

Leave of Absence

Friday, February 25, 1994

HOUSE OF REPRESENTATIVES

Friday, February 25, 1994

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 to the Member for Tobago East (Mr. A.N.R. Robinson).

DANGEROUS DRUGS (AMDT.) BILL

Bill to amend the Dangerous Drugs Act, 1991; brought from the Senate [*The Minister of National Security*]; read the first time.

PAPERS LAID

1. Report of the Auditor General on the accounts of the St. David/St. Andrew County Council for the year ended December 31, 1986. [*The Minister of Finance (Hon. Wendell Mottley)*]
2. Report of the Auditor General on the accounts of the St. David/St. Andrew County Council for the year ended December 31, 1987. [*Hon. W. Mottley*]
3. Report of the Auditor General on the accounts of the Board of Industrial Training of Trinidad and Tobago for the year ended December 31, 1991. [*Hon. W. Mottley*]
4. Report of the Auditor General on the accounts of the Board of Industrial Training of Trinidad and Tobago for the year ended December 31, 1992. [*Hon. W. Mottley*]

Papers 1 to 4 to be referred to the Public Accounts Committee.

ORAL ANSWERS TO QUESTIONS

Garbage Collection

53. Mr. Sahid Hosein (*Siparia*) asked the Minister of Works and Transport and Minister of Local Government:

- (a) Is the Minister aware that the collection of garbage, country wide, leaves much to be desired and is in fact so bad that we can be faced with an epidemic at any time?

- (b) Can the Minister indicate what steps his ministry intends to take to ensure that this situation improves?

The Minister of Works and Transport and Minister of Local Government (Hon. Colm Imbert): Madam Speaker, the collection of garbage is the responsibility of the 14 local government bodies in Trinidad. A check with the Chief Executive Officers at the respective bodies has indicated that at present the collection of garbage is being conducted in a satisfactory manner and that the possibility of an epidemic as a result of uncollected garbage is unlikely.

Because of substantial arrears owed to them, some contractors in the Diego Martin and Tunapuna/Piarco corporations recently withheld their services for short periods. The problem has been resolved, and given the availability of funding, Chief Executive Officers have been advised to ensure that payments are made to scavenging contractors on a timely basis.

More recently, a problem arose with the collection of garbage in the Port of Spain City Corporation, which collection is done using in-house labour. Discussions are in progress with the relevant union to resolve the problem. In the interim, the Port of Spain City Corporation used private contractors for a short period, together with the Solid Waste Management Company, to collect garbage and to ensure that the city of Port of Spain was kept clean during the recent carnival season.

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

**Justice of the Peace
(Legal Authority)**

- 55.** Could the Attorney General state:
- (a) whether in the past two years any person purported to carry out the functions of a Justice of the Peace and/or Commissioner of Affidavits such person not having the legal authority so to do?
 - (b) if the answer is in the affirmative, could the Attorney General state in what circumstances this situation came to the notice of his office?
 - (c) for what period of time the functions of Justice of the Peace and/or Commissioner of Affidavits were exercised illegally?

- (d) the status of those matters in which the above-mentioned person purported to act as a Justice of the Peace and/or Commissioner of Affidavits?
- (e) whether his office intends to take any action in the matter?

**Debe Community Centre
(Repair of)**

56. Could the Minister of Community Development, Culture and Women's Affairs state whether the Debe Community Centre is earmarked for repair in 1994 under the Community Centre Repair Programme of the Ministry?

National Trust of Trinidad and Tobago

57. Could the hon. Attorney General and Minister of Legal Affairs state:

- (a) why the rules and regulations provided for in the First and Second Schedules of Act No. 11 of 1991 establishing the National Trust of Trinidad and Tobago have not yet been promulgated?
- (b) when these rules and regulations are expected to be put into effect to make the Trust a functional body?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Madam Speaker, we are asking for a deferral of questions Nos. 55, 56 and 57 for a period of one week.

Questions, by leave deferred.

PRIME MINISTER'S CAR AND HOUSE

Mr. Ramesh L. Maharaj (Couva South): Madam Speaker, with your leave I make these explanations.

In the honourable House last Friday, the hon. Prime Minister sought to give explanations in respect of questions which arose about the sale of his motor car and the occupation of his house at Marabella. In the course of giving what he considered to be explanation, he attacked me by accusing me of the following:

- 1 Raising, promoting and disseminating baseless information about his motor car and house transactions.
- 2 As the attorney-at-law for Mr. Sankey Subance (the person to whom he allegedly sold the car) I had knowledge and was aware of all the facts surrounding the matters which both Mr. Subance and the Prime Minister

Prime Minister's Car and House
[MR. MAHARAJ]

Friday, February 25, 1994

were alleging in respect of the sale of the car and notwithstanding that knowledge, I asserted the false information contained in the certified copy of ownership.

3. Improper conduct on my part in disseminating to the media the information contained in the certified copy of ownership. Such conduct on my part, he alleged, amounted to a conspiracy by me with sections of the press and drug traffickers to destabilize the country.

In answer to the first charge, there was legal basis for me to rely upon the contents of the certified copy of ownership of the motor vehicle for the following reasons:

Firstly, the certified copy of ownership of the motor vehicle in question shows that the hon. Prime Minister became its registered owner on November 21, 1983. He transferred it directly to Nankissoon Boodram of Piparo on February 7, 1984. There is no endorsement on the certified copy of ownership of the alleged sale to Mr. Subance.

Secondly, a certified copy of ownership is by the Motor Vehicles and Road Traffic Act, Chap. 48:50 the statutory means of determining the owner of a motor vehicle at any given time. It is prima facie proof of the matters contained therein.

Thirdly, section 19 of the Act clearly provides that both the registered owner and the new owner of the motor vehicle in effecting its transfer must make a joint application in writing to the Licensing Authority. It must be made within seven days of delivery of possession by the registered owner or by receipt of possession by the new owner and must be signed by both parties after the particulars of the name and address of the new owner are inserted on the application.

Such a transfer after due inspection and processing by officials of the Licensing Authority in accordance with the Act, effect the change of ownership of the motor vehicle. Failure to comply with this provision is by section 91 punishable with a fine of \$1,000.00 or to imprisonment for six months. (A copy of the statutory form is available from me).

Fourthly, it has been the law since 1951 that both parties must sign the form with the particulars of the new owner in order to effect a transfer of the vehicle. The form duly signed could have in previous times been sent to the Licensing Authority but it must now be taken to it by both parties.

Fifthly, the Motor Vehicles Insurance (Third-Party Risks) Act, Chap. 48:51 mandates the owner to take out insurance coverage for the vehicle against third-

party claims. The certified copy shows that the second owner who took out insurance coverage for the vehicle was Nankissoon Boodram and not Sankey Subance.

Sixthly, the information contained in the said copy forms part of the public records of the country. Such information remains valid until set aside by a court. The record clearly establishes the sale by the Prime Minister of the motor car as contained in the certified copy of ownership, and not as he alleges.

In respect of the charge about his house transaction, I did not and do not have any knowledge of that transaction. I did not raise nor disseminate any information in respect of that.

In answer to the second charge, Mr. Subance's desire to contact me to get advice on the question whether he was libelled by the Prime minister in respect of a statement made in 1994 cannot, *ipso facto*, impute knowledge on my part of the facts of the Prime Minister's alleged sale in 1984. I was retained in 1992 by Mr. Subance to act as his attorney-at-law in respect of an incident which occurred in 1992. This incident gave rise to two sets of proceedings: one in the Magistrates' Court and the other in the High Court. This incident had no bearing on or relevance to the alleged transaction of 1984.

In any event, if I obtain any information in the course of a professional relationship of lawyer and client, I cannot divulge that information without the consent of the client, as the information is privileged. The information here, however, did not come into my possession as a result of any legal professional relationship, but I could not in any event be expected to be aware of all the circumstances and all the facts of this matter unless I was given the answers to these questions:

- (a) Whether the Prime Minister used his moneys to purchase the motor car.
- (b) Whether the sale of the motor car as described in the certified copy to Nankissoon Boodram, or as the Prime Minister alleged to Sankey Subance, was a genuine sale.

1.50 p.m.

- (c) The amount the Prime Minister paid for the car and the amount for which he sold it.
- (d) Whether on the fifth day of February, 1984, whilst the car was registered in his name, it was driven by Nankissoon Boodram. Did the police stop

Prime Minister's Car and House
[MR. MAHARAJ]

Friday, February 25, 1994

the car? Was the matter drawn to the attention of the Prime Minister? Was the car then transferred to Nankissoon Boodram as recorded in the Certified Copy of Ownership?

- (e) Why the Prime Minister, on becoming the owner of the car, took out an insurance coverage for the car for a period of 11 weeks, from November 21, 1983 to February 16, 1984, instead of coverage for one year.

Members of the media were entitled, after I raised the issue of the car in this House, on February 4, 1994, to request me to supply them with copies of the certified copies. They could have, in any event, got it from the Licensing Authority. It is the duty of the press and parliamentarians to work with each other to promote the public interest. It is necessary for them to share information with each other. Democratic government encourages the press and parliamentarians to scrutinize governmental action and behaviour so that the interest of the public is protected.

The Watergate Affair would not have been exposed if that co-operation between the press and the politicians did not exist. In exposing or causing the exposure of the misuse or abuse of public office, a government may be destabilized but this is the price of democracy as it forces presidents, ministers and governments to resign. President Nixon was forced to resign because of Watergate.

My raising of the issue in the House and supplying copies of the Certified Copy of Ownership of the motor vehicle to sections of the media have caused legitimate questions concerning the Prime Minister's conduct to be raised, namely:

- (i) Whether he used his position as a Minister of Government in 1984 to obtain an import licence for a Toyota Royal Saloon to facilitate the sale of it to a third-party.
- (ii) Whether his purpose in obtaining the import licence for the motor car was to use the car for the performance of his duties as a Minister or to sell it for profit.

I serve warning on the hon. Prime Minister that he cannot deter me from discharging my professional and political duties without fear or favour.

It is well known that some governments which are not prepared to genuinely deal with the drug trade use a ploy to smear and attack critics in an effort to divert public attention from the problems which confront the government. This ploy

involves governments making unfounded allegations against their critics. They also prosecute and harass them.

Thank you, Madam Speaker.

Mr. Bereaux: Madam Speaker, since the Member is on his feet, and he has given a personal explanation, maybe he can tell us how many drug men there are, and how much drug money he has collected.

Madam Speaker: The Member can file a question in the House if he so wishes.

Mr. Maharaj: I would answer, Madam Speaker. *[Interruption]* A PNM official gave it to me.

Madam Speaker: Order, please! Let us move on with the business of the day!

ADMINISTRATION OF JUSTICE

[FOURTH DAY]

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

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. *[Mr. R. L. Maharaj]*

Question again proposed.

Mr. Shamshuddin Mohammed (Caroni East): Madam Speaker, it is indeed a pleasure for me to join this debate, initiated upon the Motion moved by the hon. Member for Couva South some time ago. There is a lengthy preamble to the Motion, but I think it would suffice for me to refresh the minds of everyone just to indicate part of the Motion which reads as follows:

"And whereas the system of justice in Trinidad and Tobago has failed to attain the said standards;

And whereas such a state of affairs has resulted *inter alia*, in the machinery of justice being wholly disorganised, too costly to be within the reach of ordinary

Administration of Justice
[MR. MOHAMMED]

Friday, February 25, 1994

people suffering delays which are oppressive and the machinery is becoming a totally useless utility for the enforcement of human and fundamental rights;

And Whereas the system of justice in Trinidad and Tobago has failed to attain the said standards;

And Whereas members of the public are in effect being denied access to justice;

Be it Resolved that:

That this House express its dissatisfaction and concern about the state of the administration of justice:

Be it further resolved that:

That 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."

So far in the debate we have had a number of speakers including my leader, the Member for Couva North; the Member for Naparima; the hon. Attorney General, who responded to the Member for Couva South at the commencement of the debate. Then, we had the Member for San Fernando West, speaking on the administration of justice—and I dare say, waxing very philosophic. We also had contributions from the Member for Oropouche and the Member for Toco/Manzanilla.

What really is this "justice" that we are speaking about? If we look at Webster's definition of "justice" it is very wide: retributive justice, commutative justice, bearing all relations between individuals, especially in respect to the equitable exchange of goods and fulfilment of contractual obligations; sometimes we hear of poetic justice, in this House and elsewhere. Sometimes we hear of justice in respect of a government policy characterized by moderation and a compromise; the maintenance or administration of what is just; impartial adjustment of conflicting claims or punishment. I do believe that the justice that we are talking about in this Motion more appropriately relates to the administration of law; the establishment or determination of rights according to rules of law and equity.

I think this Motion, which has its genesis in the United Nations declaration, charter and resolution is indeed quite wide, but at the same time, very important

for us here in Trinidad and Tobago, because it involves the police, prison service, the magistrates, judges, the courts, a variety of personnel; the whole society apparently is blowing around what is the administration of justice founded on a great principle of what we call the rule of law. The rule of law says that every man, woman, child or institution, however high or low, is subject to the law. It is upon the rule of law that the strength of a society is really based. That is what supports our democratic institutions and whatever form we may wish to call democracy.

2.00 p.m.

This Motion on the administration of justice, is very wide. It envisages the gamut of individuals, institutions and systems. I wish to congratulate the Member for Couva South on initiating this Motion. I say this because I am somewhat disappointed at the response of the honourable and learned Attorney General.

In response to the contribution of the Member for Couva South, the hon. Attorney General—I regret his absence here this afternoon—accused the Opposition of grandstanding; that because we enjoy certain immunity in this honourable House we proceed to make wild comments and accusations. He went on to say that the sole purpose of the Motion was to provide a medium, a platform to launch a scurrilous attack on the Judiciary. Those were his words recorded in *Hansard*.

He went on to say that no serious attempt was being made by the Opposition to deal with the problems, and that by a wave of the hand, the *Gurley Report* was washed away. He ridiculed the idea of a joint select committee to deal with the delays in the administration of justice as a whole. He said that is not the way to go. He accused the Member for Couva South of having a personal axe to grind.

I will show presently that the gravamen of his contribution was centred on the question of implementation in respect of which the hon. Attorney General told this House that a committee was set up and looking after implementation. And, of course, he was ably supported by the Member for Toco/Manzanilla on the last occasion. I will attempt in due course to show that those attempts at implementation are a far cry from what we really need with regard to overhauling the system of justice in Trinidad and Tobago.

I was disappointed with the response of the hon. Attorney General of his attack on the Member for Couva south. Whatever we may say or feel politically—one of the weaknesses of our society is that we fail to give recognition or credit where it is due. In many respects, we are a society seized with envy, malice and

Administration of Justice
[MR. MOHAMMED]

Friday, February 25, 1994

hate; we are such a society that at times we do not see we could extend that hand of co-operation and love to people in our community. In these days of tension and problems in our society, we are so divided, whether it is politically or otherwise, that we cannot find the time and we cannot get the feeling and passion to extend the hand of co-operation to people in our community.

Week after week, one hears abundant criticism from the other side of the Member for Couva South, as indeed of other Members of the Opposition. It makes me wonder why we talk about conspiracy and calculated attempts to do this and that. One may very well ask whether there is not a calculated attempt, to make people feel uneasy with the presence of the hon. Member for Couva South in this honourable Chamber.

Mr. Maharaj: Crucify me! Crucify me! Do you want to jail me? Jail me! Do you want to send "Mr. T." to jail me?

Mr. S. Mohammed: I pay compliment and tribute to my colleague the Member for Couva South for his contribution to law in Trinidad and Tobago. I happened to have worked with him in the past in that field and I can attest to his contribution and capabilities. Why do we seek to down cry or ridicule the hon. Member whenever he stands?

I have in my hand certain judgments of our courts, what we would call landmark judgments. Madam Speaker, you would be fully au courant with these judgments, being a practitioner yourself for years in various courts in this noble land of ours. For example, I have a case that became famous in this country, Trinidad Island Wide Canefarmers' Association Incorporated and Attorney General against Prakash Seereeram.

Madam Speaker: I think the hon. Member can go so far as to say that he has made contributions to landmark judgments, but having regard to the nature of the Motion before us, I do not think it is really necessary to go into those judgments.

Mr. S. Mohammed: Madam Speaker, I thank you. I am not going into any detail. I am making reference. Credibility is an important part of any contribution in the House. I am looking at the credibility of the mover of this Motion. The learned Attorney General, in his contribution, his clear and sole purpose was to launch a scurrilous and personal attack. I am on credibility. I dare submit that it is quite in order for me to pursue this line, but I assure you that I am not going into details. I am making reference to landmark decisions.

We are dealing with the administration of justice, and it so happens that the very decisions that have been taken constitute part of the justice system in Trinidad and Tobago. Forget the personalities! They are contributions to the law and administration of justice.

There is another one that deals with judicial conduct. Madam Speaker, you would know about that—the claim for redress of an alleged contravention. This is reported in Vol. 30 of the *West Indian Reports*. That is a landmark decision as well. On this very Motion that we have we talk about the duties of the police; how the charges are made up constituting part of the administration of justice.

Here it is we have this recent case dated 1990; reported in Vol. 30 of the *West Indian Reports*, the case of Whiteman. This would have much to do with all that we are talking about. We are very concerned about the police and police reform. We hear about the Judges Rules. The police are supposed to operate within the confines of the Judges Rules in discharge of certain functions. It is very important in arresting persons and in their interrogation.

In this law report the appeal raises the question whether there exists in Trinidad and Tobago a constitutional right of the individual to be informed on being arrested by the police, of the right enshrined in section 4 of the Constitution to retain and instruct a legal advisor of his choice and to hold communication with that legal advisor without delay.

2.10 p.m.

"A person detained should be informed of his right to communicate with his advisers as early as possible, and in any event before any "in-custody" interrogation takes place."

We heard an announcement about two-way mirrors and ID parades. This decision is to be effected at the police stations, you ought to be informed about your right to legal representation before you are even asked any question in the police station. This is a very important decision in respect of the administration of justice, because it says"

"It is incumbent upon police officers to see that an arrested person is informed of his right in such a way that he understands it. He may be illiterate, deaf or unfamiliar with the language. The mere exhibition of notices in the police station is insufficient..."

There we have it; a contribution by the Member for Couva South. This is also found in the book *International Human Rights Law in the Commonwealth*

Administration of Justice
[MR. MOHAMMED]

Friday, February 25, 1994

Caribbean. You will find reference being made to that particular case on judicial conduct. In another book, *Fundamental Rights and Freedoms of the Commonwealth Caribbean* by S. Y. Mohamed, you will also find abundant reference to that particular matter involving the Member for Couva South. Then there is a book by itself, *Barrister Behind Bars*, Ramesh Maharaj, a very beautiful book indeed; a book entitled *Suing Judges*. There is one caption I would make reference to. It is at page 170. This is by Abimbola Olowofoyeku.

"Maharaj (the case of) is obviously a landmark decision."

I congratulate the Member for Couva South because he is involved day-to-day in the courts. He sees it. I do not think any *mala fides* should be attached to his Motion and to his contribution. It is because he has been spurred on out of an abundance of interest in all that he sees taking place in the court. I do not see how the learned Attorney General could come to the conclusion he has reached and attack the Member for Couva South. It is a very important Motion; a Motion which deserves the very highest consideration. There are several other matters in which the Member has been involved so he has credibility and *bona fides* with regard to moving this Motion.

The learned Attorney General spent much time talking about implementation. He spoke in October of last year; the Member for Toco/Manzanilla, the Parliamentary Secretary in the Ministry of Legal Affairs, spoke on the January 28, 1993. They were both saying the samethings with regard to this implementation committee.

We were told by the Attorney General that there is a committee within the ministry, the purpose of which is to see what can be implemented; what he said was more or less endorsed by the Member for Toco/Manzanilla. We were told about positions being filled; we were told that some time this year additional posts will be created; we were told training is taking place with regard to the CAT system. The La Rose Committee will be meeting to deal specifically with dormant matters in the courts.

Mention was made of the Preliminary Enquiry Indictable Offences Bill; in respect of which a committee has been set up. We were told that sometime in October, 1994 a Bail Bill would be brought to the House; we were told that some time in 1995 attempts will be made to establish a Family Court; we were told as well, that attempts are being made to acquire the top floor of NIPDEC House. My Friend the Member for Toco/Manzanilla give us the great news that there was a seminar for Justices of the Peace. He spent about 20 minutes dealing with that. We congratulate him and we congratulate them for small mercies.

I do not see that the steps so far being taken by the Government will in any way, materially affect the very serious problems we have in the administration of justice. Take all of what they have proposed and examine that against the background even of the *Gurley Report* and see to what extent there will be any significant dent in the various problems that we are encountering. As a matter of fact, just a few days ago a judge of the High Court—this is reported in the *Express* of February 10; it is a concern of somebody who is active in the dispensation of justice in our country. The article states:

"At the end of one of the country's more blood-curdling criminal trials yesterday, High Court Judge Lennox Deyalsingh called upon the Government and the Opposition to collaborate on the issue of crime and pleaded for "all good men" to come forward to help the country.

"The responsibility for urgent and effective steps to combat crime lies in the hands of the Honourable Members of the Executive and Parliament," said Justice Deyalsingh in the San Fernando High Court yesterday as he delivered sentences...

Saying that Trinidad and Tobago had entered the age of utter lawlessness, viciousness and contempt for human feeling and life, Deyalsingh contended: "The answer to our tragedy lies on three fronts: Effective law enforcement, an effective judicial system and a concerted drive to restore moral values."

He said the onus was first on the Government to institute mechanisms for fighting crime. Noting that the courts operated with outdated systems, Deyalsingh said that after 10 years of "talk" an electronic system of court reporting had been introduced in only one Criminal Court. Without it, criminal trials were taking three times longer to complete..."

Here it is the judge is saying after all these years that they have got one of the electronic systems and there are so many other courts.

So that one sees the learned Attorney General in his contribution which I scrutinized, never said one word about finance being a problem, although at some previous time he may have mentioned that. But while in the dispensation of one's resources in a country, one must have priority in how one does things, one knows I am sure, that during the Budget Speech we had noted the safety net, and special efforts were made as far as that is concerned. We commend that.

But we feel that the administration of justice, involving so many aspects of life in our society, should be prioritized by the Government. We are talking about

Administration of Justice
[MR. MOHAMMED]

Friday, February 25, 1994

the police, judges, magistrates, we are talking about the court system; the gamut of institutions and individuals involved in the administration of justice. Here it is we are told about an Implementation Committee, and I ask anyone to dispassionately look at the Implementation Committee and say to what extent our problems will be solved.

Let me go further and say on that matter to support the argument that I am making, we on this side have said what the Gurley Committee did was to take several reports, consider them and come together with a plan of implementation; but the Gurley Committee did not touch many of the important and fundamental matters facing the administration of justice in Trinidad and Tobago. I shall come to that presently.

2.20 p.m.

Let me now deal with this aspect of the *Gurley Report*. It says here that in July, 1987, there were 75,665 cases outstanding, indictable offences comprising 10,656 of the backlog".

The report continues:

"Some 17 reasons were given for the backlog listed above by the Honourable Chief Justice, primary among which were non-transportation of prisoners, non-availability of witnesses, non-service of Summonses and applications for adjournment".

In 1983, there were 73,030 cases filed, 38,160 were determined. We are dealing with the magistrates court. This has nothing to do with the High Court, so this little thing about what the learned Attorney General and the Member for Toco/Manzanilla told this honourable House about implementation comes like a drop in the ocean, and will not solve the problems that we have in respect of backlog in the administration of justice.

In 1989, 81,854 cases were filed and 53,913 were determined. In 1991, 75,187 were filed and 47,841 determined. It says:

"It is clear that the existing system is unable to cope with the situation. It is a matter of urgency that new and creative ways be found to speed up the summary process which by definition is supposed to be dealt with expeditiously."

This is the position thing with regard to the magistrates' courts in our country. Something must be done to improve the administration of justice. It is something

that we have to take into account because I do not, in my respectful view, share the hopes and the confidence of the Member for Toco/Manzanilla or the hon. Attorney General that what they have announced in this House would make any, or any sufficient, dent in what is required in this sphere of the administration of justice.

I think that we should look at this situation very broadmindedly. I feel that if there is a suggestion that has merit, it should be considered. It is not because we belong to different parties that the position must be adopted that what is said by this side has no value, and we must pursue an adversarial course all the time, when in fact the problems of the country are so vast and there is so much tension. There should be greater *concensus ad idem*—a meeting of minds—on many issues, but we do not see it. If it comes from the Opposition, the other side just does not accept it.

We pointed out various issues which we considered a priority in the last general election campaign, and we have lived to see those issues, put forward by the UNC Opposition, become the issues of the day. I dare say that, with regard to the administration of justice, what we have suggested—nothing overnight, it is documented in our manifesto; we met, discussed and produced proposals to the people. If the Government feels that there is merit in anything that we say, we would expect that it would give some consideration. It is not because we are in different parties that you would reject it.

When we talk about crime or the police, we speak about important parts of the system of justice, and the administration of justice must be very deeply involved in those aspects. Page 7 of the UNC manifesto states:

"The UNC believes that the fight against crime must take place in the context of the problems of the wider society. It must involve measures to deal with crime prevention as well as crime detection; training of police officers as well as the improvement of working conditions; the backlog of cases as well as the question of prison reform.

The UNC proposes the following measures ...:

- (1) The provision of adequate resources to the Protective Services to enable them to prevent crimes before they are committed, and to apprehend criminals.
- (2) The provision of equipment for effective patrols, forensic equipment and training; adequate personnel and proper working conditions for law enforcement officers"

Administration of Justice
[MR. MOHAMMED]

Friday, February 25, 1994

It continues, *inter alia*:

"...To this end, the UNC proposes the appointment of a Chancellor of the Judiciary who would be responsible for the administration of Justice, thus freeing the Chief Justice and other judges for the trial of cases."

It continues "... a small claims court", "... secretarial and research staff for judges", "... modern technology" and continues here:

"(7) The reviewing of the criteria and system of recruitment and selection of judicial officers to ensure that only quality personnel reach the judicial benches."

We then went on to deal with prison reform. This is what we went to the population with; these are our suggestions.

One of the serious planks on which this Motion is based is the fact that it is not the buildings alone; it is not the Hall of Justice alone. One may build a beautiful house; that does not make it a home. Much more is required to make it a home. So, we are not erecting a building, however ethereal it may appear. That alone will not work. Our submission in this context is that an important part of the whole administration of justice, for it to work effectively, is the quality of the personnel who man the various institutions, that would mean the judges, magistrates, the gamut of people involved. We feel that is very important.

The recent decisions of the Privy Council will substantiate what we have been saying—that the time is propitious to have a look at the system in a certain way. Any time one begins to say anything, one is accused of launching a scurrilous attack on the Judiciary. I want to know if there are problems and events taking place which cause concern, if we are going to stay quiet about it.

Without going into any details, there is need at this time to look at the system of appointments to the Bench. We now have satellite television. When it is time to appoint a judge in the United States of America, one will see the type of scrutiny he is subjected to. There are house committees sitting there asking many questions and the intent and purpose of that is to get a cadre of people of impeccable character at this high plain. That is the whole idea because they are dispensing justice. So it is time that the country took a look. We must not be content. The Member for Toco/Manzanilla will tell us they have filled five vacancies in the DPP's Department. "Hoorah! We are implementing the *Gurley Report*". But what assurance do we have that those who have been appointed meet the standards that are required?

2.30 p.m.

What sort of criteria do we use in selecting people for the Magistracy and for the Judiciary? We need to look at that. It is not enough to say that we are putting five new officers. Madam Speaker, you would know that practice in court is a very important part of the whole administration of justice. I would like somebody to tell me how can one after spending passing two or three odd years in law school, get an office job, sit there and write correspondence, would then go and sit on the bench to make an adjudication, where it is important in that sort of scenario to be familiar with the laws of evidence and to be able to access the demeanour of witnesses who go into court?

We need to look at it. I am making no condemnation of anyone, but I am saying that the time is appropriate for us to take this whole question of the administration of justice out of the pale merely of doing that and replacing vehicles and so forth. It is important that we look at the cadre of people who man these institutions to dispense justice. If we make that suggestion from this side, why must we be told that a scurrilous attack is being launched on the magistracy or judiciary. We have paramount interest. We are concerned.

My learned Friend the Member for Port of Spain North/St. Ann's West and I have been in matters together in the High Court and Magistrates' Court in Trinidad and Tobago, and I know that he has a genuine concern with justice, and the administration of justice and I wait with bated breath to hear his contribution in this honourable House.

I am sure that he will agree with much of what we say on this side. He is a real practitioner in the courts. *[Interruption]* Not you, San Fernando West. Young men see visions, and old men dream dreams, Madam Speaker. I am saying that we need to do that. We have had a decision of the Privy Council, just a matter of days ago, and it supports what we are saying with regard to what is taking place in our own country. We have to take notice of what is taking place.

We have called for the appointment of a chancellor of the judiciary and it is not without precedent that we have chancellors in judiciaries; the Lord Chancellor in Britain is also a member of the Cabinet, as you will be fully aware, Madam Speaker. Our neighbour, Guyana, has a chancellor. The chancellor of the judiciary, if we are to take an example of an existing society and so forth, distributes the business of the Court of Appeal and determines criminal sittings; he is the chairman of the Judicial Service Commission.

Administration of Justice
[MR. MOHAMMED]

Friday, February 25, 1994

The basic idea and principle is that the chancellor of the judiciary should be charged essentially with administrative functions, and perhaps one could leave the Chief Justice to deal mainly with legal matters. Not that the chancellor of the judiciary is not a competent lawyer and sits in the courts as well; but we will avoid many of the problems. We have precedents. I have extracts of the constitution of a country that has a chancellor of the judiciary. It can work!

But are we prepared to look at the system at all? Or are we going to leave the system there and the backlog is going to keep piling up; we are going to have the problems again, and in ten years' time, you only add two magistrates' courts and the cases have gone so many times up. I do not think that we are giving this matter the importance it requires.

We have to look at it. This is a decision of the Privy Council. Talking about a personal animosity on the part of the Chief Justice which predisposed him against a respondent. I do not wish to go into detail. I can give this honourable House the number; it is No 4822 Privy Council Appeal of 1993. *[Interruption]* You read it, so what! This will come. Certain comments are made; we do not have the affidavits attached to the judgment of the Privy Council; but it will be staggering to read the affidavits in connection with these matters—the kind of allegations that have been made by one judge against another judge—and we will pass the buck, and we will hide it.

This is a fundamental matter. This judgment alone should cause the Government to look at the situation with regard to the administration of justice in a different way. I am making a fundamental point to this honourable House, that the *Gurley Report* never considered the appointments and the criteria for appointments to the judiciary and the magistracy. The *Gurley Report* took reports that we had there before and they came up with a plan as to how to implement some of the things that in no way dealt with the gravamen, the quality of the personnel; and that is important. We need to look at that and I will make that suggestion.

Madam Speaker, you must excuse me if I tend to pause at intervals and my verve and enthusiasm are not there. We are operating under certain strictures in this holy month of Ramadan.

We are saying that the issues are very fundamental. We talk about the delays. Justice delayed is justice denied! Delays eroding the credibility of the judicial

system. It is an old submission reported in one of the newspapers by a former President of the Law Association, and I think the argument is still very valid, although it was made a few years ago. He said that:

"The judicial system is in danger of losing its credibility as a result of delays in the administration of justice."

This was reported on July 2, 1987. I wonder if anybody can say that statement is still not valid in 1994. The judicial system is in danger of losing its credibility as a result of delays in the administration of justice.

This society, like many other countries, is faced with many problems. But there is need to look at the problems and see what can be done. Many of the Commonwealth countries, perhaps, were bequeathed systems that were tied to the Westminster model.

Madam Speaker: Hon. Member, your speaking time has expired.

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

2.40 p.m.

Mr. S. Mohammed: Thank you, Madam Speaker.

Perhaps, the Westminster system has been bequeathed to many of the Commonwealth countries, and it is my view that in many instances we proceeded to follow the stereotypes of that model, without bothering in any way to examine very seriously whether the model is best suited to the particular way of life and the particular situation in our respective countries. I submit that that has not been done at all.

In our own system in Trinidad and Tobago, we have the Government which rules on the Westminster system of a mandate, a mandate which, nevertheless, is not representative of the majority of the electorate. And one must consider that. That is why the framers of the Constitution of Trinidad and Tobago had good reasons to have certain built-in mechanisms.

I was in London at the time, when there was great debate about the protection of the rights of the minorities in our society, and every good reason was propounded at that time and became embellished in our Constitution that requires certain majorities in regard to certain matters that affect the lives of our citizens.

So that ruling by the mandate is something that needs to be considered in the context of our society and where we go. But who is going to do it? No, you do not

Administration of Justice
[MR. MOHAMMED]

Friday, February 25, 1994

find that there is any genuine movement in that particular regard, whereby we will have dispassionate discussions as to how we can move the system or to examine whether the system is best suited to our needs.

In a plural society like Trinidad and Tobago, a multi-racial, multi-religious society, is it not appropriate that we should direct some attention in this regard to see how we go? No, we go by the mandate, that is why the Opposition is needed as a good majority. You will see that it has emerged here; you feel the pulse and you see the need to enter into some consultative exercises with the Opposition; and that is healthy. Very healthy indeed, because this Opposition has said it: that what is needed to deal with the problems of this country is really a national front—shades of opinion. But no, you make mention of that mandate.

I hope the Member for Laventille West knows exactly about the mandate and I wonder to what extent he is feeling the mandate. That is a hocus-pocus mandate. We need to look at it, and I know I can counsel him in that regard, and he might be one of those to initiate a discussion. We must not be enemies in everything; we must come together for the common good, and for advancing the cause of our society.

So, we are talking about the delays. There is another judgment of the Privy Council—and we are talking about the administration of justice; this is very much akin to the administration of justice. Just as an example, this is a case from Jamaica, Earl Pratt and Ivan Morgan, Appeal No. 10 of 1993—massive dissertations here on constitutions and the law, and about justice and delays. Just to tell you what is happening, because it happens here, it happens elsewhere and we have to find ways and means to get away from some of the pitfalls and to see how we can devise systems that would best suit us.

The learned Attorney General got annoyed when the Member for Couva South made reference—he said, why do we have to quote other countries and look at other countries. The learned Attorney General said that, we must look at our own peculiar society. That was a very convenient argument, I daresay, because when bills are brought before this House we see that they are sometimes taken wholesale from other countries. So we must deal with the situations as they arise and what is best suited to us. Just to take one extract:

"The application of the appellants to appeal to the Judicial Committee and their petitions to the two human rights bodies do not fall within the category of frivolous procedures disentitling them to ask the Board to look at the whole period of delay..."

we are talking about delay:

"The total period of delay is shocking and now amounts to almost fourteen years."

These men were awaiting, not trial, but execution for murder; fourteen years they were incarcerated. It tells you of the delay in the system of justice, and we are not dissimilar in our system of having delays and I dare say, it is a phenomenon that exists in other countries as well, and we need to take note.

Delays—and we are talking about the administration of justice. I have a letter from a constituent, and I think it is important to mention this matter in this debate. This is a matter that went before the Industrial Court: a large number of employees and on the other side a conglomerate. The case commenced in the Industrial Court in October, 1989, the evidence was taken, submissions were made, the matter was concluded in September, 1991. It was only a question of judgment to be given. There were two judges sitting on this matter; one of the judges had to leave on pre-retirement leave; so he went on pre-retirement leave and nothing further has happened with that matter involving the rights of scores and scores of workers.

This is what we are talking about, the administration of justice—*viva voce* evidence taken, all matters concluded, submissions made, and here it is a judgment of the court, the judge goes on pre-retirement leave, two years has gone, almost three years now, and these poor people are suffering; they have not had a decision, and they do not know what is their position. This is a very serious matter.

This is a signed letter I have, a union is involved, as well, but it falls on the question of the administration of justice. The Industrial Court is part of the machinery of justice in Trinidad and Tobago, and all these poor workers are waiting to know their fate, what moneys they will get, because the question of severance is involved. Everything is finished, pre-retirement leave—and they cannot see the other judge to complete this matter. I ask the hon. Attorney General to investigate this matter, because I got this letter at 10.00 o'clock this morning. I have his name and telephone number. He has written on behalf of workers.

2.50 p.m.

Mr. Sudama: The Attorney General is having a good time in Mayaro.

Mr. Sobion: Because I did not answer your question?

Mr. S. Mohamed: He lives in an important part of my constituency—Pundit Trace, off Madras Road, Cunupia. This is where I have been pushing my Friend the Minister of Works and Transport and Minister of Local Government to do some work.

Mr. Palackdharrysingh: That is a dead horse.

Mr. S. Mohammed: They have started but they have committed a big faux faux. The day after they put down the Barber—Green and so forth, the Telephone Company came and dug up the road, and I am getting calls from St. Helena, Kelly Village, and all those places. However, I have reported the matter to the ministry.

Madam Speaker: Maybe the Member can get back to the administration of justice.

Mr. S. Mohammed: Slight diversion, Madam Speaker. That is justice in its wide definition—people's justice; and the Minister heads the administration of that type of justice.

Mr. B. Panday: That is a detour.

Mr. S. Mohammed: That is why I took pains to define "justice" at the commencement of my presentation, using Webster's Dictionary—not my own—formidable authority on dictionary matters.

Mr. Sudama: Was Webster a judge?

Mr. S. Mohammed: Madam Speaker, we need to look at new systems. I have no reason to doubt that my Friend the hon. Attorney General, has an abiding interest in and commitment to the law. Many times I would hear him speak in this honourable House, and I have no reason to doubt his sincerity. He can be so nice and sincere but the problems that confront and surround him are so grave that he becomes lost in that mire of problems.

Mr. Sudama: Including the problem to his left?

Mr. S. Mohammed: That included. I quoted a neighbour with regard to the chancellor of the judiciary, not just to indicate that the problems exist elsewhere, but also to show that other persons are seeking to do things, and that we must seek to look at the systems.

There was an opening address by the Hon. Sir Anthony Mason, ACKBE, Chief Justice of the High Court of Australia, to the Conference of the Society for the Reform of The Criminal Law, and I think that I should mention part of his address

to deal with a question where, perhaps, we need not pretend that the *Gurley Report* and that implementation committee will solve the problems in the administration of justice; as I have said, it is a drop in the ocean, it will not. We need to look at other things. This is what he said:

"Here in New South Wales, the delays between arrest and trial and between committal and trial provide a glaring illustration. The average length of time spent by an accused person in custody between committal for trial and trial in a District Court is 10 months, and in the Supreme Court, nine months."

Do you see how short that is? What can we say about that in Trinidad and Tobago.

Preliminary inquiries have been done years ago, and nothing is heard about the trials. There are scores and scores, hundred and hundreds, of preliminary inquiries completed. You are jammed with that. The Joint Select Committee that is dealing with the Indictable Offences (Preliminary Enquiry) Bill, that is purely futuristic. We have heard no cogent argument coming from the other side as to what steps will be taken to deal with the backlog that exists in those matters. It is a matter of concern. I am not down-playing anything; I am merely indicating facts as they exist and the position as they exist here and elsewhere. I am quoting from the address of the Chief Justice who was giving the situation in New South Wales.

I am saying the problems exist elsewhere as well. They are talking about nine and 10 months and are saying that is too long.

"Delays of this magnitude should not be tolerated by a society which takes pride in its sense of justice."

Nine and 10 months should not be tolerated by a society which takes pride in its sense of justice. Look at the number of years we are talking about in Trinidad and Tobago with regard to delays in matters; all types of matters—coroner's inquisition; preliminary inquiries; matters at the Assizes; matters at the Court of Appeal; every facet of judicial life in this country is packed with delays year after year and for years.

It goes further, and I hope the learned Attorney General will take cognizance of this fact and bring it before the committee that is meeting on the Indictable Offences (Preliminary Enquiry) Bill. I shall continue to quote before I come to that specific matter. It says:

"Contrast the position in the United States where the delay is very much less, partly as a result of constitutional sanctions and partly as a result of statute."

Administration of Justice
[MR. MOHAMMED]

Friday, February 25, 1994

This is what one needs to look at. This is what exists in the United States of America. This is what I ask the Attorney General to take to the committee for it to discuss this matter.

"The Federal Speedy Trials Act 1974 requires, subject to certain exceptions and qualifications, that all criminal defendants in Federal prosecutions be tried within 100 days after arrest and service of summons and within 70 days after indictment.

I understand that rather similar results have been achieved in the United Kingdom in the absence of constitutional and statutory sanctions and that the maximum time-span there is in the order of six months.

The existing delays breed not only injustice but also inefficiency and wasteful expense. These shortcomings reflect a breakdown in the executive planning and funding of law enforcement agencies and the court system. Unfortunately, the need to eliminate delays of this kind sometimes creates pressure to alter qualified traditional values and procedures designed to protect the defendant for no good reason other than a desire to facilitate the prosecution case.

In common with other courts of other countries our courts have had to cope with expanding litigation as a result of rapid increase in population and an upsurge in violent crimes in a society where the detection and investigation of criminal activity is more onerous and more costly than it has ever been."

Madam Speaker, there exists a Federal Speedy Trials Act in the United States of America and, basically, what it does is set time frames. There are proper safeguards and so forth with regard to this Act. As I said, what it does is seek to fix a time frame number of days from the start of a matter to the completion of it. If it is not completed, there are certain sanctions. It is important that we should bear this in mind and see, if the Indictable Offences (Preliminary Enquiry) Bill comes into play, whether the Attorney General will consider that might be an area where a time span can be fixed.

3.00 p.m.

If we go with the same system of allowing them to go like that, even if we take the evidence by transcript and so, we may find ourselves in a situation where we will continue to have backlogs. So you have to do something that is futuristic; that is, if you wish to fix times there is a dormant committee dealing, perhaps, with civil matters; I did not see anywhere in the debate the intention to extend to

criminal matters. But one may very well consider that there is machinery in the *nolle prosequi* system and whether there might not be the need to examine all these criminal matters, and see whether something can be done in the interest of all parties concerned.

So that there are safeguards in the Speedy Trials Act. One does not just drop a matter like that. There must be good reasons, and they are all stated in the legislation. But in order to do something to ease the situation, we must do something positive. One cannot go to an inquest 29 or 30 times and go to court time after time. There are people who would lose interest. Somebody dies in circumstances that are unknown and sudden; and an inquest is initiated. The parties on all sides lose interest; and these things are still there. We need to look at all these matters in order to really have an effective system operating.

We note announcements that have been made as well, by the Minister of National Security to put a few more vehicles and what-have-you into the system. While these things are appreciated, I am afraid we are quite a way from achieving anything of substance.

I happened to be in court a couple weeks ago—NIPDEC House—and I was given this instrument, [*Member shows instrument*] by a police corporal. Just as I got it I put it in my pocket. This was taken away from a prisoner who came in the prison van; and I say this because well the Minister of National Security is not here—I have had it in my pocket, Member for Diego Martin East. This is one of the eating utensils used in the prison. It was taken and made into a weapon. I will give it to the Minister of Works who can examine it.

Mr. Palackdharrysingh: He does not know about that.

Mr. S. Mohammed: This was given to me by a corporal of police on the steps of NIPDEC House a couple weeks ago; and he said, "Mr. Mohammed we are exposed to this kind of danger. Even coming up the steps of NIPDEC House, the steps are so narrow, you have to back out and clear the way".

This is an eating utensil that has been converted into a weapon; I have not called the policeman's name. It is an honest, genuine thing. I was going up there and the man gave me this. They had just taken it away from a prisoner down at the cells. I saw it in the policeman's hands and said, "Boy what is that?" He said, "Boy let me tell you..." and I asked him for it and he gave me it. So, Madam Speaker, all this is part of the administration of justice.

Mr. Sobion: Madam Speaker, I wonder whether the Member for Caroni East would let us know whether he is in possession of an offensive weapon.

Mr. S. Mohammed: Well, this is not a revolver—we have a law against revolvers. He will have to prove to me that it is an offensive weapon. If he proves it is an offensive weapon, he concurs with what I say—it is a dangerous weapon of which the policeman is complaining. We have to do something about it. However, I will give it to him; he can pass it on to his colleague and have an investigation launched.

That is what I would expect. As simple as this is, I am saying that this has become a very dangerous weapon, and some investigation should be launched as to how this came about. What did they take to make this thing? What is going on in the mind of man, the devil knoweth not. But what could people be thinking by making this!? If he wants to dismiss it summarily and feel that it is not important, that is a matter entirely for him; but I draw this to the attention of the honourable House, and I will pass it on to the hon. Attorney General. I know he is very much interested in the administration of justice and I trust that he will cause this to be brought to the appropriate quarter.

Mr. Palackdharrysingh: He does not like offensive weapons.

Mr. S. Mohammed: Madam Speaker, that is the situation. We on this side—

Madam Speaker: The hon. Member has five more minutes to wind-up.

Mr. S. Mohammed: The issues of the administration of justice, Madam Speaker, I summarize, and I plead with the Government—I know how concerned the Attorney General is, but he should not think that he is going to solve the problem of the administration of justice with that *Gurley Report*. That is not going to do the job by itself. He did not say anything in his contribution about finance. He never said a word about it in all the pages of *Hansard* that I looked through, but I know, previously, he had mentioned finance. But it is more than that—it is not buildings that are alone going to solve the issue of the administration of justice; it is people.

Read the affidavits in the Crane case and see the extent of hostility that permeated the system at the Judiciary. We have to do something to change the quality of the personnel that we have. That should be the strength of this Motion; and if we ask for a committee to look at it, what is wrong with that? We could sit down and look at the system and come up with some kind of suggestion as to how we should improve the situation.

The Government should not feel that we are "this and that," and because we are on this side, they do not want dialogue or to accept our suggestions. The mighty Minister of Works took the road fund from the UNC manifesto.

Miss Bhaggan: Yes, that is true.

Mr. S. Mohammed: I am looking for other things that you will take from our solid manifesto.

Mr. Eckstein: I took decentralization.

Mr. S. Mohammed: He took decentralization from the manifesto, so no big thing—you co-operate!.

Mr. B. Panday: But you take it and muck it up!

Mr. S. Mohammed: Madam Speaker, I commend all who have contributed and the tone of their contributions—there was no hostility. If at the end of it, we can come up with some ideas and ways to effectively change the administration of justice, I think we would have done our duty as Members of this honourable House.

Let me take the opportunity, Madam Speaker, to thank you and hon. Members very much for your kind indulgence and wish Members a happy and holy month of Ramadan.

Thank you very much.

Mr. Hedwige Breaux (*La Brea*): Madam Speaker, before I begin my contribution on this Motion, I want to commend the Member for Caroni East on not only the tone of his contribution, but also for some very salient and important points which he has raised, notwithstanding some excesses here and there.

This Motion moved by the Member for Couva South, and amended by the hon. Attorney General, has to do with a most important function in the daily lives of the population, namely, the administration of justice. In the circumstances, part of it bears repeating so that it can be properly analyzed and considered.

I shall go to the first Recital—

"Whereas Trinidad and Tobago has accepted the Universal Declaration of Human Rights which was adopted and proclaimed by the United Nations General Assembly on December 10, 1984;

And whereas by the said Declaration, everyone in Trinidad and Tobago has the following rights, namely the right to legal personality, to life, liberty and security of the person, the protection of the law, to effective remedies by competent tribunals for the enforcement of fundamental rights, to fair and public hearings by independent and impartial tribunals in determination of rights and obligations..."

Administration of Justice
[MR. H. BÉREAUX]

Friday, February 25, 1994

3.10 p.m.

Madam Speaker, I want to stop at the point—

"—to fair and public hearings by independent and impartial tribunals in determination of rights and obligations."

The courts are expected to, and must operate fairly. Cases must be heard promptly with no unnecessary delays, and by delays I want to exclude self-induced delays. I am referring to those cases and those instances where parties continue, through their representatives, either to put off cases or seek adjournments, in addition to which they appeal as often as they can and, after having exhausted all appeals, move to the constitutional motions. I am going to deal with that further in this debate because in my humble opinion, that is an abuse of the system of the courts, an abuse of the process.

In addition, there must be proper records, and by proper records I mean that records must be available. Cases come before the court and on several occasions evidence disappears. I am not going to particularize—

Mr. Jurai: Rats eat the evidence!

Mr. H. Béréaux: Yes. Sometimes, files are lost.

Mr. Maharaj: They are stolen!

Mr. H. Béréaux: Yes. Stolen.

Mr. Eckstein: And found, too.

Mr. Maharaj: Yes.

Mr. H. Béréaux: All of these must be available in order to have a proper and fair determination. I continue:

"—to equality of treatment from public authorities, to equality before the law, to equal protection of the law,—"

This is a bone of serious contention in Trinidad, the question of equality before the law. It is said that in most cases perception is really fact, and there is a perception in the community that the law protects the criminal, that the law protects the guilty and works against the victims of crime. These are matters which we must address.

I am particularly happy that this Motion has been brought and with the manner in which it is being handled by Members on both sides. Then we have, too—

"—protection with respect to privacy, family, home correspondence, honour and reputation to freedom of movement,—"

The protection in respect of reputation. The law does not deal with the protection of our reputations; I am saying that we have to consider the protection of the reputation of persons in this honourable House when certain statements are made.

I go on with the recital:

"And whereas the Government of Trinidad and Tobago is additionally committed by the Constitution of Trinidad and Tobago and other international covenants to secure the employment and enforcement of basic human and fundamental rights to the people of Trinidad and Tobago;"

It is good and, I think, appropriate, to look at some of these basic fundamental human rights and freedoms that the Constitution seeks to protect. We shall find to a large extent that they are synchronized, are similar to, and in some places, identical with what is stated in the International Declaration of Human Rights. It is noteworthy that our Constitution even predates that declaration.

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof, except by due process of law.
- (b) the right of the individual to equality before the law and the protection of the law.
- (c) the right of the individual to respect for his private and family life."

And the Preamble to the Constitution states:

"(d) recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law."

Well, what I have read here is all very laudable ideals. But the way they have been used to some extent, or should I say abused, usually tends to bring the administration of justice into disrepute. The Motion also says:

"And whereas the system of justice in Trinidad and Tobago has failed to attain the said standards;"

Unfortunately, I am embarrassed to admit that it has failed. We all know that. It is now, what do we do?

It is not that when this party—of which I am proud to be a member—was going to the polls we did not recognize that there was a problem with the

Administration of Justice
[MR. H. BEREAX]

Friday, February 25, 1994

administration of justice in the country. As much as I am indebted to the Member for Caroni East for reading from the UNC manifesto, I want to take the opportunity to read a portion of the PNM manifesto to see what we said about the administration of justice, of crime—

Mr. Palackdharrysingh: This is not a reading test, you know.

Mr. H. Bereaux: Well, I am terribly sorry, Madam Speaker. I know the Member for Caroni Central was a teacher, but I was, too, and I was better than he at teaching.

Mr. Mohammed: Who assessed that, boy?

Mr. H. Bereaux: I want to quote from page 4:

"There is an alarming escalation in the rate of crime and an increasingly demoralised Police Service."

Further, under SPECIAL CONCERNS on page 51, CRIME:

"Another major concern of today is the frightening national epidemic that is crime."

Some of the suggestions that were made to address the epidemic of crime were as follows:

- "— institutional reform, and in particular, police service reform that will aid in reducing the incidence of crime
- the introduction of higher levels of management and more efficient utilisation of resources available to the Police Service
- the acquisition of required technology to improve the level of crime detection and to ensure a greater sense of security to our citizens"

You will notice we have police service reform. The population in its wisdom, when it voted the present Members of this House, created a particular configuration—

Hon. Member: They have regretted it.

Mr. H. Bereaux: You mean that you are here? They possibly regretted they did not give us a larger special majority.

3.20 p.m.

The population gave a certain majority and in order to implement certain reforms which are contained in this manifesto, there is a requirement that we must

have certain assistance from a constitutional standpoint. But the key is that the Government, while it was in Opposition, recognized crime and identified the things that had to be done to address and improve the administration of justice. The Member for Oropouche, in his own peculiar style and with his own confused brand of logic, concludes that because the Member for San Fernando West, indicated that he was dissatisfied with the administration of justice, it followed that he and the Government should agree with the solution proposed in the Motion, that is, the setting up of a special select committee of the House to examine the administration of justice.

It means to say, if you agree on the problem, then you must agree with the solution. But just as the Government was aware of the crime situation before it took office, so, too, did it identify measures which it would use to try to stem the tide and eventually reverse the problems with the administration of justice.

I want to quote, again, from page 42 of the manifesto on the administration of justice. It says:

"The Judiciary

- increase the number of judicial officers
- complete the construction of a Hall of Justice in San Fernando."

That was completed.

- develop and implement a programme for the construction of new magistrates' courts."

That programme is underway.

- renovate and refurbish existing magistrates' courts
- establish a family court."

Legislation pertaining to that is coming soon before this honourable House.

- review existing proposals for the establishment of County Courts and a Small Claims Court."

When the Government makes or proposes some useful and beneficial legislation, you hear sometimes from the Opposition Benches, "You copy that from us." I wonder from whom did the Member for Couva South copy his references to the county court. Nonetheless, if it is a good point, I think we will accept it. We made it. I just wanted to point out that it was also in the PNM's manifesto. I continue:

- "- increase the jurisdiction of magistrates in Petty Civil Court matters to a more appropriate limit.

Administration of Justice
[MR. H. BÉREAUX]

Friday, February 25, 1994

- put in place systems for greater financial autonomy in the judicial system...
- The programme of law revision..."

We have that.

"....Areas for immediate reform will include identification parades and laws dealing with narcotics."

Those pieces of legislation are at present before the Parliament.

The solutions being proposed are all those indicated in the manifesto. As I indicated earlier, several Bills have been brought—The Preliminary Enquiry (Amdt.) Bill to speed up trials. It is true it is now the subject of a committee of this House. But what we suspect, and I say it is only a suspicion, is that on every path that the Government seeks to implement proposals and measures in the manifesto, the Government meets with opposition. I am not saying that it is the business of the Opposition to make the Government look good, but by the very nature of the configuration of this House, there is also the responsibility of the Opposition in matters which are required for the general good and very important to the country, to collaborate with Government—

Mr. Sudama: Who decides that, the PNM?

Mr. H. Béréaux: Not you. So insofar as the Government has—

Mr. Maharaj: Why do you not have an election? The Prime Minister said he wants an election. If the Opposition is obstructing you, have an election.

Mr. H. Béréaux: Madam Speaker, insofar as the measures that have been taken to improve the administration of justice in Trinidad and Tobago are seen to follow those very items that have been identified in the manifesto, I see no reason why the amendment proposed by the hon. Attorney General, indeed, the words of the amendment:

"That this House express its support for the approach of the Government in dealing with the problems relating to the administration of justice."

Heavy weather was made of the *Gurley Report* and its recommendations by all Members on the other side, and in particular the Member for Couva South, and to a lesser extent, the Member for Caroni East. I just want to read the comment he made:

"The *Gurley Report* dealt substantially with the provision of more courts, more judges, better technology, more staff. "

But in fact, in his own speech he contradicts himself.

3.30 p.m.

"...the *Gurley* Committee..."

was set up

"...to examine reports and analyze their recommendations for improvement to the existing system of justice in civil and criminal cases, including holding of inquests; and to advise on the systems to reduce existing delays..."

Basically, what it did was to advise on the improvement of the infrastructure of the courts. More importantly, even when the Member for Caroni East was speaking, he made reference to a comment by the learned judge, Mr. Justice Deyalsingh, that the electronic system of court reporting had been introduced into one court.

Mr. Maharaj: Madam Speaker, on a point of order. The impact of my contribution was that unless there were proper guidelines for the appointment of judges, no number of computers would solve the problem. Perhaps, the hon. Member could answer this question: Does he think that would solve the problem if there are no guidelines?

Mr. H. Breaux: Madam Speaker, I am certain the mover of the Motion will have an opportunity to reply. I am dealing, very respectfully and carefully, with his submission. I would deal with his issue in due course, but I do not want him to plan my speech for me. I am trying to deal with his contribution respectfully.

To some extent, the remarks were caustic in the sense that they dismissed the infrastructure elements of the reform, but as much as one may want to think about the various areas of reforming the Judiciary, if there are no pens, good reporters, staff and proper courts, it would be impossible to have the administration of justice conducted in a manner that would bring credit to the system.

Mr. Maharaj: It can be conducted under a tree if there are good people.

Mr. H. Breaux: What is more noteworthy, however, is that the Member for Couva South, later in his contribution did get into the question of more judges and more courts, when he spoke about the county courts. I do not want to repeat his speech too much, but it is there. What was envisaged was that the county court would have taken some of the jurisdiction of the high court, and he went on to

Administration of Justice
[MR. H. BÉREAU]

Friday, February 25, 1994

deal with that quite at length. It is a whole page and I do not intend to read that, but I just wanted to point out that infrastructure is important.

The Member for Couva South properly stated that the thrust of his speech was on the question of the judges. I want to look at page 10 of his speech where he said that:

"No amount of judges, no amount of courts will be able to solve the problem that we have unless we also improve the machinery for the appointment and elevation of judicial officers.

The problem concerns the ability of the Judiciary as a whole. Our system has permitted persons who did not achieve distinction at the Bar to have been entrusted with judicial functions."

I am not going to repeat that, but what I am saying is that I agree that the quality of the judges and the persons who sit on the bench and the manner in which they are chosen is central. In choosing any person for any position his integrity, his quality, is also essential to whatever he is going to do; and it applies to this honourable House also.

The Member for Couva South continued in this vein, skilfully using the quotations of dissatisfied former judges to support his proposition for political supervision; or even membership on the Trinidad and Tobago Judicial and Legal Service Commission. I recall that the idea was to have the Judicial and Legal Service Commission supervised by this Parliament. Or, to have a Member or Members of this Parliament on the Judicial and Legal Service Commission.

It is significant, and not a little curious, that Members of this honourable House who are quick to speak vociferously of political interference with the Judiciary, and the police are now advocating serious political intrusion into the Judiciary and the manner in which the Judiciary, operates and the choice of members of the Judiciary.

This suggestion is even stranger when we consider the cherished ideal of separation of powers as a bastion of freedom and democracy. I know that the Member for Caroni East used the example of the Chancellor in the English system, but the office of Chancellor, as this House well knows, arose out of historical antiquity. In fact, it arose when the kings were petitioned.

Mr. Maharaj: It still exists.

Mr. H. Bereaux: I know it exists, but I am explaining to the Member for Couva South, if he does not understand, why it is likely to work there and it is unlikely to work here.

It arose out of the practice when petitions were made to the king in those days; he appointed his leading clergyman to adjudicate over those petitions. That is how the office of the Chancellor developed and the practice of equity and so forth. As a result of that, the Chancellor emerged from the English system. I am suggesting that it is not only improper, but it is also dangerous to try to bridge that gap and to bring the Executive and the Judiciary too close to each other. I feel that the separation between the Executive or the legislative function and the Judiciary should remain.

Mr. Palackdharrysingh: Then we must abolish the post of the attorney general?

Mr. H. Bereaux: That too came out of antiquity; that is why it is there.

Mr. Maharaj: Madam Speaker, would the hon. Member also agree that in England only a distinguished barrister, who has reached a certain standard, can be appointed the attorney general of the country?

Mr. H. Bereaux: Madam Speaker, I hear this all the time, but I would like to mention that distinction, or winning of cases at the bar, is not always a proper yardstick by which to judge legal knowledge, because, there are several ways—as I would deal with later in my contribution—by which persons win a number of cases at the bar. There is the death of witnesses; the loss of papers; the good advice received from abroad and a number of other things.

Mr. Maharaj: Well, if you have evidence, prosecute.

Mr. H. Bereaux: If I had it I would produce it.

Mr. Maharaj: Prosecute people.

Mr. H. Bereaux: Possibly, in due course. *[Interruption]* No, I am not saying that.

Madam Speaker, I was going along my merry way dealing with the issues—

Mr. Maharaj: Madam Speaker, I know that the hon. Member knows that the Member for San Fernando East in a previous Cabinet retained a bank robber to lie. So, if the hon. Member has evidence against people, prosecute them.

Madam Speaker: Hon. Members, I should like you to take note of the Standing Order which states that when a Member is making his contribution,

Administration of Justice
[MR. H. BÉREAUX]

Friday, February 25, 1994

except it is really very necessary, interruptions should be as few as possible, and only if very necessary.

3.40 p.m.

Mr. H. Béréaux: Thank you, Madam Speaker.

Madam Speaker: We all owe the courtesy to one another to make our contributions.

Mr. H. Béréaux: I am not going to get upset about that. Although, on more than one occasion the hon. Member protested that it was not his intention to attack any Member of the Judiciary: the Judiciary as a body, or the Judicial and Legal Service Commission, with each pious protestation he plunged the proverbial dagger deeper into the entrails of the Judiciary.

Mr. Sudama: You used to be a—

Mr. H. Béréaux: If I had not known of the Member's success at the bar, I would have said that he was seeking to even the score for decisions which had gone against him. Additionally, if I did not know of the substantial sums which he makes in fees from all quarters—

Mr. Maharaj: I just want to put on the record that despite all that, I have never been retained by the Government of Trinidad and Tobago. I have always been retained by the poor man.

Mr. H. Béréaux: I was not speaking about fees which the Member may have received from the Government. I was speaking about fees which the Member may have obtained from members of my constituency.

Mr. Maharaj: Which shows that they have no confidence in you.

Mr. H. Béréaux: That was prior to my—

Mr. Maharaj: Have you ever done any cases?

Mr. H. Béréaux: Several.

Mr. Maharaj: You traded as a rum shop owner.

Mr. H. Béréaux: If the Member for Couva South feels that he insulted me, he has not done so.

Hon. Member: He is making a personal attack,

Mr. H. Béréaux: He is speaking the truth.

Mr. Casimire: What is wrong with that?

Mr. H. Breaux: If the hon. Member for Couva South has a statement to make, will he please make it. If I did not know the substantial sums which he makes in fees from all quarters, I would have thought he was a frustrated aspirant to a judicial position. However, I have been advised—and it would appear that he was merely seeking to intimidate them to assure that he continues to receive or be considered favourably wherever he appears. That is what I have been told. I am not imputing anything to the Member.

Mr. Maharaj: In my reply, I am going to tell you what I am receiving.

You know what you are receiving.

Mr. H. Breaux: Yes, obviously. Notwithstanding the excesses of the Member for Couva South in relation to his comments on the Judiciary and the Judicial and Legal Service Commission, I would not like to be accused of implying that he did not make some very valid points.

Mr. Maharaj: Madam Speaker, since you have talked about proper behaviour in this House, if the hon. Member is going to attack me for receiving fees, could he say whether it is improper for lawyers to charge fees? He must say that because I do not understand the relevance of it.

Madam Speaker: I was trying to follow the argument myself with respect to the fees. I was wondering whether or not there was an attack upon the Member with respect to fees. Having regard to what he said later, I gather it was not an attack but he was trying to explain a former statement he made. I was paying very close attention.

Mr. H. Breaux: Madam Speaker, I hope that the Member does not believe—I was saying: here is a Member of the House who receives high fees and who is doing well by his own skill; I have no problem with that, but I could not understand—

Mr. Maharaj: If he is going to say that, then he must tell this House that since the PNM got into power they have retained all the PNM lawyers and they are paid "fat" fees. He must say that. It is not proper for him to simply say that people who appear for the venders, the members of the Jaamat and the underdog, collect fees. He must talk about it.

Madam Speaker: Please do not make a mountain out of a mole hill. I do not think there was any wrong insinuation here. Please refrain from offending people in their profession.

Mr. H. Breaux: Madam Speaker, he doth protest too much. Indeed, one of the significant and salubrious facets of the debate on this Motion is that the arguments on both sides, notwithstanding the pique of the Member for Couva South, were laced with relevant, cogent and reasoned suggestions and arguments for improving the administration of justice in the country. We may part company on the means to achieve the ends, but it is refreshing to see that we are in agreement not only on the end, but also on some of the measures which must be adopted if the system is to be nursed back to a healthy state. Education of judges, and I mean continued education of judges, and the screening of proposed judges are matters with which I can readily empathize.

The words "administration of justice" as with "indictable offences" and some other legal terminologies may mean one thing to those of us who are trained in the law, and another thing to the layman. The Member for Oropouche commented on it, but whether through lack of time or a difference in focus, he did not carry the argument to what I considered to be its natural conclusion.

Justice is understood by most people to mean just conduct, what is right and fair according to the mores and the moral standards of a people.

When we speak about the administration of justice they expect that the end result of such administration will conform to what the society believes to be just, fair and correct. However, we all know that in the courts of law the justice which is dispensed is not moral justice, but justice according to law. There are certain presumptions and certain practices which can result in a conclusion which is contrary to the established ideas of moral justice.

3.50 p.m.

I want to give some examples. When a man kills a baby and is convicted, he then utilizes all the avenues for appeal that are available to him. At the end of that process his conviction is affirmed. Constitutional motions are then filed which have the effect of delaying his execution. Then another judgment comes out, and according to that judgment, properly in law as we know it, the man would not have the penalty that the law originally prescribed effected on him. As a consequence, what you find is that the society begins to lose confidence and respect for the law and the administration of justice. That has serious implications for us as legislators.

It is incumbent on us, as far as possible, to ensure that the law synchronizes with the moral conscience of the population; although there are some jurists who

suggest that the function of the law is to improve and uplift the moral fibre of the society.

This brings me to another point, partially alluded to by a Member on the other side, the Member for Couva North, but left hanging; one might say that it flew between the wicket keeper and the slips—

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

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

Question put and agreed to.

Mr. Maharaj: Let us give him one hour.

Mr. H. Bereaux: I do not need one hour.

The Member for Couva North said that the administration of justice implies, first of all, that the Legislature is making fair, just and relevant laws and that it is making them with the consent of the people. It involves enforcement of the laws; it is about the police service that administers the law; it is about the prison system.

I do not know if it was in error, but he left out an important element in the administration of justice, an important group of professionals. I do not know why he would leave them out; sometimes the things that are closest to you are forgotten. That group of professionals of whom I speak—in a way they were referred to as attorneys; whether they be defence attorneys or prosecutors, they are part of the administration of the system of justice in this country.

Judges were first attorneys; and all the complaints about the quality of the judges go back to the integrity and competence of the attorneys who practise at the Bar. As in everything—and in most cases among many professionals in this country—there are top class attorneys in this country, and people who are of the highest calibre. Any time I think about that, I think about the Member for Port of Spain North/St. Ann's West.

Let us not get away from the fact that a substantial amount of the delays and frustration in court and in the administration of justice can well be placed at the doorsteps of the attorneys. There are several examples. There are attorneys who take briefs that they know they cannot deal with at a particular time and they just pile them up. There are cases being adjourned again and again. That causes delay and clogs up the court. The magistrates in particular are loath to dismiss matters because an attorney is not there, particularly if that attorney is one of some stature.

Administration of Justice
[MR. H. BÉREAU]

Friday, February 25, 1994

There are delays in justice. I referred to constitutional motions. There is always a fine line as to how far an attorney must go in the just representation of his client, and when he must stop, because what he is doing for his client is contrary to the administration of justice.

Mr. Mohammed: There is a code of ethics.

Mr. H. Béréau: I am indebted to the Member for Caroni East for reminding me that there is a code of ethics by which attorneys are supposed to operate. Just for the record, I want to identify some of the more important ones, because from the behaviour that I have seen from time to time and of which I have been told—because I do not go to court very often as the Members like to remind me—many of the attorneys involved do not adhere to the code of ethics.

I am going to read from the Legal Profession Act, Third Schedule Part B Mandatory Provisions and Specific Prohibitions. Section 2 (2) states:

"An attorney-at-law shall not withhold facts or secrete witnesses in order to establish the guilt or innocence of the accused."

Section 6 (3) states:

"An attorney-at-law shall not advertise for business indirectly by furnishing or inspiring newspaper comment concerning cases or causes in which an attorney-at-law has been or is connected or concerning the manner of their conduct..."

4.00 p.m.

"An Attorney-at-Law shall not charge fees that are unfair or unreasonable."

[Interruption]

No. I do not know. Nobody knows. I am just reading some things.

"Where the client insists upon his representing a claim or defence that he cannot conscientiously advance..."

Where the client seeks to pursue a course of conduct which is illegal, or which will result in deliberately deceiving the court ..."

And this is another one:

"An Attorney-at-law shall not retain money received for his client for longer than is absolutely necessary."

I just thought I would identify these. The reason is that there is a system of justice which involves judges, police officers, prison officers and lawyers—attorneys-at-law. I am going to deal with the other part, too.

The first one says that:

"An Attorney-at-law shall expose without fear or favour before proper tribunals, unprofessional or dishonest conduct ...

"An Attorney-at-law shall observe the rules of this Code ..."

All I am saying is that the administration of justice is entwined with a number of functionaries—judges, police officers, lawyers, parliamentarians—because we have to make the rules, and we must do so with a certain maturity.

Much has been said about poetic justice but I always remember that on July 27, 1990, when this court, this Parliament, was invaded—and I am indebted to the Member for Caroni East who said that this is a court also—a group of attorneys was in the Hall of Justice and some of them were holding hands and praying. If I were not a charitable person, I would have said that what they should have done was to invade there because one of the persons who were holding hands and praying was responsible for the freedom of one of the invaders. As an attorney, he had represented one of them. *[Interruption]* You always think that I am going to refer to you. I am not referring to the hon. Member. One of the persons in that prayer group—and I am not saying that he should not pray—that is something he should really pray for.

Madam Speaker: I hope the Member understands that he is treading on very—I am just warning you. A professional in the conduct of his professional duties, I do not think should be the comment of Members with respect to the context in which you are using it.

Mr. H. Breaux: Madam Speaker, I shall be guided by your ruling, but I just want to say—

Madam Speaker: You can make your point and move on, but I do not think you need to particularize or go into the gory details. I think that you have made your point.

Mr. H. Breaux: Madam Speaker, the point is that whenever the administration of justice in a society departs from what the population believes to be morally correct, we have to look at it carefully. As legislators we have to get together and correct it regardless of partisan positions.

Thank you, Madam Speaker.

Adjournment

Friday, February 25, 1994

ADJOURNMENT

Hon. K Valley: Madam Speaker I beg to move that the House do now adjourn to Friday, March 4, 1994, at 1.30 p.m.

Madam Speaker: There are two motions on the adjournment. We shall take those motions now.

**St. Julien Road
(Landslips)**

Mr. Mohammed Haniff (*Princes Town*): Madam Speaker, I served notice by letter dated January 21, and also February, 18, 1994. I have been requested to be short and that I will be. However, I do not wish the Minister to interpret my contribution as unimportant because it is short.

This matter relates to the closure of the St. Julien Road in Princes Town due to landslips and the serious problem landslips are causing on many roads throughout the country.

In the constituency of Princes Town, there are over 100 landslips. St. Julien Road has been closed for a long time now. I have written numerous letters to the engineers. I have visited with the engineers. I have written to the Minister concerned and I have been writing for a long time. Needless to say, nothing has been done.

A similar situation existed on the Naparima/Mayaro Road and not until farmers and residents of the area demonstrated and threatened to block the road, was some attention given. That situation has been partially remedied.

St. Julien Road is an area where cane farmers in particular operate. They are now unable to travel across that landslip, not even with wheel tractors.

As I said, I have written the hon. Minister, and to his credit he has replied. He informed me that the matter has been referred to the Director of Highways. As recently as yesterday the farmers and residents of that area came to me and I contacted the Civil Engineer, Ministry of Works and he repeated that they had no funds to deal with the situation. That being so, the Civil Engineer advised the residents and farmers that they should provide the piles and pile the landslip on their own.

It is in that context that I wrote to the Minister and, except for that reply stating the matter was referred to the Director, nothing has happened. I am wondering whether anything will happen. If anything is to happen, when will it happen? Is it a situation where these farmers and residents are not important?

St. Julien Road (Landslips)

Friday, February 25, 1994

In addition to all this they must reap their canes before the season is closed. It is crucial, but that is not the only area. Let me give you an idea.

In this listing provided by the Civil Engineer, Ministry of Works, Victoria East, there is mention of 100 landslips. To set the record straight, in 1993 work was attempted on three landslips and those projects were not completed. At that rate landslips in that area and other parts of the country will never be dealt with. The Minister and others may know that many of these landslips are caused, of course, by rainfall, but many are caused by WASA leaks.

4.10 p.m.

Houses are destroyed, other property is destroyed, roads are closed. And these 100 landslips I am speaking about fall under the control of the Ministry of Works and Transport. There are perhaps as many which fall under the Ministry of Local Government and possibly other agricultural access roads and so forth. So people are severely affected.

St. Julien Road is a problem area: no water trucks, no scavenging trucks, no heavy goods vehicles are able to go there to provide the services that are necessary for survival; also, no fire appliances. And this situation has been so for a very long time. Let me repeat: this falls under the Ministry of Works, Transport and the Ministry of Local Government.

It will amaze all concerned to know that in the St. Julien Road area, according to the records of the Civil Engineer, there are 19 landslips and it is in that context I call upon the Minister concerned. I have stated on numerous occasions that I have invited the hon. Minister to Princes Town to visit with me, so that collectively, we can look at these problems and try to arrive at some solutions.

In areas like Princes Town, where we do not usually get assistance, we are doing many self-help projects. But at a time like this it is unfair for the Civil Engineer in the Ministry of Works and Transport and Ministry of Local Government to ask the residents and farmers to get piles and to provide the labour because there is no money. But he has labour! Do you know what the engineer has offered? That when they are through the Ministry will provide some overburden.

Nineteen landslips on St. Julien Road; Moruga Road, which was closed recently, eight landslips; Torrib Tabaquite Road, five landslips; Realise Road, four landslips; Mandingo Road, which is currently closed to heavy traffic and was closed for four years, eventually some repairs were done to that road costing more

St. Julien Road (Landslips)
[MR. HANIFF]

Friday, February 25, 1994

than \$150,000. The truth is, it collapsed again. I am calling on the Minister to set up an investigation into the quality of work that was done there and why this situation recurred.

The hon. Minister spoke about repairing all the roads and landslips in this country. I ask, when will the ministry start? It speaks about repairs to landslips affecting roadways. If at this time none has started, then he should know—I understand he is a highly qualified person—but if he does not know, the worst time to deal with them, from a practical standpoint, is during the wet season. So is he going to wait until the wet season to start doing some remedial works, or will he start at all?

The situation is, that the Ministry of Works and the Ministry of Local Government—the administration and effectiveness of these two ministries are falling apart every day. It is nothing strange to pick up a copy of the *Gazette* and see notices stating that certain roads are closed. I do not know to what extent the Minister is concerned, but many people are affected; agriculture is affected and all sorts of operations are affected.

It is in these circumstances, that I am calling on the hon. Minister of Works and Transport and Minister of Local Government, just as there is a branch of the ministry to deal with bridges, to set up one too for landslips. The Highways Division is responsible but has not been dealing with it. There is need to set up an arm of the ministry to deal with these landslips. My reason is that they will deal with the major ones, but every single landslip has the potential of becoming a major one, having remained in a state of disrepair for some time. If we could deal with those that have just started, very early, they would cost very little money. I wonder why this aspect of it has never been dealt with.

I had indicated that I would be short—I would like to leave early—and because of the seriousness of the situation, I want to plead with those concerned. I am saying in all humility, there is need for action.

I have asked the hon. Minister of Works and Transport and Minister of Local Government to come to Princes Town. I have offered certain suggestions to him and he has indicated that he will come. I want to remind him that I am the first Member of Parliament of this current term to have invited him to visit. He has not visited to date and I do not know if he will. That gives me the impression that he is not concerned about the sufferings of the people who live and work in Princes Town.

St. Julien Road (Landslips)

Friday, February 25, 1994

In those circumstances, I am saying however, that there are other parts of the country similarly affected, mainly those areas represented by Members of the Opposition. It is in that kind of situation that I plead with the Minister concerned to look at the numerous landslips on St. Julien Road. I wrote to the Minister concerning this and also sent him a copy of the listing. I do not have any positive response from him to date, but again, I am pleading with him to come and look at what is happening with a view to dealing with it.

The situation in the country today is terrible in terms of unemployment; the Government cannot provide sufficient jobs, and where jobs are being provided, there is a degree of bias towards their membership and as a result—

Madam Speaker: Hon. Member you should be concentrating on the landslips at the moment. This is a Motion on the adjournment.

Mr. M. Haniff: Madam Speaker, the point I am making is, that these farmers are trying to cater for themselves. Since Government cannot provide jobs, I am calling on the hon. Minister to deal with the situation as is required, so that the farmers and other people across the country who need the necessary infrastructure would be able to continue to earn a livelihood, bearing in mind that employment is difficult to come by.

Madam Speaker, I had promised to be short and I am closing with this call to the hon. Minister and the Government to pay some serious attention to this aspect of my complaint while I hope would not fall on deaf ears.

The Minister of Works and Transport and Minister of Local Government (Hon. Colm Imbert): Madam Speaker, before I deal with some of the broader issues raised by the hon. Member, let me give this House some information regarding St. Julien Road. This road is in Princes Town and just over six miles long. It is maintained by the Victoria East district of the Ministry of Works and Transport and Ministry of Local Government between the 1.75 mile mark and the 6.12 mile mark. The other portion of the road the, 0 to the 1.75 mile mark, is maintained by the Princes Town Regional Corporation.

The Member indicated that his information was that there are 19 landslips on the road, and it is no wonder that he is unaware that the Princes Town Corporation is responsible for part of the road.

Mr. Haniff: Madam Speaker, on a point of order. I am informing the hon. Minister that that is not so. I am aware that the entire roadway falls under the Ministry of Works and Transport and Ministry of Local Government.

St. Julien Road (Landslips)

Friday, February 25, 1994

Hon. C. Imbert: There are 34 landslips on this road, not 19; the hon. Member should know his constituency.

4.20 p.m.

The road runs along a ridge with steep side slopes and connects the Naparima/Mayaro Road to the Buen Intento Road. The soil in the area is clay, it has a high plasticity index and a high swelling potential. The instability of the soil in the area is exacerbated by the infiltration of water; the soil reacts very badly to water infiltration which reduces its sheer strength resulting in slippage. This is the reason why there are so many landslips: the road runs along a ridge, the soil conditions are poor.

The road is closed at present between the 3.75/4 mile marks, as a result of two landslips occurring at the location on both sides of the road. The ministry is aware that this has been a source of complaint by cane farmers, who have difficulty in traversing the road with their 'farmals' loaded with sugar cane. There is also a problem because the road is quite narrow. But at present there is a co-operative effort between the farmers and the Victoria East District of the Ministry to restore partial temporary access to allow cane to be transported out.

I am satisfied that the engineers in the Ministry, especially in the Victoria East District, give full co-operation to Members on the other side, particularly the Member for Princes Town, and it is regrettable—

Mr. Haniff: Madam Speaker, I have not complained against the engineer. I am saying he has no resources to do what is required.

Hon. C. Imbert: Madam Speaker, I quote from the hon. Member's contribution, I took notes. The Member said:

"It is unfair of the civil engineer to ask residents to provide labour; it is unfair of the civil engineer not to repair the road."

I consider this to be an unwarranted attack on the hardworking engineers in the Ministry, especially since I am satisfied that the engineers go above and beyond the call of duty to co-operate with the hon. Member for Princes Town.

Let me now give the House some financial information and put things in their proper perspective. The cost of repairing the 15 major landslips out of the 34, is \$4,188,000, for a road six miles long. The ministry has programmed work on just 15 of the major landslips in this year and for the next two years, and the cost, as I have indicated to you, will be \$4 million.

St. Julien Road (Landslips)

Friday, February 25, 1994

Now, in the face of all the condition of other roads in the country, one has to make a decision whether the Government will spend \$4 million on one road, merely 6 miles long. It is a serious decision that has to be made. What I would tell the Member, however, is that the ministry has programmed repairs to the road, but these repairs will have to be considered in the context of all the other demands in the rest of the country on the ministry. It would be discriminatory to do otherwise.

Before I take my seat, I wish to point out that in my address to this honourable House with regard to the establishment of the road fund and the road improvement programme, I pointed out that in the initial stages the focus would be on road resurfacing and road patching, and that as we continued in 1995 and thereafter, we would begin to focus on landslip repair, road strengthening, widening, realigning, straightening, coastal protection and all the other aspects that impinge upon road repairs. In this year we are dealing with road patching and road resurfacing; and the intention is to bring all roads in the country up to a satisfactory level before we deal with more complex problems, such as the repair of 15 landslips at a cost of \$4.2 million.

I am satisfied with the road programme in progress, and despite the attempts of the Opposition to discredit this programme—because I am aware that the efficiency and productivity of the road programme is bothering them, and they are making attempts to discredit it, the Member for Caroni East did so today—I am quite satisfied that the ministry will continue to provide proper services to all citizens of this country.

I thank you, Madam Speaker.

**Telephone Service
(Penal Rock Road and Scotts Road)**

Mr. Sahid Hosein (*Siparia*): Madam Speaker, the subject matter reads as follow:

"The refusal and or lack of interest by TSTT in implementing a telephone service to the Penal Rock Road and Scotts Road areas and the implications of this action for ownership of other essential services by foreign interest."

By now the name Penal Rock Road would be very familiar to most of us in this House, because in dealing with problems of water, roadways, etc., I have cited the name over and over. I have now come to the telephone service.

Early in 1992, it must have been January or February, in answer to a question to the Minister of Public Utilities, I was told that a telephone service would be

Telephone Service (Penal and Scotts Roads)
[MR. HOSEIN]

Friday, February 25, 1994

introduced into the area in September, 1993. Some time afterwards, on enquiries again, I was told that it was going to be done in 1994; and in December last year, I was told it was going to be done in 1995. It seems to be that as time progresses, if I am to go by that record, it is going to be quite a while before a telephone service is introduced into the Penal Rock Road and the Scotts Road area.

So that while the rest of the country operates on the basis of modern communication systems, Penal Rock Road and Scotts Road are still in the stone age in that regard. It has created enormous problems for the people. For instance, whenever a crime is committed people cannot readily contact the police; whenever there is a fire—as has been the case recently on at least two occasions—residents cannot call the fire services; whenever there are accidents, residents cannot request the ambulance. Also, for a number of young people in the area, job opportunities are lost because people cannot be contacted readily when the few jobs that are available come on the market. It is creating a serious problem in the area.

Added to that, there are several small businesses and contractors in the area, and it is putting them at a disadvantage, given the economic situation in the country, in the sense that they cannot do their business as they would want to; they cannot communicate; they cannot order supplies; their costs are that much higher because they have to travel to get things done.

It seems to me that given the fact that these people are guaranteed, under the Constitution of this country, the right to equality of treatment, they are surely being discriminated against.

For the sake of brevity, my Motion talks about the implications of this action for ownership of other essential services by foreign interests. It seems to me that it is a question of return on capital, and a private enterprise—although TSTT is 51 per cent owned by the Government and 49 per cent owned by a foreign investor—has a great concern on return on capital, and this is where the problem lies. So that as long as it is not feasible, or as long as the return on the capital is not going to come as quickly as the company would like, the people of Rock Road would have to sit there and wait. I make the point in the sense that very likely WASA will go the way of TSTT, and I am fearful there is not going to be a question of need but a question of economics.

4.30 p.m.

Mr. Sudama: Not even economics.

Mr. S. Hosein: This is why we on this side have been saying that the essential services have to remain in the hands of local people.

Mr. Humphrey: Of the state.

Mr. S. Hosein: Not necessarily the state alone, but in the hands of local people.

BUSINESS OF THE HOUSE

Madam Speaker: May I draw to the attention of the House that it is now 4.30 p.m., and there is a motion for the suspension of the Standing Orders.

The Minister of Education (Hon. Augustus Ramrekersingh): Madam Speaker, Standing Order 10 (2) states that the tea break should be taken at 4.30 p.m. In view of the fact that the proceedings would be through very soon, I wish, under Standing Order 10 (2), to move the suspension of the House to 4.40 p.m. for the purpose of expediting and completing matters.

Question put and agreed to.

Telephone Service (Penal Rock Road and Scotts Road)

Mr. S. Hosein: Madam Speaker, I will take my cue and wind up by appealing to the Minister to ensure that the people of Penal Rock Road and Scotts Road are provided with a telephone service, some time during the course of this year; it is extremely essential.

Thank you.

The Minister of Public Utilities (Hon. Morris Marshall): Madam Speaker,—

Hon. Member: Are you are still in the Cabinet?

Hon. M. Marshall: Once you are still in the Opposition.

Madam Speaker, let me make it clear that TSTT is not in the business of denying community service.

Mr. Sudama: They are not providing it, either.

Hon. M. Marshall: That is not true either; the facts will establish otherwise. Say what you want about the other utilities, the evidence coming through will establish that TSTT has in fact done quite well. That is the fact.

In fact, one of the better experiences I have had over the last two years was when I was fortunate to be privy to TSTT's programme for the next 10 years, a

Telephone Service (Penal and Scotts Roads)
[HON. M. MARSHALL]

Friday, February 25, 1994

programme in a very organized manner including the telecommunication services, moving it into an age which will ensure a greater level of efficiency and delivery in all parts of Trinidad and Tobago.

It is not true to give the impression, either, that so-called rural communities are denied service, because there are quite a number of rural communities that receive service. I understand the concerns, of Penal Rock Road and Scotts Road, and they are valid concerns because we want to ensure that those communities are in receipt of this particular type of service.

Based on information I have received, Penal Rock Road is presently provided with a service—approximately 7 km of the road—to about 450 customers. Scotts Road is presently provided with a service—approximately .5 km of road—to about 25 customers.

To improve the service to these areas, the company plans to commence work on an outside plant module somewhere around mid-1995, and thereafter it will be able to add another 640 customer lines to the community. The Member can talk to TSTT so that they can give him some more detailed information, if he so desires, but do not allow the community and indeed the Parliament to get the impression—that a deliberate attempt is being made to deny his community, or any other community, of a service. That will not be tolerated.

Mr. Hosein: Madam Speaker, given the fact that I had been assured in this House that this job was going to be done in September 1993, and there is a situation where the date is being pushed back further and further, is the Minister in a position to give us a guarantee that this will not happen in this instance?

Hon. M. Marshall: Madam Speaker, I would not wish to do so because I myself am not responsible for doing the work. What I can certainly promise to do is to link up the representative with TSTT so that he can clear whatever concerns he has.

The basic point I am making is that I do not want anybody in this Parliament or the wider community to get the impression that any effort is being deliberately made by TSTT, or any other agency of the Ministry of Public Utilities, to deny, any community of a service. It is quite likely that TSTT had to review its programme of work. There are problems in quite a few utilities, but no attempt will be tolerated to deny, any community, whatsoever whether it is Penal Rock Road, Laventille, or Diego Martin, of a service, for any reasons other than probably problems with resources. That is the point I am making.

Telephone Service (Penal and Scotts Roads)

Friday, February 25, 1994

I can arrange, as I have done in the past, as it relates to other utilities, for the Member to talk directly with TSTT and they can explain to him what exactly is happening as it relates to those areas.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.36 p.m.