

**HOUSE OF REPRESENTATIVES***Friday, September 11, 1992*

The House met at 1.35 p.m.

**PRAYERS**[MADAM SPEAKER *in the Chair*]**SESSIONAL SELECT COMMITTEES**

**Madam Speaker:** Hon. Members, in accordance with Standing Order No. 71, the following Members are hereby appointed to serve on the 1992/93 Sessional Select Committees of the House of Representatives:

**House Committee**Mr. Kenneth Valley (*Chairman*)

Mrs. Jean Pierre

Mr. Colm Imbert

Dr. Rupert Griffith

Mr. Ramesh Lawrence Maharaj

Mr. John Humphrey

**Committee of Privileges**The Speaker (*Chairman*)

Mr. Desmond Allum

Mr. Andrew Casimire

Dr. Linda Baboolal

Mr. Augustus Ramrekersingh

Mr. Ramesh Lawrence Maharaj

Mr. Basdeo Panday

**Standing Orders Committee**The Speaker (*Chairman*)

Mr. Keith Sobion

Mr. Augustus Ramrekeringh

Mr. Hedwige Bereaux

Mr. Shamshuddin Mohammed

Mr. Trevor Sudama

Mr. Basdeo Panday

**Regulations Committee**

The Speaker (*Chairman*)

Mr. Colm Imbert

Dr. Vincent Lasse

Dr. Rupert Griffith

Mr. Subhas Panday

Dr. Carl Singh

**ADJOURNMENT MOTION  
(LEAVE)**

**Mr. Raymond Palackdharrysingh** (*Caroni Central*): Madam Speaker, a while ago I submitted to your office a notice to raise a definite matter of urgent public importance.

**Madam Speaker:** I have looked at the matter which the hon. Member has raised; and it is a pity he did not see it fit to come in to discuss it with me. Because I think, again, it is a little wide and it may have been phrased differently.

**Mr. Mohammed:** We do not know what is being spoken about.

**Madam Speaker:** But if you wish to pursue it.

**Mr. Palackdharrysingh:** The matter I wish to raise concerns the well-being and safety of our nation's schoolchildren with respect, especially at this time, to the poisoning of some of them. You will recall that over the last couple days there has been much concern raised about the matter in the newspapers.

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The matter is urgent because of the breakdown of security or the lack of security in many instances in our school system. One cannot over-emphasize the importance of security in our school system, because we see that not only students are affected, but also teachers.

I believe it is of public importance because it affects the safety of our children as they attend our nation's schools. So I wish to raise this matter because I am of the view, and my party is of the view, that this is serious enough to warrant the attention of the Minister and the Parliament, especially as we see a newspaper report headlined "Six Trinity Boys Hospitalized—Gramoxone in School Water". Can you imagine that we have reached the point where a deadly substance such as gramoxone has gotten into the water system of our schools! Somebody has to be held accountable for it, because it is Trinity today and maybe somewhere else tomorrow and it may go on unendingly.

Madam Speaker, I believe this matter is important enough for the Government to explain to the population why it has happened and possibly what is going to be done about it. Prevention is better than cure. You do not wait until many of our school children die, like the incident we had recently at St. Ann's Hospital. So many people died and then a commission of enquiry was set up. I believe that this matter is sufficiently important to have an open discourse today. This is why I raise it, Madam Speaker.

**Madam Speaker:** I cannot uphold, hon. Member, that all the nation's children are endangered by poisoning, as put in the Member's letter to me. The matter is definite because of poisoning of a few of our school children. The vast majority of our school children are not being poisoned at this particular time and I am of the view that this is a matter that can be raised under Standing Order No. 11 with the particular instance being targeted, so that the hon. Minister may explain to the honourable House and the nation what has been done with respect to this particular incident. Therefore, I will not allow it under Standing Order 12. The Member is free, as I said, to bring it under Standing Order No. 11.

**1.45 p.m.**

**FERTRIN AND TTUC  
(DIVESTMENT OF)**

**The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Madam Speaker, I am authorized by Cabinet to make the following statement with respect to the divestment of Fertilizers of

*Fertrin and TTUC (Divestment of)*  
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Trinidad and Tobago Limited (FERTRIN) and the Trinidad and Tobago Urea Company Limited (TTUC).

The Government in keeping with its commitment to provide information to Parliament and to the national community on all issues of public importance, wishes to provide hon. Members with a status report on this divestment.

Fertrin is a joint venture between Amoco Oil Holding Company, a subsidiary of Amoco Corporation, which owns 49 per cent of the shareholding, and the Government of Trinidad and Tobago, which owns the other 51 per cent. The Trinidad and Tobago Urea Company is wholly owned by the Government of Trinidad and Tobago.

The Government had decided to divest its holdings in these companies in keeping with the policy on state enterprises as outlined in our 1991 general election manifesto, which said that the state will be essentially a facilitator for economic activity. Participation in the commercial sector will continue at appropriate levels in special circumstances. The special circumstances in which the Government considers it necessary to be directly involved in commercial activity will be limited to:

- (i) areas of strategic importance such as oil and gas and telecommunications services;
- (ii) enterprises providing major social services - e.g., supply of electricity, water and public transport;
- (iii) investments in enterprises essential to the economic diversification process and where the private sector is unwilling or is unable to undertake the necessary investment, for example, in such areas like downstream petrochemicals plants from urea, methanol or natural gas; and
- (iv) enterprises in which a foreign investor would be unwilling to undertake an investment without Government participation.

Madam Speaker, consistent with our 1991 manifesto commitments at page 53, the Government will earmark part of the sale proceeds from the programme of divestment to assist in meeting the high debt service obligations of the country over the next five years.

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I wish to inform hon. Members that debt service commitments, that is, amortization and interest payments, over the next five years, are being projected as follows:

YEAR	US Million
1992	664
1993	663
1994	608
1995	505
1996	511

The debt service ratio which is being projected at 29.1 per cent of exports of goods and services in 1992, is expected to fall gradually over the next five years to reach 18.8 per cent in 1996, an amount which can be considered to be sustainable and viable.

Prior to the Government's decision on divestment, Amoco Corporation had reviewed its worldwide business interests and had deemed Fertrin to be a non-core operation, and had decided, accordingly to investigate the sale of the company. In recognition of our common goals, the Government and Amoco Corporation agreed to co-operate on the sale of Fertrin. Commercial considerations dictated that the Trinidad and Tobago Urea Company should also form part of the package in light of the incremental financial benefits which might accrue over and above the sale of the plants on a stand-alone basis.

After considerable discussion with Amoco Corporation, the Government and Amoco agreed to engage The First Boston Corporation as their investment bank to market and sell both companies. In general, The First Boston Corporation is assisting the shareholders in extracting and compiling information which interested parties will require to evaluate the companies. They will also develop and implement a marketing plan. Key in their responsibilities will be the identification of potential purchasers here and abroad. The First Boston Corporation's well-known expertise in investment banking, mergers and acquisitions was a critical variable in their selection.

The Government has appointed a technical team to represent its interest in the negotiations for the sale of the companies. The team comprises Mr. Jerry

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Hospedales as leader, Mrs. Jacqueline Quamina-Cherry, both of the Central Bank of Trinidad and Tobago, and Mr. William Daniel of the Investment Division of the Ministry of Finance.

The First Boston Corporation will begin their marketing programme shortly and a memorandum which will provide information to assist interested parties in making their own assessment of the companies will be available for distribution by the end of September.

I wish to inform hon. Members, and the public at large, that all interested parties, both local and foreign, should indicate their interest, in writing, in the acquisition of the companies, either as a package or as a stand-alone basis to:

Mr. Cary Kochman  
c/o The First Boston Corporation  
227 West Monroe  
42nd Floor  
Chicago, IL 60606

I thank you, Madam Speaker.

**Mr. Ramesh Maharaj** (*Couva South*): Madam Speaker, will the hon. Minister, and the Government, agree that that statement should be debated in Parliament?

**Hon. K. Valley:** Madam Speaker, statements are not debated in Parliament, but there is, on the Order Paper a motion relating to the policy of the Government with respect to divestment which, I am sure, will give the hon. Member adequate opportunity to consider the total divestment programme of this Government, including the divestment of Fertrin. Let me just inform my colleague on the other side that, as we said, the information memorandum will be going out at the end of September. The fourth Friday is Private Members' Day, so the debate will start on the fourth Friday.

#### **ARCHITECTURE PROFESSION (AMDT.) BILL**

Bill respecting the registration of architects and otherwise regulating the practice of architecture, brought from the Senate [*The Minister of Works and Transport*]; read the first time.

**JUDICIAL AND LEGAL SERVICE (AMDT.) BILL**

*Order for second reading read.*

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):**  
Madam Speaker, I beg to move,

That a bill to amend the Judicial and Legal Service Act, Chap. 6:01 be now read a second time.

The Judicial and Legal Service Act is found in Chap. 6:01 of the laws of Trinidad and Tobago and was an Act which came into force on May 24, 1977. That Act by its long title is. " An Act to make provision for the establishment, classification, remuneration and entitlement of officers of a Judicial and Legal Service; and for other matters concerning the relationship between the Government and the Judicial and Legal Service."

In effect, what that Act does is to create a Judicial and Legal Service establishment within the state of Trinidad and Tobago by moving from the public service and from under the Public Service Commission, certain public offices of a legal nature and placing them under the purview of the Judicial and Legal Service Commission.

**1.55 p.m.**

The Act and the relevant portion of it, for the purposes of the amendment today, are the sections dealing with administration, and more specifically, sections 13, 14 and 15. Those sections provide for the control and discipline of certain officers who now fall under the Judicial and Legal Service Commission's establishment, by placing them under the control of other senior officers of that establishment. That is demonstrated by sections 13, 14 and 15, to which I referred. Section 13 places the officers in Part V of the First Schedule, under the control and supervision of the Permanent Secretary of the Ministry of Legal Affairs; section 14 places those officers of the Law Commission under the Chairman of the Law Commission; and section 15, variously places other officers under the supervision of the Chief Justice, Chief Magistrate, the Registrar of the Supreme Court, and the Chairman of the Tax Appeal Board.

By Government Notice No. 108 of 1979, the Registrar of the Industrial Court was added to the list of judicial officers in the Schedule to the Act, but he was not put under the supervision and control of any other senior officer. The purpose,

therefore, of the amendment is to bring the Registrar of the Industrial Court under the supervision and control of the President of the Industrial Court. The bill, today, necessitates an amendment to section 15(1), by adding after subparagraph (iv), a new subparagraph (v), by inserting the words—

"the President of the Industrial Court"

who will have supervision and control over the officer named in the Schedule.

Madam Speaker, quite simply, this amendment is necessary in order to deal with a lacuna which existed in the law, in that this officer—the Registrar of the Industrial Court—is the only officer comprised in the Judicial and Legal Service establishment, who does not fall directly under the control of a senior officer.

As I indicated earlier, all other officers—the Chief Magistrate, Deputy Chief Magistrate, Senior Magistrates, Master of the High Court, Registrar and Marshal of the High Court, Deputy Registrars, the Administrative Secretary to the Chief Justice, the Registrar of the Appeal Board—fall directly under the control of their own senior officer.

Madam Speaker, that is the simple intent and purpose of this amendment, and in moving the second reading of this bill, I commend this amendment to the House, in order to ensure the continued administrative efficiency of the Judicial and Legal Service.

*Question proposed.*

**Mr. Ramesh Lawrence Maharaj** (*Couva South*): Madam Speaker, the hon. Attorney General has said that the purpose of this amendment is to ensure the continued efficiency of the administration of the Judicial and Legal Service.

The Bill appears to be a simple one, but it attempts to amend the substantive Act which deals with judicial and legal service in Trinidad and Tobago. The Judicial and Legal Service Act, Chap. 6:01, deals with the offices for the purpose of section 111 of the Constitution of Trinidad and Tobago, and brings the appointment, removal and disciplinary control of the holders of such offices under the purview of the Judicial and Legal Service Commission. By sections 12, 13, 14 and 15, as the hon. Attorney General has said, it makes provision for control and supervision to be exercised on the officers, as he describe.

Madam Speaker, in the case of any other judicial and legal office, including Part V—that is the Registrar of the Industrial Court—such control and



supervision, according to the substantive Act, remains in the Judicial and Legal Service Commission. The amendment, therefore, as I see it, does not merely lengthen the list of persons having such control and supervision, but removes such officers from the jurisdiction of the Judicial and Legal Service Commission in this respect.

This Bill does so at a time when the administration of the Judicial and Legal Service Commission is, in effect, involved in litigation before the High Court, in a matter of Civil Appeals Nos. 58 and 59 of 1991, between Justice Richard Crane and the members of the Judicial and Legal Service Commission.

This Bill, therefore, comes perilously close—if I may use the expression—to enabling a breach of Standing Order No. 36(2), because a proper debate on this could have resulted in matters which are now before the court being referred to. I would, however, respect the Standing Orders and do not attempt to discuss matters which are before the court as they might prejudice the interest of the parties.

Madam Speaker, I cannot help but say that the Bill flies in the face of legitimate expectations of the public, that some official action would now be taken regarding what is beyond, peradventure, the greatest danger ever posed to judicial and legal service in the country—its administration, and its accountability to the population of Trinidad and Tobago. This is so because the Bill can give the impression that this, which is being done, can remedy the ills that beset us with respect to the problem that exists with the judicial and legal service, in Trinidad and Tobago.

The constant controversy and distress concerning the most disconcerting occurrences in the administration of judicial and legal service in the country, were highlighted by events which occurred in recent cases. It has been highlighted, without going into the facts of the matter, by the mere fact that a High Court judge has filed an action and has gone on affidavit against the Judicial and Legal Service Commission of Trinidad and Tobago. It has been highlighted by the Mansoor letters, which attest that there is a perception that something is wrong with the administration of legal affairs in the country.

The hon. Attorney General has, quite rightly, and very commendably, made a statement in this House concerning the delays in the administration of justice. He has, quite rightly, said words to the effect that it undermines the system of justice in the country.

The hon. Attorney General has answered questions dealing with the statistics. We on this side of the House have raised questions dealing with the details of those statistics. On any reading of those, one would see that, on the present basis, the litigation which is before the courts in Trinidad and Tobago, cannot—without any new matters being filed—be completed by the year 2010.

There have been recent articles in one of our leading daily newspapers, dealing with the question of legal services in the country. There has been response to that; there have been people from different walks of life making statements about the administration of legal services in the country. Quite recently the Archbishop made a public call that something must be done for the expeditious disposal of the problems within the administration of the judicial and legal services.

**2.05 p.m.**

In the light of all this, one would have expected the Government to have a policy, and make a decision as to how to deal with this problem. I would suggest to the Government that since the amendment is of no great significance in dealing with the problem that exists with the administration of justice, we defer the debate of this bill until the Government come up with a policy statement that would, in effect, appease the population, convince them that the administration of judicial and legal services of this country is such that there could be confidence in it.

It is recognized that in any society where the pipeline to redress through the judicial and legal services is blocked, utter chaos can result, and the rule of law can be destroyed. I think that somehow we seem not to have the right pulse as to what is happening with the administration of legal and judicial services in the country and its impact on everyday life. It seems to me that the Government needs to make decisions as to how it is going to deal with the problem. The solution is important to the people of Trinidad and Tobago. No individual or individuals would be more important to the people of Trinidad and Tobago. Therefore, the public interest comes first. I would say that the approach of the Government to this potentially fatal illness is manifestly to bury its head in the sand, and hope that the problem would be blown away; that they would wake up one morning and find milk and honey flowing in the streets, as far as justice is concerned. We on this side of the House are not of that view.

When one looks at the problem, in fairness to the present administration, we can say that it is historical. Without however looking further than in the recent past, the ills of the judicial and legal system can be seen in a nutshell. The

Republican Constitution of 1976, altered the composition of the Judicial and Legal Service Commission ineffectively, in that it permits the appointment of a gaggle of retired Justices of Appeal and the constitutional requirement for the appointment of the Chief Justice.

The 1976 Constitution merged the separate but otherwise identical provisions for removal of puisne judges with those of the Chief Justice and Justices of Appeal but retained the requirements for his removal. It also left the procedures of the Commission open to legalistic debate, and retained the duality of the functions of the Chief Justice in the Court of Appeal and the High Court as well as his role as Chief Justice and administrative head of the judicial and legal service system.

All these shortcomings have led to many undesirable and unhappy results well known to members of the public and members of the legal profession. I do not intend to catalogue these ills. It seems to me that what this amendment raises is, what is the Government's policy with respect to heads of sections of the judicial service being involved in actually disposing of cases, hearing and determining matters and also seeing about administration.

If one looks at the section which this Bill seeks to amend in the substantive Act, one sees that under section 15:

“Subject to the Constitution and to any written law, control and supervision may be exercised over—

(a) the Masters of the High Court, the Chief Magistrate and the Registrar and Marshal, by the Chief Justice.”

It seems wrong to me—and perhaps, some day somebody would take it up—that the Chief Justice can control Masters of the High Court, and the Chief Magistrate. Perhaps it was not intended to mean what it says. But be that as it may, one sees that the Chief Justice of Trinidad and Tobago, whoever holds that office, has administrative duties to do in relation to the officers. When one looks at section 15, (1) one sees:

"(b) other judicial officers mentioned—

(i) "in Part 1, by the Chief Magistrate under the direction of the Chief Justice;"

So one sees that the Chief Magistrate administers control over all the officers mentioned in Part I, but under the direction of the Chief Justice. One sees, again, that the Chief Justice and the Chief Magistrate are involved in administrative work.

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"(ii) in Part II, by the Registrar and Marshal under the direction of the Chief Justice;"

Again one sees the Chief Justice has administrative duties.

"(iii) in Part III, by the Chief Justice;

(iv) in Part IV, by the Chairman of the Appeal Board."

And (v), is the proposed amendment so that the President of the Industrial Court would have supervision over some of the officers. Let us take from (iv) upwards and see what has resulted from this section.

The backlog of cases which exists at the Appeal Board is unrealistic. As a matter of fact it is virtually at a standstill. Here we have the Chairman of the Appeal Board who has to deal with adjudication of these matters involved, in effect, in administration. I thought there would have been some machinery devised so that the Chairman of the Appeal Board and the heads of the other bodies, would be taken away from doing these administrative functions, so that they could concentrate on determining matters. And the Constitution can be adhered to in spirit; that is to say, speedy determination of matters, when it talks about due process of law, and the protection of the law. One sees that under section 151(a) and subsection 15(b), (i), (ii) and (iii), the Chief Justice is involved in administration. If anyone picks up the figures which the Attorney General gave us in this House for matters which have been filed and disposed of in the Court of Appeal, one sees that it is a chaotic situation.

### **2.15 p.m.**

I should have thought that in such an important matter as justice, the Government would have taken time off from its busy schedule—where it wants to bring legislation to deal with giving awards to people from Caricom and the other legislation which they have introduced—to come up with a White Paper on judicial and legal service in the country, or a bill or some statement on which the public and the legal profession can debate and come to some solution to the problem.

What we are doing by these amendments is merely perpetuating the problem. It seems to be the feeling on the other side that what has to be done is merely to appoint a committee to deal with the question of delays and the causes. That would solve the problem when a report is given. The problem affecting the administration of justice and legal services in the country is not only delays, but also the whole question of the appointment and elevation structure; and the

scrutiny of the appointment and elevation of judges; the quality of magistrates and judicial officers, generally.

The Government has merely got a report and the facts together, not even a public inquiry. We know that there are delays. As a matter of fact, I have been going through my library and I have seen that time and time again, there have been commissions of inquiry with respect to certain aspects of the administration of justice. We have had recommendation after recommendation; some of them have been carried out; some have been carried out half-heartedly and some of them not at all.

What needs to be recognized is that no person who holds the post of either Chairman of the Appeal Board, Chief Magistrate, or Chief Justice can perform the functions which are attributed to a judicial officer in determining cases, and also be involved in administration. One has to recognize that when these concepts were started where a Chief Justice did all these things, there were only a few cases.

At present, in Trinidad and Tobago, we have had increased litigation because there have been statutes from time to time putting additional jurisdiction on magistrates; in the High Court; judicial review; constitutional motions and the whole field of law being expanded. We have had all this expansion and growth, but we have the Judicial and Legal Service Commission and the judicial and legal services of the country still going along the same old road.

It would seem to me that the proposed amendment is totally useless. I think it would be counter-productive. One knows that what we are going to do is to amend this Act to put additional burdens on the President of the Industrial Court. One knows that in the Industrial Court—it is published in the newspapers—there are constitutional motions for delays; cases take as long as 19 years to be completed. There have been persons who have had to fight constitutional motions, so that judges have heard matters and decisions have not been given. It is on record. There is a backlog of cases for so many years. The President of the Industrial Court with all that backlog is now going to be given additional responsibility to be involved in administration.

What are we doing? Are we serious? Is it that we recognize the problem and feel that if we take measures we are going to offend people? In dealing with judicial and legal services in a country, there can be no holding back if it is that there are problems which exist and affect the delivery of justice to the population. The law and the legal services must not only speak justice, but deliver justice. With

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all these amendments and speeches which we hear at the beginning of every term when the High Court opens by persons who occupy authority in the land, we have no action. It is time that the Government determined whether it is serious about what it said in the manifesto—that there is going to be accountability at all levels if it got into power.

**Mr. Valley:** Trouble.

**Mr. Maharaj:** I understand you were in trouble.

**Mr. B. Panday:** You are in serious trouble.

**Mr. Maharaj:** At page 7 of the manifesto of the People's National Movement under "Administrative Framework" it says:

"There will be accountability at all levels."

What does accountability mean? It means that people who occupy offices would account for their actions and/or inactions; their deeds and/or misdeeds and their procrastination. "At all levels" means at all levels of the society. If the Government is in power on the basis of a manifesto that it presented to the population, and it recognizes that there are problems in the country which can be solved, it should deal with them!

We think that one of the ways to deal with the problem is to make all levels accountable to the population, because I think it is forgotten that if the judicial and legal services are not properly maintained, or if for some reason or the other—as in my view—there is a state in the judicial and legal services in which perhaps there cannot be maximum determination of matters, and there needs to be some more competence in its determination, the economic situation is affected.

If there is a criminal trial and that takes a month or whatever the duration in the High Court, it costs the taxpayers money. If there is a conviction and there is an appeal and the Court of Appeal has set aside the conviction because of some trivial or elementary error made by a judge and there has to be a retrial, the taxpayer has to pay for that.

I have tried to do a survey—I do not know how accurate it is—but from the information I received, every time there is a criminal trial in the Hall of Justice in Port of Spain, it costs the taxpayer \$20,000.00 daily—I am not talking about legal services—when one considers building space, police and everything. Imagine, what

happens when one takes into consideration all the areas of the law, such as the civil law, matrimonial law, the Master Court and all the other areas.

**2.25 p.m.**

If we are perpetuating a system in which we know that there are serious shortcomings and misgivings, then what we are doing is acting counter-productive to whatever economic policies one has. That is why it is important that courts are staffed by persons who are not only accepted by certain individuals, but also accepted by the population at large as being persons who deserve those positions.

That is why on this side of the House the United National Congress has been advocating, time and time again that one of the ways in which the problems affecting judicial and legal services in the country can be alleviated is by the setting up of what is called a Chancellor of the Judiciary. The holder of that position would have total administration of the courts. This means that, whatever administration is now done by whoever is the holder of the office of Chief Justice, the Chancellor of the Judiciary would see about it and the Chief Justice and judges would be able to devote their time to hearing and determining people's cases.

I feel very sorry sometimes for judges and the hon. Chief Justice because, sometimes one goes to the court and sees that the court, which is supposed to start at 9.30 a.m., beginning at about 11.00 a.m. When he comes out he says that he is burdened with administration. It happens often. I think that we should not burden the holder of the office of Chief Justice with this administrative yoke, which is obviously preventing the disposition of cases speedily in the courts.

The Government should look very urgently at this to make a decision. We have had enough of this. As the Attorney General has said in his statement on delays, when this happens the people suffer. I would ask the hon. Prime Minister, as the head of this Government, to look at the words which he printed in his little pamphlet, when he wanted to get the support of the population—

"You too shall prevail as caring, truth, unity, dignity, justice and equality shall prevail with the People's National Movement handling the tiller and steering us into the future."

It is sometimes forgotten that the impact of the present judicial system on the lives of people does not only affect their economic situation, but also their lives generally, in that, because of the effect of the present system, there are many wives when their husbands die, have to wait years to get their moneys in court, and the

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length of time affects their lives and the lives of their children. On some occasions education is denied children. This is a matter about which the Government cannot just bury its head in the sand. It has to face the problem and face it in a frontal way.

The amendment deals with the Industrial Court and there are several articles. I am just citing this to bolster what I have just said, in that you will recall that I said that the Industrial Court is in such a state that there are great delays in the disposition of matters.

I merely want to refer to an article with respect to the Industrial Court by someone who was very involved in the People's National Movement. He was also a member of the Industrial Court, Mr. Hector McClean. I hope that the hon. Prime Minister would not deny him.

**Mr. Manning:** Madam Speaker, I remember him well. He is an old friend. I just want to make it clear for the removal of all doubt that he was a member of the court after he resigned as a member of the political party—for the preservation of the independence of the court.

**Mr. Maharaj:** I did not think that anyone would have thought that whilst he was active in Government and a member of the PNM he was a member of the Industrial Court. It would not have been possible for him to be appointed in that way. In that article titled "Scandalous state of Industrial Court" on page 7 of the *Sunday Guardian* dated October 20, 1991, he said:

“Last week, a Government release advised of the immediate appointment of four more judges to the Industrial Court.

It is ironic that even as the Cabinet was accepting the recommendations of the Minister of Labour, Employment and Manpower to appoint three more women and one man to be judges of the Industrial Court, thereby bringing its complement to an all-time high of 17, the International Labour Organization's adviser to the Caribbean, George De Pena, was talking about:

‘The dilemma in which industrial relations in Trinidad and Tobago is set at the moment, where industrial relations-wise employers are now stronger, though economically weaker...’ ”

Then he went on to deal with the problems which exist at the court. It is a very long article.



The point I am making is that one sees that whenever there seems to be an uproar about any aspect, the Government thinks to appease public opinion, it must do something, put two or three more judges. But one sees that even if there are more judges, that does not solve the problem, because it is no use putting persons who do not have the qualifications or experience to be judges. One of the most important areas of the judicial and legal service machinery is for the Government to determine what criteria, as part of its policy, it will use in having people appointed to whatever sphere of judicial activity in Trinidad and Tobago. Therefore, one sees that we cannot solve the problem by merely improving on the hairstyle; we have to deal with what is in the head. What has been happening is that we have been changing only the hairstyle, we are not dealing with what is in the head.

With respect to the magistracy, there have been inquiry after inquiry dealing with delays, and quite recently we have had figures, but more importantly one sees that from the figures, not even coroners' inquests can be determined expeditiously. When there is an unnatural death, sometimes there is the necessity to have these things determined quickly because members of families expect insurance and they depend on that, and when an inquest takes eight to ten years, it defeats the whole purpose of justice.

I do not think that I want to say much about the magistrates' court since all the aspects of the operations of the Judicial and Legal Service Commission deal with legal services with respect to all spheres. I think that I should just, before I close, remind the hon. Attorney General that it is only within the last month that there was an article in the *Express* of August 2, 1992 to the effect that now there is kerosine in the judicial brandy. The article quoted a previous Chief Justice as saying that in the appointment of judges, the brandy was watered. Madam Speaker, there was also reported after that, an eminent jurist, Justice Telford Georges, who stated that having regard to what has happened in Trinidad and Tobago, there is need for a public inquiry into the administration of justice.

**2.35 p.m.**

I have no doubt that having regard to the provisions of the Commissions of Enquiry Act, whenever there is public disquiet in the country on any national matter, it is incumbent on the executive of the day to, at least, appoint a commission of inquiry. I am of the view that, since the Government decided that it was not going to go that way by appointing a commission of enquiry, it must be

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presumed to have known then that there are problems which exist and they have a duty to deal with that.

The point I am making is that it shows that they do not want to deal with it. The Government is afraid to deal with the problems affecting the administration of justice. The reason that they are afraid to deal with it is that it is part of their policy of protecting that parasitic oligarchy.

**Mr. B. Panday:** Oh, what a beautiful description! Where did you get that phrase?

**Mr. Maharaj:** Madam Speaker, they know that if they deal with the problem not only amending this would come into play, but also the whole composition of the Judicial and Legal Service Commission would have to be addressed. Who are the persons that must sit on the Judicial and Legal Service Commission or anybody who should be responsible for appointing judges? Should they be persons who do not know what is happening in the courts? Should they be retired judges who do not have a clue as to what is happening?

In this country there is no provision for the President of the Law Association to be consulted on the appointment of a judge, or on the elevation of a judge to the Court of Appeal. As Justice Georges said, the Judicial and Legal Service Commission can be a facade where they are manipulated for one reason or another in Commonwealth countries. Government knows that if it has to deal with the problem seriously, it would have to dissolve the whole concept of the Judicial and Legal Service Commission as it exists in Trinidad and Tobago.

When one looks at other systems one sees what happens. The English system cannot be transplanted wholesale to the Caribbean. We are talking about abolishing appeals to the Privy Council whilst this is going on in Trinidad and Tobago. Be that as it may, we cannot take a situation or machinery that exists in England and transplant it wholesale or in some slightly modified form in Trinidad and Tobago.

I do not want to bring personalities into this, but if there is one person in Trinidad and Tobago who should have been a High Court Judge, and probably in the Court of Appeal by now, it is you. I know that you would not bring personal matters into this debate, but it is sometimes good for a Member to know what happens, because it is not everything that happens that is published so that people can know about it. It is sometimes good for people in authority to know what really happens.

In Trinidad and Tobago, persons who should have been on the High Court bench, or the Court of Appeal are not there because of manipulation—we have a history in this country where people have been forced to leave the country and take up appointments in other countries and those countries have benefited.

We have a situation now: Kerosine is in the judicial brandy. What should we do? We are suggesting that the Government take immediate steps. We agree that there is no need for an enquiry; take immediate steps to have machinery set up whereby whenever a magistrate, judge, or any judicial officer is being appointed or elevated, he or she must subject himself or herself to public scrutiny, as is done in the United States of America. The people must be able to scrutinize persons who are going to be appointed judges, magistrates, or to any other judicial office.

When a person is appointed as a High Court judge, that person has the control of life over certain individuals that come before him; control over property, the future of human beings, the custody of children. Therefore, if there is kerosine in the judicial brandy or water in it, we are getting watered-down justice and kerosine justice and any day that can go up in flames.

We on this side of the House are saying, “Yes, this appears to be a simple amendment”. We are saying that the amendment appears to be totally useless. We are saying that if the Government is serious, as the Attorney General has said, about improving the efficiency of justice, it would bring amendments, which will, in effect, deliver justice to the people of Trinidad and Tobago, not simply justice of the mouth.

I know how this Government operates. In reply, the Government will say, “Yes, we are doing something. You know what we are doing? We have a committee to investigate delays and to collate this information. You see, with those delays we can deal with the problem of the administration of justice.” May I say this, Madam Speaker: The Government knows that is not the answer to the problem, that is only one aspect of the problem, that is only the tip of the iceberg.

The Government knows that the whole iceberg means dealing with the infrastructure, the heart, the core of the problem which has to do with standards in judicial appointments and elevation, discipline of judges, and accountability of judges to the profession and to the people of Trinidad and Tobago.

Thank you very much.

**Mr. Basdeo Panday** (*Couva North*): Madam Speaker, I rise only to give an example, as proof, of what has just been said by the Member for Couva South.

What is before us is the Judicial and Legal Service (Amdt.) Bill, 1992. The Explanatory Note says:

“The purpose of this bill is to amend section 15 of the Judicial and Legal Service Act to expand the list of persons having control and supervision over the several offices mentioned in the Second Schedule to the Act, specifically, to include the President of the Industrial Court as the person having control and supervision over the holder of the post of Registrar, Industrial Court.”

Simply, that is what is before us.

My learned friend has said that the whole system is futile. The futility is in the system itself and Government has to do something with the system and not just tinker with it, as is happening here, to bring a bill to amend the law so that the President of the Industrial Court would have some kind of supervisory function over the Registrar.

As evidence of the futility of the present system, I refer to a matter which is heartbreaking and unbelievable. It is a report of the Ombudsman of Trinidad and Tobago. The Ombudsman in his special report No. 1 of 1992, refers to the complaint of a lady by the name of Cynthia Riley-Hayes.

After today, let it not be said that we do not take up the cases of everybody, whether they work at the lowest level or at the highest level. This report reads:

“On May 21, 1991, Mrs. Cynthia Riley-Hayes, a member of the Industrial Court, complained to me ...’

That is, the Ombudsman—

“that the terms and conditions of her service as a member of the Court was being breached.”

The first thing I want to mention about that is, a member of the Industrial Court has a complaint, and in this present system she has to go to the Ombudsman. Either there is no confidence in the system, or there is no avenue or channel for her to go within the judiciary itself in order to deal with her complaint. That is the first point I want to make to give as evidence of the futility of the system and the reluctance of the Government to introduce reform. They are scared to death of any kind of reform that involves accountability.

**Mr. Manning:** That is not true.

**Mr. B. Panday:** Well, if that is not true, at the end of my contribution, the hon. Prime Minister will tell me who is responsible for this case that I am going to refer to today.

**Mr. Manning:** The Attorney General will tell you.

**Mr. Maharaj:** No, we want you. Since last week we wanted you.

**Mr. B. Panday:** The facts of this case, which have not been disputed, are as follows:

"Mrs. Cynthia Riley-Hayes joined the Industrial Court in 1980. Under the terms and conditions of her service, she was entitled to travel grants similar to those accorded to the judges of the Supreme Court under the Judges' Conditions of Service and Allowances Regulations No. 2.

Under regulation 7, a passage allowance is payable to a judge, his wife and children in a sum equivalent to the full actual cost of first-class return passage by air, not to exceed the cost of three adult first-class passages to either Kingston, Jamaica, or to London, England. These provisions apply in alternate years, the first entitlement being to Kingston, Jamaica."

Now, that is absolutely clear. There is not problem about that. There is no dispute; that is the law. Those are the provisions. But listen to what happened to this poor lady—and there is no one to remedy her situation; that is the tragedy—and she is a judge of the Industrial Court. God help the man at the grass roots.

"However, Mrs. Riley-Hayes was given leave passages to London, in 1982, instead of to Kingston, Jamaica, this being here first entitlement.

In 1984, she was accorded leave passage grants to Kingston, Jamaica and this pattern continued until the year 1990, when she applied for leave passage grants to London, England, having been accorded leave passage grants to Kingston, Jamaica in the year 1988.

The Registrar of the Industrial Court . . ."

subject matter of this bill before the House—

"who is the accounting officer under the Exchange and Audit Act, Chap. 69:01, has refused to accord leave passage grants to Mrs. Riley-Hayes to London, England, despite the fact that the Vice-President of the Court, acting

on behalf of the President of the Court, had approved the grants to Mrs. Riley-Hayes."

Nobody can do anything about that.

"Mrs. Riley-Hayes is not a public servant and her terms and conditions of service are governed by her contract with the Government. The President of the Court has the responsibility to determine the entitlement of members of the Court under their contracts, not the Registrar of the Industrial Court.

On May 21, 1991, Mrs. Riley-Hayes made her complaint to me. I met with her on June 6 with a view to resolving the situation.

On that occasion, Mr. James, the Registrar, stated categorically that Mrs. Riley-Hayes was not entitled to passage allowance to England, in 1990, and he was not prepared to pay her the same."

Simple as that! It does not matter what the President of the Court says; it does not matter what the law says. I want to ask the Attorney General, before I proceed any further: Has that situation been rectified?

**Mr. Sobion:** You are asking me?

**Mr. B. Panday:** Yes, I am asking the Attorney General.

**Mr. Sobion:** Madam Speaker, the matter involving the judge of the Industrial Court is being pursued at the moment with a view to coming to a resolution.

**Mr. B. Panday:** Thank you very much. That means nothing has been done. That is the way they say it.

**Mr. Sobion:** In the way you think.

**Mr. B. Panday:** In legal language they call it "legalese", well, that is "governmentese". That is the way they speak. We are talking about 1991. That is why I pause to find out if they have done anything for this poor lady.

"On June 11, 1991, after investigating the matter, I came to the conclusion that Mrs. Riley-Hayes had suffered an injustice by denial to her of the passage allowance to London in 1990, and recommended that she be paid these allowances within 14 days."

There was no justification, either in law or in equity in denying Mrs. Riley-Hayes these passage allowances. I wrote to the Registrar to that effect. I have

had no reply from him. Neither has he communicated with me with respect to my recommendation."

Mrs. Riley-Hayes does all that she can do. She goes to the Ombudsman, the Ombudsman makes his recommendation and he is treated with contempt and contumely; she is part of the administration of justice and she cannot get justice. This is unbelievable.

There is nobody in the Government who has the authority, the guts or the courage to stop this injustice. They are still looking into the matter. Since June 11, 1991, they are still looking into this matter. My friend says this reminds him of a reserved judgment in the Court of Appeal.

**Mr. Manning:** Your friend?

**Mr. B. Panday:** My very good friend.

**Mr. Manning:** A very recent development.

**Mr. B. Panday:** The Ombudsman continues:

"I made further attempts to resolve the issue . . ."

I want to show you how the Ombudsman, as an institution in this country, is not only toothless; I wonder if he has gums to even hold teeth; so useless is that institution in this country.

Members on the other side when we talk about justice for people, say, "why do you not go to the Ombudsman?" Let me show the contempt with which they treat the Ombudsman in this country; and they call that an institution. The Ombudsman states:

"I made a further attempt to resolve the issue. I called a meeting on September 13, 1991, and invited Mr. James to attend."

That is the Registrar, incidentally—

"He failed to attend, but representatives of the office of the Comptroller of Accounts and the Solicitor General, whom I had also invited, attended. So too did the complainant, Mrs. Riley-Hayes, who reiterated that passage allowances had been accorded to other members of the Court after one year of service."

An act of deliberate, total and unequivocal discrimination! They do not want to set up an Equal Opportunities Commission. I am not talking about somebody on the streets working in LIDP—Lord, help those who are working with LIDP, who have similar problems. The Registrar fails to attend. Mrs. Riley-Hayes came and

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she spoke again and she says that other members of the court have received passage allowances. The Ombudsman continues:

"If this is so, then Mrs. Riley-Hayes' rights under the Constitution are being breached in attempts by Mr. James to deal less equally with her than with other members of the Court."

When I speak of an Equal Opportunities Commission in this country, now you know what I am talking about. Here is a member of the judiciary, a member of the Industrial Court being treated unequally. This Government says 'that that is why we do not have an Equal Opportunities Commission in this country; there is the Ombudsman; why do you not go to the Ombudsman? She went to the Ombudsman. Here is a lady who is being treated unequally, she is being discriminated against. She is being alienated from this society by the Government.

Continuing the statement:

"The Auditor General, by memorandum dated January 12, 1992, has informed me of a number of cases of members of the Industrial Court having been accorded passage grants after one year of service with the Court and of a number of members being granted passage allowances to the United Kingdom and the United States of America in the subsequent year of service after the first appointment. Many of these grants had been made at the time when Mr. James was the Registrar of the Court and the Accounting Officer.

It appears to me, that Mr. James has not only flouted the directions given to him by the Vice-President of the Court, but, for his own personal reasons, has deprived Mrs. Riley-Hayes of her leave passage entitlement to London, England, in 1990, and in so doing has committed breaches of the Constitution. First, in dealing with her less equally than with other members of the Court, and secondly, in depriving her of property without due process of law."

I find this impossible to believe in a country that says it upholds the law and the Constitution. I find it impossible to believe that a Government sits idly by when people's constitutional rights are being infringed. They laugh up their sleeves, grin like the cat that swallowed the canary, and will not lift a finger to help the people of this country. That is the caring Government.

If they cannot care for a judge of the Industrial Court, will they care for people from Laventille; John-John; Waterhole; Cocorite and Never Dirty? Will they care for them?



**Mr. Manning:** Brasso Venado.

**Mr. B. Panday:** Brasso Venado, thank you kindly. That is what we call a caring government in this country.

I continue:

"I report this matter to Parliament under section 96(4) of the Constitution, as I deem that an injustice has been suffered by Mrs. Riley-Hayes and that Mr. James has not taken any action to remedy it. In fact, he has ignored my recommendations, completely."

This is the most damning document that I have ever come across of injustice, the futility of the system, the inertia and the lack of caring. The lady belongs to a certain class in the society, so it was raised. Hundreds of people in this country are suffering worse discrimination, deprivation, alienation and flouting of their constitutional rights.

Before they get support from us on anything in this House, they have got to deal us their position on two things: Firstly, how people are going to be protected from situations like this; that is, what is their position with an Equal Opportunities Commission; and secondly, whether they intend to subject themselves to accountability. They seem to be totally unwilling to be accountable to this country. They want to borrow money but they do not want people to know. They do not want to debate anything. They want to make statements about selling out the state enterprises but they do not want to debate anything.

When we ask about that, they say "Come on Private Members' Day," they know what would happen on Private Members' Day—that is never going to be debated in this House because they do not want to be accountable. They want to sell out the state patrimony. As a matter of fact, I have a speech by the Prime Minister about state patrimony, when he was sitting down on this side. It is a lovely speech. But sitting on that side now, it reveals him as being an enormous hypocrite. I do not know how he is going to live this down.

Madam Speaker, this piece of legislation is tinkering with things. So that, no one in the Government had any control, power, influence or will to solve this lady's problem. Can the Minister who speaks about responsibility, or anyone, tell me here today who is responsible for remedying this breach of the constitutional rights of Mrs. Cynthia Riley-Hayes? Who is responsible, which Government department, which Minister of Government is responsible for this? Has anybody accepted

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responsibility? Of course not; it is the system. If anything happens, it is the system. Thirteen people died at St. Ann's Hospital; nobody is to blame; that is the system. I tell you one thing—there is a certain fellow from that place, if he gives me egg-nog, I am not drinking it.

Seventy murders have been committed in seven months in this country, including suicides, and nobody is responsible; it is only the system. The system is responsible for the high crime rate and 70 deaths in the country—murders, suicides and so forth. If the national awards list only serves to deepen alienation, nobody is responsible, that is only the system. They will change the system later on, no problem.

The same thing, they say—this lady is suffering because of the system, nobody is responsible. This Government is the least responsible Government that has ever disgraced that side of the House; it is responsible for nothing.

Having said that, Madam Speaker, I want to raise a few other points that touch upon this. The very President, under whose supervisory care and control they wish to put the Registrar of the Court, is a person who has a grievance and does not know what to do. He has a grievance; that is to say, the Government has reneged on the terms and conditions of the President of the Industrial Court. It was said in this House, I believe, that those terms and conditions would equate with that of a member of the Court of Appeal. Up to today they treat the President of the Court as some glorified clerk or somebody less than in the Attorney General's office. That is a problem that has been reeking and sitting for a very long time—the status of the President of the Industrial Court.

### **3.05 p.m.**

If the President of the Industrial Court is being treated by the Registrar with such contempt, it has got to be because they fail to regularize his own status. When the President of the court is treated with contempt, do you not expect the Registrar to treat the President with contempt as well? It has got to be, so merely putting the Registrar under the jurisdiction of the President of the Industrial Court is not going to solved any problem. Surely, if the Registrar is under the control and supervision of the President of the Industrial Court, it is intended that some kind of administrative efficiency would flow therefrom.

The Industrial Court has the status of a court of superior jurisdiction. But it functions under conditions which are worse than some magistrates' courts. Half the time the air-conditioning unit is not working; the conditions are so bad, that they

have resulted in a tremendous backlog in the court and there is no hope of that backlog ever being dealt with. I take this opportunity to ask the hon. Attorney General whether he is aware that there are several outstanding judgments on matters which were heard by judges who have since retired, or have left the Industrial Court. What is going with happen to those outstanding cases? There are workers, like Mrs. Riley-Hayes, who have had their matters heard five and six years ago, who cannot get a decision because those persons who have heard the matters are no longer with the court, through death, resignation, retirement, or one reason or another.

I see the Prime Minister has decided that he cannot take any more of this. I am not surprised. When we are finished with him he will not only leave that seat and go there; he will leave that seat and go back where he came from in San Fernando.

There was also a promise by PNM Governments, that there will be established an Industrial Court in the South. If I remember rightly, the PNM Government—the new PNM, the old PNM or the middle-aged PNM—had actually bought a building in San Fernando—I think it is the Ashford Sinanan building for this purpose. Now, if they are going to shine up the city—and I do not know how they are going to shine up the city with vagrants in it; they are probably going to shine up the vagrants as well—and that is the reason to vote for them, how about telling the people of San Fernando that they are going to keep a promise which is about 15 years old. That is to say, they are going, at long last, to set up an Industrial Court in San Fernando.

There are workers in San Fernando who have to leave Cedros. The oilfields are situated in San Fernando and every time there is a matter before the Industrial Court, they have to come all the way from one end of the country to the other. This is, it is claimed, a caring government, but it does not care what happens to the workers who must travel all the way to come up to the Industrial Court, that you have been promising for so long. I feel that the Government would have won more votes if it had taken that \$4 million, which was used to repair the Prime Minister's house, and had set up an Industrial Court in the south instead.

While I was at Sangre Grande and Couva last night, there came into my possession a document which was inviting tenders for the supply of refrigerators to the Prime Minister's house; two were for a 72 cubic ft. refrigerator. I have never seen a 72 cubic ft. refrigerator in my whole life! That means it is six times the biggest refrigerator I have ever seen. And he wanted a fryer that could fry 60

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pounds of fries in one hour. I am sorry for Kentucky when he is finished, yes! The ice-maker must make 400 pounds of ice in an hour. Is it a mortuary you have inside there?

**Mr. Valley:** That is for you, after September 28. It is for the whole UNC.

**Mr. B. Panday:** When I read about an ice-maker to make 300 pounds of ice in an hour, a fryer to fry 60 pounds of potato chips in an hour; and I see the scandalous state of the Industrial Court, I want to know whether they are serious.

Madam Speaker, we would hope that before the debate is over [*Interruption*] Somebody wants to know how large the bar is. I do not know how big the bar is, but I know if he needs 200 pounds of ice he has a helluva bar. If I am supposed to be the one that indulges, I do not know what he is doing with a bar so large. But I should like to see it myself, I tell you.

So Madam Speaker, I am hoping that the Government will answer some of these questions we have asked. That is, first of all, they must indicate how this amendment is going to resolve the problems that we face in this country; how it is going to introduce a system of responsibility; how it is, by putting the Registrar under the supervision of the President of the Court, there is going to be any improvement in the efficiency of the system. We hope that the Government would be kind enough to let us know the answers to these questions before we determine whether we shall support this bill.

**The Attorney General and Minister of Legal Affairs (Hon. K. Sobion):** Madam Speaker, permit me first to make two short observations on the contribution made by the Member for Couva North. He referred to the matter of the Ombudsman's report on Mrs. Riley-Hayes; and I got the impression, that he failed to understand the significance of the amendment which is before the House. Because, while I myself, in presenting the bill, did not refer specifically to that matter, it is as a result of that matter that this amendment has been put before the House. It is absolutely relevant. As the Ombudsman said in his report, the Registrar refused to accord leave passage grant even though the Vice-President, acting on behalf of the President, authorized it.

**3.15 p.m.**

**Mr. B. Panday:** Would the Attorney General be kind enough to give way? If, as he is saying, nothing could have been done to remedy the situation or to enforce the conditions of Mrs Riley-Hayes unless this Bill is passed, is he telling

me that in the absence of this, we have a system of government in which nobody is responsible for the fact that the Registrar disobeys regulations?

**Hon. K. Sobion:** Madam Speaker, if the hon. Member for Couva North would take his time and wait until I say what I have to say, he would probably not have cause to interrupt. The fact of the matter is that one does not deal in government with things on a personal basis. The reason given by the Ombudsman for the problem which Mrs. Riley-Hayes found herself in, was the deliberate refusal of the Registrar to obey the directions of the Vice-President, acting on behalf of the President. That is because, under the Judicial and Legal Service Act, which we are seeking to amend, the Registrar of the Industrial Court does not fall under the direct control and/or supervision of the President of the Industrial Court. This amendment seeks, not to deal with Mrs. Riley-Hayes' problem, but to ensure that such problems do not occur again. It is meant to correct that error and when the President of the Industrial Court gives a direction to the Registrar, it must be followed.

The Member of Couva North referred to the exact cause of the problem and that is the reason for the amendment. Now that he understands the reason, now that he has expressed all goodwill to see that Mrs. Riley-Hayes' problem is solved, let me see how he votes at the end of this debate, because he cares about those below and those on top; those in Laventille. Let us see how much care he has at the end of today. He spoke about hypocrisy a while ago; let us see whether he is a man of his word. He cares about Mrs. Riley-Hayes.

We have put in place a measure which will ensure that the President of the Industrial Court cannot be lightly disobeyed by a Registrar, a legal officer, who is under him. That is the sole purpose of this amendment.

With respect to the other points made by the Member for Couva North, I take the point that he has made with respect to the state of repair of the Industrial Court and with respect to a branch of the Industrial Court at San Fernando. I want to assure him and Members on the other side, that those matters are engaging my active attention and the Property Management Unit has been mandated to find proper accommodation for the Industrial Court.

The Member for Couva South adopted what I may call a rather simplistic approach to the problem of delays in the administration of justice, when he suggested that it was because so much administration was put in the hands of those who are in charge of the system. He was at pains to demonstrate that the Chief

Justice was responsible for so many other legal functionaries in an administrative sense; therefore there were delays in the administration of justice.

As you know, Madam Speaker, in May of this year I made a statement in Parliament concerning the administration of justice, and I expressed then my very grave concern about the situation. Contrary to what the Members for Couva North and South have said, this is a Government which, not only speaks, but acts, based on information, on proper research and advice. The question of delays has been addressed by the team which was appointed in May, 1992, and they have submitted their report within the time, dealing with the question of delays. This report has been referred to the Cabinet, which has approved it and things are at the stage now where copies of the report, with the recommendations, are being sent to various agencies for implementation.

The report will demonstrate, contrary to the views expressed by the Member for Couva South, that delays in the administration of justice have nothing to do, really, with the fact that the Chief Justice is responsible for supervising and controlling the Registrar of the Supreme Court or the Chief Magistrate. The problems of delay are numerous and the report which I propose, as a result of this debate to lay in Parliament, perhaps, next week, sets out the series of problems and the various recommendations which the committee has made.

**Mr. Maharaj:** Could the hon. Attorney General say whether he would agree to have that report debated on the motion of the Government, having regard to its importance to delays in the administration of justice?

**Hon. K. Sobion:** I have made due note of the request of the Member for Couva South. Certainly there is no problem in having this report debated.

Among the matters raised in the report and among the recommendations listed for implementation, are judicial staffing; the improvement of the computer-aided transcription system; the creation of a closed department for the Supreme Court; computerization of court files and records; the creation of the position of law clerks for judges, and several other recommendations relating to further appeals to the Privy Council and so forth.

The recommendations which we have compiled in this report are matters which are now before the relevant authorities for implementation. There are matters which one would also have to look into, but, as the Member for Couva South will recognize, we are adopting a systematic approach to the problems. The question of

judicial appointments and the system of promotion to the Court of Appeal, are matters which will come under scrutiny in due course.

It seems that the bill, although it has generated discussion on matters which are not, strictly speaking, relevant to the bill itself, has brought to the fore the activity of the Government in this serious area of problems relating to the administration of justice. I assure Members on the other side that they are, in fact, being addressed.

The bill, as I said in my opening, seeks to simply put a lower judicial officer under the control of a senior officer for the purpose of ensuring, as demonstrated by the Member for Couva North, that the kinds of problems which were experienced by Mrs. Riley-Hayes do not occur in future.

I beg to move.

*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 and 2 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.*

**3.25 p.m.**

*The House voted: Ayes 30*

**AYES**

Valley, Hon. K.

Sobion, Hon. K.

Mottley, Hon. W.

Ramrekersingh, Hon. A.

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.

Griffith, Dr. R.

Casimire, A.

Narine, J.

Hart, E.

Maharaj, L.

Panday, B.

Sudama, T.

Palackdharrysingh, R.

Bhaggan, Miss H.

Mohammed, S.

Allum, D.

Rajaram, C.

Singh, Dr. C.

Panday, S.

Jurai, K.

Sharma, C.

Hosein, S.

Nicholson, Miss P.

*Question agreed to.*

*Bill accordingly read the third time and passed.*



**CUSTOMS (CARIBBEAN COMMON MARKET) (ORIGIN OF GOODS)  
(VALIDATION) BILL**

*Order for second reading read.*

**The Minister of Trade, Industry and Tourism (Sen. The Hon. Brian Kuei Tung):** Madam Speaker, I beg to move,

That a bill to provide for the validation of acts and things purported to be done under or in pursuance of the Customs (Caribbean Common Market) (Origin of Goods) Regulations, 1981, be now read a second time.

This bill is a fairly straightforward measure, intended to validate the practices, or actions, which have been carried on by the Customs with respect to items under headings Nos. Ex. 73:13 and Ex. 48:15 of the Customs (Caribbean Common Market) (Origin of Goods) Regulations, 1981. Heading No. Ex 73:13 concerns galvanized sheets of a thickness less than 3 mm, and heading No. Ex. 48:15 concerns toilet tissues, hand towels, paper napkins and facial tissues.

Madam Speaker, you will recall that with the introduction of the new (Origin of Goods) system which came into being on June 1, 1981, the qualifying condition for galvanized sheets is that such sheets are to be made from the production arising from uncoated materials. This qualification, however, was applicable only to the more developed countries, and in the case of the lesser developed countries, such items which were being produced by them, qualified under the value added rule.

Historically, galvanized corrugated steel sheets were produced in various member states. Trinidad and Tobago was the only state that met the qualifying requirement under the Common Market (Origin of Goods) rules for treatment of the production process, which started from the imported, uncoated steel sheet.

However, the Trinidad and Tobago plant has long been closed. The other plants were described as “corrugating only operations”, with the required coated steel sheets as their input material. The zinc, or galvanized coating operation, which was located in Jamaica, produced flat sheets, which were unsuitable for the regional corrugating-type operations.

Another significant development appeared to be an increasing shift to the use of steel sheets with a zinc or aluminium alloy coating material, which was found to be more weather and corrosion resistant. Except for this difference in the coating material, the production process, that is, the starting material using steel sheets,

and the uses to which these sheets are put is the same as for galvanized steel sheets. I will repeat that. The production process is the same as for galvanized steel sheets.

It was the view of the Council of Trade Ministers that the two products, that is, galvanized corrugated steel sheets and zinc aluminium alloy coated sheets, should be given the same treatment under the Common Market (Origin of Goods) rules. In the meantime St. Vincent and the Grenadines was enjoying a special and temporary derogation from the qualifying requirement of the production of galvanized corrugated steel sheets from uncoated steel sheets. This derogation facility expired in March, 1989.

As shown in the Explanatory Note to the Bill, the matter of origin requirements for galvanized sheets was discussed at three meetings of the Council of Trade Ministers—at its 28th meeting in 1986, the 32nd meeting in 1988 and, again, at its 33rd meeting, which was a special meeting called in 1988. The extensions given by the special meeting of the Council of Trade Ministers in August 1988 for galvanized sheets were from October 1, 1988 for St. Vincent and the Grenadines, and from June 1, 1988, for all other lesser developed countries. At this 33rd meeting of the Council of Trade Ministers it was agreed that the principle of equal treatment for both the more developed, and lesser developed countries, be given under the (Origin of Goods) rules for galvanized and other coated steel sheets.

Madam Speaker, with respect to tariff classification Ex. 48:15, which refers, as I said earlier, to toilet tissue, hand towels, paper napkins and facial tissue, a similar problem was experienced with respect to origin requirement. Due to the inadequacy of jumbo rolls supplied from the Caribbean region, the Council of Trade Ministers had agreed to a number of extensions to the qualifying conditions, which required these products to be produced from materials which are included under tariff classifications Ex. 47:01 and 47:02, which is chemical wood pulp. These extensions were to take effect from July 1, 1988, for the more developed countries, and from July 1, 1990, for the lesser developed countries.

### **3.35 p.m.**

Most of these decisions of the Council of Trade Ministers were reflected in the appropriate amendment by Trinidad and Tobago to the 1981 Customs (Caribbean Common Market) (Origin of Goods) Regulations. However, in respect of decisions taken by the Council for galvanized sheets after June 1, 1981 for the

more developed countries, and June 1, 1985, for the lesser developed countries, no action was taken to have the requisite legal notice published. Similarly, with respect to decisions taken by the Council for products in tariff classification, Ex. 48:15 that is, toilet tissues, hand towels, paper napkins and facial tissues no action was taken through legal notice after August 1, 1986 for the more developed countries and August 1, 1987, for the lesser developed countries. Consequently, the Customs and Excise Division would have acted on the basis of the regulations existing at the time the last amendments were published. It is now necessary to take the appropriate measure to validate those actions at the Customs and Excise Division.

This measure of validation will cover the periods as follows:

With respect to galvanized sheets of a thickness less than 3 millimetres, that is, with respect to tariff heading Ex. 73:13, from June 1, 1981, for the more developed countries and from June 1, 1985 for lesser developed countries. With respect to tissues, toilets napkins, that is, tariff heading Ex. 48:15, from August 1, 1986 for the more developed countries and from August 1, 1987 for the lesser developed countries.

Madam Speaker, as I said earlier, this bill is a fairly straightforward piece of legislation which is intended to validate acts which are purported to be done, omitted to be done by the Comptroller of Customs and Excise under the Customs (Caribbean Common Market) (Origin of Goods) Regulations, 1981, in respect to items described by me earlier on. It intends, therefore, that no legal proceedings or other actions of any kind shall be entertained in respect or in consequence of such acts and things.

It is my pleasure, therefore, to introduce this bill and I urge Members on the other side to support it.

I beg to move.

*Question proposed.*

**Mr. Krish P. Jurai** (*Nariva*): This House has been asked to give validation to what the executive arm of the Government did or has failed to do without legal authority under the Customs (Caribbean Common Market) (Origin of Goods) Regulations, 1981. The passage of this bill calls for no special majority. The Government will therefore have its way. The executive arm of the Government sits very snugly in Parliament, knowing full well that it has a majority and can

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virtually do anything at the executive level and then come to this House and ask us to give validation by rubber stamping it.

I want to tell the Minister of Industry and Trade, this House, and the Government that we cannot be treated like rubber stamps. I take this opportunity to remind all those concerned with the administration of government—ministers and public servants as well—that we live in a country that boasts that we uphold and live under the rule of law, and that we have a Constitution which enshrines the separation of powers.

The failure to come to Parliament and secure the necessary legal authority to do or not to do what was agreed with our Caribbean Common Market partners, is a kind of slipshod behaviour on the part of the executive that has far too long been tolerated at the national level. This sort of situation occurs because the executive too often fails to respect the limits of its powers, especially when those limits affect the legislature.

This Bill is yet another instance in which Parliament is being asked to rubber stamp a piece of legislation which is in fact already in effect, administratively, that is. This persistent disregard of Parliament constitutes a serious insult to the elected representatives of the citizens of this country and by extension, the people as a whole.

Parliament was asked to accept the report of the Finance Committee and to pass the Variation of Appropriation Bill 1992 to validate expenditure which the previous regime had already incurred. Similarly, I am sure very soon, Parliament will be asked to validate a similar piece of legislation to approve moneys which the Government has expended on repair of the Prime Minister's residence. At the moment, we are hearing all sorts of figures being bandied about—\$4.8 million, \$5 million and last night at a public meeting at Sangre Grande which was held under the banner of the UNC, for the local regional elections, the figure of \$7 million was stated. Maybe the Minister of Finance who is here can tell us the exact figure. Perhaps he can tell us how much the drapes cost or, what the total expenditure is, so that the country may understand.

Madam Speaker, this problem has been continuing because we adhere too closely to the Westminster system. We have a Constitution which seeks to secure the definite separation of powers. This I leave to my colleagues who are more expert in this field. However, this aspect impinges directly on what is before this House. I am constrained to deal with it.

**3.45 p.m.**

So often we see Ministers coming to this House and declaring that Cabinet has decided to do certain things. Too often the public servant is overawed into accepting and executing what the mighty Cabinet has decreed, frequently outside its authoritative competence and without legislative sanction, as has happened, as I said earlier, on several occasions previously. Not only Ministers, but also public servants must know that they are subject to the law.

**Mr. Casimire:** Would the Member indicate whether he is insinuating that public servants must question the ruling of Cabinet on certain matters?

**Mr. Jurai:** I did not say that. Time and time again, we have seen in this House the arrogant Ministers and a distinctly remote and haughty Cabinet. It is not easy for poor public servants to refuse to toe the line. That is the point I was making. They accept whatever the Minister says willy-nilly, without questioning whether it has legal authority. The public servant must also know when he is asked to do things outside the law; whatever he does, must be within the law. He must not step out of bounds. If he goes beyond the law, he could find himself exposed to legal action; and obedience to a Minister will be no defence.

**Madam Speaker:** I am still trying to see the relevance of the public servants' obedience to Cabinet to the bill. If the hon. Member can point it out, I shall allow him to pursue that line of argument.

**Mr. Jurai:** Madam Speaker, with due respect, I will. This is only part of the accountability process that I have been speaking about, which is lacking at every level of government.

We, on this side of the House have been calling for the establishment of parliamentary committees to make the functioning of Parliament more effective. So far, our call has not been heeded; it has fallen on deaf ears. As long as this continues, we shall be faced with this type of problem where we have to give validation to Acts which are already in effect. If we had parliamentary committees for trade, foreign affairs or even finance, the Minister who attended the Common Market Council of Ministers Meeting at which that decision to defer the time when effective dates and conditions would be complied with as set out in the Second Schedule under 4(2) of the Customs (Caribbean Common Market) (Origin of Goods) Regulations, 1981, would have been obliged to report on the decisions taken. That kind of error of omission committed by the Minister would have been far less likely to occur and we might not have been here today wasting valuable

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legislative time. We could have been doing something which would have been more effective to solve some of the economic problems of this country.

Parliament must be informed of the conditions which necessitated the deferral of the effective dates, why they were specific as to the two sets of items under consideration and whether such conditions have been removed to date. The Government no doubt in its arrogance was probably piqued by its failure, and in no mood to listen to advice, especially from this side of the House. The Government must get used to the idea of consultation and learn to listen and bring legislation for the benefit of the country at large.

The Government and, the Opposition have roles which are recognized under the Constitution. One would have thought that having spent some time in Opposition, at least some Members of the Government would have had an open mind, but it does not seem so. Even more importantly, our country is going through this severe economic crisis and the Government acts as if it does not know what to do. It should at least learn to listen to what the people have to say.

Our country is in both financial and economic crisis with rising unemployment, falling oil prices, rising prices internally and falling foreign reserves. The figure at present stands at minus \$2 billion. We on this side of the House are neither working for Ministers, nor are we asking for a say in decision making; we are simply saying that the legislature must be made more efficient, effective and accountable to the people. What we are asking for is accountability.

**3.55 p.m.**

We are convinced that the parliamentary committee system is the way to go, so that Parliament can monitor the situation that exists, on a daily basis. As I said earlier, if we had such a system in place, at least the Government would not have found itself in the position it has today—looking backwards to validate legislation. We should be looking forward instead. I think the PNM had a slogan sometime ago which said: "Forward ever, backward never", but they have been backward far too much.

We on this side would wish to see efficient government in the country, and we again ask the Government to consider the system parliamentary committees of this House so that we may monitor every Government action. It is only so that we can have efficient administration and effective control over spending and legislation in this country. Thank you.

**Mr. Chandresh Sharma (Fyzabad):** Madam Speaker, this Bill provides a unique opportunity for us to examine the performance of this Government over the last nine months. You would recognize that an opening statement is always required before the debate gets heated.

It is ironic that the Bill talks about galvanized iron sheets because the PNM has a lot to cover. You know what galvanized sheets are used for. More ironic, it is about toilet paper—the kind of numbers they are doing they require all the toilet paper they can get. *[Interruption]*

We all know it is Parliament; that is why we must come with good Bills here. You should know even better than the Minister who presented it.

The Bill before us indicates that at three meetings of the Caricom Council of Ministers held between the period 1986 and 1988, it was decided to defer the dates on which certain qualifying conditions would come into effect with respect to items under tariff numbers 48:15 and 73:13 of the Second Schedule to the Regulations. We wonder whether the validation of this bill today would truly benefit the community at large. That has not been identified by the Minister. The bill goes further to say:

"... it is necessary to validate all acts and things purported to be done in respect of items under Tariff Headings Nos. Ex. 48:15 and Ex. 73:13..."

Again the Minister has not indicated to us what exactly would be the outcome.

I wish to make the point here that since 1988, when the Trinidad and Tobago Development Finance Company was restructured, it created for itself an impressive track record in terms of mobilization of capital, investment, technical assistance and the diversification of financial institutions. It has raised about \$160 million through share capital increases and foreign and local borrowings. Further, by the end of 1991 the total portfolio of the Trinidad and Tobago Development Finance Company stood at \$166 million, with new investments making up over 50 per cent of the total portfolio. We are looking at what this bill will do—whether there is enough justification at this point; whether the groundwork has been laid. Again, information presented does not give us any clearcut guidance.

We have seen under PNM direction, to date, prices continue to escalate and the effects of the 1992 budget, combined with the reductions in supply have caused consumer prices, measured by the Retail Price Index, to rise by 2.4 per cent in the second quarter, compared with a marginal increase of 0.3 per cent in the second

quarter of 1991. The second quarter increase brought an inflation rate of 11.4 per cent.

There are a number of things that we have to look at. Unemployment continues to increase. Citizens are losing every hope in this country. In terms of business, small and medium business activity is on the decline. These things are extremely relevant to the bill. We are seeing big businesses continuing to make huge profits while small businesses go under. We have seen the Government going on overseas missions to seek new loans to pay existing loans, and absolutely nothing in terms of information or accountability is presented. As a result, I wish to submit that all the relevant information be presented so that we may better understand and be made aware of the exact situation as regards this bill.

**4.05 p.m.**

**The Minister of Trade, Industry and Tourism (Sen. The Hon. Brian Kuei Tung):** Madam Speaker, if I knew the word 'straightforward' was going to coerce Members into being so brief, I would have used it more often and much more forcefully in the past.

Let me say right away that this bill was never intended as an affront to Parliament. By that I mean that it really was not intended that Parliament be perceived as bringing a bill to validate something for which there was no reason. It is not my intent to stand here to try to defend what transpired between 1988 and 1991, as to why this bill reached here so late.

I can say, that one recognizes that the Council of Trade Ministers deliberate on matters in a rather dynamic way, so that whereas the Rules of Origin were determined from time to time between the period 1986 and 1988, the circumstances for which those rules were applicable were changing. As I mentioned earlier on, in one case where Trinidad and Tobago was the only country that was qualified under the terms and rules that were accepted, the company for which those rules would have applied in Trinidad and Tobago went out of business.

So that, in essence, the Rules of Origin were changing somewhat to suit the circumstances as applicable in Caricom at the time. But whereas, in 1988, these rules were finally settled upon, unfortunately, this matter was never brought to be regularized. So that, in essence, what happened was that Customs continued to act as if the rules, as decided in 1988, had become law; therefore, the purpose of this



bill is to validate those acts. It really meant that the rates of duty, if applicable under the Rules of Origin, were used as if this bill had been passed in 1988.

Madam Speaker, it is necessary, therefore, to ensure that Customs is protected so that acts done concerning both galvanized sheets and toilet and tissue paper be regarded as if the bill had been in effect since 1988.

There is no doubt in my mind that there are some administrative inefficiencies at Customs, but I think it would be unfair of any government to allow Customs to apply administrative machinery which is not supported by legislation. Therefore, I am happy this evening to have been able to introduce this bill and to commend it to this House so that we can allow Customs the comfort of knowing that what they are doing at present is supported by proper legislation.

It is in our review of the customs area and the effectiveness of Customs that we were able to determine that this bill is necessary because Customs was acting in one way and really the existing laws and regulations were different. I see this, therefore, as an opportunity to give Customs the requisite tools to ensure that they have the comfort of the law being equated to their practices.

*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 and 2 ordered to stand part of the bill.*

*Preamble 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; read the third time and passed.*

#### ADJOURNMENT

**The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Madam Speaker, next Friday we would want to debate the Report pertaining to the Tripartite Committee on Caroni. We are asking that the House adopt the report at that time.

*Adjournment*

*Friday, September 11, 1992*

I beg to move that the House do now adjourn to Friday, September 18, 1992, at 1.30 p.m.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 4.12 p.m.*