

Madam Speaker, we had, on this side, signalled, in the course of today, through a legal luminary in the person of the Member for La Brea and a non-legal luminary in the person of the Member for Diego Martin West that the approach being suggested by the other side did not take into consideration the nature of our system of Government. Quite simply put, I find myself on the occasions when I speak in this House, to allude to the question of the separation of powers and the fact that the legislature and the judiciary have quite separate and distinct functions.

This honourable House, Madam Speaker, is entitled, when a bill is introduced, to determine whether any special constitutional majority is required. That is an obligation which is put on this House at that stage. When that decision is made and the bill is passed and becomes an Act, the control of this House over that legislation no longer exists and by virtue of section 14 of the Constitution, the matter remains in the hands of the court.

Madam Speaker, section 14 gives the court the enforcement power to oversee legislation which has been passed by this House and to determine whether it is constitutional or not. This House does not act as a review body over itself and the question of whether Act 21 of 1990 was constitutional or not and the debate which proceeded around that argument is really irrelevant to the passage of the two bills which are before the House today.

It is fortunate that those on the other side have accepted the view that we have advanced and it has happened—I am not saying that they have occasioned the happening of it—that some member of the public has since challenged the validity of that Act in what is the proper forum. Madam Speaker, I am told that a

constitutional motion has been filed. I have not had the benefit of seeing the document, nor has my office been served with the document. But I can only assume that if some sort of restraining order had been obtained, then the Member for Couva North would have said so. The circumstance, therefore, as it now stands, is that the Parliament, sitting as it did in 1990, rightly or wrongly passed Act 21 of 1990.

The adjudication function over that Act of the Parliament of 1990 is now in the proper forum. Before today, the courts have not been asked to pronounce on the validity of that Act, nor have they done so up to today. Under our system, there is a presumption of regularity and until that presumption is displaced by an order of the court, we can only proceed on the basis that Act No. 21 of 1990 is good and valid legislation. As a responsible Parliament, we must be guided by that presumption of regularity in our affairs.

I do not wish to prolong the courtroom drama which was initiated in this House by the Member for Couva South and indeed I feel in a sense precluded from so doing by virtue of the regulation contained in Standing Order 36(2), but at this point I feel able to say that based on the advice available to the government, Act 21 of 1990 was properly and regularly passed.

Madam Speaker, in making the presentation at the opening session, neither the Member for Couva South nor the Member for Naparima sought to particularize in any detail their arguments in support of the contention that Act 21 of 1990 was improperly passed. Further to that, and more importantly, they failed to take any serious cognizance of at least one aspect of the Constitution and that is the fact that there is a saving provision contained in section 6(1) (c) of the Constitution which says that:

"an enactment that alters an existing law but does not derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right."

I think serious consideration in the proper forum in the courts of Trinidad and Tobago will have to be given to that section.

Consideration will also have to be given to the question of due process which is a rider to the guaranteed right of enjoyment of property. It is not an unlimited right. It is a right not to be deprived of the enjoyment of property except by due process of the law and that is also another matter which the proper forum will have to consider.

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Thirdly, there is the question of severability, even if in the event that certain sections may be found to be unconstitutional, then the court also has a discretion to discard those sections and to maintain the integrity of the remainder of the Act. In this case, Act 21 of 1990, its central core is really the establishment of local government bodies and institutions.

The sections which have been referred to by the Member for Couva South and the Member for Naparima are sections dealing with ancillary powers given to those local government bodies and serious consideration will have to be given by the court as to whether those sections are not severable.

So as we stand here today, there is nothing which impedes this Parliament with our deliberations on the two amending bills which are before us. It will perhaps be considered irresponsible if we did not proceed as a sovereign Parliament to continue to do our work while the courts deal with their sphere of activity.

Madam Speaker, I propose to say nothing more on the arguments relating to the constitutionality or not of the legislation because that is a matter that will be dealt with elsewhere. My concern is that this Parliament is free to exercise its function as contained in section 54 of the Constitution and that is the duty, at section 53:

"Parliament may make laws for the peace, order and good government of Trinidad and Tobago..."

—and that includes local government—except where you need a special majority to alter. So that we have our function and our function must be performed quite apart from whatever the other arm of Government may be doing.

I may make one other observation, Madam Speaker, and it relates to the motion or portions of it which were read and without prejudicing whatever the court may do at a later stage, it does seem a bit odd to me to seek what amounts, in effect, to a restraining order from the court relating to the operations of this Parliament.

In fact, the authorities are quite clear in relation to that matter. I know there was not a restraining order, but you sought a declaration that the proceedings of this House should be declared unconstitutional by the court. If that happens, then this House cannot proceed.

Mr. Maharaj: On a point of order, I can tell the Attorney General that there is precedence for that in Guyana, Australia and Canada.

Hon. K. Sobion: Madam Speaker, the point I was making is that appears to me a bit odd, based on the matters which my learned friend well knows came out of the administrative law books, that restraining a Parliament is looking to upset the system of Government as we have it well established under our Constitution of Trinidad and Tobago.

I assure all Members that we are free to proceed with the determination of this bill and there is nothing to prevent this Parliament from doing so. I thank you.

The Minister of Local Government (Hon. Kenneth Valley): Before I start, let me offer my apologies to you, Madam Speaker. I cannot speak on behalf of the Member for Couva South but I offer an apology.

Madam Speaker, I want to start by thanking all Members who participated in this debate. I found the matter with respect to the constitutional aspect of the bill quite interesting. Moreso, given that this Act has been in force for approximately two years and that one is now seeking to say that the Act is unconstitutional.

I want to start by simply restating the position of the Government with respect to the legislation before us. We are not reforming local government by the amendment before the House. We understand that Act 21 of 1990 attempted the reform of local government. We are unhappy with certain provisions of that Act. We are merely making some minimal amendments; those which we think are necessary before we go to local government elections.

We have said quite clearly that immediately after the elections we would look then at reforming local government. We have already set up the Boundaries Committee that is going to look at the re-definition of the boundaries. We have referred some matters to the Public Sector Implementation Committee. We would have all the consultation that Members have asked for, for example, my friend, the Member for Siparia, I thought what he said last could very well have been said first and there would have ended his contribution to the debate.

Madam Speaker, as a fact, we would have consultation with respect to local government reform after elections. What we consider important is that councillors ought to be in place to take care of the situation at the local level. I know we have quoted quite a bit from our manifesto position, but simply to reassure Members, I want once more to state simply what it says in our manifesto. The first paragraph on page 44 of the manifesto says:

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"The PNM reaffirms its commitment to a system of local government which ensures that the people have the opportunity to assume authority and management of their own communities."

So we are clear on that first step. The system of local government with which we would be happy is a system in which the people would have authority and management of their own communities.

A number of Members on the other side spoke about devolution and decentralization. It seems to me that is what is implied when one talks about transferring authority and management of one's communities. We go further:

"The PNM is conscious of the fact that participation at the local level requires the development and strengthening of other community institutions such as village councils and youth organizations to ensure the widest possible participation in the local government process."

Again, we heard Members talking about the role that village councils ought to play in the process and I am saying that we see a role for the village councils in the local government process.

Madam Speaker, it is difficult to get Members on the other side to understand. We are not doing the reform now. We were met with a situation where there were no local government councils; there were transitional bodies. The need, at present, is to have those councils legally constituted. When that is done, one then has the time to do the consultation that is necessary, to talk with Members of the Opposition and Members of the Minority Opposition who have comments on devolution on decentralization and on our having the Tobago type of local government system, or whatever they want to talk about under the sun. Madam Speaker, we are good listeners; we would listen to them.

6.05 p.m.

Mr. Humphrey: Would the honourable Minister indicate to this House how he and his party opposed the legislation in 1990—Act 21 of 1990—and now uphold it?

Hon. K. Valley: Madam Speaker, I would deal with that. The main contributor to that debate for the Government was the Member for San Fernando East, the hon. Prime Minister at this time. Madam Speaker I have a copy of his contribution here and I am reading from page 7 of that contribution, and there Mr. Manning is saying—

"In fact I am going to argue this afternoon that there is an attempt by the Government to take too much authority in its own hands at the expense of the local government bodies. The bill clearly reflects it and I will show it."

Then Mr. Manning went clearly into that obnoxious part, the disciplinary committee aspect. Because that part of the Act which allows the Minister—and, of course, Madam Speaker, I am sure that no-one fears Ken Valley as the Minister of Local Government. But you know, the Member for Diego Martin Central may not always be the Minister of Local Government. So that, whereas the House knows for a fact that there is nothing to fear as long as I am the Minister in charge of setting up this disciplinary committee, let us, God forbid, assume that the Member for Couva South was, one day, the Minister of Local Government—

Mr. Manning: God forbid!

Hon. K. Valley: Madam Speaker, look at what section 236 of the Act says:

"(2) The Disciplinary Committee shall consist of nine members of whom—

- (a) one shall be a legal practitioner of at least ten years standing nominated by the Association subject to the approval of the Minister;
- (b) eight other members shall be nominated by the Association subject to the approval of the Minister."

So you have a nine-member disciplinary committee all really nominated by the Minister. But that is not all, Madam Speaker. It says further in section 238:

"The Minister by Order may remove a member of the Committee from office for—

- (a) any breach of the Code of Ethics;
- (b) mental or physical incapacity;
- (c) neglect of duty; or
- (d) dishonourable conduct."

In other words, he could remove members of the committee. The Member for Tobago West made it clear that the whole purpose of this disciplinary committee was to get at the Mayor of Point Fortin. You see that is what it was.

Mr. Panday: We have to defend the Member.

Hon. K. Valley: I said it while the Member was here, but Madam Speaker, understand the argument the Member was making. The Member was making the point that in the old County Councils Act, there was the situation in which if a member was obnoxious or for whatever reason they thought he was out of line, his peers, members of the Council, would move a motion and have him suspended. She went on to draw the example of a situation in which the Mayor was abusing the CEO. So that to get at the Mayor, obviously if they were in power at this time, my friend, Larry Achong, might have been before the disciplinary committee already. Then the Member made the point that if we are taking that out, we should also take out the code of ethics. I want to ask Members in Parliament. There is a code of ethics for Parliamentarians. Why is it that we do not have a disciplinary committee, some nine-member body appointed by the Prime Minister, or the Leader of Government Business, so that I could have the Member for Couva South—

Mr. S. Mohammed: We declare that unconstitutional.

Hon. K. Valley: Madam Speaker, let us understand what we are talking about. We are talking about the elected representatives of the people, and some people out there appointed by some god—the Minister of Local Government. I do not really want to have that type of power. That was the most obnoxious provision in that Act. Mr. Manning spent a considerable time looking at sections 236 to 252.

To answer your question, Member for St. Augustine, we objected to that section in the Act and we acted on it.

Mr. Humphrey: Madam Speaker, I am getting a little lost because the Member for Diego Martin Central has argued that this is a stop-gap measure to enable local government elections to be held, so that the people can have representation at that level; and that serious reform is going to follow. Now he is justifying the Act, as it is, with slight amendments, as he admitted as being acceptable to the Member for San Fernando East.

Hon. K. Valley: No, Madam Speaker, in the opening of this debate I said these are the amendments which the Government considers to be the minimum required in keeping with its policy on local government in order that the local government elections may be held to restore representation of the people at the local government level. What we are saying is that there are certain things that we find so obnoxious that we cannot live with at all. We are taking those out now. I thought, at first, that we would have two years—and I will deal with that later—

but we would do the reform necessary in consultation with the people, the Opposition, with everybody who wants to talk to us. We would talk to Tobago if Tobago wants to talk to us. We want to come to the House with local government reform that is going to lift local government. My friend made an important point. What we are about is an efficient system of Local Government, taking government to the people. That is what we are about.

I want to mention, Madam Speaker, a point raised by the Member for Siparia. He was asking, why is it in the original draft of the bill we wanted the life of the council to be two years or a maximum of three years? I would explain. Simply because of the consideration that we would do the reform and that the Boundaries Committee would require about 18 months to do their work, the public service implementation committee would require some time, the consultation of the people would require some time, we thought that, for this term the minimum should be two years and after doing the reform and so on, we would go. We must have that flexibility, rather than waiting for three years to be able to have local government elections once more on the new system and the reform basis in year three. When we looked at the draft we realized that, in fact, the amendment, as structured, was really putting in a permanent system—taking about a minimum of two years, three years and, of course, that was objectionable to us and we took it out. That is the fact.

6.15 p.m.

So that I want to make two points. One, we are not reforming local government here—and I want to deal a bit with the consultation that my hon. friend for Couva South dealt with for quite some time. He was saying that if you are having reform, then you ought to go to the length and breadth of the country. I agree with that. But I am saying that we do not consider that we are reforming the local government system by bringing four significant amendments to the Act which is here at present.

There is some confusion on that side. Because whereas the Member for Siparia was making the point that these amendments were meagre and of no consequence—and, of course, he kept harping on the fact, changing "Municipal Police Force" to "Municipal Police Service", but he does not understand the caring that is the PNM. He does not understand that it is a sensitization, as it were, between "force" and "service". But he knows that was a minor change. As I said, there were four significant changes that we were making to the Act.

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My friend from Couva South thought, however, that we were getting involved in major reform and we should put out a green paper, white paper, yellow paper, brown paper or paper bag. What is permeating this whole debate is a certain new game in town. Coming out of the maxi-taxi debate, there seems to be a realization that, in fact, the Government would need to rely on the support of the Opposition for certain pieces of legislation, and we accept that. We have no problem with that. But coming out of that, the new game in town is to get every piece of legislation to that requirement. If you listen to the argument over there, it is a new game in town; everything is consultation; treating here equal. "We want Tobago type of local government." That is the new game in town. So that you have a two-thirds, and to get this two-thirds, you have to make Sangre Grande or Victoria, a little Tobago. So that Trinidad and Tobago will now be Trinidad and Tobago, and Sangre Grande, and Princes Town, and Siparia and Penal/Debe. That is the game in town. I just want them to know that we understand that.

Secondly, Madam Speaker, I want them to understand that consultation is a requirement under the Constitution with respect to certain things. That is the constitutional provision. More than that, obviously, there must be consultation, on pieces of legislation which really require a two-thirds majority or a three-fifths majority, because the electorate gave the PNM 21 seats, the UNC, 13 seats and they provided the minority Opposition with two seats. So that, as a fact, pieces of legislation which really require a three-fifths majority or two-thirds majority, we would require their support and, obviously, there must be consultation and negotiations.

My Prime Minister has gone further. He has stated that on every major piece of legislation there would be that consultation. But let us understand, that does not now become a right. Let us understand that. It is a privilege they are being given. Let us make it clear, it is a privilege. There is no constitutional requirement for doing so. It is simply because we are interested in good government. It is the same thing we would do with the union. We want to meet and talk with the union; we want to meet and talk with the business community; we want to meet and consult with the Opposition; but let us understand that not because we say we are going to do that, that you have a hatchet over our neck, as it were.

Madam Speaker, I thought I would deal also, very quickly, with some of the other issues that arose in the debate. There is one that I want to deal with, which was raised by my friend, the Member for Siparia and was raised, in another sense, by the Member for Tobago East. They attempted to make a case that the Member

for Diego Martin Central, somehow, attempted to favour Diego Martin in the whole reform exercise. The Member for Siparia attempted to show that favouritism by way of some comparison with allocation. You know, somebody called statistics, "lies, damn lies and more lies." He attempted to show a relationship between goods and services and personal expenditure in the various regions. He made the case that in Diego Martin, that percentage was some 48 per cent—goods and services to personal expenditure—while in Penal/Debe, it was merely 16 per cent, and that there were different percentages in the other areas.

What the Member did not say—and that is closer to the fact—is that Diego Martin appears to be a bit more efficient than the other areas. According to the 1990 book, there were some 65,804 electors in Diego Martin at that time. Personal expenditure was some \$9.1 million. In other words, in Diego Martin, the ratio of personal expenditure per elector was \$138. In Chaguanas, for example, personal expenditure per elector was \$284; Siparia, it was \$270; Penal/Debe, it was \$154; Princes Town it was \$258. In other words, of 14 regional councils, Diego Martin ran thirteenth in terms of the ratio of personal expenditure used in the corporation per elector.

Then there was the case with respect to the boundaries: Why is it we left Diego Martin as a separate region and we merged Couva with Talparo. The Member for Chaguanas quoted some figures with respect to population. I do not know where she got her figures. The figures supplied by the Elections and Boundaries Commission suggested that there were some 65,804 electors in Diego Martin, whereas in Couva it is 56,058—a small amount. That is not the point.

6.25 p.m.

We set up a committee to look at this issue. The committee had a sub-committee looking at the boundaries, and after listening to the situation with respect to the CSO, the Valuations Division, and the Elections and Boundaries Commission—the Member for Caroni Central went through some of their findings. I quote:

"The Committee having considered the views and recommendations of the Boundaries Subcommittee, recommended as follows—

- (1) That a comprehensive study be carried out to formulate recommendations for the re-definition of local government boundaries;

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- (2) That until such time as the recommended detailed studies are carried out, as defined in (1) above, the existing local government boundaries be maintained as detailed in Act No. 21 of 1990".

That will answer the argument about rubbing off the line. First of all, they are saying that the existing boundaries be maintained, and they talked about merging lower down.

- "(3) That the comprehensive study to redefine local government boundaries should include the concept of developing a land information system/geographical information system (LIS/GIS), which would benefit public agencies and private bodies;
- (4) That the study should include an analysis of urban centres, their services and facilities, catchment areas, transportation and communication linkages, social and historical factors, land resources and the cost-benefit analysis of the proposals.
- (5) A multi-disciplinary team be appointed, comprised of professionals in relevant fields including local government, planning, valuations, demography, economics, sociology, the earth sciences, law, public finance and management;
- (6) That in light of the urgent need to restore representation of the people and the need for a detailed study of the boundaries, the undermentioned regions, cities and boroughs be considered for the holding of early Local Government Elections pending the detailed study of the boundaries."

Here they talk about—

"(A) Merged Regions:

- (i) San Juan/Laventille
- (ii) Tunapuna/Piarco
- (iii) Rio Claro/Mayaro
- (iv) Couva/Tabaquite/Talparo
- (v) Siparia/Peñal/Debe.

(B) Regions To Stand On Their Own:

- (vi) Diego Martin

- (vii) Sangre Grande,
- (viii) Princes Town.
- (C) Cities:
 - (ix) Port of Spain
 - (x) San Fernando.
- (D) Boroughs:
 - (xi) Arima
 - (xii) Point Fortin
 - (xiii) Chaguanas."

They also said:

"Such a delineation of regions would be cost effective and facilitate the holding of Local Government Elections, since the Elections and Boundaries Commission has already done most of the work necessary for the purpose."

Mr. Palackdharrysingh: Madam Speaker, would the Minister tell me whether or not he had the benefit of that report when he took the decision to delink Siparia from Penal/Debe? If he did not have it, what were the considerations given for delinking Siparia from Penal/Debe?

Hon. K. Valley: Madam Speaker, yes, I had this report when I got the communication from the hon. Member for Oropouche who made a case that Siparia is quite a large area, Penal/Debe also, and if we were to combine both, in terms of numbers, it is going to be extremely large, as well as in geographical area. I looked at it, I considered it and thought it was reasonable.

Honestly—*[Interruption]* No, I did not, if you had made a submission at that time, we would have looked at it. I was in Mayaro some time ago and the regional council stated that they are different and they want to be on their own and I had to say to them that what we are doing is merely a holding situation. That is all we are doing. All we are doing is a holding situation.

We are saying, "Let us get these councils legally constituted." There is going to be a Boundaries Committee, let us make our cases then, to that committee and see what they come up with. Let them do their work. That is all I am saying. If we start delinking this area, and that area, then we are going to go back to the system

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of 18 regions and that is just untenable, as far as we are concerned, because of the inefficiency.

Mr. S. Hosein: Madam Speaker, I merely want to ask, did the Association of Local Government request, specifically, that the Penal/Debe region be delinked from the Siparia region? Secondly, while I am on my feet, I would like to request from the Minister—if he would be so kind to oblige—a copy of that document from which he quoted the per capita expenditure for the regional corporations.

Hon. K. Valley: Madam Speaker, yes, I can make this available to the Member. This is simply the original appropriation. I have taken the electorate out of this document—it is at Appendix A showing the areas and the electorate in 1991.

I know the committee met with the association. The association has never asked me—and I meet with them once per month—to delink Siparia from Penal/Debe. I cannot remember them doing that. The only communication I had on that is from the Member for Oropouche.

Madam Speaker, I was on the point of efficiency. Really, when the Act came into force, we had a situation where there were seven county councils and we had to immediately find persons for these 14 bodies. So, there was a mad scramble to find persons.

In January, for example, when I went into local government, I asked two of my officers—the acting CEO of the Piarco and San Juan regions—to look at the situation for me. The mandate I gave them was to look at the present administration of the Ministry of Local Government and to make proposals and recommendations for the move towards the regional corporation. They provided a report to me in February. Their first recommendation was that—

"A special and well-structured unit be established in the Ministry of Local Government to formulate and implement the new system that is necessary for the efficient and effective operations of the corporations."

Then they spoke about the staffing. They said:

"Their should be a fundamental reappraisal of the staff recently allocated to the new corporations so as to ensure that a suitable cadre of personnel are well placed."

There were a number of recommendations.

After that, we appointed a Management Audit Team in local government. They spent the month of May at the San Juan Corporation. What they found there, I can assure Members, would be applicable to most of the corporations. Because of the manner in which those corporations were established, there is a level of inefficiency. There are junior clerks acting as accounting people; there is an absence of internal audit. All these things have to be rectified. Before we can have local government elections, there is quite a lot of work to be done over the next three-year period.

I want, with your permission, Madam Speaker, to read from page 4, paragraph 71 of this report of the Management Audit Team on San Juan—

"The structuring operations of the San Juan regional Corporation perhaps represent a classical case of what could transpire during an exercise pertaining to local government organizational reorganizing and restructuring, if approached with undue haste, if unplanned and there is lack of sustained ministerial central agency support, supervision and intervention.

An examination of its operational activities since its establishment on October 18, 1991 revealed that apart from the recurring issue of lack of adequate funding, the problems associated with its operational structure, systems, processes and effectiveness are related in no small measure to unplanned and uncoordinated approach to its establishment."

The report continues in that vein. As a fact, I am sure the Member for Siparia would know this is applicable to Penal/Debe and Rio Claro. The committee came up with 16 short-term recommendations, and a further 16 medium to long-term recommendations. We would be acting on this.

6.35 p.m.

Mr. Hosein: Are you prepared to lay the document in the House?

Hon. K. Valley: I will have no problem after I go to Cabinet. We are in local government and this management audit team is simply some officers whom we have pulled from their jobs, so they are really part-time on this.

At local government, we are taking steps at present, to structure a management audit team because as we move to devolution and decentralization, one would see the need to have a strong centre, a management audit team that can go out there and really assist the corporations in establishing systems in the different areas to make sure that garages are working properly, the workshops are set up correctly;

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there is the internal audit procedure in place. That is what we are about in local government. That is what we want to do over this period, so that one would be seeing two things. One would be seeing the consultation that is taking place with respect to local government reform, while underneath and without fanfare, we would be improving the efficiency of the local government organization. That is what we want to do.

It is very late and we have been at this since last week. In spite of what Members on the other side have said so far, I want to ask them to consider what we are doing today. What we are about is putting the system in place, so that we can have local government functioning in Trinidad and Tobago once more while—

Mr. B. Panday: Are we going to be part of that?

Hon. K. Valley: Yes, and you are going to be part of that. You are going to be privileged. We are going to listen to you.

Mr. B. Panday: Thank you for the privilege.

Hon. K. Valley: We would embark on local government reform all in keeping with our manifesto position to have the authority and management of their communities closer to the people. I thank you very much.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 16 ordered to stand part of the bill.

The Schedule ordered to stand part of the bill.

Question put and agreed to, That the bill be reported to the House.

Bill reported, without amendment.

Question put, That the bill be now read the third time.

The House divided: Ayes 20 Noes 11

AYES

Valley, Hon. K.

Manning, Hon. P.

Sobion, Hon. K.
Mottley, Hon. W.
Ramrekersingh, Hon. A.
Rowley, Dr. The Hon. K.
Eckstein, Hon. J.
Marshall, Hon. M.
Maraj, Hon. R.
Baboolal, Dr. The Hon. L.
Collis, Hon. K.
Imbert, Hon. C.
Lasse, Dr. The Hon. V.
Pierre, Hon. J.
Casimire, A.
Narine, J.
Hart, E.
Allum, D.
Bereaux, H.
Rajaram, C.
NOES
Maharaj, R. L.
Panday, B.
Humphrey, J.
Palackdharrysingh, R.
Bhaggan, Miss H.
Mohammed, S.
Singh, Dr. C.

Municipal Corporations (Amdt.)

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Panday, S.

Sharma, C.

Haniff, M.

Hosein, S.

Question agreed to.

Bill accordingly read the third time and passed.

6.45 p.m.

**MUNICIPAL COUNCILS 1992 ELECTIONS
(SPECIAL PROVISIONS) BILL**

Order for second reading read.

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, I beg to move that a bill to make special provision for the publication and revision of the list of electors qualified to be electors in the Municipal Councils elections of 1992; to make special provision regarding the boundaries of the electoral districts for the purposes of those elections; and for related purposes, be now read a second time.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clauses 1 to 8 ordered to stand part of the bill.

The Schedule ordered to stand part of the bill.

Question put and agreed to, That the bill be reported to the House.

House resumed.

Bill reported without amendment.

Question put, That the bill be now read the third time.

The House divided: Ayes 20 Noes 11

AYES

Valley, Hon. K.

Manning, Hon. P.

Sobion, Hon. K.

Mottley, Hon. W.

Ramrekersingh, Hon. A.

Rowley, Dr. The Hon. K.

Eckstein, Hon. J.

Marshall, Hon. M.

Maraj, Hon. R.

Baboolal, Dr. The Hon. L.

Collis, Hon. K.

Imbert, Hon. C.

Lasse, Dr. The Hon. V.

Pierre, Hon. J.

Casimire, A.

Narine, J.

Hart, E.

Allum, D.

Bereaux, H.

Rajaram, C.

NOES

Maharaj, R. L.

Panday, B.

Humphrey, J.

Palackdharrysingh, R.

Bhaggan, Miss H.

Mohammed, S.

Singh, C.

Panday, S.

Sharma, C.

Haniff, M.

Hosein, S.

Question agreed to.

Bill accordingly read the third time and passed.

Motion made and question proposed, That the House do now adjourn to Friday, June 26, 1992 at 1.30 p.m. [Hon. K. Valley]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.53 p.m.