

*Leave of Absence**Friday, December 17, 1993***HOUSE OF REPRESENTATIVES***Friday, December 17, 1993*

The House met at 2.34 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 Tobago West (Miss P. Nicholson), and the Member for Diego Martin West (Dr. The Hon. K. Rowley).

ORAL ANSWERS TO QUESTIONS

Rice Paddy Price
(Revision of)

13. Mr. Trevor Sudama (*Oropouche*) asked the Minister of Agriculture, Land and Marine Resources:

Could the Minister state whether Government intends through the National Flour Mills to revise the price paid to rice farmers for the supply of paddy to the National Flour Mills and, if so, could he state what the revised price would be?

The Minister in the Office of the Prime Minister (Sen. The Hon. Camille Robinson-Regis): Madam Speaker, Government is currently reviewing the pricing structure for paddy purchased from farmers. This review and any proposed modifications to the pricing structure will be informed by the report of the Cabinet-appointed committee established to review the pricing structure for rice, including the subsidy regime.

This report is expected imminently.

Mr. Sudama: Madam Speaker, could the Minister say how long this committee of Cabinet has been sitting on this matter?

Hon. C. Robinson-Regis: This committee has been sitting for several months, but the issue of the pricing regime for paddy has been in existence for quite some time. However, they do need some time to come to a correct decision on the matter.

Mr. Sudama: Madam Speaker, given the fact that this matter has been under review for several months, and possibly several years, could the Minister then indicate what she means by “imminently”?

Hon. C. Robinson-Regis: Shortly.

Mr. Sudama: May I ask a second supplementary question? Madam Speaker, I would like to get some indication of what is “imminently” and what is “shortly” in terms of time? Is the Minister in a position to indicate that?

Hon. C. Robinson-Regis: Madam Speaker, we anticipate that within the first half of 1994 the report should be before the Parliament.

Sport and Culture Fund

The following question stood on the Order Paper in the name of Mr. Raymond Palackdharrysingh (Caroni Central):

20. Would the Minister of Sport and Youth Affairs state:

- (a) What is the status of the Sport and Culture Fund?
- (b) The names of sporting and cultural groups that were facilitated by the fund for the years 1990, 1991, 1992 and 1993?
- (c) What other activities have been facilitated by the fund for the period 1990, 1991, 1992 and 1993?

The Minister of Sport and Youth Affairs (Hon. Jean Pierre): Madam Speaker, I have spoken with the Member for Caroni Central. I ask that question No. 20 be deferred to the next sitting, please.

Question, by leave, deferred.

Corinth Road (Repairs to)

24. Mr. Subhas Panday (Naparima) asked the Minister of Local Government: Can the Minister of Local Government state when the numerous and dangerous potholes and craters on Corinth Road in the constituency of San Fernando East will be attended to?

The Minister in the Ministry of Finance and Minister of Local Government (Hon. Kenneth Valley): Madam Speaker, I am sure that I have answered this question before.

Corinth Road is the responsibility of the Princes Town Regional Corporation. The corporation is cognizant of the poor condition of the road and has taken the necessary steps to address it.

At present, potholes are being repaired and the Princes Town Council will consider completion of repairs to the road, estimated to cost \$110,000, out of its 1994 budgetary allocation.

The Ministry of Works and Transport has also done some patching of potholes along Corinth Road and proposes to undertake further repair works on this road as soon as funds are available, since the road is being used as a traffic detour because of the reconstruction of Bridge B ½ Ciperó Road.

Ciperó Road is now open to light traffic under three tonnes, and as a result, Corinth Road will be relieved of the traffic now using it.

The following questions stood on the Order Paper in the name of Mr. Raymond Palackdharrysingh (Caroni Central):

**Water Rates
(Criteria)**

- 37.** Would the Minister of Public Utilities state:
- (a) Whether water rates are charged on properties where there are no houses but where there are water mains?
 - (b) Whether this rate applies to state lands and lands of state enterprises in a similar situation?
 - (c) What criteria are used to determine the rate?

The Minister of Public Utilities (Hon. Morris Marshall): Madam Speaker, the answer to this question is not yet ready. I therefore request that the answer be given at the next sitting of the House.

Question, by leave, deferred.

**Land Regularization Programme
(Status)**

- 38.** Would the Minister of Housing and Settlement state what is the status of the land regularization programme at:

- (i) Arena Settlement?
- (ii) Carlsen Field?

Mr. Raymond Palackdharrysingh (Caroni Central): Madam Speaker, I wish to withdraw this question. I seek your kind permission.

Question, by leave, withdrawn.

2.40 p.m.

**Post of Optometrist
(San Fernando General Hospital)**

40. Mr. Trevor Sudama (*Oropouche*) asked the Minister of Health:

Could the Minister state:

- (a) Whether there is on the establishment at the San Fernando General Hospital a post of optometrist?
- (b) Whether that post is vacant and, if so, for how long?
- (c) What provision is made for patients who attend the hospital and require the services of an optometrist?

The Minister of Health (Hon. John Eckstein): Madam Speaker, there are two posts of optometrist on the establishment of the San Fernando General Hospital and both of these are vacant. One of the posts was created with effect from January 01, 1979 but the Director of Personnel Administration was unable to attract applicants to fill this post. The other post became vacant effective January 01, 1990.

In view of the difficulty experienced in recruiting this category of staff, five persons were awarded Government scholarships to pursue training abroad. They were expected to complete their course of study during the period 1987 to 1992, but, to date, only three of them have returned to the country. The Public Service Commission approved the appointment of these three scholars but only one has assumed duty, and that individual has been assigned to a vacancy at the Port of Spain General Hospital.

With respect to patients of the San Fernando General Hospital who require the services of an optometrist, they are advised to visit a private optician of their choice in order to obtain a refraction prescription. Those patients requiring assistance for the procurement of spectacles will then present the prescription to the out-patients clinic. Old age pensioners, schoolchildren and recipients of social assistance automatically qualify for free spectacles. Other patients are referred to the medical social worker for assessment and determination as to whether the person qualifies for free spectacles.

Mr. Sudama: There are very many patients who cannot afford the services of a private optometrist. Could the Minister indicate to the House what provisions the Government has in place or intends to put in place to deal with that situation?

Hon. J. Eckstein: Madam Speaker, as I indicated in my reply, the Government awarded a number of scholarships. Three of those awardees have returned but only one has taken up the appointment offered by the Service Commissions Department. The matter of filling the other two vacancies is not the responsibility of the Ministry of Health, but that of the Chief Personnel Officer and the Director of Personnel Administration. There is very little the Ministry of Health can do in the circumstances.

Mr. Sudama: is the ministry in a position to provide any sort of financial assistance to those people who need to obtain the services of a private optometrist?

Hon. J. Eckstein: Unfortunately, Madam Speaker, the Ministry of Health is in no such position.

MF Panorama

The following question stood on the Order Paper in the name of Miss Pamela Nicholson (Tobago West):

- 46.** Could the Minister of Works and Transport inform this House:
- (a) If he is aware that the *mf Panorama* has been off the Tobago run for over two months now?
 - (b) What steps are being taken to put the *mf Panorama* back on the route in the shortest possible time?

Mr. Basdeo Panday (Couva North): Madam Speaker, would you kindly have this question deferred to the next sitting of the House? The hon. Member for Tobago West is not here today.

Question, by leave, deferred.

Princes Town Car Park (Rental of)

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

- 47.** Would the Minister of Works and Transport state:
- (a) (i) What sum of money and other benefits did the Traffic Management collect at the end of the original contract for the rental of the Princes Town Car Park for Fantasy Land?
 - (ii) For what period was the original contract?

- (iii) Whether the period for the original contract was extended and, if so, for what period?
- (b) Is the Minister aware of the serious inconvenience caused to motorists by taking away the parking facilities?
- (c) Does the Minister intend to continue to rent out the car park?

Mr. Krish Jurai (*Nariva*): Madam Speaker, since the Member for Princes Town is not here, I ask that the question be deferred to the next sitting of the House.

Question, by leave, deferred.

ADMINISTRATION OF JUSTICE

[SECOND DAY]

Order read for resuming adjourned debate on question [October 29, 1993]:

Madam Speaker: I would just read the resolution:

Be it resolved that this House express its dissatisfaction and concern about the state of the administration of justice:

Be it further resolved that it appoint a Special Select Committee of this House to examine the state of the administration of justice in Trinidad and Tobago and for it to make recommendations for its improvement, such committee to report to this House within three months of its appointment.

Question again proposed.

Mr. Subhas Panday (*Naparima*): Madam Speaker, like you, I would not read through the whole Motion but merely endorse your statement:

Be it resolved that this House express its dissatisfaction and concern about the state of the administration of justice:

Be it further resolved that it appoint a Special Select Committee of this House to examine the state of the administration of justice in Trinidad and Tobago and for it to make recommendations for its improvement, such committee to report to this House within three months of its appointment.

During the recent past, the hon. Attorney General came to this House and laid the *Gurley Report*. That report was one which said a committee was set up which had to report in a very short space of time to the Attorney General, and subsequently, he laid this report in Parliament. I humbly submit that the time

given to the Gurley Committee to come up with the report has led to that committee producing a superficial report as to how to deal with the administration of justice.

I do not intend to cast any aspersions on the members of the committee, because, as the Attorney General stated, they were doing public work, and we congratulate them on that. But it seems to me that the composition of that committee was such as to direct its attention merely to one aspect of the administration of justice—the administration of justice at the High Court level. It really did not go into the area where there is the real backlog in the administration of justice and, that is, at the magistracy level.

The report has acknowledged that the backlog really exists at the magisterial level and it is at that level that most of the cases are dealt with. But before I go into that, may I return to the High Court and look at the administration of justice as it affects the criminal aspect of our jurisprudence.

When an accused goes before a judge and jury and that accused wants to plead guilty so that the matter can be expedited—for example, in a wounding matter or any matter for which compensation can be awarded—one finds that it cannot be done. If he pleads guilty before the judge, the judge has power under section 54 of the Criminal Procedure Act, Chap. 12:02, to award compensation in the sum of \$480 only. If the jury brings in a verdict of not guilty, the accused is released, so, the judge's hands seem to be tied to imposing a custodial sentence.

2.50 p.m.

Because of that, the accused usually goes to the court and fights, when in certain circumstances, those matters could have been shortened if the judge had the power where the accused could plead guilty and the matter expedited. Sometimes one of those matters takes a month, and in the end, what some of our judges tend to do—most of our judges are very reasonable people.

Madam Speaker, you were a prosecutor in the High Court and you would know about this. You know that the defence attorney and the prosecutor would work out a compensation and then come to the judge, and the accused would plead guilty, and the judge would say, "I do not want to know what you all have agreed. But is the compensation adequate?" And you will say, yes. Then what the judge does is merely put the accused on a bond, or something like that.

But it makes a farce of the administration of justice when the judge tells the attorneys, "I do not want to know what you all have agreed, because my jurisdiction is only up to \$480.00."

Mr. Sobion: Madam Speaker, I wonder whether I misheard the Member for Naparima. Is it that he was saying that our judges are unreasonable people?

Mr. S. Panday: Certainly not. I said their hands are tied.

What is necessary is that the criminal jurisprudence must be adapted in such a way as not only to punish an accused for an offence which has been committed against the state, but the state must also be given compensation. I think the *Gurley Report* made a recommendation to increase that amount to \$50,000. The anomaly is in the magistrates' court: the magistrate could award more compensation than in the High Court. So that is an anomaly which needs to be addressed if we want to cut down the length of time and the number of cases that are forced to go to trial. If each case takes two or three weeks, 12 cases for the year in one court, but if we deal with this problem, we could clear away the backlog—and there are many cases in that category.

It seems to me, as I said, that some of the members of that committee were basically members in the civil jurisdiction. What they have done in order to clear the backlog, the Rules Committee brought out Legal Notice No. 33 of 1993, which says that if no action had been taken on a matter for a period of one year, the matter is deemed to be dismissed.

What happens sometimes is that you are negotiating, and instead of burdening your chambers and piling costs, you hold your hands while you negotiate, hoping that it is being done in good faith. Sometimes some difficult cases run over a year. When this notice came out, it came like a thief in the night and caught many attorneys with their trousers below their knees, to use a colloquial term. The purpose of Legal Notice No. 33 of 1993 was to clear the backlog of cases, and the hon. Attorney General indicated that with one stroke of the pen about 10,000 cases went by the wayside.

Some attorneys might be guilty of negligence, but in the final analysis, genuine litigants would suffer. As such, I humbly ask the Attorney General to review that. He may want it to be for a period of two years, but at the same time, give attorneys sufficient notice, maybe six months or one year to put their houses in order so that the litigants would not suffer.

These are the basic things that the *Gurley Report* dealt with at the High Court. I want to move on now to the magistrates' court where most of the backlog exists. First of all, I would like to deal with the Coroners Act. My friend at my side, a former DMO, and my dear friend the Member for Barataria/San Juan would be aware that the Coroners Act says that when somebody dies, the inquest shall be held in the jurisdiction where the deceased is pronounced dead.

So that if somebody dies, let us say, in Ortoire/Mayaro, in Guayaguayare—you know, in the country areas a person appears to have died but there is still hope that he is alive—they would take that person to the San Fernando General Hospital. There, he would be pronounced dead on arrival. He came from Guayaguayare, but the inquest has to be held in San Fernando. The witnesses are in Guayaguayare, the deceased is from Guayaguayare, the police officer who has conducted inquiries into the matter is from Guayaguayare; maybe other doctors who attended are from Mayaro or in the Eastern region, but the inquest is held in San Fernando.

With the inquest being held in San Fernando, by the time the summons reaches the Mayaro Police Station there is a break in communication, and because of that, the matter is lost on the way, as the police officer who is investigating it from San Fernando cannot find the witnesses. Very often it is so costly for witnesses to travel to San Fernando; and when they go there, the matter is not heard and they spend all day in San Fernando. They have to travel 10 and 15 times and they find it very inconvenient and financially embarrassing to go to court.

Sometimes the cost of travelling is awarded, but it is after you give evidence and you are about to leave, that the coroner would decide on the cost. If one looks at the Coroners Act, one would see that it says that the coroner has jurisdiction over the whole country. So I humbly submit that the learned Attorney General should review the Coroners Act, Chap. 6:04, to say that the inquest could start at one place, at one court, and the whole inquest may be transferred to the area where the deceased lived. By so doing, I am certain that the backlog of inquests would clear up.

The statutory limitation for certain cases is one year. For example, a child may get electrocuted in Moruga and the inquest last four years, but the State Liability and Proceedings Act says you cannot bring an action against a state corporation after one year. So while this inquest is pending, you are hoping to get a result so you could use this evidence in your case. But what happens is that by the time the inquest is finished, the statutory limitation has expired, and there are no reliefs for the family of the deceased. That is one area of the law which, although it deals with the dead, I think needs to be addressed.

3.00 p.m.

On the issue of appointment of coroners, I see the *Gurley Report* made some recommendations. At the present time we have such a heavy backlog that it may be necessary that instead of appointing permanent coroners—there are many

magistrates or lawyers who have retired and they could be appointed on a temporary basis to clear up the backlog. After that, we could do research to find out the average number of inquests coming before the courts in particular areas, then make the appointments on a permanent basis to suit the workload. But it is necessary to appoint even temporary coroners to deal with the backlog.

I am certain you will agree, Madam Speaker, that if one looks at the courts, usually magistrates who are sitting in other jurisdictions doing other work are appointed as coroners. For example, let us say a magistrate has a private list or a Petty Civil list. He goes through his lists and at the end of the day he comes to the inquest, by which time he is either tired, or the witnesses have gone, or the police are missing. So that is an area which we really need to deal with so that people's claims will not become statute barred.

Moving on to the Agricultural Small Holdings Act, Chap. 59:53—I am sorry that the Member for Diego Martin West is not here, because I had spoken to him on a previous occasion about this. The Agricultural Small Holdings Act deals with tenancy problems of agricultural small holdings. I know of some cases that have been engaging the attention of the courts for 20 years. Many of the litigants have died and the cases have not been completed.

The reason is that section 12 of the Agricultural Small Holdings Act, Chap. 59:53 says that the Chairman of the Agricultural Small Holdings Tribunal shall be a magistrate appointed by the Chief Justice. What happens is that the magistrate who is appointed in that jurisdiction is the person to be appointed as chairman of that board. So he starts the case and, lo and behold, he is transferred. The moment he is transferred out of the jurisdiction and you go back to have your case determined, they say no, he has no jurisdiction in this matter again; you have to get a *de novo* trial.

There are cases on record which have had about 10 *de novo* trials. This is a most untenable situation and I humbly recommend to the learned Attorney General that, similar to the Rent Restriction Act, Chap. 59:50, as in San Fernando—as you will know, Madam Speaker—where Mr. Harry Narine, a retired magistrate, has been chairman of the board and Mr. Misir—they are appointed to the board for a fixed period and every three years their contracts are being renewed. This does not take place in the case of the Agricultural Small Holdings Act. What happens is that if the magistrate goes, the case falls down. I humbly submit that the law should be amended to have a permanent appointment of Chairman of the Agricultural Tribunal so that the matters could be dealt with.

Another area which we could work on is the Liquor Licences Act, Chap. 84:10. I think it is section 5. Not liquor licences only—all licences—jewellers, bailiffs, pedlars, hucksters, dance licence, bar licence. The section reads—

“There shall be a licensing committee for each licensing district which shall consist of—

(a) the Magistrate from time to time assigned for duty as such...”

in that area.

Madam Speaker, these are not judicial matters; they are merely administrative. It appears to me to be a hangover from the old colonial days of the warden system, where there was some relationship between the warden and the magistrate. For example, instead of the magistrate sitting in court and doing his work, he had to go visiting. If someone wanted the renewal of a spirituous liquor licence, the magistrate had to go to see if the stock room was fixed properly, if the urinal was working properly, and so forth. A magistrate is not qualified to do that type of work, but he had to do it.

The magistrate also had to check the income tax order, the Town and Country Planning Ordinance and with the Ministry of Health. Those activities could be done by some person other than a magistrate. The magistrate should be released from the liquor licence section, as in the Agricultural Tribunal, so that he would have more time to do other work. If one goes to the magistrates’ courts dealing with special licences, sometimes one could spend the whole day there.

Mr. Sobion: Madam Speaker, I hesitated to interrupt my colleague, the Member for Naparima, because he has made some very valid points. But, for the record, I think he has not appreciated the recommendations which have been made with respect to the licensing committee; the very things that he is now speaking about are already being addressed at this time.

Mr. S. Panday: I am happy that my learned friend has indicated to me that I am pushing on an open door. So I move on to another point.

At the High Court there is a Registrar who filters the work before it reaches the Master of the High Court. In the lower court, I humbly submit that a post of Registrar, or as in England, a Clerk—a qualified person—should be appointed in each magisterial district. For instance, the Member for Baratavia/San Juan spoke about domestic violence. That law is a quagmire. It is badly drafted and even the magistrates are having problems with it as regards the definition of a “prescribed offence”.

For example, if a man beats a woman, they say no, no, that cannot come under domestic violence at all—go for assault and battery. One must threaten the life of the person. So there is a mix-up in the law, which is creating problems. The Clerk of the Peace is the person who usually advises as to the laying of the complaint.

So when a battered woman goes to lay a complaint, the Clerk of the Peace lays the complaint and they serve it. The whole process—clerks are being used, paysheets have to be written up, police have to serve these documents; and when they reach the court the lawyer on the other side says: “This is not one of those offences that fit ‘prescribed offence’,” and the matter has to be withdrawn.

So why waste the time of the clerks, magistrates and everyone, then when it reaches the court it is dismissed on a legal technicality? What that does—and I am speaking on behalf of the battered women—is make them lose hope in the judicial system and the man, who gets away without even having to go into the box, believes: “I have won.”

Therefore, instead of putting the complainant through that trauma of having to appear in court one day to lay the complaint, serving the summons, then coming before the court, only to hear “legal technicality,” I humbly submit that if there is a legal person attached to the magistracy, similar to the registrar in the High Court, then those matters could be filtered out so that the lady would know from the outset that this is the wrong court, the courts would not be clogged and justice would prevail.

3.10 p.m.

Not only in that area, but also in the areas of affiliation, ejectment proceedings. What is happening is that the jurisdiction of the magisterial system is being expanded—the jurisdiction of magistrates has now been increased to give 10 years for robbery—as Members are fully aware, the laws become more complex and as a result there is need for legal personnel to filter the work at that level. I am certain that the hon. Attorney General would assist in that regard.

I now come to the question of policemen in the courts. Another cause of delays in the courts is that a matter is partly heard, and in the middle of that matter the policeman is transferred, or he goes on long leave out of the country. So this partly heard matter cannot go any further.

While the policeman is out of the country the magistrate may be transferred to another jurisdiction. Upon the policeman’s return to the jurisdiction, the magistrate then has to complete the list for the court to which he is assigned.

Usually lawyers are in that court and they keep him there all day, so he sends a message to the court where the partly heard matter is pending: "I cannot come down there today, adjourn." There are matters like these which have been adjourned for five and six years and cannot be determined.

I humbly submit that before a matter is heard, the court should be made aware whether the policeman has to leave the jurisdiction; whether he has to go on holidays et cetera. He must indicate that to the court so that when the matter is called the court could probably take the evidence of the policeman first, because the procedure of the court is that all the witnesses are dealt with first and the complainant, who is the policeman, is left for last.

So, if the policeman intimates to the court and the prosecutor that he is proceeding on leave out of the country for a length of time, then the procedure in the case could be varied so the matter could be determined.

Mr. Sobion: Madam Speaker, would the Member for Naparima not agree, therefore, that conducting preliminary inquiries by means of sworn statements would be a means of avoiding some of those problems?

Mr. S. Panday: Madam Speaker, I am not speaking only about preliminary inquiries; I am speaking about cases in general, but since the hon. Attorney General has asked about preliminary inquiries, I would deal with that point immediately.

A preliminary inquiry is an important thing because it allows the defence to know what case it has to face before it goes to trial. Maybe, during the cross-examination—remember the case, Sanglee Chitlall and the state, Criminal Appeal No. 5 of 1983, where it stated that if a case is so manifestly discredited that a jury so properly directed would bring a verdict of not guilty, then at the preliminary inquiry, the magistrate can discharge the accused.

So, instead of putting the accused through the trauma of a jury trial—because I would tell you that when one goes on a jury trial it is a horse of a different colour—

What happens is that when the preliminary inquiry starts, it adjourns so one can do research. For example, if a man says "I saw when you hit the man on his head and killed him because there was a street light," and somebody tells you there is no street light there, it gives you enough time to go to T&TEC to find out whether there is a street light there. If the case goes straight into a paper committal, once a jury is empanelled, the lawyer, the accused and everybody

Administration of Justice
[MR. S. PANDAY]

Friday, December 17, 1993

become slaves to the jury. Once a jury trial starts and a jury is empanelled, that case must be completed before the jury is discharged. That puts an extra strain on the accused to make him confront his accusers.

For example, if you are an attorney-at-law at the assizes and you are there from nine in the morning to three in the afternoon and this evidence hits you in your face, it is difficult for you to get the time to check T&TEC to find out whether there was light in that area, and it could cause a miscarriage of justice to the defence.

In those circumstances, I humbly submit that a preliminary inquiry is necessary. *[Interruption]* Those of us who practise find those problems.

That paper committal could be very dangerous—it could prejudice the accused. What I humbly suggest is a hybrid system of committal, where we would say, for example, if a formal witness, let us say, a photographer, is coming to give evidence, probably the accused and the prosecutor at the preliminary inquiry stage could say, “That evidence is formal evidence, we tender that evidence.” But, when there is a vital witness that is fundamental to the case, I humbly submit that the accused must be given an opportunity to cross-examine.

It is easy for an allegation of rape to be made. If, for example, two people are friends and somebody finds out something, “rape” is cried in order to save character. Normally cases of this nature tend to fall by the wayside when going through a preliminary inquiry, because one can cross-examine the “victim” to such an extent as to destroy the case.

Another example is the certificate of analysis in drug cases. Unless it is necessary to prove the validity of the exercise by the forensic laboratory, those can go straight in. Certificate of analysis, a ballistic report—*[Interruption]* The point about it is one could be taken by surprise at the High Court and would not have the time to deal with the matter, because the moment the case is finished, you are called upon to address the jury; the court would say you are wasting its time.

I humbly submit that a hybrid system should be introduced where formal evidence which is controversial would go through, but the one or two witnesses who are vital to the case would be cross-examined. I think a system like that would surely meet the justice of this situation.

These are some of the points I thought I would raise today, hoping they would go some way in assisting in the administration of justice.

Another point I want to deal with is the appointment of magistrates. It seems to me that in appointing magistrates the exception rather than the rule has been obeyed. It states that in order to be appointed a magistrate—my friend “Silk”, the Member for Port of Spain North/St. Ann’s West would surely bear me out—if you are in private practice you must have seven years, but if one is in the government service, I think it is three or four years. What we have observed is that the exception to the rule has been applied.

This says, however, that if you want to appoint someone who is not in the public service, without seven years’ practice at the bar, you may do it only in exceptional cases. I know that the Judicial and Legal Service Commission is a law unto itself, but—

Madam Speaker: *[Inaudible]*

Mr. S. Panday: I think it is seven years for a magistrate, Madam Speaker and I am subject to your correction.

3.20 p.m.

When attorneys who do not have experience at the bar go on the bench, they are timid. When they meet up experienced attorneys, they become jittery. So that having attorneys like us holding the necessary—*[Interruption]* That is something we need to look into so that we would deal with that system. When there are experienced magistrates, matters will be dealt with quickly and effectively and there will be fewer appeals to the Court of Appeal.

Another question is the issue of the magistrates’ courts. The magistrates are given too much administrative work. For example, in an affiliation complaint, when a woman goes to the court—that is, where the child is illegitimate—she has to go to the Clerk of the Peace. She lays the complaint before him but that complaint is not effective until it goes to the magistrate and he signs it. That takes some time. Also certain warrants, only the magistrates could sign them.

I humbly submit that in matters like affiliation and ejectment complaints the aim of having the magistrate signing those is to ensure that a legal mind has addressed the issue. What has happened is that the legal mind addresses the issue only on paper. He has never seen the litigant who came to the court. It is the Clerk of the Peace and, as such, that reiterates my case for an expert at the magistrates’ court.

Another question is that the Summary Courts Act says that if a litigant is supposed to come to court and he does not come, the magistrate has various

options. Firstly, he may either issue a warrant or determine the case *ex parte*. The norm is that in simple matters like ticket cases, you find the magistrates issuing warrants instead of dealing with them *ex parte*.

When a warrant is to be issued, what happens is that it has to go to the clerk downstairs, it has to be written, police have to take and execute it, bring the defendant before the court and release the list; and it takes much judicial and administrative time. I humbly submit that instead of issuing warrants for people in very simple cases, the option of doing the cases *ex parte* might be better.

If a ticket is \$60.00, a magistrate takes out a warrant for \$60.00 and a person gets sentenced on a Saturday or Sunday evening, he stays in the police station for a number of hours before he gets bail. He would suffer much more than the total imposition of the ticket if the warrant system is used. The warrant system, although it is putting strain on the administration of justice, it also puts extra strain on the accused.

Certainly, if a warrant is taken out and—as I say, a ticket is \$60.00—when the police arrests the man he says, “Look a first instance warrant is out for you, pay \$60.00 or I will take you down,” I am certain that would be a less traumatic experience than the policeman saying, “We have to go to the station,” and when he goes to the station they execute the warrant and he has to go before the magistrate. I humbly submit that this is one of the ways in which we can reduce the backlog at the Judiciary.

Another point is that the equipment used in the courts is the most outdated you could find. The same type of typewriter I used to work with in the Director of Public Prosecutions’ office is the one they are working with—a clack-clack type of typewriter. I am not talking about the one you can touch with your finger. No magistracy, no court has even electric typewriters. We are talking about the CAT system. If you go to the magistrates’ court, there are all these indictable offences, all these inquests and requests for notes of evidence and they are still with the red and blue ribbon.

Mr. Valley: Madam Speaker, let me inform the Member that the hon. Attorney General informed me that he wants to bring computers into the court.

Mr. S. Panday: I find it strange that every time I make a point the Attorney General is in front of me.

Mr. Sobion: Madam Speaker, I do not find it strange at all. I am ahead of him by miles.

Mr. S. Panday: I take that one. Having regard to the season, I would not attack him. This is something that needs to be dealt with. He will say that he intends to make the magistracy a closed shop so as to develop expertise there.

The other point is the condition of the magistrates' court. Madam Speaker, I remember when you were a Master you occupied a court on the eastern wing—surely you will remember that. That court is still being used and there are no fans and chairs for attorneys.

Mr. B. Panday: Do not bring back traumatic experiences.

Mr. S. Panday: The condition of the court must be improved; as my friend would say, a *sine qua non* for the improvement of the administration of justice. I hope that he will also look into the issue of the law school when we deal with this problem, because the issue of the number of lawyers coming out needs to be addressed if we want to make sure that we have effective administration of justice.

Let us look at the Princes Town Magistrates' Court. The court is built in the centre of the town. A FINCOR loan was used to build it. It seems to me that the person who built the court knows nothing about courts. The courtroom is the smallest room in the whole building.

I invite the learned Attorney General to visit the Princes Town Magistrates' Court on any day and he will see that there are more people on the steps of the court than in the court. We need to look at the accommodation of the court so that our magistrates would be working in an environment more conducive to productivity.

This is the season of goodwill and the points that I have raised have been made in utmost sincerity, all in the interest of the administration of justice. For if the system is clogged, not only those who are directly concerned would be affected.

I want to address the Member for Diego Martin Central and also the Member for St. Joseph.

Mr. Valley: What have I done?

Mr. S. Panday: Madam Speaker, the administration of justice is only one facet of the problem. The other facet is unemployment. Because of the high rate of unemployment, one sees a correlation between the group unemployed and the number of crimes. Your heart would bleed to see the children and young men who are crowding the courts. You see them suffering and crying.

Mr. Valley: I would like the hon. Member for Naparima to tell me what I have to do with this unemployment matter. The Minister of Labour and Co-operatives, my friend Minister Collis—

3.30 p.m.

Mr. S. Panday: As I said, this is the goodwill. I do not want to provoke him, but he has been dubbed Minister of Retrenchment. There is the necessity for all Government's activities to be taken as a whole, and to ensure that we do something about the unemployment situation.

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

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

Question put and agreed to.

Mr. Valley: I want to inform the Member that for the year 1993 there has been no retrenchment in the Ministry of Local Government.

Mr. B. Panday: Then, you have not been doing your job.

Mr. S. Panday: I would not take him on today. I thank you, Madam Speaker and hon. Members for the opportunity to continue.

I want to indicate to the hon. Member for St. Joseph that the education system is such that we are producing a number of people who cannot read and write. Because of this, they come out in society as frustrated people. If one looks at the type of people in the courts, one would see—I do not want to cast aspersions on any sector of the community—but one would see they come from a particular section of the education system, not from the prestige schools, basically. The reason is that the syllabus in the junior secondary schools is too ambitious. For example, in the science syllabus, a teacher has to do 14 units in three years which include electricity, mechanics and other areas. When a teacher has to teach and 90 per cent of the students can neither read nor write, while the teacher is teaching—they might be doing science—the children are inattentive. So that when they come out, they would not have learnt anything. When teachers ask certain officers in the Ministry of Education about the syllabus—

Madam Speaker: I think you are moving away.

Mr. S. Panday: No, Madam Speaker. I am trying to show the relation between education, crime and the administration of justice.

Madam Speaker: You were right on target up to this point.

Mr. S. Panday: I am just trying to tell the Minister of Education that the administration of justice cannot be dealt with by merely saying that the court and its procedures should be fixed up, but one must also deal with all the other problems, so that the flow which goes into the administration of justice, and the number of criminals going into the system would be reduced. That is the point. Madam Speaker, I thank you very much for understanding the point.

I want the hon. Member for St. Joseph to know what happens. When the senior officers at the Ministry of Education are informed about the students' inability to cope with the sciences, and that time should be taken to teach them English and mathematics, the officials object and say that the syllabus has to be completed, because in any event 60 per cent of them would not have received an education. This must be dealt with.

The children who go to those schools are from the depressed areas and from broken homes; their parents are poor and they do not have any contact in the society. That is why the courts are filled with people from that group.

I humbly submit that although we look at these details in the administration of justice, we must also look at the matter in a holistic way and bring into this debate the Member for Diego Martin Central and the hon. Member for St. Joseph.

Thank you.

Mr. John Humphrey (*St. Augustine*): Madam Speaker, I do not intend to be very long, but I thought that my personal recent experience warranted that I get up and support this Motion.

The Member for Couva South is asking this House—

Madam Speaker: Before the Member continues, is it a two-pronged resolution: That this House express its dissatisfaction and concern about the state of the administration of justice and the appointment of a special select committee? I noted it here.

Hon. Members: Yes.

Madam Speaker: The Member may continue.

Mr. Humphrey: I support the call for the House to express concern and also, that we make every effort to do something about alleviating the conditions in the judicial system which are bringing hardship on many of our citizens.

Recently, I was called to a matter in the High Court in which I was bailor. I took the bail for a teenager who was charged with a criminal offence 17 years ago. The bail was set at \$50,000. This was one of a group of young people who, dissatisfied with the conditions in the country and feeling that those in charge of the society were not doing sufficient, resorted to armed conflict against the state.

I bailed every one of the members of an organization called the National Union of Freedom Fighters (NUFF). When the bail of this particular individual was set at \$50,000, he could not find his poor relatives to bail him, and same applied to every one of these youngsters. Among the group was a young woman 18 years old; I took her bail as well.

In that 17 years, these two young people got married. They have four delightful children. The young man got a decent job and provided adequately for his family. The young woman was able to go on scholarship and is presently studying veterinary science outside Trinidad and Tobago. Had I not been prepared to put up for these young people—

Mr. B. Panday: Mr. Humphrey mortgaged his house.

Mr. Humphrey: It was not necessary to mortgage the house, but it had to be put as security. Had I not done that, these youngsters would have languished in the remand prison for 17 years, because they had no relatives who could have come forward with the required security.

Perhaps the matter would have been called sooner if they were awaiting trial. I do not know. It seems to me, especially from a conversation I had over a very pleasant lunch—for which we thank you, Madam Speaker—the hon. Attorney General agreed, because he had visited the remand prison and had, in fact, met people who were held there awaiting trial; who, if they had gone to an early trial and had been found guilty would not have stayed in prison for as long as they had been held there.

It is a prison. The conditions are no different. The Attorney General and I discussed it and I asked him why we could not set time limits so that these things would not happen. For example, I asked if someone is held in remand, why is the time spent in remand not automatically counted as time in prison. The Attorney General said that because we are committed to the system that recognizes you are innocent until proved guilty, when held in remand it is not presumed that you are held in prison.

The conditions are no different. In fact, they are worse in the remand yard because there are so many people and we are so short of facilities that they are in punishment. That cannot be denied. That is the fact. I believe as lawmakers it is incumbent on us to do something about it, because I am sure if we put our heads together, we can find a means of resolving problems like that. The other problem is that everybody who is involved in the process is adversely affected by delays, even though it is said that lawyers get more fees.

3.40 p.m.

If cases could be completed sooner, there would be more accused to represent, and lawyers, obviously, would make more money. Can you imagine a poor lawyer waiting for 17 years where witnesses cannot be found? Some might be dead, some might have migrated, some might have just disappeared. How can one possibly manage a situation like that? I think that justice is so important, and as lawmakers all of us recognize the need for the principle of the independence of the Judiciary. We recognize that we should not, as politicians and as policymakers, interfere with that process because it is one of the safeguards of the rights of citizens.

We determine how resources are to be allocated when we decide on the budget. That is one of the areas in which Members of this House can, in fact, have a positive impact on the process.

We also make the laws that are used in the whole process, and I believe that if we put our heads together—and this calls for just that—and support a Special Select Committee of this House to look at all legislation that impacts on the judicial process and consider what reforms are needed to resolve the problems that we are aware of, we possibly could come to agreement on this.

It is not unreasonable to come back to the House in three months. That is enough time because there are very experienced people, Members of this House, who are lawyers and you, Madam Speaker, have the experience of both sides of that process; and the country would have renewed hope in the judicial process. I dislike seeing young people having to suffer the denial of their rights as human beings because the process just does not work well. That is what is happening. The case I am concerned with is typical of what many of our young people are facing where justice is not determined expeditiously.

I have always been taught that justice delayed is justice denied. If that is the case, and I believe it is, then I believe that everyone in this country is being denied justice, because it is certainly delayed. The whole process is tedious.

I had an accident with my car in 1986. It was only last year that the matter was finally resolved, even though the man admitted liability that day. The matter went through the courts. In fact, my lawyer was passing and he stopped and took a statement, but look at the length of time it took to collect the money from the insurance company. What are we doing about that? People take advantage of the slow process. I just wanted to say that to support my colleague, in the hope that all Members of this House would support this Motion and not use partisan politics to frustrate it. The Government should not say no, because it came from this side of the House. This warrants the support of everyone.

ADJOURNMENT
(First Citizens Bank Limited)

The Minister of Local Government and Minister in the Ministry of Finance (Hon. Kenneth Valley): I beg to move that this House do now adjourn to a date to be fixed by the Speaker.

In moving the adjournment, let me say that I am aware that there is a Motion on the Adjournment. I have had discussions with the Member for Oropouche informing him that the Government is—

Mr. Sudama: The Member may have had discussions—

Madam Speaker: I have not even called upon you and I see you are standing. I am aware that there is a Motion on the Adjournment, moved by the Member for Oropouche.

Mr. Sudama: Madam Speaker, I have a Motion on the Adjournment of which I gave due notice to you; in fact, I gave much notice. While it is the festive season, this is a matter of great urgency to thousands of people in this country. This has to do with the circumstances leading up to the establishment and operation of the First Citizens Bank Limited. It is a very serious and critical matter, and festive season or no festive season, it is my view that this matter ought to be debated and the Government ought to give a statement to the House and to the country as to its position in trying to resolve this crisis.

Mr. Valley: Madam Speaker, I have to agree with the Member for Oropouche. This is a serious matter. We received notice of this Motion either Wednesday or Thursday. First of all, the Minister of Finance was out of the country. He has another engagement this evening. Knowing that it is not Private Members' Day, it is not the norm—

Mr. Robinson: Madam Speaker, I very much regret that I am not hearing the Leader of the House.

Mr. Valley: I am sorry. But my microphone is on.

Mr. Robinson: The Member tends to consume his words.

Mr. Valley: I would take that from the hon. Member for Tobago East. I shall attempt to be a bit clearer in my speech.

I was saying that on Private Members' Day we do not normally have Motions, so that our view was that it would have been held on the next day. The Government is not prepared for the Motion today. In those circumstances, I am asking that it be deferred to the next sitting of the House.

Mr. Sudama: There is no provision under the Standing Orders which says that a Motion on the Adjournment on Private Members' Day cannot be debated. A sitting of the House is a sitting of the House. The fact that the Government is unprepared to deal with this matter is ample proof to the country that it wants to hide something in this very crucial issue. For three months I have held back in bringing this Motion to the House for the simple reason that I realized there was a crisis which affected the financial system.

There is a crisis of confidence in the Central Bank of Trinidad and Tobago and, over all this, there is a crisis of confidence in the Government itself and in the Ministry of Finance, in the manner in which they have approached this matter. I thought that if I delayed in bringing this matter to the House, it would have been resolved in the interest of the shareholders and all concerned and to the satisfaction of all parties. Three months has elapsed and we are still going from crisis to crisis.

Mr. Valley: Will the Member give way?

Mr. Sudama: Are you on a point of order?

Mr. Valley: This festive season, I am asking that the Member give way.

Mr. Sudama: I will give way if the Minister is going to say something rational, reasonable and constructive.

3.50 p.m.

Mr. Valley: Madam Speaker, I understand the point the hon. Member is making, but if he was prepared to wait three months, I feel certain that the hon. Member would be prepared to wait a further two weeks. As I said, as it is Private Members' Day we did not prepare for the Motion this afternoon, but we would be so prepared on the next occasion. I am therefore asking the hon. Member, in the spirit of the season, to allow us to go home at this time. [*Interruption*]

Madam Speaker: I am seeing here on the Motion on the Adjournment the Minister who has to reply. What I gather from the Member for Diego Martin Central is that the hon. Minister of Finance is unavailable at this time, having to be elsewhere. I think the integrity and functioning of the Central Bank is an important matter. I also do not think that a week or two weeks would greatly prejudice the Member's contribution, would it?

Mr. Sudama: Madam Speaker, that they got notice when they said they did, is not my fault. I gave notice on Tuesday, which was the last day of the budget debate in the House of Representatives.

Madam Speaker: Your notice is here.

Mr. Sudama: Therefore, they ought to have been prepared. If the Minister of Finance is not here, it is a Minister in the Ministry of Finance who could have responded on behalf of the Government. The point I am trying to make is that the Government is either grossly incompetent or grossly disrespectful to this honourable House.

We do not know where this matter will lead, and if the Government had any sense of responsibility, it would have taken a proactive position in trying to resolve this matter. Here it is that the Governor of the Central Bank is being virtually called a liar.

Madam Speaker: At this point, if there cannot be a consensus, I would have to put it to the House for the deferral. The question is, hon. Members, that the Motion moved by the Member for Oropouche be deferred for debate at the next sitting of the House.

Question agreed to.

Motion, by leave, deferred.

Mr. Sudama: Madam Speaker, could we have a division on that please?
[*Interruption*]

Mr. B. Panday: Madam Speaker, on a conciliatory note, I appreciate the hon. Member's desire to have this matter heard urgently, but this is the Christmas season and I would ask him not to insist on the division.

Mr. Sudama: Madam Speaker, having been so graciously requested, I would graciously accede. [*Interruption*].

SEASON'S GREETINGS

Hon. K. Valley: Madam Speaker, in that spirit we would like to wish you and all Members of this House and their families a happy and holy Christmas and a bright and prosperous New Year.

Mr. B. Panday: [*Interruption*] I thought he told me to do it. Madam Speaker, I wanted to rise in any case—whether he had spoken or not—to congratulate you on an achievement which has not been accomplished in this honourable House for the 16 years that I have been here. Every end of Parliament we usually have a Speaker's lunch, after which we would come back to the Chamber and without exception, as far as I can remember, we would have a row. I want to congratulate you, Madam Speaker, on breaking the tradition.

I would like to join with my colleague on the other side, Madam Speaker, in wishing you and all Members of this honourable House a merry Christmas. I also wish to express our sincerest thanks and appreciation to the members of the staff of Parliament who have really carried a heavy burden on those late nights and early mornings because of the recalcitrance of the Members on the other side.

We have tried our best in this honourable House over the year. We may not have done all that was right and we do not pretend to be God's intellectual gift to earth. We may have made mistakes, we may have done things which we ought not to have done, but I merely wish to assure this honourable House that we did them because we believed they were right. I want to assure this House also that there is no bitterness or acrimony in people on this side against people on the other side; we simply do our duty as we see it.

Again, Madam Speaker, to you, all Members of Parliament, the staff, and the media, who have borne this struggle with us, a very merry Christmas and a happy and prosperous New Year.

Madam Speaker: Hon. Members, there were a few Members who were not at the luncheon, and I want to express to them, as I did to the others, in the season of goodwill and peace, my best wishes for a productive and constructive New Year.

In this adversarial system of politics under which we operate, I have seen many times when there is the necessity to disagree in very aggressive and drastic terms, and as the Leader of the Opposition has said, I really do not see any bitterness on the part of the Members having regard to discussions I have had with them afterwards. The spirit of appreciation for each other's role in this House has always been understood, as far as I was concerned, with respect to the Members to whom I have spoken.

As long as the Westminster system, the adversarial system, continues in this country, we are going to have differences of opinion, differences of views, but as mature men and women who are willing and fighting to see this democratic

Season's Greetings
[MADAM SPEAKER]

Friday, December 17, 1993

system succeed in our nation, with the type of men and women we have in this Parliament, regardless of the rancour that sometimes emerges here, I feel sure that democracy will prevail.

As I said, having regard to the conversations I have had with Members, I can safely say that there is absolutely no personal enmity or bitterness towards one another at all.

In this spirit, I wish the members of our staff, all the Members of Parliament, the members of the press who have been very co-operative—I wish to thank you and wish that your families, too, will have a wonderful and blessed Christmas and indeed a very productive and constructive New Year.

I also take this opportunity to wish the members of the public who are here today my blessings for a holy Christmas and may the spirit of God be with you, may the light of the Christ child always surround you and that we all return in 1994 raring and gearing to go again.

Thank you.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.02 p.m.