

**SPECIAL SITTING  
OF THE  
HOUSE OF REPRESENTATIVES**

*Wednesday, November 02, 1994*

The House met at 1.40 p.m.

**PRAYERS**

[MADAM SPEAKER *in the Chair*]

**SUPREME COURT OF JUDICATURE (AMDT.) BILL**

Bill to amend the Supreme Court of Judicature Act, Chap. 4:01. [*The Attorney General and Minister of Legal Affairs*]; read the first time.

*Motion made*, That the next stage of the Bill be taken forthwith [*Hon. K. Sobion*]

*Question put and agreed to.*

**Hon. K. Sobion:** Madam Speaker, I beg to move,

That a Bill to amend the Supreme Court of Judicature Act, Chap. 4:01 be now read a second time.

The Bill before us essentially seeks to give greater flexibility to the Judiciary in dealing with the disposition of matters which are before it. As you are aware, this Government has been doing a constant review of the administration of justice; and in so doing it has been giving consideration to several matters, including the establishment of additional courts, particularly a High Court to serve the eastern districts of Trinidad, and Tobago. We have had consultation with Members on the other side concerning the establishment of a drug court. More recently, we have been faced with the difficulty of adapting our system of justice to deal with emergency situations as they may arise.

Before I refer to the actual Bill before us, it may be appropriate to refer to the relevant provisions of the Supreme Court of Judicature Act under the title, "Sittings of the Supreme Court." The relevant provisions are sections 73, 74 and 75.

At section 73, judges of the High Court are given a general jurisdiction to hear and determine matters anywhere in the country of Trinidad and Tobago. However, that jurisdiction is governed by the following sections 74 and 75, the

*Supreme Court of Judicature (Amdt.) Bill*  
[HON. K. SOBION]

*Wednesday, November 02, 1994*

first of which limits the regular sittings of the High Court to such places as have been appointed in Port of Spain, San Fernando and Scarborough.

Section 75 permits for special sittings on the warrant of the President, but those warrants as may be issued by the President cannot specify a place outside those specified for regular sittings.

What, therefore, we have sought to do by this legislation, is to provide greater flexibility to the Judiciary in dealing with the administration of justice, not only in the course of its regular business, but also in respect of such special business as the need may demand.

This provision is not an unusual one and, indeed, if one should look at similar legislation in the Caribbean, one would find, for instance, that the Barbados Supreme Court of Judicature Act, at section 11 reads:

"The High Court shall sit for the trial of criminal matters at such times and places as shall be appointed by the Chief Justice."

In Jamaica, the relevant provision is section 28, reads:

"The Chief Justice may from time to time make, and when made revoke, add to or alter orders appointing the times and places for the holding of Circuit Courts."

It is in that context that these amendments are now introduced to section 74 to permit, in the case of regular sittings, sittings at such other place as the Chief Justice may appoint. The rationale, quite simply, is that it would facilitate, for instance, the establishment of a court at Arima and, in fact, we have only recently received details of the capital costing and the recurrent expenditure of such a court, and that matter is now under active consideration.

In so far as emergency or special sittings are concerned, I wish to draw attention to the fact that within recent times we were all made aware of circumstances which have disrupted the operations of our courts. In the Hall of Justice, which lies obliquely across the road from this place, there have been—as the reports have been given to me—20 disruptions over the last two years because of bomb threats.

**Mr. B. Panday:** After spending \$4.5 million!

**Hon. K. Sobion:** That building houses in excess of 260 workers daily; it also entertains at least 500 members of the public daily, and it houses several other

civil and criminal courts. So that such a disruption is one which is very costly in terms of man-hours and the due administration of justice.

It is in those circumstances that we have approached the amendment to section 75 to provide that special sittings may be taken out of the regular system and assigned to such other places, other than those specified in section 74.

I assure hon. Members that this amendment in no way affects the citizen's constitutional right to due process. It does not interfere with the regular law relating to the operations of courts. As we all know, the trial of any individual is a public matter and subject only to the direction of the presiding judge. By passing this amendment, the assurance is given that the constitutional right to due process of any individual in the society will, in no way, be affected.

**1.50 p.m.**

In closing, I want to commend this Bill to hon. Members as a measure which is necessary for the proper and due administration of justice in this country.

I thank you, Madam Speaker.

*Question proposed.*

**Mr. Ramesh L. Maharaj** (*Couva South*): Madam Speaker, we think this Bill has been long overdue. As the hon. Attorney General has stated, if there are to be more High Courts, then obviously this Act had to be amended. For some time now it was being agitated that there would have to be more courts in Trinidad and Tobago, and therefore, this Bill is long overdue.

It is not new for the head of the Judiciary, the Chief Justice, to have the power to designate places for sitting of courts. As the Attorney General has mentioned, in the Caribbean there are those instances, and in the United Kingdom the Lord Chancellor has that power.

When one looks at our law as a whole, one sees that even in civil matters, the High Court under Order 35 of the Rules of the Supreme Court, a judge has the power, if he thinks it expedient in the interest of justice, to adjourn a trial for such time and to such place and upon such terms as he thinks fit. So one sees that with the civil jurisdiction, even though a case can be started in San Fernando, the judge has the power given to him under the rules of the Supreme Court to adjourn that case and continue it in a different location.

One also sees that there is that power under our laws in respect of the Magistrate's Court and we saw that it has been used in the past under section 7 of the Summary Courts Act:

"The President may by Order divide Trinidad and Tobago into magisterial districts and require that one or more Courts be held in each such district."

Then under section 9:

"The Chief Justice may by Order appoint places and times for the attendance of Magistrates for the hearing of all cases..."

We would recall that in 1990, by Government Notice No. 163 of 1990, in order to have the preliminary enquiry in respect of the matters affecting the Muslimeen members, the Chaguaramas Gymnasium was designated as the place for the preliminary enquiry. One sees that even in respect of other places, that power has been exercised where the courts cannot function.

It seems to me that this is a power which could have been exercised a long time ago. My only difficulty—not that it will be a bar to our supporting it, because I think it is a measure which we must support; the Opposition must give the Government that power—is that it must appear as though legislation is being passed to deal with a specific case or specific individuals, as you know, *ad hominem*, that Roman expression. It is a bad concept. I think that we want to make it absolutely clear that this legislation is not being passed for that specific case. That case may be absorbed in the legislation, but it is not legislation being passed for that case.

As a matter of fact, I think that the Government would want to seriously consider—and it may have considered it already—that the Chaguaramas Convention Centre can be used as a permanent court in respect of certain matters, where the facilities and the machinery at the Hall of Justice are lacking, in order to produce an environment where justice can be dispensed within a stable and suitable atmosphere.

What this amendment does highlight, however, is that the PNM Government—not the new PNM; the old PNM, but some of the new PNM were there—built a Hall of Justice for about \$400 million, if I am correct. Madam Speaker, I do not know if you ever went into one of those criminal courts, but they can scarcely hold 50 or 60 people. They are most unsuitable in which to conduct a criminal trial. It would be impossible to have any major criminal trial in this country conducted in one of those courts, because the courts must be a place to which the public have

unhindered access; the legal profession must be able to go; the press must have adequate facilities to report matters of the trial and there must be security arrangements for judges and lawyers and accused persons.

The First Court in the Red House was, in effect, better equipped to deal with major criminal trials than any one of the criminal courts in the Hall of Justice. One knows that the First Court in the Red House accommodated some of the big criminal trials in this country, for example the Malick trial. Madam Speaker, you may have prosecuted in some of those matters.

If the Government at that time had a more consultative approach with respect to constructing public buildings, especially before constructing that building, the police, the legal profession and the members of the public would have been consulted, to have an input into how the criminal courts ought to be spaced. With the amount of space in the Hall of Justice, we might not have had to resort to having criminal trials outside this area if the building was constructed properly.

I have practised in the courts and I can say that the Hall of Justice is a most unsuitable place in which to have a major criminal trial. I think that any decision not to have major criminal trials at the Hall of Justice is one with which, given the circumstances, one cannot really quarrel.

What this Bill shows, however, is that, again the Government should seriously consider separating the administrative functions of the Chief Justice from the judicial functions, because one must recognize—I do not want to be critical of anyone—people who were involved in this must have seen this coming down the road, and the present set-up is that it is a function of the administrative head and the office of the DPP in listing criminal matters.

**Mr. Manning:** Madam Speaker. I thank the hon. Member for Couva South for giving way. He is making the point that there is a case to be made out for the separation of the administrative functions from the judicial functions of the Chief Justice. I wonder if there is any specific proposal that he would like to put on that matter.

**Mr. R. L. Maharaj:** Madam Speaker, I think the hon. Prime Minister knows that our position is that Chancellor of the Judiciary is a post which has been used in some jurisdictions, whereby the administrative aspect of the judiciary is dealt with by a person separate and apart from the person who holds the office of Chief Justice, who presides in the court. One of the arguments for such a position is that the Chancellor would deal with the administration, and the Chief Justice would obviously have to deal with the court, being the President of the Court of Appeal.

**2.00 p.m.**

There are different kinds of formulas. In some jurisdictions, the Chancellor is superior to the Chief Justice. For example, in the United Kingdom the Lord Chancellor is superior to the Chief Justice. Whether one calls it the Chancellor of the Judiciary, it is up to the Government, after discussions to determine what concept it wants. If we had a formula where the administrative limb of the Judiciary deals with cases coming up for hearing and as to the availability of courts, I feel sure that if representations were made in sufficient time, we would not have had to come in this manner to deal with this piece of legislation.

I think it could be very embarrassing to an executive when matters like these come up. I am not saying that it is, but it can be. And it seems to me that this supports the Opposition's stand that the administrative limb of the Judiciary should be separated from the actual dispensation of justice.

We think that this amendment would, in effect, facilitate the setting-up of other courts—if the Government agrees with the concept of drug courts—because one has to be very frank: in other countries there are cases where judges, lawyers and witnesses are killed while cases are being tried. I think that governments have to deal with drug prosecution and drug-related matters in a way where there will be the proper environment for the dispensation of justice.

I do not think there can be any serious argument that by the passage of this Bill anybody's rights are affected. I think there is a misconception that Chap. 1 of the Constitution protects only the rights of an accused person. As a matter of fact, Chap. 1 of our Constitution does not only protect the rights of an accused person, but the rights of all persons. Therefore, if there is a court and there is the risk of jurors, the judge, a witness, or even the accused not being secured, I think that a Government has a duty and the power to effect measures which would promote the kind of environment in which justice ought to be dispensed. I cannot see it being said—I would support the Government in this—that in a matter like this anybody's rights would be infringed by having a court set up.

I think we should make it quite clear that whatever we do in our society, we must ensure that whatever arrangements are made—wherever these courts are held—that there is going to be the presumption of innocence practised; there is going to be adequate facilities for the public to have access to the courts; for the press to go to the courts, and there would not be secret courts.

We know that the judge presides over the criminal trial, but I think that the Attorney General and the Government must ensure that whatever facilities are

being provided, it would not be said that these courts, in these kinds of matters, are being turned into secret courts and the press and public are being excluded. I think that is the kind of fear that people may have.

It is not unusual for governments to have courts in special places, especially in criminal matters. One knows also that the law provides the machinery that if that power is being misused and abused, it can be addressed.

We would say that the measure is long overdue. It is unfortunate that it has to come at this time, but we feel sure that having regard to what is being done, in any event, nobody's rights can be affected. It is better late than never, and we have to recognize that the way our system operates, the Government is responsible for security in the country. The Government is privy to information to which we are not privy, and we must not be privy to having regard to the nature of it.

We consider that if the Government decides that in a matter like this it wants this piece of legislation, we must presume that it is acting in the best interests of the country. We, as a Parliament, have a duty under section 53 of the Constitution to pass laws for the peace, order and good government of Trinidad and Tobago, which is why we do not have any objection to this piece of legislation.

Thank you very much, Madam Speaker.

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):**  
Madam Speaker, I want to thank hon. Members on the benches opposite for what appears to be an indication of full support for the passage of this legislation. I assure hon. Members that the necessary physical infrastructure will be put in place to ensure that the rights, safety and security of accused persons and all persons who are involved in any court process invoked under the provisions of this Bill will be assured.

The arrangements to allocate places, other than the regular places of sittings will have that as one of its guiding lights in determining the suitability of any such place.

I want to make one observation, however, with respect to the contribution by the Member for Couva South, and that is, it is not accurate to say that the Hall of Justice is not adequate to serve major matters. It is just that sometimes there are other considerations which come into play in order to ensure that the full operations of the courts are not disrupted.

*Supreme Court of Judicature (Amdt.) Bill*  
[HON. K. SOBION]

*Wednesday, November 02, 1994*

Whilst I take note of comments made, I assure the hon. Member for Couva South of the ongoing efforts of the Government to ensure that the due and proper administration of justice will continue.

I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*House in committee.*

*Clauses 1 to 4 ordered to stand part of the Bill.*

*Question put and agreed to, That the Bill be reported to the House.*

*House resumed.*

*Bill reported, without amendment; read the third time and passed.*

**2.10 p.m.:** *End of special sitting.*