

*Leave of Absence*

*Friday, December 4, 1992*

**HOUSE OF REPRESENTATIVES**

*Friday, December 4, 1992*

The House met at 1.40 p.m.

**PRAYERS**

[MADAM SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Madam Speaker:** Hon. Members, I have granted leave of absence from today's sitting of the House to the Member for St. Ann's East (Mr. Wendell Mottley), the Member for Port of Spain South (Mrs. Jean Pierre) the Member for La Brea (Mr. Hedwige Bereaux), and the Member for Diego Martin West (Dr. Keith Rowley).

**PAPERS LAID**

1. Annual Report of the National Insurance Board for the period July, 1991 to June, 1992. [*The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley)*].
2. Report of the Auditor General on the Accounts of National Agro Chemicals Limited for the period October 1, 1989 to March 31, 1991. [*Hon. K. Valley*].
3. Report of the Auditor General on the Accounts of Trinidad and Tobago Television Company Limited for the year ended December 31, 1990. [*Mr. K. Valley*].
4. Report of the Auditor General on the Accounts of Trinidad and Tobago National Petroleum Marketing Company Limited for the year ended March 31, 1992. [*Hon. K. Valley*].

*[Paper No. 2 to be referred to the Public Accounts (Enterprises) Committee]*

**BUSINESS OF THE HOUSE**

**The Minister of Local Government (Hon. Kenneth Valley):** Madam Speaker, today there are 39 questions on the Order Paper which had been deferred because of the budget debate. We, the Government, can answer 22 of those 39 questions.

I beg to move that Standing Order No. 19 (7) be suspended for today's sitting only, in accordance with the provisions of Standing Order No. 90, to allow for the answering of those questions.

**Madam Speaker:** Having regard to what has been stated by the Leader of Government Business, I myself am in agreement that these questions have long been deferred and ought to be answered.

*Question put and agreed to.*

**Mr. Valley:** This is a list of the questions which will not be answered today and for which we shall be seeking deferrals to the next sitting.

They are Nos. 49, 60, 65, 66, 71, 73, 74, 75, 76, 77, 78, 79, 81, 83, 84, 85, and 86.

I ask for a deferral to the next sitting.

#### ORAL ANSWERS TO QUESTIONS

##### Job Creation

**43. Mr. Ramesh Lawrence Maharaj** (*Couva South*) asked the Minister of Labour and Co-operatives:

Could the Minister state:

- (a) For each successive year from 1992 until and including 1996, how many permanent jobs the Government plans to create in Trinidad and Tobago?
- (b) For each successive year from 1992 until and including 1996, how many permanent jobs the Government expects to be lost in Trinidad and Tobago?

**The Minister of Labour and Co-operatives (Hon. Kenneth Collis):** Madam Speaker, it is not possible to quantify precisely the number of permanent jobs that would be created or lost over the 1992-1996 period. However, the Government's desired objective in this regard as identified in the Medium-Term Policy Framework document covering the period 1993-95 is geared towards increasing temporary and permanent employment and minimizing the loss of jobs.

In this regard, the Government will continue to foster an appropriate regulatory and incentive framework and provide the necessary infrastructure to encourage increasing private sector expansion in the creation of employment opportunities.

In addition, the Government will continue to implement programmes of unemployment relief, and is in the process of establishing a National Apprenticeship System.

Moreover, in the short-term, up to two years, a significant number of jobs are expected to be generated through the increased Public Sector Investment Programme and through incentives for increased construction activity as outlined in the 1993 Budget.

In the medium-term two to five years, significant employment opportunities should be generated through increased agricultural activity and the development of the services sector.

**Old Age Pensions  
(Monthly Payments)**

**47. Mr. Ramesh Lawrence Maharaj** (*Couva South*) asked the Minister of Consumer Affairs and Social Services:

- (a) Does the Government intend to increase the monthly payments to old age pensioners who qualify for the receipt of state pension under the Old Age Pension Act, Chap. 32:02?
- (b) If the answer is in the affirmative, please give some time-frame within which it is intended to implement such increase?

**The Minister of Consumer Affairs and Social Services (Dr. The Hon. Linda Baboolal):** Madam Speaker, in the 1992 Budget, old age pensions were increased by this Government by 10 per cent. Furthermore, primarily due to the increase in the number of aged persons on the old age pension rolls, payment of old age pension is forecast to increase from \$178,300,000.00 up to October 31, 1992 to \$184,300,000.00 for the same period in 1993.

The Government is therefore currently examining other measures which will bring relief to the elderly and the indigent.

Part (b) of the question is therefore non-applicable.

**Old Age Pension Act  
(Amendment of)**

**48. Mr. Ramesh Maharaj** (*Couva South*) asked the Minister of Consumer Affairs and Social Services:

- (a) Does the Government intend to amend the Old Age Pension Act, Chap. 32:02 and its subsidiary legislation to increase the eligibility of persons to qualify for the receipt of state pensions under the said laws?
- (b) If it does, please give particulars of the measure or measures it intends to introduce.

**The Minister of Consumer Affairs and Social Services (Dr. The Hon. Linda Baboolal):** Madam Speaker, the issues relating to the amendment of the Old Age Pension Act to increase eligibility of persons to qualify for old age pension are now being studied in the context of the general revision of the laws relating to old age pension. Recommendations will be presented to Cabinet upon completion of this exercise.

#### **Retired Judges (Appointment of)**

*The following questions stood on the Order Paper:*

- 49.** (a) Would the Attorney General and Minister of Legal Affairs give the names of the retired judges (giving the period of their appointments) who were appointed by the President under the Constitution (Amdt.) Act 1988 to perform the functions of temporary judges under section 2(2)(ii) of the said Act?
- (b) Would the Minister state the names of the judges who have attained the age of 65 years since the passing of Act No. 2 of 1988 on February 12, 1988?
- (c) Would the Minister state whether there exist or existed any criteria or guidelines which would qualify a retired judge for selection as a temporary judge under section 2(2) (ii) of the said Act and if there exist or existed any criteria or guidelines, would he please give particulars of same? [*Mr. R. Maharaj*]

*Question, by leave, deferred.*

#### **Telephone Tapping**

- 50.** (a) Would the Minister of National Security state whether the Government of Trinidad and/or any state-owned and/or controlled companies and/or authorities in Trinidad and Tobago authorizes, causes or facilitates the

tapping in Trinidad and Tobago of private telephone conversations of individuals?

- (b) If the answer is in the affirmative, would the Minister state under what law and/or other authority such action is permitted? [*Mr. S. Hosein*]

**Madam Speaker:** The Member is not here to ask the question. Question No. 50 then is deferred to the next sitting of the House.

*Question, by leave, deferred.*

**Vehicular Accidents  
(Interim Payments)**

**51. Mr. Ramesh Maharaj** (*Couva South*) asked the Attorney General and Minister of Legal Affairs:

- (a) Would the Minister state whether Government intends to introduce legislation to permit persons injured in motor vehicular accidents to receive interim payments in respect of their injuries pending the hearing and determination of their matter before the courts?
- (b) If the answer is in the affirmative, would he indicate the time-frame within which it is expected that such legislation will be introduced?

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):** Madam Speaker, with respect to part (a) of the question, the answer is yes.

With respect to part (b) of the question, the Supreme Court of Judicature (Amdt.) Bill 1992, which will permit persons injured in motor vehicular accidents to receive interim payments in respect of their injuries pending the hearing and determination of their matters before the courts, was passed in the Senate in November 1992 and is before this House today for second reading.

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

**Siparia Constituency  
(Water Supply)**

*Business of the House*

*Friday, December 4, 1992*

[MR. MAHARAJ]

- 53.** (a) Is the Minister of Public Utilities aware that residents of Siparia Constituency are experiencing severe hardships because of the lack of an adequate water supply?
- (b) Can the Minister indicate what steps are being taken by WASA to resolve this crisis?

**Penal Rock Road  
(Repairs to)**

- 55.** Will the Minister of Works and Transport indicate to this House when his Ministry intends to effect repairs to Penal Rock Road between the 5 and 8 mm?

**Madam Speaker:** The Member is not here. The questions are deferred to the next sitting of the House.

*Questions, by leave, deferred.*

**Criminal Appeals**

- 56. Mr. Subhas Panday** (*Naparima*) asked the Attorney General and Minister of Legal Affairs:
- (a) Could the Minister kindly state the number of appeals from the Criminal Assizes to the Court of Appeal of Trinidad and Tobago for the past five years, on a yearly basis?
- (b) How many of those appeals were dismissed?
- (c) How many were allowed?
- (d) Of those allowed, how many retrials were ordered by the Court of Appeal?
- (e) How many judicial days did these matters occupy in the court of first instance and in the Appellate Court?

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

- (a) The number of appeals from the Criminal Assizes to the Court of Appeal of Trinidad and Tobago for the past five years on a yearly basis are as follows:  
1988—145; 1989—136; 1990—126; 1991—104; 1992—84
- (b), (c), (d)

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Year	Appeals Filed	Appeals Dismissed	Appeals Allowed	Retrials	Appeals Withdrawn
1988	145	28	11	6	42
1989	136	8	12	1	70
1990	126	8	9	5	49

Of the appeals filed in 1991, none has been heard or determined to date. However, 29 have been withdrawn.

Of the appeals filed in 1992, none has been heard or determined to date. However, 33 have been withdrawn.

- (e) The existing system does not provide for the easy retrieval of data relating to man hours spent on cases. The information requested at part (e) is therefore not available.

#### **Truck-borne Water**

**57. Mr. Mohammed Haniff** (*Princes Town*) asked the Minister of Public Utilities:

Would the Minister state:

- (a) How much funds have been utilized on transportation of truck-borne water by WASA and the respective local government bodies for the years 1990, 1991 and 1992 to date?
- (b) What plans are in place to improve the pipe-borne water supply in order to reduce the expenses incurred in truck-borne water?

**The Minister of Public Utilities (Hon. Morris Marshall):** Madam Speaker, the response to question No. 57 is as follows:

- (a) The Water and Sewerage Authority has advised that the costs incurred by the Authority for the transportation of truck-borne water for the years in question are as follows:

Year	Cost
	\$
1990	3,774,000
1991	3,891,000

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1992 (Sept.)	<u>2,596,000</u>
TOTAL	<u>10,261,000</u>

The Minister of Public Utilities hereby advises this honourable House that the Central Government provides funds directly to local government bodies to provide truck-borne water to communities that are outside the water distribution systems.

In this regard, the following are the costs incurred with respect to the transportation of truck-borne water by the said bodies for the years 1990, 1991 and 1992:

County Councils	1990	1991
	\$	\$
St. George West	159,380	614,946
St. George East	265,729	416,630
St. Andrew/St. David	460,281	1,179,633
Caroni	2,197,581	2,141,757
St. Patrick	1,010,899	932,570
Victoria	1,361,292	1,573,495
Nariva/Mayaro	<u>973,803</u>	<u>1,158,190</u>
TOTAL	<u>6,428,965</u>	<u>8,017,221</u>
Regional Corporations	1992	
	\$	
Diego Martin	221,577	
Laventille/San Juan	117,735	
Tunapuna/Piarco	95,447	
Sangre Grande	917,299	
Couva/Tabaquite/Talparo	1,224,583	
Siparia	167,245	



Penal/Debe	339,358
Princes Town	647,244
Rio Claro/Mayaro	761,469
Chaguanas Borough	<u>317,676</u>
TOTAL	<u>4,809,663</u>

(b) In order to improve the pipe-borne water supply WASA has advised that steps must be taken which would:

- (i) improve the system of supplying water; and
- (ii) encourage the optimum use of the available supply of water.

In this regard, the Water and Sewerage Authority has indicated that during the years 1993—1995 it proposes to undertake the undermentioned works at an estimated cost of \$182.8 million:

Projects	Estimated Cost (\$M)
1. The Rehabilitation of Wells	2.3
2. Mains Replacement and Mains Extension	52.5
3. Water loss control	58.0
4. Metering (Installation of 80,000 meters)	<u>70.0</u>
TOTAL	<u>182.8</u>

The Minister of Public Utilities has been informed that WASA is seeking to obtain the necessary funds to execute these projects and as soon as funds are available work on the said projects will commence.

#### **Watts Road Agricultural Project**

**58. Mr. Mohammed Haniff** (*Princes Town*) asked the Minister of Works and Transport:

Would the Minister state:

- (a) How much funds have been expended on the Watts Road LIDP agricultural project to date?

*Oral Answers To Questions*  
[HON. M. MARSHALL]

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- (b) How much revenue has been generated to date from this project?
- (c) What is the status of the project to date?
- (d) Whether Government intends to continue with this project?

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Speaker, the answer to question No. 58 is as follows:

- (a) The total expenditure on the project to date is \$516,176.48
- (b) Revenue generated on the project to date is \$2,124.55
- (c) The Estate was returned to its owner on June 30, 1992; and part (d), of the question therefore, does not apply.

**2.00 p.m.**

**Princes Town Constituency  
(Road Improvement)**

**59. Mr. Mohammed Haniff** (*Princes Town*) asked the Minister of Works and Transport:

Would the Minister state what steps, if any, are being taken to improve the surface of the following roads in the constituency of Princes Town:

1. Unis Road;
2. Robertson Road;
3. Realize Road;
4. Sisters Road;
5. Lengua Road;
6. Stafford Road;
7. North Road?

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Speaker, in answer to question No. 59, no major rehabilitation works or programmes for the service of these roads have been done in 1992, since the level of funding in 1992 was insufficient to accommodate such work on any of these roads. However, routine maintenance works, such as repairs to the road surface, cutlassing and clearing of roadside drainage have been undertaken and are ongoing.

With regard to the final part of the question, the programme of road repairs for the whole country is being finalized in light of the 1993 budgetary allocation.

**Debe Post Office  
(Expenditure)**

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

- 60.** Could the Minister of Public Utilities state:
- (a) The total expenditure to date on the Debe Post Office?
  - (b) The labour component of total expenditure?
  - (c) The amount spent on watchmen of the total expenditure on labour?
  - (d) The period of construction and the number of man-hours worked on this project?
  - (e) Which agency is responsible for the construction?

*Question, by leave, deferred.*

**Rienzi-Kirton Highway**

**61. Mr. Trevor Sudama (Oropouche)** asked the Minister of Works and Transport:

Could the Minister state:

- (a) Whether he is aware of the traffic hazard and serious accidents caused by the detour at the end of the Rienzi-Kirton Highway in San Fernando?
- (b) Whether his ministry intends to complete this roadway according to the original design?

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Speaker, in answer to part (a), the detour was constructed in order to facilitate the opening of the highway to the public. A building at Independence Avenue had to be acquired in order to build the roadway into that area as designed.

In answer to part (b), the development programme of the Ministry is currently being finalized in light of the 1993 budgetary allocations. Consideration, however, is being given to this project for implementation in 1993.

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[HON. C. IMBERT]

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**Mr. Sudama:** Is the Minister aware that the building has been acquired, has been demolished and all that needs to be done now is to construct the roadway according to the extra-regional design? Is he aware of all of these things? It appears from the response to the question he is not.

**Hon. C. Imbert:** Madam Speaker, I was under the impression that the answer implied that the building had been demolished and that all that was necessary was in place for completion of the roadway.

**Mr. Sudama:** Would the Minister be willing to give this House a commitment that the work to be completed will be started next year? I say this, because the area is one where you have many fatal accidents—not just general accidents. Therefore, it is a matter of urgency. Would he be willing to give this House an undertaking that that project will be commenced next year?

**Hon. C. Imbert:** Madam Speaker, as I said, consideration is being given to this project for implementation in 1993, and I can report that we are looking at it in terms of the programme of the relevant district for that area.

**Oropouche Constituency**  
**(Visit to)**

**62. Mr. Trevor Sudama** (*Oropouche*) asked the Minister of Housing and Settlement:

Could the Minister state why he does not respond to my request for him to accompany me on a visit to NHA housing lot development sites in the constituency of Oropouche to look at problems which have emerged?

**The Minister of Housing and Settlement (Dr. The Hon. Vincent Lasse):** Madam Speaker, in reply to question No. 62, the Minister of Housing and Settlement wishes to advise that he has not received any communication from the Member for Oropouche requesting him to accompany the latter on a visit to NHA housing lot development sites in the constituency of Oropouche. Nonetheless, it is his intention to visit all sites that fall under his jurisdiction on a well planned basis.

**Mr. Sudama:** Could the hon. Minister tell this House whether he received a letter from me, the Member for Oropouche, dated February 25, 1992, addressed to him, Dr. The hon. Vincent Lasse, Minister of Housing, Sackville Street, Port of Spain in which the last paragraph of that letter reads as follows:

"This is a matter that will require an on-site visit and I shall be obliged if you could accompany your officers in such a visit at a mutually agreeable date and time."

The date of the letter is February 25, 1992.

**Hon. V. Lasse:** As stated in my reply, Madam Speaker, this Minister has not received any communication from the Member for Oropouche on the question mentioned.

**Mr. Sudama:** Does he have a problem with communication in his ministry as regards communication addressed to him? Because this letter was handed to him personally. The original of this letter was handed to him. Does he have a problem with correspondence? *[Interruption]* This letter was addressed to him at his office address.

**Mr. Valley:** Is that a question or a statement?

**Mr. Sudama:** Has he received this letter or has he not received this letter? *[Interruption]* Or does he just come here to mislead this House and make Parliament a mockery? That is what they all do.

**Madam Speaker:** The hon. Member has indicated that he has not. Maybe the Member can redirect the question to the hon. Minister for answer.

### Caparo River

**63. Mr. Raymond Palackdharrysingh** (*Caroni Central*) asked the Minister of Works and Transport:

- (a) Would the Minister state what is the status of Caparo River Flooding feasibility study?
- (b) If the study is not yet completed, when would it be?
- (c) If it is completed, would its recommendations be implemented and, if so, when?
- (d) Would the Minister state whether he is aware that the houses of Harripersad Rama, Chandradath Rama and Kowsil Latchman of Caparo

Street, Montrose, Chaguanas, are threatened by the flooding of Caparo River?

- (e) Is the Minister also aware that rapid erosion along the banks of the Caparo River in the Montrose area is taking place?
- (f) If the answers to (d) and (e) are in the affirmative, would the Minister state what plans he has for dealing with the problems?
- (g) If the answers are in the negative, would the Minister state whether he is going to investigate the problems and how soon?

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Speaker, in answer to question No. 63, part (a), the feasibility study has not yet commenced. Tenders have been invited from consultants for the undertaking and it is expected that an award will be made shortly.

In answer to part (b), the expected duration of the study is eight months. The study will be completed eight months after the award, this May.

In answer to part (c), it is not applicable.

In answer to part (d), yes, the Minister is aware that certain houses are in danger of flooding because they are being constructed close to the banks of the river.

In answer to part (e), yes, the Minister is aware that erosion is taking place in certain areas of the river.

In answer to part (f), the feasibility study for the Caparo River basin, which is soon to be commissioned will, when complete, identify both short and long-term solutions for dealing with the flooding problems and the problems of erosion that take place in Montrose and other related areas. Routine annual maintenance of the water course will continue until the study is complete and specific solutions to problems have been designed and are ready to be implemented.

Part (g), of the question is not applicable.

**Mr. Palackdharrysingh:** I am very disappointed. He has stated this already and today comes here and says this thing has not started yet. I am very disappointed.

### **Freeport Mission Road**

**64. Mr. Raymond Palackdharrysingh** (*Caroni Central*) asked the Minister of Works and Transport:

- (a) Would the Minister state the last time the Freeport Mission Road from the Freeport Flyover to the Preysal Junction at Lower Couva Road was resurfaced?
- (b) Is the Minister aware of the deplorable condition of the road?
- (c) If the answer to (b) is in the affirmative, would the Minister state whether he has any plans for its improvement?
- (d) If the answer to (c) is in the affirmative, when would these plans be implemented?

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Speaker, in answer to question No. 64, part (a) the Freeport Mission Road, from Freeport Flyover to Couva Road was last paved in 1982.

In answer to part (b), the Freeport Mission Road is not now in a deplorable condition. Repairs to the road surface started in September 1992, and are continuing. It is expected that by the end of 1992 substantial repairs to the road surface would have been completed.

*The following questions stood on the Order Paper:*

**Carlsen Field  
(State Lands)**

- 65.** (a) Would the Minister of Agriculture state whether he is aware that some farmers have been occupying state lands at Carlsen Field in the vicinity of Yoruba Road and Xeres Road for more than twenty years?
- (b) Is the Minister also aware that the said lands were surveyed for regularization in 1986?
  - (c) If the answer to (b) is in the affirmative, would the Minister state why the said lands have not been leased to the farmers?
  - (d) Would the Minister state what steps he intends to take to regularize the occupancy of farmers on the said lands? [*Mr. R. Palackdharrysingh*]

**Sangre Grande Police Station**

**(Rebuilding of)**

- 66.** In the light of the statement made by the Hon. Minister of National Security in Parliament on Friday, October 16, 1992, that he has funds available for rebuilding the Sangre Grande Police Station but he cannot find a suitable site, would the Minister state the following:
- (a) Whether the existing site is unsuitable for rebuilding the said police station?
  - (b) If the said site is not suitable, would he give reasons as to why it is not a proper site?
  - (c) Whether he has plans for renting any private premises for housing the police station whilst rebuilding is taking place?
  - (d) If the answer to (c) is in the affirmative, would the Minister state what would be the length of the rent contractual period and what would be the rent per month?
  - (e) Whether any cost would be incurred in the preparation of any private property for housing the temporary police station. If the answer is in the affirmative, what would be the cost involved?
  - (f) Whether he has considered erecting a pre-fab building whilst construction of the new police station would be taking place in order to save cost? [*Mr. K. Jurai*]

*Questions, by leave, deferred.*

**Nariva Constituency  
(Road Resurfacing)**

- 67. Mr. Krish P. Jurai** (*Nariva*) asked the Minister of Works and Transport:
- Would the Minister indicate what step he is taking to obtain the necessary budgetary allocations for effecting repairs to and resurfacing of the following roads in the Nariva Constituency during the financial year, 1993:
- (a) Sangre Grande to Biche;
  - (b) Sangre Grande to Guaico/Tamana;
  - (c) Sangre Grande to Four Roads/Tamana;
  - (d) Sangre Grande to Cunaripo/Bon Air/Coryal;
  - (e) Sangre Grande to Little Coora Road/Cunaripo/Guatapajaro;



- (f) Sangre Grande to Manzanilla/Mayaro;
- (g) Sangre Grande to Rio Claro;
- (h) Sangre Grande to Plum Mitan;
- (i) Rio Claro to Tabaquite; and
- (j) Rio Claro to Mayaro?

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Speaker, in answer to question No. 67, programmes of works in the Ministry of Works and Transport are not prepared on a constituency basis but on a district basis.

For administrative purposes, the country is divided into districts, as follows: Caroni, Nariva/Mayaro, St. Andrews, St. David, St. George East, St. George West, St. Patrick, Victoria East and Victoria West.

In response to the question posed, however, the Minister of Works and Transport should like to indicate that the following roads in the districts of St. Andrew/St. David and Nariva/Mayaro are programmed for resurfacing in 1993: Guaico/Tamana Road between the eight and 12 mile marks; the Bon Air Road between the zero and two mile mark; the Paria Road between the two and 42 mile marks; Cumano Main Road between the zero and the three mile marks; the Fishing Pond Road between the five and the 8.3 mile marks; the Naparima/Mayaro Road between the 28 and the 37 mile marks; the Manzanilla/Mayaro Road between the 47 and 49 mile marks; the Cunapo Southern Road between the 24 and the 25 mile marks; the San Pedro Road between zero and two and a quarter mile marks; and the Mayaro/Guayaguayare Road between the five and a quarter and the six and a quarter mile marks.

Landslip repairs will be carried out on critical landslips on roads throughout Trinidad in 1993. Specific landslips to be repaired for 1993 are currently being finalized in the light of the 1993 budget allocations. Routine maintenance works, however, will be carried out on all roads in the St. Andrew/St. David area and in the Nariva/Mayaro area by the Highways Division.

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

**Penal**

**(Farmers' Problems)**

- 68.** Will the Minister of Agriculture indicate to this House what his ministry is doing to alleviate the problems of the farmers of Seebalack Trace, Rocharad Road, Penal? Those problems having been outlined to him in letters dated 22.7.92 and 14.10.92.

**Road Repairs**

- 69.** Will the Minister of Works and Transport indicate to this House:
- (a) How soon his Ministry intends to repair the following areas:
- (1) The roadway between Old Clarke Road and Platanite Trace?
  - (2) The severe depression on Platanite Trace adjacent to the cemetery?
  - (3) Rocharad Road between Clarke Road and Rampersad Trace?

**Scotts Road  
(Repairs to)**

- 70.** Can the Minister of Works and Transport indicate:
- (a) The length of Scotts Road that needs to be repaired?
  - (b) What works have been undertaken so far?
  - (c) What is the reason for the delays?
  - (d) When his ministry intends to complete this job?

**Madam Speaker:** The Member for Siparia is not here. Therefore the answers to questions 68, 69 and 70 are deferred for a period of one week.

*Questions, by leave, deferred.*

*The following question stood on the Order Paper:*

**Freeport Police Station  
(Personnel)**

- 71.** (a) Is the Minister of National Security aware of the increase of crimes in the Freeport/Arena area in the constituency of Caroni Central and the inability of the police to respond?

- (b) Would the Minister state how many officers and vehicles are deployed at the Freeport Police station to service the area and whether such resources are adequate?
- (c) If the resources are not adequate, would the Minister state what steps he intends to take to deal with the matter? *[Mr. R. Palackdharrysingh]*

**Regional Corporations  
(Scavenging Contracts)**

72. Will the Minister of Local Government indicate to this House:
- (a) The expenditure for scavenging contracts of the regional corporations up to the end of October, 1992?
  - (b) The projected expenditure for scavenging for the regional corporations up to December 31, 1992? *[Mr. S. Hosein]*

**Morichal Reservoir  
(Destruction of)**

73. (a) Is the Minister of Public Utilities aware that the Morichal Reservoir, in the Guaracara district, is being slowly destroyed by quarrying operations by the Ministry of Works?
- (b) If the answer is in the affirmative, could the Minister state what measures are being put in place:
- (i) to stop further destruction of the said reservoir; and
  - (ii) to rehabilitate the watershed? *[Dr. C. Singh]*

**Firearms Licences**

74. Could the Minister of National Security state for the period January 1, 1990 to September 30, 1992, how many:
- (a) applications are pending for the issuance of firearms licences;
  - (b) firearms licences have been issued; and
  - (c) firearms licences have been revoked and firearms taken away from license users? *[Dr. C. Singh]*

**Import Licences**

**(Apples and Grapes)**

75. (a) Would the Minister of Trade, Industry and Tourism give to this honourable House the number of applications received by him from importers of apples and grapes for the period September 1, 1992 to October 23, 1992?
- (b) Would the Minister give the names of persons or companies or firms who were, during this period, given approval for their applications, giving the names and dates of approval and the quantities approved?
- (c) Would the Minister give the criteria used for the granting to persons, licenses to import grapes and apples? *[Mr. R. Maharaj]*

**Supreme Court (San Fernando)****(Construction Costs)**

76. (a) Would the Minister of Works and Transport state to this honourable House the initial contracted price for building the Supreme Court in San Fernando?
- (b) Would the Minister also give the final cost of construction?
- (c) Would the Minister state the time which elapsed from the date of the start of construction to the date of completion?
- (d) Would the Minister also state the original estimated length of time for the completion of the project?
- (e) Would the Minister, if there was any delay, state the reason for the delay of the completion of the project?
- (f) Would the Minister, if there was an overrun, state what was the reason for the overrun?
- (g) Would the Minister state whether the contractor who was engaged in the construction of the Supreme Court building has any other building contract with the Government of Trinidad and Tobago? If he has, please state the contracts and state what guarantees, if any, the taxpayer has to ensure that there would not be any overrun on those contract. *[Mr. R. Maharaj]*

**San Fernando General Hospital****(Building Contract)**

77. (a) Could the Minister of Works and Transport state the reason for the Government of Trinidad and Tobago awarding the contract for building the extension of the San Fernando General Hospital to Wimpey in the light of the fact that the said company in its contract to build the deep water harbour in Tobago had an overrun of several million dollars?
- (b) Could the Minister also give the amount of the overrun on the contract to build the deep water harbour in Tobago? *[Mr. R. Maharaj]*

#### **Consultancy Contracts**

78. Could the Minister state whether any firm of consultants has been given the consulting contracts for the construction works in respect of the following projects which are to be undertaken by the Government of Trinidad and Tobago:
- (a) The airport terminal at Piarco?
- (b) The extension of harbour facilities at the Port of Spain harbour?
- (c) The upgrading of health centres in Trinidad and Tobago? *[Mr. R. Maharaj]*

#### **Trintoplan (Services of)**

79. Could the Minister of Works and Transport state whether the Government of Trinidad and Tobago has employed, contracted and/or retained the services of Trintoplan or any person, firm or other company associated in any way with Trintoplan for any projects undertaken by it or any state corporation statutory authority or other state body since it assumed office in December, 1991? If it did, would he indicate the names of the projects and the estimated fees paid or to be paid to Trintoplan or connected persons or bodies as mentioned above in respect of each of the projects? *[Mr. R. Maharaj]*

*Questions, by leave, deferred.*

#### **Arima Health Centre (Facilities)**

80. **Mr. Ramesh Maharaj** (*Couva South*) asked the Minister of Health:

- (a) Could the Minister state what equipment, personnel and facilities are provided at the Arima Health Centre to cater for health care of persons attending the said Centre?
- (b) Could the Minister state whether the health centre would be able to cope with injuries to persons which can flow from air disasters if any occur at Piarco Airport? If it can cope, would the Minister state the equipment and personnel the health centre has to deal with such emergencies?

**The Minister of Health (Hon. John Eckstein):** Madam Speaker, the Arima Health Centre has been recently refurbished with expanded service areas and waiting room and offers medical, dental, social counselling, pharmaceutical and family planning services.

The health centre is equipped with the following equipment:

- Diagnostic equipment for use by the medical staff e.g. diagnostic sets, stethoscopes, specula, etc.
- Equipment for use by nursing staff:
  - Blood pressure machines.
  - Foetoscopes, scales.
  - Dressing materials, etc.,
  - Emergency drugs/kits,
  - Suture material,
  - Blood glucose monitors, etc.
- All necessary instruments for sanitary dressings;
- Equipment for antenatal care and family planning services including specialized couches, lamps, et cetera;
- dental equipment:
  - Dental chairs,
  - Aaesthetic equipment;
  - Sterilization equipment;
- All instruments for dental care.

The personnel at the centre to cater for health care of persons attending the said centre are as follows:

- One medical officer,
- two medical interns,
- one district nurse,
- one dentist,
- three dental nurses,
- one dental assistant,
- one medical social worker,
- one registered nurse/midwife,
- one pharmacist,
- five nursing assistants,
- a clerk,
- cleaner,
- a caretaker, and
- a groundsman.

The answer to part (b): The health centre was not designed to deal with disasters, therefore, it is neither equipped nor staffed to cope with injuries to persons which can flow from air disasters, if any occur, at Piarco International Airport.

However, should there occur a disaster at Piarco International Airport, there is a complex of Government-owned and operated health care facilities in the East-West Corridor ranging from the Sangre Grande Hospital in the east to the Port of Spain General Hospital in the west and including the Mt. Hope Medical Complex and the Accident and Emergency Unit on the Arima Hospital Compound which, among them, will have the responsibility of caring for people who have sustained injuries.

*The following question stood on the Order in the name of Mr. Ramesh Maharaj (Couva South):*

**John O'Halloran Lawsuit**

- 81.** Could the Minister of Finance state whether the moneys, which the Government received from its lawsuit in respect of John O'Halloran's corrupt dealings whilst he was a Minister of Government, were utilized to provide any facilities for the people of Trinidad and Tobago? If they were, could the Minister state:
- (a) the facilities which were so provided?
  - (b) whether any of these projects stopped, and if they were stopped, could he give the reasons for the project or projects being stopped, and could he state the position with respect to the funds? If they were redirected, please state where they were redirected to.

*Question, by leave, deferred.*

**Lendore River  
(Erosion)**

- 82. Mr. Raymond Palackdharrysingh** (*Caroni Central*) asked the Minister of Works and Transport:
- (a) Is the Minister aware that the Lendore River is rapidly eroding its bank alongside the house of Ms. Kalawatie Sinanan of Main Road, Longdenville?
  - (b) Is the Minister also aware that the Member for Caroni Central made representation by letter dated August 4, 1992 to the Ministry of Works, Chaguanas, concerning the plight of Ms. Kalawatie Sinanan to arrest this problem and no action has been taken to date?
  - (c) If the Minister is aware of the problem, would he state what steps he intends to take to rectify it?

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Speaker, in answer to question No. 82, the Minister of Works and Transport is aware of the problem of erosion which is affecting the property of Ms. Sinanan. The problem was caused by the owner of the lands of which Ms. Sinanan is a tenant.

The owner, Mr. John Rogers, diverted a watercourse along an alignment which was not approved by the Drainage Division. The Drainage Division has written Mr. John Rogers telling him to re-establish the watercourse along the original alignment, but he has not complied.



Consequently, the Drainage Division, on November 26, 1992, issued a compliance order under the Waterworks and Water Conservation Act.

*The following questions stood on the Order Paper:*

### **Central Regional Stadium**

Would the Minister of Sport and Youth Affairs state:

- 83.** (a) How much money has been spent on the proposed Central Regional Stadium at Helen Street, Lange Park, Chaguanas?
- (b) What is the present status of the project?
- (c) When would the project be restarted?
- (d) The facilities that would be provided?
- (e) The completion date of the project? *[Mr. R. Palackdharrysingh]*

### **School Feeding Programme**

- 84.** Would the Minister of Education state what is the status of the School Feeding Programme in Trinidad and Tobago? *[Mr. R. Palackdharrysingh]*

### **Airport Attendants (Gratuity Payments)**

- 85.** (a) Would the Minister of Works and Transport indicate whether he is aware that several workers who were employed with the Airport Attendants' Section in the former Civil Aviation Department have not received their full gratuity payment to date?
- (b) If the answer is in the affirmative, would the Minister state what steps he intends to take to deal with the situation? *[Miss H. Bhaggan]*

### **Agricultural Access Roads (Chaguanas)**

- 86.** (a) Would the Minister of Agriculture indicate whether he is aware that agricultural access roads in the constituency of Chaguanas are in a state of total disrepair?
- (b) If the answer is in the affirmative, would the Minister:

- (i) indicate whether he intends to undertake improvement works so as to provide relief to farmers and agriculturists? and
- (ii) give details of the intended works? [*Miss. H. Bhaggan*]

*Questions, by leave, deferred.*

**ADJOURNMENT MOTION  
(LEAVE)**

**Mr. Ramesh Maharaj** (*Couva South*): Madam Speaker, by letter of today's date, I gave you notice that at the sitting of this House I proposed to ask leave to move the adjournment of the House on the following matter of urgent public importance. That is, the need for Government to take immediate and necessary action to ensure that the rule of law in Trinidad and Tobago is maintained in light of the recent threats to its maintenance having regard to the pronouncement and findings made by the Court of Appeal on November 20, 1992 in the matter of *Richard Crane v. the Chief Justice and the Judicial and Legal Service Commission* in civil appeal No. 58 of 1991 and/or the refusal of the Judicial and Legal Service Commission to give to Mr. Justice Jim Davies a two-year contract to serve as a judge of the High Court following his retirement at the end of 1992.

Madam Speaker, I want to make it quite clear that the matter I am talking about is the need for Government action. That is to say, the need for the Government to say what action it is taking, if it has taken any action and, in effect, to respond to what has happened. I am not asking for the circumstances or for the judgment of the Court of Appeal or for the working of the Commission to be debated.

The matter of urgent public importance that I am asking about—and which I am saying that it is urgent and of public importance—is the need for Government action in the light of what has happened.

Madam Speaker, it is published knowledge as to what the judgment says. It says at page 78,

"I have reluctantly concluded that, yes, indeed, the Chief Justice did permit his personal animosity to affect the management of his official relationship with the Appellant".

That is with Justice Crane. Justice Sharma, at page 74 said:

"I think it would be best not to set out in the judgment, that is to say that the motivations and intentions imputed to the Chief Justice and other Members of the JLSC, if accepted, are that which would at once demand that they should all resign from their respective positions.

Their conduct, if the submissions are accepted, would clearly be regarded as reprehensible, wicked and dishonest."

Madam Speaker, I think it is important in the light of those pronouncements and in the light of what has been made public knowledge, which has been published in the *Sunday Express* of November 29, 1992 at page one: "Why was Davies let go?" That is to say, it referred to the refusal of the Judicial and Legal Service Commission to give to Justice Jim Davies a contract for two years upon his retirement.

In the report it was mentioned—and it is public knowledge—that other judges who have retired have gotten a two-year contract. It was also mentioned that a certain judge who had been retired for some years was also offered a two-year contract. I am not on who should and should not get. What I am on, is the fact that Justice Jim Davis was a judge who adjudicated against the Judicial and Legal Service Commission and the Commission has, in effect, reacted.

Now the Law Association of Trinidad and Tobago in the *Express* of November 1, 1992 at page 2, through its President, Mr. Allan Alexander, stated that that has raised important constitutional issues affecting the people of Trinidad and Tobago. And the Law Association of Trinidad and Tobago, like the hon. Attorney General, under our Constitution, is the guardian and the protector of the rights of the people of our country.

Madam Speaker, I think it is important. It is a matter of urgent public importance; it is definite, it is urgent. The rule of law is important. It is a matter which affects the population's perception of law, and whether law and justice would be respected in Trinidad and Tobago. In that setting, I should have thought that the Government would have either made a statement on the matter or the Prime Minister would have asked for consultation with the Leader of the Opposition.

In the absence of all that, I want to say on behalf of us, that we are quite prepared to have consultation with the Government. The Leader of the Opposition is quite prepared to have consultation with the Prime Minister on this important issue, if the Prime Minister wants it.

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Be that as it may, Madam Speaker, I would say that the matter is urgent. It is important for the public to know what action, if any, the Government intends to take; if it intends to say nothing, if it intends to do nothing, and then exactly what effects non-action or action by the Government would have on the perception of the rule of law and justice in Trinidad and Tobago.

Madam Speaker, I would respectfully submit that I have satisfied the criteria in order for such an issue to be debated as a definite matter of urgent public importance.

**Madam Speaker:** I have listened to the hon. Member and I have no doubt that this is indeed a matter that is definite, it is a matter that causes the population grave concern. I have a little problem with the urgency of the maintenance of the rule of law as it relates to items (a) and (b) of the notice to the Speaker.

In the circumstances, I should be very happy if this matter could be debated and thoroughly gone through, but I cannot rule that it is a matter that falls under Standing Order No. 12. So I would advise the hon. Member for Couva South that it is a matter that can be brought under Standing Order No. 11. If he gives the necessary notice it can be debated at the next sitting of the House on Friday of next week.

**Mr. Mohammed:** Madam Speaker, I wonder if the hon. Attorney General could indicate to this House whether a statement will be made in this House today on this fundamental matter.

Or as soon as possible.

**Madam Speaker:** Is that a question by the member for Caroni East? I think if he asks the question of the hon. Attorney General the hon. Attorney General would answer.

#### **INCOME TAX (AMDT.) BILL**

Bill to amend the Income Tax Act, Chap. 75:01 [*The Minister of Finance*]; read the first time.

#### **FAITH INTERNATIONAL BAPTIST CONVENTION (INC'N) BILL**

**The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Madam Speaker, before moving on to Government

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Business, I beg to move that the House proceed at this stage to consider the bill listed on page 17 of the Order Paper under "Private Business—Bills Second Reading".

*Leave granted.*

*Question put and agreed to,* That a bill to provide for the incorporation of the Faith International Baptist Convention of Trinidad and Tobago 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:* Dr. Rupert Griffith (Chairman), Mr. Andrew Casimire, Mr. Cyril Rajaram and Dr. Carl Singh.

**SUPREME COURT OF JUDICATURE (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 Supreme Court of Judicature Act, Chap. 4:01 of the Laws of Trinidad and Tobago, be now read a second time.

The purpose of this bill is essentially threefold. Principally, the bill seeks to amend the Supreme Court of Judicature Act to empower the Rules Committee, which is established under that Act, to make rules relating to the orders for interim payments in the circumstances which are described in clause 4 of the bill.

Secondly, the bill seeks to regularize the situation whereby orders and, in fact, payments have been made under orders made under the Rules of the Supreme Court (1975), those rules having been made without the necessary authority.

Thirdly, we have taken the opportunity in presenting this bill to amend the composition of the Rules Committee to include a Master of the Supreme Court.

**2.30 p.m.**

Madam Speaker, on previous occasions I brought to the attention of this House the state of affairs relating to the administration of justice and the fact that the courts of this country have been striving to deal with an increasing workload in terms of the numbers of civil matters filed in the High Court. It is also being noted that a

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significant number of these matters are those that fell into the category known as "running down actions" or "motor claims". In fact, in the Gurley Report, which was laid in this House, it was noted that—and I quote from page 23 of that report:

"At present, approximately 40 to 50 per cent of the actions filed in the civil registry of the Supreme Court are running down actions."

So that we have a situation where, because of the build up of matters filed in the Supreme Court, there is a considerable delay in the instance of persons who have been injured as a result of these motor claim actions getting relief in the sense of a final judgment or order of the court.

What this bill seeks to do is to provide the authority whereby rules can be made under the rules of court for the making of interim orders so that persons who are injured as a result of motor vehicle accidents can recover, prior to the determination of the matter, some portion of their claim.

As I pointed out, what has happened is that since 1975 rules have been made under the rules of court but without the necessary authority. It may be instructive to look at the circumstances set out in those rules because they tell you the kinds of situations whereby a person injured in a motor accident can approach the court. The relevant rules are contained in Order 29 of the Rules of the Supreme Court. Order 29, Rule (10) states:

"In an action for personal injuries, the plaintiff may, at any time after the writ has been served on a defendant and the time limit for him to appear has expired, apply to the court for an Order requiring that the defendant make an interim payment."

Order 29, Rule (12) gives you the circumstances under which the court can make an order. Essentially, there are three such circumstances: Firstly, where the defendant has admitted liability. Secondly, where the plaintiff has obtained judgment for damages to be assessed and the court will at some later stage assess the damages. Thirdly, and most importantly, where the court is of the view that if the action were to proceed to trial the plaintiff would succeed.

So, it is a situation whereby a plaintiff can get an interim payment even though the court has not finally pronounced on the merits of the case. Once you can establish that there is a reasonable prospect that you will succeed, the court can make an interim payment.

Madam Speaker, this bill has the potential to provide considerable relief to persons whose matters are now stuck in the clogged pipeline of the court system.

In fact, one of the reasons for bringing this bill at this stage is that it also will serve as a springboard for a future amendment which we propose to the Motor Vehicles and Road Traffic Act, and that amendment is to provide for insurers to be sued together with their insured. At the present time one can proceed only against the insured. The idea would be to provide for both the insured and the insurer to be joined at the commencement of the proceedings so that interim orders will now be available directly against the insurer as well. That is the principal purpose of this proposed piece of legislation. As I said, its implications are great in terms of the relief which it will bring to persons who are victims of motor accidents and who are now caught in the system.

Secondly, I indicated that it was meant to provide for the regularization of orders which have been made since 1975 under the existing rules of court, without the necessary authority. That amendment is contained in clause 5 of the bill which provides that orders for interim payments made pursuant to the rules and which would have been lawful if the said rules of court had been validly made, shall be deemed to have been validly made or done. So that provides for validity of orders made by the court and any payments made pursuant to Order 29.

Thirdly, we have taken the opportunity, as I stated, to amend the composition of the Rules Committee to provide for the inclusion of a Master of the Supreme Court as being a member of that committee. The Rules Committee, as it is now composed, is chaired by the Chief Justice and includes two judges—one of the Appeal Court and one of the High Court—two representatives of the Law Association and the Attorney General.

Essentially, what you have in that Rules Committee are persons who are exposed to the day-to-day practice of law in the courts and who are versed in the problems which exist and are capable of making rules to resolve them.

Masters of the Supreme Court were appointed by amendment to the Act but they were never included as part of the Rules Committee and, as you know, Masters do the bulk of the work in the courts on a day-to-day basis

We have taken the opportunity in presenting this bill, which has as its principal objective the curing of that problem relating to interim payments, to broaden the

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composition of the Rules Committee so as to more readily reflect the persons who actually have a day-to-day hands-on feel of the workings of the court.

Madam Speaker, I am pleased to move the second reading of this Bill and I noted that the Leader on the other side had himself, by way of question, wondered whether this amendment would be coming before this House.

I thank you.

*Question proposed.*

**Mr. Ramesh Maharaj** (*Couva South*): Madam Speaker, I thought I should say at the outset with respect to this bill that it is as a result of a case in which I participated, and you sat as Master, that this matter has obviously reached the Parliament. What occurred was that the point was taken that the Rules of the Supreme Court which provided, since 1975, for interim payments, the particular rule being Order 29 of the Rules of the Supreme Court, was *ultra vires*. The Rules Committee did not have any power to make any law providing for such payments, and that it was a matter for Parliament.

What has happened is that the applications for interim payments in respect of personal injuries from motor vehicular accidents were made from 1975 and it was only about two years ago—even less than that—that it was recognized that the powers which were being exercised were *ultra vires* the Rules of the Supreme Court. As a result of that, the Government has, quite rightly, taken a decision to bring to Parliament the necessary bill. It is unfortunate that this has taken so long a time but the consoling fact is that whatever has happened in the past would, in effect, be legalized by the provisions of this bill. The only injustice which occurred was that during the interim period between the time of that decision and now, people were not able to have their applications for interim payments determined because that particular decision was used as an obstacle in the way.

And I should have thought that since the Government was coming to Parliament to amend the Supreme Court of Judicature Act it would have considered, in relation to matters like these, matters which arose as a result of motor claims cases—personal injury cases, and even other matters—it would have taken the opportunity to try to redress some of the injustice that has been happening for a long time.

**2.40 p.m.**



Under Rule 10, as the hon Attorney General stated, these interim payments can only apply in actions for personal injuries. So we have a situation where in respect of an action for personal injury, a plaintiff—a person who has filed an action—can, if there is an admission of liability or the facts are such that there is no possible defence, as the hon. Attorney General has stated, the court has a discretion having regard to the fact that the court can make an order. But there are many areas of injustice outside claims for personal injury, and having regard to the figures, the hon. Attorney General has recognized that the delays which occur in the court can cause injustice. The whole motivation of having this kind of legislation is to minimize the effects of delay.

Delays can cause injustice with respect to a person who has a claim for personal injuries. The defendant is entitled to defend the action, and that action can go on for years in court. Even if there is an admission of liability the assessment of damages can go on for quite a long time and in the meantime the plaintiff does not have any money and there may be suffering by the party, or the children as a result. Therefore it was felt that we should have such a law whereby, even before the matter is finally determined, one can go to the court, whether through the Master or the Judge, to determine what amount can be paid as interim payment.

I should have thought that with regard to this amendment today the Government would have taken a policy decision: are we going to limit this to claims in personal injury matters, or are we going to look at the kinds of cases that come up, the kinds of delays which occur and see whether we could widen the net to include other kinds of matters? As my leader, the hon. Member for Couva North, has reminded me, it may be workmen's compensation matters. Right now, when there is a claim by a worker who is injured while working, he has to file a claim under the Workmen's Compensation Act of 1960. That is a matter which was, in effect, heard by a state commissioner, master or judge and what happens is that those claims take a very long time. This is a very serious matter, because in the meantime the man may be out of work, his family may be suffering, children may not be able to go to school, but he and his family have to wait until the determination of the matter.

Madam Speaker, from the figures, I want to show how serious is this question of delays. Although claims for personal injury are included, workmen's compensation is not included in the definition of being covered for interim payments, because workmen's compensation is regarded as a statutory action in respect of injury and death. I should have thought that, because of the suffering which occurs

to workmen and their families, the Government would have taken the opportunity at this time to include it as a matter in which the person can get interim payment.

If I am wrong, I would expect the Attorney General to tell me so, but my reading and understanding of the law is that workmen's compensation is not covered by the present proposed amendment. There are other kinds of matters. For example, instances where the plaintiff in a personal injuries case would have got a judgment against a defendant but the defendant is a man or woman of straw. In such a case, any order for interim payment against the defendant would be useless, and in about 50 per cent of the cases the plaintiff who gets judgment against a defendant has to resort to claiming against the insurance company. If that plaintiff then files an action against the insurance company and there is no defence, or no possible defence, under the present law, that plaintiff cannot get an order for interim payment against the insurance company because that action is not an action for personal injury; it is a statutory action under the Motor Vehicles and Road Traffic Act.

One sees that the loopholes are open in order to still deny claimants their entitlements. There are many other cases. For example, actions on contract, actions for debt, and many others. If, for example, there is a small businessman who has a claim against a big company and the big company has decided to use the delays in the court in order to keep the matter going for about five or six years, what can happen is that the small businessman, not having the money, can have his whole company wound-up and would not be able to function. He would not be able, in a claim for contract, to get an order for interim payment as a person who is injured in a motor vehicular accident. So it would seem to me that it should be a policy which should apply to, if not all, most areas in which there are actions pending in the courts and in which people have to base their claims on particular causes of action.

I think the Attorney General recognizes—and he should be congratulated—that there are problems with the courts with respect to delays which do cause injustice. From the figures he has given to this House some time ago, between 1982 and 1991 more than 80,000 matters were filed in the civil court. During the said period, no more than 1,200 matters were determined each year, so we had a backlog over that period of about 68,000.

I have looked at those figures which tell, in effect, a very sorry state of affairs. I am saying that even with this measure, even with the interim payment—we had this measure from 1975 up to about two years ago—the relief which is going to be provided will be very minimal. Therefore, I should have thought that since the report dealt with delays in the administration of justice, the Government would have had

that if we have a Rules Committee which can, in effect, be a more full-time committee, we would have the rules of the court updated.

As a matter of fact—I do not want to go into the details—when one looks at the Supreme Court Practice of 1992 which was published in England and when one looks at our rules of the Supreme Court, one would see that in rules we are far behind. It is because there is no constant monitoring of the rules to have them updated to meet modern-day situations.

Therefore, it would seem to me that the Government would have to make a decision that we cannot be going on as we are, and, therefore, on an administrative basis, they should make a decision and accept the proposal of the United National Congress that in the administrative machinery of the court—there is a distinction between the administrative machinery of the courts and the judicial functions—there should be some other person to deal with those matters. We have recommended that there should be the creation of an office of a Chancellor of the Judiciary so that that situation can be dealt with.

I do not think that we recognize—and I hope that we do not have to pay for it—that we can allow situations like these to go unresolved; we can close our eyes to the core of the problem, but what could happen, as has happened in other countries, is that there could be serious effects on what is regarded as the normal status quo. I

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would seriously and genuinely urge that the authorities on the other side take some positive action to correct this situation.

I am a lawyer of many, many years standing. I have appeared in almost every court in Trinidad and Tobago. I have done almost every aspect of law. I am not advertising; I think that is public knowledge. What I should like to share with this House this evening, and, in effect, with the people of Trinidad and Tobago, is that unless something is done immediately in respect of these matters which we have been talking about, we are not going to have peace and tranquillity in our country. It is going to be very rough. People are not going to sit down and tolerate and condone these matters. We have seen, in societies, what happens.

As a matter of fact, in England, two or three weeks ago, the Lord Chancellor, the head of the Judiciary, and the Lord Chief Justice, made a public statement that the administration of justice in that country has sunk, and that radical reforms must be made, and that the time has come when the selection of judges and the rationale for their selection, must be looked at, otherwise the public would have no confidence in it.

We have been saying, "Listen, if you leave this thing as it is and on a holder of an office who is very busy, who is doing judicial work, you put more work, or you leave him with that administrative responsibility, the whole system of justice is going to deteriorate and the people are going to suffer".

I should also have thought also that Government would have made a decision that the Rules Committee should not be confined. There should be a Rules Committee, not only dealing with civil matters, but also with criminal matters, so that the Rules Committee can, in effect, see what rules and what procedures exist in the criminal court which stagnate growth and which, in effect, affect the public interest. In some Commonwealth jurisdictions, they have opted for that court. For example, I think it is in New Zealand, one of the Commonwealth countries, it has been recently done. It is because of the existence of that committee, that the Government of that country decided that there should be an amendment of the law in order to provide compensation for victims of crime. I would have thought that the Government would have looked at this amendment, given it a wider perspective, and given the Rules Committee a more extended jurisdiction.

I think what the hon. Attorney General has stated is a very forward step in the legislation that he is contemplating, that is to say, to make the insurance companies

a party to the proceedings at the same time. Then what would have to happen is that—I do not know whether he would want to do it today—this would have to be amended again in order for interim payments to be made against the insurance companies.

That is a forward step. The fact that a person who suffers an accident can go right away against the insurance company, would, in effect, save much trouble, because the claims against the insurance company would still be a claim, not in contract—it would not be a claim in tort; it would be a different kind of claim, a claim under the Motor Vehicles Insurance (Third-Party Risks) Act.

This bill is necessary. It is a bill which could have contained more. It is a bill which we in the Opposition will support wholeheartedly. But we feel it is our duty to tell the Government that we do not think that they have done enough; they could have done a more extensive amendment to the Act before bringing it to this House, given the fact that they have been in office for a year, and given the nature of the problem.

For example, if you are talking in terms of personal injuries claim, one of the important facts is the question of whether you are going to make it mandatory for people—and enforce it—to use their seat belts. That is something which is important. I should have thought that since you are amending the Act, you would have looked at all these matters. If you do not have the legislation now, tell us what you are going to do about it. Because if you enforce such a law, you would, in effect, be reducing the need to have claims for personal injuries, and therefore, you would be minimizing the number of matters to be filed in the court.

Perhaps the Attorney General, in his reply, could tell us—and I think he knows this—from our survey, one of the major causes of road accidents is drunken driving. And the law to deal with drunken driving is outdated. If a man is found driving under the influence of alcohol, the police arrests him, takes him to the police station, or to a doctor, the situation is that the doctor may not even want to give evidence in court. And the existing law is that the man would have to consent to certain kinds of examinations.

**3.00 p.m.**

So, as the law is now, it is very difficult for the police to succeed, as the law is now, with a prosecution for drunken driving. I should have thought that we could have considered introducing the breatherliser test, which has been spoken about, and which has been used very effectively in several countries, in order to minimize, not

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only insurance claims for personal injuries, but, in effect, also for death on the road. Therefore, I expect that the hon. Attorney General would indicate whether the Government has decided on a policy with respect to these matters.

Madam Speaker, I do not think I shall say anything more; I have said very little in relation to this bill. I think the Government should really look at this situation comprehensively. What is really needed is radical reforms in order to deal with the causes of delay and the law which affects claims for personal injuries. The Government ought to act very quickly in these matters.

Thank you, Madam Speaker.

**Mr. Trevor Sudama** (*Oropouche*), Madam Speaker, I am not a lawyer, I am an ordinary layman. I believe it is necessary, in these pieces of legislation to bring the layman's perspective to bear on the sufferings of thousands and thousands of citizens of this country, because of the delay in the administration of justice. This bill is one which seeks to deal—however minimally—with that question of the delay in the administration of justice and having final orders put before the courts.

Justice is not a cloistered virtue and it ought not to be left to the activities of just legal practitioners and members of the judiciary and so on. The ethos of justice should pervade the whole society, in the relationship of the state to the ordinary citizen, in the relationship of groups *etc.* It must subsume, for example, the distribution patterns of state expenditure. That is an aspect of the administration of justice in its wider connotation. However, today, I do not want to go into the wider ramifications of justice in Trinidad and Tobago. I would confine my remarks to what is before us.

As I said, thousands and thousands of people in this country have suffered as a result of the delay in the administration of justice and as the old adage goes "Justice delayed is justice denied". When I listen to the submission of the Attorney General in this matter—and we can have no argument for the need of interim payments and so on—the crux of the matter really is what could be done to speed up the administration of justice so that decisions are made within a reasonable time and ordinary citizens of Trinidad and Tobago get the benefit of those decisions as speedily as possible.

There have been instances where matters have been pending in the courts, particularly with respect to accident claims, for 10 years. There is a particular instance in my own constituency—a resident who comes from Tulsa Trace, Penal, and who had an accident and had his legs amputated in 1980. This is 1992 and that

matter has not yet been finally determined. This person is undergoing hardship and suffering. He does not have the full use of his limbs and he is not in a position to avail himself of any form of compensation.

It seems to me that when we speak about the administration of justice in this country, we do not seem to have at the back of our minds for whom this justice is intended. Is it intended for the average person in Trinidad and Tobago; the one who is at the receiving end of this process and procedure of justice in which we are all involved. I think that seems to be forgotten as we get enmeshed in questions of rules, legality, and introversion of the principle of justice. As I said, I speak from the perspective of a layman, representing the ordinary citizens of Trinidad and Tobago on this very, very problematical question of the delay in justice.

Today we are here to pass an amendment to the Rules of the Supreme Court of Judicature. We will give the facility to have interim payments made only in cases, of personal injuries suffered in accidents. I believe the legislation is to be confined to that sphere. Then, we are told that we are going to add one other person to the Rules Committee, that is a Master of the High Court. I ask the Attorney General: How would that speed up the procedure of amending the rules? When was the last time the rules were amended? How is this Rules Committee of the Supreme Court functioning for the purpose of benefitting the average man in Trinidad and Tobago? That is the bottom line of what we are discussing. How is it that we should add, in addition to the other office holders in the Rules Committee, a Master of the High Court? Could the Minister explain how that would, in fact, assist us in speeding up the decisions made, and in the administration of justice?

I make the point that this question of having interim payments made pending final payments with respect to claims for injuries and so on, is something that needs further attention. While we welcome this interim measure, I think the matter has to be looked at in all its ramifications. For example, there is the question of the statutory interest on judgments. In this report of the Review Team appointed by Cabinet to advise on systems to reduce existing delays in the administration of justice, which we have had presented to this House, the matter came up and the question of statutory interest on judgments is alluded to.

I should like to find out from the Government what its position is on the question of statutory interest on judgments? Whether the statutory rate of interest should be increased to the same level as the commercial rate of interest at banks, or, maybe, to a higher level as a penalty, in order to serve as a deterrent to people who

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are likely to put procedures in place to delay final judgments; and indeed, when final judgments have been made, or course, to delay effecting the payments. What is the Government's position on that?

The other issue I want to raise—and this is a rather radical proposal of my own. You see, the Government—and, in particular, the Member for Diego Martin Central is so stuck in his ways, so conservative in his consciousness that he can conceive of nothing which is a departure from the way the PNM has operated over the last 30 years.

**3.10 p.m.**

Those accident cases clog up the court system, the administration of justice where there have been no personal injuries. These are by far the majority of cases; thousands and thousands of accidents occur. It takes years for the determination of a simple accident case where the party which is liable, or the insurance company as the case may be, is made to pay. Insurance companies deliberately seek to delay the determination of these matters for the simple reason that if a claim for damages of, say, \$50,000 is made today, if that claim is delayed for five years that \$50,000, is not the same value as \$50,000 today.

And the law as it stands gives insurance companies that facility to delay interminably the conclusion of cases of simple accident matters where what is involved is damages to a vehicle, whether full claim or partial claim, as the case may be. The antics of insurance companies in terms of settlement of these simple matters come to my attention very often.

I had proposed sometime ago that we should, perhaps, in these simple cases where personal injuries are not involved, where large sums of money are not involved in terms of damages, deal with these matters in a quasi-judicial way by means of setting up an administrative tribunal which may have legal assistance but which will be manned and dominated by experts who will then sit and determine—with very minimal statement of cases, these matters expeditiously.

We could then have a claim for a simple accident matter determined very speedily, and while there will be recourse to the courts if need be, I am sure it is only in a very small number of cases that recourse to the court would be made to appeal a decision of such an administrative tribunal in everyday matters of accidents etc., which occur by the thousand every year. What we would do is take these matters out of the system of administration of justice, unclog that system to that extent, have a speedier decision-making process through the system of a quasi-judicial tribunal



and at the end of the day justice would have been served to claimants, those who have suffered wrong. Insurance companies are often loath to meet their payments.

I had proposed, therefore that where any insurance companies are loath to meet their payments that we set up a fund administered by the Government, which would have been initiated by contributions from the Government and from all the insurance companies, so that when you have a claim, as in the case of interim payments, where there is a prima facie case of liability determined by a tribunal or otherwise, or where the owner of the vehicle admits liability and you have damages assessed, a payment could be made out of this fund pending reimbursement to it by the liable insurance companies or the liable owners of vehicles.

I feel that if we think about it and put such a system in place it would enormously benefit the average owner of vehicles. He would get the benefit of a speedy settlement and at the same time that fund would be reimbursed by liable insurance companies or vehicle owners, and you would not have these delays being suffered merely for the settlement of simple accident matters as is the case today.

I know cases where no injuries have been suffered but merely for the replacement of a fender, bumper or some such minor thing, insurance companies tell the vehicle owner do not admit liability, although the facts of the matter are clear from any cursory review, and the case goes on for five years and is constantly being postponed and postponed. In the meantime, who benefits? Members of the legal profession. And who suffers? It is the average man in Trinidad and Tobago because as the law stands it enables the insurance company to take this route of delay.

What I had proposed some time ago and in fact, these thoughts came to me when I was for a brief period a member of the Government of Trinidad and Tobago. In fact, we were in the process of comprehensively reviewing the Supervisor of Insurance Act and all the other Acts relating to the insurance industry when, of course, I was relieved of that position. But we need to think differently, a little radically in order to solve some of these problems which have been with us for the very longest time. If we merely try to solve some of these problems through the legal system and the legal processes as they are, I do not think that we would get very far in terms of dispensing justice to the average citizen. It is not my view.

We have the statement from the hon. Attorney General that what they are proposing—and legislation will come some time in the future to this House—is that in these cases, accident cases and so on involving personal injuries, insurance companies will be joined as a party. That is fine, because I think that will minimize

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the delay involved in filing two separate actions. But if even that is done and the insurance company is intent on delaying a decision, you are going to still substantially have the same problem. What I am proposing is that this matter be looked at in quite a different perspective—radically different thinking needs to be brought to bear on the problems which we face with respect to the delay in the administration of justice.

I come to safety on the roads, which is related to the issue here because we are talking about personal injuries incurred in the course of vehicular accidents by and large. With respect to what transpires on the roads of Trinidad and Tobago, the Government of this country is guilty of criminal negligence. I will tell you how.

**3.20 p.m.**

There are three major causes of accidents. The first is speeding: driving motor vehicles in excess of the normal speed at which one is supposed to drive. The second is driving under the influence of alcohol: in a state of inebriation, where your reaction is very limited. Thirdly, conditions of the roadway.

I travel along the Sir Solomon Hochoy Highway two or three times weekly. There is nothing put in place to deal with the problem of speeding on that highway, or any other highway in Trinidad and Tobago. You do not see a police patrol, which will have the effect of minimizing accidents, and which will then have the effect of reducing personal injuries as a result of accidents. It will also have the effect of having fewer cases being put into the court to be determined.

We are talking about looking at the root of the problem and not necessarily dealing with the effect; about when you have accidents with personal injuries involved, how you get quick compensation to the victims. If you pre-empt it, I think that might be a better remedy for resolution of the problem.

I say this Government is guilty of gross negligence, because the police patrols on our highways are non-existent. I do not know where they are. I do not know whether the term of office of this Minister of National Security, who has been in office for one year now, should be renewed, and whether in fact he should give way to someone who can do a better job at administering the police service. If he does not know what to do, the honourable thing in our parliamentary tradition is to resign, as I myself did. That is the honourable thing to do. Give up the job.

Secondly, as has been mentioned, there is the whole question of getting people to drive when they are sober, and not when they are under the influence of alcohol,

which again would be pre-emptive action, in terms of the large number of accidents which occur on our roads. If a system was implemented to deter people from drinking and driving—I know for example, I have had the experience in North America, where this matter is taken very seriously, indeed. If you are caught on the road with more alcohol in your bloodstream than is allowed by law, immediately, your driving licence is suspended and you are taken to jail. You are allowed out of that jail only after you have sobered up. In the meantime, you will be disqualified from driving immediately for a period. It goes to show you the seriousness with which this question of drinking and driving is taken in other countries which have very high accident rates.

Who is responsible for the conditions of our roads? It could not be the Member for Diego Martin East, because he is responsible for absolutely nothing. He does not even know where these roads are and what is their condition is; totally inefficient and incompetent. I am talking about the Government's responsibility in preventing the number of accidents on the road, and therefore preventing the number of cases of personal injury, and minimizing the number of cases which they could cause. Go to the root of the problem.

**Madam Speaker:** The Member was not making the point really effectively. He is straying a bit to irrelevant matters.

**Mr. Sudama:** I am saying these are the major factors which are responsible for road accidents. I believe that the Government owes this country a duty to look into these matters, so that we would minimize the suffering. It is not only a question of getting compensation for damages. The amount of suffering that is endured by people who are involved in accidents, and also the stress and strain on our health services, the loss of earnings that is endured by the victims' families—all these things must be taken into account.

We are trying to get a holistic picture of the problem of accidents and its many ramifications so that we shall have citizens who live a healthier and happier life. That is the whole object of law and government administration, that you administer in such a way that in the end, the citizens of our country would enjoy a more secure and happier life, free from all the disabilities and liabilities to which they may be subject.

I thought that I would make some of these points in order to put a different perspective on the issue before us. The final point I want to make is on the question

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of the enforceability of judgments. Judgments are made by the courts, and costs are awarded. It is my own knowledge that in very many cases, nothing happens after. No payments are made. The question, therefore, is how do you enforce these judgments which have been made by the courts. You may have a claim against an insurance company, but then that is subject to some delay in terms of its enforcement. If the insurance company is not liable, if it is able to escape under any clauses of the insurance contract, then the liable party would have to pay. And if it is a question of a few hundred thousand dollars in damages in cases of personal injury, how do you enforce that?

In other words, what happens is that you could make 100 decisions for interim payments, and you could make all other decisions for final payments, but if at the end of the day you cannot enforce the judgments, it means that those decisions have very little value in effect. That is another area, and that is how it affects the ordinary layman in Trinidad and Tobago. You may go to court and we are told that we are a very litigious society, that we just love to go to court, for whatever reason. You might have the temporary euphoria of winning a case in court, but when it comes to actually getting dues or the damages from winning that case, you find yourself the loser.

All these things must be considered. I would urge the Government to look at this whole issue of the delay in the administration of justice sincerely, from the point of view of the average citizen of Trinidad and Tobago, his suffering, his hardship his inconvenience in getting the benefit of the judicial system and getting it in a way that is to his advantage.

Thank you very much, Madam Speaker.

**3.30 p.m.**

**Mr. Subhas Panday** (*Naparima*): Madam Speaker, from the Member for Oropouche, we have certainly had a lesson in the enforcement of judgments. However, the issue before us today is that this Government is constantly accusing us on this side of the House of being obstructionists.

When the bill to change the financial year was presented, and we asked for certain guarantees so that we could have greater accountability in this House, this Government decided that it would rather keep the financial year as it is than have such accountability, and blamed us as being obstructionists. We should like to telescope to this nation that we, the members of the United National Congress, are

responsible, and whenever there is responsible legislation coming to the House, we will support it.

In that regard, like the Member for Couva South, we agree with the amendment to appoint a Master as a member of the Rules Committee. You being someone, Madam Speaker, *au courant* with this procedure will know that the Master plays a great role when it comes to enforcing this amendment—that is the assessment of damages.

However, clause 4 of the bill, it says:

"Section 78 of the Act is amended—

(a) in subsection (1) by inserting after paragraph (a) the following paragraph—

(aa) for making provision for the High Court in which any proceedings are pending, in such circumstances as may be specified in the Rules, to make an order requiring a party to the proceedings to make an interim payment of such amount as may be specified in the order..."

Madam Speaker, the position, as indicated by the Member for Couva South, is that our present laws, that is the Orders and Rules of the Supreme Court, make provision for interim payment in the case of personal injuries, and that order goes on to define the requirements that must be fulfilled in order to apply for interim payments. That is the position at which we are today, that is, interim payments can only be for personal injuries. It would appear that what the hon. Minister is endeavouring to do is open the net, that is, to have interim payments for other aspects of the law in which damages are available. Can the Attorney General indicate to us how wide is the intention of this amendment?

Madam Speaker, as you are fully aware, and so too the hon. Attorney General, we tend to follow the English position. If we look at the White Book as it is referred to in the Orders and Rules of the Supreme Court, 1991 Edition, they were in the same position and they have moved in this same direction. Are we envisaging a move in the same direction, and to the same extent as the English courts? I quote from the White Book, Order 29, Part 2, Interim Payments:

"Part 2 of this Order was substituted by the RSA amendment, No. 2, 1980. It has superseded, consolidated and extended the former parts of Part 1 and Part 3 of this Order."

Hear what it says. Apparently, it is the same thing we are about:

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"The enlarging scope of Part 2 of this Order provides that a plaintiff may obtain an interim payment on account of any damages, debt or other sum which he can recover in proceedings for..."

It goes on to say what they are:

"(1) Any claims for damages whether for a breach or repudiation of contract or tort and is not limited to claims for personal injuries."

It seems to me that the Government is moving in that direction—White Book.

"(2) Any debt.

(3) Any action which includes a claim for possession of land. Any claim in respect of the defendant's use and occupation of the land during the dependency of the action.

(4) Any claim for any other sum, such as a sum for account, a claim based on quantum merit or for services rendered or for money had and recovered.

(5) A claim under guarantee, a claim for indemnity or contribution, or whatever ground or claim for the payment of any sum."

It goes on, and I come back to this.

"In the case of claims for damages for personal injuries, an interim payment can only be ordered if the defendant is insured or is a public authority or the defendant has sufficient means.

**Madam Speaker:** Would not that then be a matter for the rules in England. What are you advocating then, not changing the rules?

**Mr. S. Panday:** I am asking the Attorney General, whether this amendment will move to the same extent as the English law, or do we intend to go further and include copyright and, as the Member for Couva South has indicated, workmen's compensation? Unless the laws are amended, Madam Speaker, that would be ultra vires. That is the context in which I am making that point.

The Member for Oropouche has indicated that the aim of this legislation—that is the mischief with which it intends to deal—is to mitigate the prejudice in the case of persons claiming damages where the trial will take a very long time before the person can have his judgment. The first question I want to ask is, does the hon.

Attorney General intend to amend the laws to widen the net as in England, or do we intend to go further and create a system indigenous to our development?

Further, the hon. Attorney General has indicated that he intends to bring legislation to this House to join the insurance company as a defendant in the initial claim. I am sure that in that area we will be dealing with the law of subrogation. I am asking him. What steps have been taken so far to deal with the law of subrogation, and when he intends to bring the legislation pertaining to the joining of the insurance company as one party. Also, he must tell us the principles to be brought into place to deal with insurance companies being made a primary defendant in a subrogated claim.

**3.40 p.m.**

The position as it stands is that when a person insures his vehicle he pays a premium. He drives his vehicle and, unfortunately, he gets into an accident. He then gets a writ; he talks to the insurance company and tells them, "I hit from the back, I am wrong", but there are certain clauses in the insurance policy which say he must not admit liability. The insurance company now puts in a defence and proceeds to drag out the matter. While this matter is being dragged out, lo and behold, as has happened with many of those insurance companies, that insurance company goes under.

I do not want to call names, but during the last five years, about five motor vehicle insurance companies have gone under. Now the matter is up for trial. (There are certain insurance companies under judicial review). Now that these matters are in the courts, no insurance company exists, so judgment is given against the owner of this vehicle.

Now when the person took out this policy he never expected that the insurance company would go under. When he gets a heavy judgment against him, and he cannot satisfy it, what happens is that the plaintiff suffers extreme hardship if the defendant is a man of straw.

Two, the other scenario is if the defendant is one who has a small house, say on the Priority Bus Route and he gets a judgment, what happens? In order for him to satisfy that judgment, he is wiped off the face of the earth. Therefore, as the situation exists, both the plaintiff and the defendant suffer hardship in certain cases when the insurance company goes under.

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I have looked at the Insurance Act and I wish to refer to Chap. 84:01. Section 25 enunciates the functions and powers to the Supervisor of Insurance and we in the practice of law should like to indicate that it seems that either the Supervisor of Insurance is totally incompetent, or the law as it stands makes him a paper tiger. If the Supervisor of Insurance was applying the law, this situation would not have occurred.

Further, section 37 of the Act speaks about a statutory fund. I am certain the Member for Diego Martin Central, an expert in insurance review, can help the House on this issue. It says,

“(1) Every company registered under this Act to carry on long-term insurance business or motor vehicle insurance business or both, shall establish and maintain a statutory fund in respect of each such class of business.”

It states how the fund should be set up in terms of the ratio of deposit in the fund against liabilities.

The question we ask, Madam Speaker: Is there a fund set up to deal with claims against the defendant when an insurance company goes under and the defendant is faced with a judgment which he cannot satisfy? Has it every been used? I see nowhere in the Act where provisions are being made to use that fund, or, when the Government sets up this fund to satisfy at least part of the judgment to the plaintiff.

When that man, as I said before, took out his insurance policy, he planned his life. He never expected to face such a big debt. That is unfair to the motorist; it is unfair to the insured, and if the Government does not have a way to deal with the insurance companies to see that they operate so that the insured would not be at a disadvantage at the end of the day, the Government should set up a fund to deal with that matter.

As the law stands, we pay premiums to insurance companies, and from our own experience what we have observed is that these insurance companies take heavy premiums. They then take that money and apply it to maybe real estate and other things and they leave the insurance company merely as a paper entity.

When one gets judgment, they are willing to allow the insurance company to be declared bankrupt in certain cases. So it is necessary that we take steps to protect—maybe the insurance law should have been amended—well, we do not want it said that we want to stifle free enterprise, but the insurance law should be amended in



such a way that the insurers treat the funds as sacred and do not dissipate them in such a way as to cause the insured to be disadvantaged at the end of the day.

The learned Attorney General has indicated that he intends to bring legislation to join the insurance companies as principal defendants. That by itself may not help. That may not lead to very far, because, assuming that a joint defendant, the insurance company is the defendant, and the insurance company now sets up a defence and repudiates the policy, what happens in such a situation?

I wish to refer the Attorney General to Civil Appeal No. 127 of 1977 *Motor Vehicle Insurers v. John Parvi*. Judgment was obtained against the defendant, the defendant man of straw. Then they went against the insurance company, and the insurance company invoked section 10 of the Motor Vehicles Insurance (Third-Party Risks) Act. It was said that certain requirements of the law were not fulfilled. Further, they went through the policy and said that certain conditions in the policy were breached and as such they were not liable. And the insurance company in this case says that it is liable to pay but subject to certain conditions and qualifications; that is, there must be a judgment; the judgment must be against the person insured by the policy; the judgment must be in respect of liability which is required to be covered by the compulsory insurance; and the liability is, in fact, covered by the terms of the policy, or will be covered for the fact that the insurer is entitled to avoid or cancel the policy, but for this purpose, the conditions are declared void under sections 8 and 12 against the third party ignored.

What is happening is that even if we join the insurance company as a third party, unless the laws are amended, the insurance company will still find a way to get out of it. They would go to the court and say, "Well, look, we have a good chance to win in the end". Well, if the interim judgment is given, then the question we ask is, would we not be in the same position as we are today where the man who is the defendant could be a man of straw and the plaintiff suffering?

I should like to tell the Attorney General that we commend this piece of legislation. But we say it is too little too late and that immediate steps must be taken to review the insurance law and all the other laws which are necessary, and to plug all the loopholes, or as many of them that the insurance companies use to deny aggrieved litigants their due.

I thank you, Madam Speaker.

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):**  
Madam Speaker, there seems to have been a bit of confusion in relation to the presentation made by the Member for Couva South and the Member for Naparima. Certain questions were raised in relation to the extent and the intent of this particular piece of legislation. It was suggested by the Member for Couva South that there were other areas which could have been dealt with by the amendment, and reference was made to the question of workmen's compensation and interim payments against insurers, actions in contract and on debt.

I think where the confusion arises is that in some instances the Members were looking variously at the rules which would be made as a result of the power given by this bill. If you look at the rules as they stand at the moment, they are limited, in fact, to personal injuries. But the power which is given by the amendment is a power to make an order for interim payments in cases pending before the court. Interim payments are defined by clause 4(3D) (a):

“(a) ‘interim payment,’ in relation to a party to any proceedings, means a payment on account of any damages, debt or other sum (excluding any costs) ...”

in such circumstances as the rules may provide. So, clearly, the power here is wide enough to go beyond personal injuries but it depends on the rule-making power and how that related power is exercised. The rule-making power could be exercised merely by amending Order 29 to talk about interim payments in relation to other matters, including breach of contract et cetera.

The question whether it is intended to extend the operations of the rules at this stage is a matter which requires even more detailed examination. Clearly, the power is there, but whether it is extended to go beyond personal injuries is a matter for further consideration by the Rules Committee.

Now, the reason why it is limited to personal injuries in the first instance is that it is recognized that it is a greater hardship on persons who are involved in motor accidents who may not be able to meet the cost of medical expenses et cetera. So that it was conceptualized in the first instance as being limited to personal injuries. The example given of workmen's compensation is quite different, because workmen's compensation is somewhat of a no-fault situation: A person does not have to prove negligence on the part of the employer. Once he is injured on the job,

it is merely a question of assessing what is owed to him under the Schedule of the Workmen's Compensation Act.

With personal injuries arising out of motor vehicle accidents, you would have to first prove liability, that the other party was wrong. Having done that, you would then get an order for assessment, and this is where the time consumption takes place.

Insofar as the other instances of breaches of contract or death, one can instead invoke the summary process of judgment for Order No. 14 and thereby also limit the time spent getting a final order. So that, as conceptualized at the moment, it is limited to personal injuries, but the power is there to extend it beyond that to deal with such other matters as the Rules Committee may consider appropriate.

Much enthusiasm was generated in relation to suggestions in respect of insurance companies and some concern was expressed about the pace at which recommendations are being implemented to solve the problem of delays. I want to make an observation because I think Members, perhaps, may not have had the time to peruse the Gurley Report in its 78-page entirety. But if one were to do that, one would see that recommendations requiring legislative action take up three pages of that report and they are spread over a wide range of pieces of legislation—that is shown between pages 22 and 25.

In fact, the recommendations are less than three pages long and some deal with compensation in criminal matters and how the Judgment Summons Court is to operate. So there are separate pieces of legislation which will have to be amended. By comparison, the recommendations which deal with infrastructural problems and solutions take up 16 pages. Among those are the question for judicial staffing—which takes up something like six pages in analyzing different levels of courts—and then you have things like computer-aided transcription and computerization—which takes up the other six pages.

I want to say in relation to the concern that has been expressed, about the computer-aided transcription system, that we are moving apace on that and, in fact, a contract is being finalized for a further training programme over the next two years to train people to do the computerized system as we see in use here now.

Insofar as the computerization is concerned, we have reached the stage where the Central Tenders Board is about to award a contract. We have identified the hardware and software, which we think would improve the overall management of

court cases and the general operations of the Registry. So that computerization process should be on stream as soon as the Central Tenders Board approves those matters.

The recommendations which are procedural and administrative are really those which deal with amendments to the rules of court in comparison with those which require legislation—which we saw were three pages; those run to 26 pages, between pages 27 and 53 of the report. Many of them require amendments to the rules and, in fact, the Rules Committee has met over the past month and has come up with the final drafts of three of those rules which have been recommended dealing with—

**Mr. Maharaj:** Madam Speaker, I wonder if the hon. Minister would tell us, in light of its nature and importance, the present state of affairs. Would he tell us this afternoon whether the Government intends to have the Gurley Report debated in Parliament?

**Hon. K. Sobion:** Madam Speaker, the Gurley Report deals with the assessment of a number of recommendations, some of which go back to 1988. The Gurley Report was mandated to come up with recommendations for quick implementation, having regard to the crisis situation which we saw developing within the administration of justice. These recommendations came from a number of responsible organizations, including the Law Association and the Chamber of Commerce. When the committee was established, we also received memoranda from several persons, practising lawyers et cetera.

I am saying this by way of background, Madam Speaker, because, you see, to my mind, it is more important at this stage that we seek to implement as quickly as possible recommendations which have been lying there gathering dust over the years whilst the whole system ground to a halt.

I had indicated when I laid the report in this House that it was my view and the view of the Government that consideration should be given to establishing a permanent commission in some form to oversee the whole administration of justice on an ongoing basis.

It is because of those matters that the Government does not think it necessary at this stage to debate the contents of the Gurley Report. What we are concerned with is implementing as quickly as possible those measures which are non-controversial and which can be implemented as quickly as possible so that some immediate relief can be brought to the system and to those who have to approach it.

Some progress has been made in relation to the CAT project and the computerization project and I was making the point that insofar as the Rules Committee is concerned, we have three rules, one of which is slated to come into effect hopefully by January 1, 1993, once we can get the amendment in its final form. We are addressing the measures necessary to alleviate the problems in the administration of justice.

Much time was spent talking about insurance companies and other matters which could be done, and I am grateful to Members, particularly the Member for Oropouche for the suggestions that he has made. I think he wanted to know what the Government's position was in relation to a number of those matters.

I want to say that I think that those questions were also raised in view of the fact that I had indicated that it was intended that insurance companies should be joined as a principal defender from the outset and I think reference was also made to the fact that the statutory rate of interest ought to be increased.

On November 20, 1992, I met with the Association of Trinidad and Tobago Insurance Companies—I believe the acronym is ATTIC—to discuss with them at their request certain matters which they wanted to raise and, in turn, certain matters which I wanted to raise with them.

Among the matters discussed, was the arbitration system, which I had raised and put to them that perhaps it could be a solution which would reduce the number of matters going into the court system. I had suggested to them that it was an approach that they could utilize with the assistance of the Law Association which would be able to provide them with a pool of arbitrators.

The difficulty, or course, is that not all insurance companies belong to ATTIC, although a great number of them do. Arbitration of any kind is consensual. If the members of ATTIC agree to this system, it would be limited only to members of that association unless persons who have insurance companies and who are not members volunteer to take part in the arbitration exercise. They recognize that problem and they have gone off to have discussions with the other members insofar as that is concerned.

I raised with them also, the question of no-fault insurance, which is a matter that they seem keenly interested in and which also would have the effect of reducing the number of matters which come into the court system and solve some of the problems recognized by the hon. Member for Naparima. For there would be no need to determine who is the guilty party because by that system matters could be settled.

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However, the details of that, obviously, would have to depend on consultation with the companies involved, the industry generally and even those companies that are not members of the association.

They raised with me the question of seat-belt legislation and, in fact, they had very strong ideas on it, and I am at the moment looking at a draft piece of legislation dealing with the use of seat belts. They raised with me, also, the question of interest rates, whether we should change the statutory interest rate, but, you see, where we go from here depends on what comes out of the consultation with the industry, because it may not be necessary to raise the interest rates, for instance, if we are going to get into a no-fault insurance situation. It depends on what happens and it will take some time. I know that the member for Naparima was very anxious to get everything solved at one time, but I think he will appreciate that in matters of this nature, one has to get some kind of agreement from those involved in the enterprise and this is what we are doing at this time.

Madam Speaker, I think those are the concerns that have been raised.

**Mr. Maharaj:** Madam Speaker, there are two areas of the hon. Attorney General's reply on which I would want answers. Would he not consider that it would be counter-productive in the Government's attack on the question of delays to implement a report without doing anything, or without apparently doing anything about what the public can see in respect of quality in the appointment of judges and magistrates, leading one to believe that it is no longer watered-down brandy but, as the newspapers say today, more watered-down sorrel?

Secondly, is it not correct that if the Government leaves to a Rules Committee the question as to whether the nets should be widened it can be considered that the Government is abdicating its responsibility for making policy decisions to a Rules Committee which is not accountable to the population of Trinidad and Tobago?

**Hon. K. Sobion:** Madam Speaker, if I may take the last matter first. I may have said that it is a matter for the Rules Committee, but what I went on to say is that there are considerations that would have to be made, and I do not mean that the Rules Committee was the one to make those considerations. I have pointed out that in relation to contract and debt matters, for instance, one can utilize the summary procedure to get judgment and, therefore, it may not be necessary to have this interim payment procedure in relation to those kinds of matters.

I pointed out in respect of workmen's compensation that is a no-fault situation. Once you are injured on the job, you do not have to prove that the employer was negligent; you then go to the Schedule. I know it takes some time, but also know that it may not be necessary to have an interim order in that situation. But those would be the policy considerations. When one determines to what extent it should be widened, then the Rules Committee would be asked to draft rules based on those policy considerations. So it is not for the Rules Committee; the policy decision would be made at this end.

The first matter, whether it was counter-productive in the circumstances where there is some concern over the quality of persons on the bench, I cannot say that it is counter-productive. I think that whatever we can do to improve the system as a system will be productive insofar as the system will improve.

I do, however, share what appears—and what my friend points out—to be the concern among the wider public by reason of newspaper reports as to the so-called state of the judiciary. That certainly is a matter which would be of concern to anyone involved in the process of Government, because the judiciary is an arm of Government; in the same way one would be concerned as to the quality of contributions that may come from the other side, because that is a valuable part of the governmental process. So that anyone involved in the process of government would be concerned wherever there appear to be shortcomings. Certainly it is a matter that the Government would be concerned about and will address in an appropriate fashion.

**4.10 p.m.**

Madam Speaker, I think I have attempted to deal with the concerns of the Members on the other side, as I see them. It is my view that this piece of legislation, as was recognized by the other side, will go a long way. I think it is only for the Attorneys, particularly, to advise their clients as to its availability and I am certain that it would assist in clearing some of the backlog, together with some of the other measures which we put in place from time to time.

I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

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*House in committee.*

*Clauses 1 to 5 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, I beg to move that this House do now adjourn to Thursday, December 10, 1992 at 1.30 p.m. and to inform the House that at that sitting we shall be confirming the Provisional Collection of Taxes Order.

**Mr. Sudama:** Is that the only purpose?

**Mr. Valley:** Yes.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 4.15 p.m.*