HOUSE OF REPRESENTATIVES

Monday, April 01, 1996.

The House met at 10.02 a.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from the hon. Member for St. Ann's East (Mr. Martin Joseph) asking to be excused from the sitting of the House of Representatives for the period, April 1—3, 1996.

This leave of absence has, therefore, been granted.

PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE

(Resignation)

Mr. Speaker: Hon. Members, I have received the following piece of correspondence dated March 18, 1996, from the hon. Member for Diego Martin Central (Mr. Kenneth Valley), which should be put into the records. It states:

"I hereby tender my resignation with immediate effect as a Member of the Public Accounts (Enterprises) Committee."

PAPERS LAID

1. Report of the Auditor General on the accounts of the Trinidad and Tobago Solid Waste Management Company Limited for the year ended December 31, 1983. *[The Attorney General (Hon. Ramesh Lawrence Maharaj)]*

2. Report of the Auditor General on the accounts of the Trinidad and Tobago Solid Waste Management Company Limited for the year ended December 31, 1984. *(Hon. R. L. Maharaj)*

3. Report of the Auditor General on the accounts of the Trinidad and Tobago Solid Waste Management Company Limited for the year ended December 31, 1985. *(Hon. R. L. Maharaj)*

Papers 1—3 to be referred to the Public Accounts (Enterprises) Committee.

4. Report of the Auditor General on the accounts of the committee of the Naparima Bowl Board for the year ended December 31, 1994. *(Hon. R. L. Maharaj)*

To be referred to the Public Accounts Committee.

NATIONAL SCHOLARSHIPS
(AWARD OF)

The Minister of Education (Hon. Dr. Adesh Nanan): Mr. Speaker, for far too long there has been an inequity in the award of national scholarships based on a General Certificate of Education, Advanced Level Examinations.

Because of the nature of the subjects that constitute the business studies; the Languages and Modern Studies groupings, students who have chosen these areas have been unable to achieve the highest possible grades in the A'level examinations over the years. On the other hand, Science and Mathematics students can, and often are judged to be absolutely correct on questions in these examinations. Of the further 30 additional national scholarships presently given, it is very difficult or almost impossible for the students of the former groups to acquire these scholarships when compared with the Science and Mathematics group.

In the spirit of national unity this Government has agreed to level the playing field. On Thursday last, Cabinet agreed to review the policy for the award of national scholarships based on the results of the University of Cambridge Advanced Level examinations. From 1996 and onwards, there would be an additional 10 scholarships awarded annually. These will include scholarships to the second placed students of each of the five existing subject groups namely:

- Business Studies
- Languages
- Modern Studies
- Mathematics
- Science

The continuation of 15 additional national scholarships will be given to the first three runners-up in each of the five groups, these will now include the third, fourth and fifth placed students.

The previous regime failed to recognize that there are students who have attained the highest aggregate scores but who are not in one of the specified groupings. Those students are not considered for scholarships.

10.10 a.m.

This Government has demonstrated its commitment to the people, especially the nation's children. In keeping with this initiative, there is now the introduction of five further additional scholarships to students who are not in a group and are otherwise qualified and have received the highest aggregate scores among those not in a group. *[Desk thumping]*

The continuation of 30 further additional national scholarships offered on the basis of the order of merit submitted by the University of Cambridge local examination syndicate regardless of subject groupings.

Mr. Speaker, since this Government came into power, the entire population has been motivated to become environmentally conscious. Almost every weekend there is a clean-up campaign in a constituency. The people of Sea Lots and the Beetham Estate have heeded the call and are engineering a clean-up in their area. Our beloved Prime Minister, the hon. Basdeo Panday, has just yesterday witnessed a clean-up in his own constituency of Couva North and the Palmiste Park in Phillipine. There was neglect of this precious commodity, the environment, during the PNM era, but now there is time for change. There is a hum in the country, as the concern for our polluted rivers by large industrial companies is highlighted.

This is no "vaps" Government as the hon. Member for Diego Martin East laments. This is a Government with a vision, a vision for a healthy environment produces a healthy body and a sound mind. In light of this, effective from 1998, a new subject group Environmental Studies will be created. *[Desk thumping]* This new subject group includes, but is not limited to Geography, Biology, Chemistry, Zoology, Geology and Sociology. However, in order to qualify for a scholarship in this group, students will be required to offer Geography as one of the principal subjects.

An Environmental Management Authority of any significance, must be staffed by environmental scientists and engineers, persons who do not only have specialized technical abilities, but have increased perspective, awareness and understanding of this field. Therefore, to have some of our brightest students enter this vital area of Environmental Science, there will be an additional two

national scholarships awarded with effect from 1998 to the first and second placed students in this new group.

In conclusion, my Government rewards excellence justly and fairly and is streamlining this drive towards the enhancement of our nation's human resources.

Thank you.

PATENTS BILL

Bill to make provision in respect of future patents and applications for patents; for the protection of inventions, to give effect to certain international conventions on patents and for connected purposes, *[The Minister of Legal Affairs];* read the first time.

MILITARY TRAINING (PROHIBITION) BILL

Bill to prohibit the training, drilling and equipping of persons with firearms, ammunition, artillery or explosives and the practice of military exercises otherwise than permitted under any written law, to increase the penalty for unlawfully wearing a police uniform and for related matters, *[The Minister of National Security]; read the first time.*

CORONERS (AMDT.) BILL

Bill to amend the Coroners Act, Chap. 6:04, *[The Attorney General]*; read the first time.

FINANCE COMMITTEE

The Attorney General (Hon. Ramesh Lawrence Maharaj) Mr. Speaker, as provided for in Standing Order 64(7), I beg to move that this House now resolve itself into finance committee for the purpose of considering the proposals for variation of the 1995 Appropriation Bill.

Question proposed.

Question put and agreed to.

Mr. Speaker: It should be noted that with the House going into finance committee, the Standing Orders do, in fact, provide that the House should be cleared of all but Members of Parliament.

10.17 a.m.: *House resolved itself into Finance Committee.*

10.30 a.m.: *House resumed.*

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. Speaker, may I report to the Chair that Finance Committee has completed its deliberations and will formally present its report to the House of Representatives on Wednesday, April 3, 1996.

On that day, it is proposed to move that the report be adopted forthwith in accordance with the provisions of Standing Order 69 (1) of this House.

ARRANGEMENT OF BUSINESS

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move that Motions Nos. 1—3 under "Government Business" be deferred to a later stage in the proceedings, and that the House proceed with the Bills under "Bills Second Reading" at this stage.

Agreed to.

JURY (AMDT.) BILL

Order for Second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move,

That a Bill to amend the Jury Act, Chap. 6:53, be now read a second time.

The Bill before the House really can be described as seeking to get legislative approval for three areas of amendment. The first relates to consequential amendments having regard to the passage, in this House, of the Supreme Court of Judicature (Amdt.) Bill which provided for special sittings of the Criminal Division.

The Bill before the House will therefore enable the number of the panel of jurors to be determined as is with the case of trials in San Fernando, Port of Spain and Tobago.

The second aspect of the amendment deals with an attempt to make trial by jury more effective and therefore prevent trials having to be stopped or aborted if the number of jurors fall below, in the cases of capital matters, 11, and in all other cases, 8.

The third area of reform is to clarify the law which permits jurors to be challenged, having regard to the practice which existed up to August 2, 1922.

Mr. Speaker, trial by jury is an important safeguard in the administration of criminal justice and it forms an integral part of the criminal justice system in Trinidad and Tobago. By this action, this Government is, in effect, giving a commitment that it is committed to having trial by jury continued.

Trial by jury in Trinidad and Tobago is governed by the Jury Act and that was passed on August 2, 1922 and over the period of time it has been subject to certain amendments. Under the Act and under the system which operates in Trinidad and Tobago, there are certain qualifications for jurors to be entitled to sit in a criminal matter. These qualifications are mentioned in section 4 of the Jury Act which states:

"(1) Every person shall be qualified to be a juror who—

(a) is over the age of eighteen years and under the age of sixty-five years;

(b) is ordinarily resident in Trinidad and Tobago;

(c) was born in Trinidad and Tobago; or, not being so born, has resided in Trinidad and Tobago for two years or more;

(d) is able to read and write the English language and understand the same when spoken; and

(e) is either—

(i) seized or possessed of freehold or leasehold interest in land of the clear annual value or seven hundred and twenty dollars; or

(ii) in occupation of a house which is rated or assessed to some general or local tax on an annual value of not less than six hundred dollars; or

(iii) in receipt beneficially of a net annual income of not less than three thousand dollars."

Mr. Speaker, as you and the House would notice from the amendment, there is the provision for alternate jurors and they would be required to have the same qualifications as common jurors or regular jurors, and it is in that context that I am reading the provisions which deal with the qualifications of a juror.

The names of jurors who are entitled to serve on any trial are compiled in a register called the Jurors Book, it is compiled by a reviser and there is a procedure for having that done and that is dealt with in section 6 of the Jury Act.

In section 7 of that Act there are certain exceptions of persons serving as jurors, and they include Members of Parliament and members of the Judiciary.

The first set of amendments I will deal with is clause 3 of the Bill. This clause attempts to give the meaning of some of the expressions which would be used having regard to the proposed amendment.

Mr. Speaker, you would notice that section 2 of the Act is proposed to be amended by clause 3 which says:

"Section 2 of the Act is amended -

(a) by renumbering the section as section 2 (1), and -

(i) by inserting in the appropriate alphabetical sequence the following new definitions:

'alternate juror' means a juror called and empanelled to sit in a criminal trial under section 21A."

Section 21 of the Jury Act which deals with the selection of jury is proposed to be amended by inserting after section 21, the following new section which is section 21A, which is dealt with in clause 6 of the Bill. May I read what is the proposal for the amendment to section 21 to include 21A?

10.40 a.m.

"21A. (1) The Court may direct that not more than twelve jurors in addition to the common jury be called and empanelled to sit as alternate jurors.

(2) Without prejudice to section 19(3) alternate jurors, in the order in which they are called, shall replace jurors who at any time during the trial become or are found to be unable or disqualified to perform their duties."

Mr. Speaker there is a proposed amendment to that to include after "trial" the words "including during the retirement of the jury to consider their verdict". So, in effect, the amendment seeks to provide for alternate jurors to take the oath, to sit to follow the case and to be available to perform the duties of a juror even up to the time a verdict is delivered.

Mr. Speaker, as the law stands, at the present time, in a murder case or a case of treason, a trial can proceed with eleven jurors. There is a requirement for there to be twelve jurors and for there to be a unanimous verdict. But the trial can proceed with eleven jurors if one of them gets ill, or is unable to participate in the trial, having started the trial. In the case of a non capital case, a trial and a verdict can proceed with eight, where normally there would be nine. A verdict can be taken with eight jurors.

If more than one juror gets ill or is unable to sit for some reason or other, in the case of a capital case, or more than one in the case of a non-capital case, the trial would have to be done afresh. It is in that context that an attempt is being made to prevent the injustice being done to an accused person facing such a trial; to prevent an injustice being done to the state when a case may have to be retried, having done probably three-fifths or four-fifths of the case, or even just before the addresses; and to prevent waste of judicial time and taxpayers' expenses this amendment is sought to provide alternate jurors so that they can be available to sit in matters where jurors become unable to participate.

Mr. Speaker, in 21A it continues:

> "(3) Alternate jurors shall be drawn in the same manner, have the same qualifications, take the same oath, and have the same functions, powers, facilities and privileges as the common jurors."

Common jurors are regarded as the regular jurors. Just for the sake of completeness, Mr. Speaker, if one looks at the notes next to section 34 of the existing Jury Act, one would see the expression "common jurors" which is the well-recognized term used for regular members of the Jury and they are referred to in *Halsbury's Laws* as "common jurors".

> "(4) An alternate juror who does not replace a common juror shall be discharged after the jury delivers its verdict.
>
> (5) In relation to alternate jurors, the prosecution and the accused in addition to the challenges permitted..."

and I shall deal with that later when dealing with the challenges.

Mr. Speaker, I come back to the definition of "alternate jurors" to be amended by having the definition section amended. I went off to show this honourable House what we were talking about and the concept of the alternate jurors.

Mr. Speaker, "special sitting" includes any special sitting required by warrant of the President to be held under section 75 of the Supreme Court of Judicature Act;" One would recall that a few weeks ago in this House that Bill was approved by the Senate and it is now assented so there is the provision for special sittings of the courts to be held in a manner described in that Act as amended and what this amendment does, in effect, is to provide for alternate jurors and jurors to sit at special sittings.

Mr. Speaker, in section 2 of the existing Act one would see:

"'Jury Sessions' Includes—

(a) any Criminal Sessions; and

(b) any other Jury Sessions appointed by the Supreme Court by general order or otherwise;"

The amendment in clause 3(a)(ii) reads:

"by deleting paragraph (a) of the definition of "Jury Sessions" and substituting the following:

(a) any Criminal Sessions including any special sittings;"

Mr. Speaker, that again, is to bring it in line with the amendment of the Supreme Court of Judicature Act.

Mr. Speaker, in order to make it quite clear what this Act means when there is a reference to "jury" there is a proposed amendment to add the following subsection as mentioned in clause 3(b):

"(2) In this Act a reference to jury except where the context otherwise requires, includes a reference to a jury comprising in whole or in part alternate jurors."

Mr. Speaker, clause 4 of the Bill is an attempt to amend section 15(3) of the Act which deals with the precept for the return of jurors. What is attempted in section 15 is to add the following new paragraphs:

"(d) in any place not referred to in paragraphs (a), (b) or (c), prescribed under section 74 of the Supreme Court of Judicature Act, the names of not less than twenty-five persons;"

Mr. Speaker, there is a minimum number of members of a jury. You will recall that under the Supreme Court of Judicature (Amdt.) Bill, the Chief Justice

can designate other places apart from San Fernando, Tobago or Port of Spain, where there can be sittings of the High Court in the criminal jurisdictions and then by section 75 a warrant is issued by the President. So what this is saying "in any place not referred to" or any place which is not referred to specifically, the names of not less than twenty-five persons shall comprise the jury panel. What it is saying also:

"(e) at a special sitting, the names of not less than seventy-five persons."

Mr. Speaker, I want to make it quite clear. It is not less than a certain amount. There can be more but there must be a minimum, "not less than" twenty-five, and in the case of a special sitting "not less than" seventy-five persons.

Mr. Speaker, one would recognize that it depends on the number of accused persons in a trial which accounts for the minimum number of persons required in any particular trial. Special sittings, therefore, would cover some cases having regard to the length of the trial and the number of accused persons. That accounts for one being "not less than twenty-five" and the other being "not less than seventy-five" persons.

Mr. Speaker, clause 5 of the Bill is another consequential amendment since it merely purports to delete the word "San Fernando" and substitute the words "San Fernando and any other place referred to in section 15(3)(d), and at any special sitting." I had dealt with part of clause 6 and the other aspect of clause 21A, which is the one that I read already dealing with "alternate jurors".

10.50 a.m.

The other aspect has to deal with challenge to jurors. It is a common feature of a criminal trial by jury for both the prosecution and the accused to have certain rights to challenge jurors. There used to be a situation where one could have challenged the entire array of the jurors which was referred to as "the challenge to array"—that would be the whole panel of jurors. It would seem that by section 23 of the Jury Act which states that:

"No challenge to the array shall be allowed; but, in any trial on indictment, every person arraigned, whether for treason or indictable offence, shall be allowed to challenge three of the jurors by way of peremptory challenge and without being subject to assign any reason therefor; but every peremptory challenge beyond that number shall be entirely void."

One could not have a challenge to the array and that in any event there shall be allowed three of the challenges without assigning any particular reason and any extra challenge would have been void in respect of those challenges without cause. It says that

> "...in like manner the Director of Public Prosecutions or any counsel appearing for the Director of Public Prosecutions may, without cause assigned, challenge three jurors if one person is arraigned, and six if two are arraigned together, and so forth, being three without cause assigned for every person arraigned, and every further such peremptory challenge shall be void. The challenge to the polls for cause shall be allowed without stint either on the part of the prosecution or defence, and any matter which, on the commencement of this Act (that is, the 2nd August 1922), would be good cause of challenge to the polls shall be a good cause, and if any such cause of challenge is alleged, the Judge shall forthwith enquire as to the truth or validity thereof and allow or overrule the same as he may deem just."

Mr. Speaker, I know that you would know better, but for the purposes of the record, a "challenge to the polls" is really a challenge to the individual juror. What this section is saying is that there are certain challenges that could be done without cause or without reasons being advanced, and it specifies the matters and how it could be done.

What clause 21(a) attempts to do is to link alternate jurors to common jurors in respect of the matter and also, in respect of clarifying and specifying exactly what the position was before 1922. Clause 21(A) says:

> (5) In relation to alternate jurors, the prosecution and three accused in addition to the challenges permitted under section 23 shall be entitled as follows:
>
> (a) where one person is indicted, each shall be entitled to one peremptory challenge; and
>
> (b) where two or more persons are jointly indicted -
>
> (i) each shall be entitled to not more than one peremptory challenge; and
>
> (ii) the prosecutor shall be entitled to one peremptory challenge in respect of each person charged."

So, that is really specifying what was already permitted. Section 23 of the Act is being repealed and a new section 23 is being sought in order to further clarify the position. Clause 23 says:

"Wherever a jury is being empanelled-

(a) every person charged may peremptorily and without assigning cause challenge up to three jurors; and

(b) the prosecutor may peremptorily and without assigning cause challenge up to three jurors in respect of each person charged."

Then there is "Challenge for cause":

"23A(1) The prosecutor and the accused shall be entitled to any number of challenges on any of the following grounds:

(a) that any juror's name does not appear in the Jurors Book, save that no misnomer or misdescription in the Jurors Book shall be a ground of challenge, if it appears to the Court that the description given in the Jurors Book sufficiently designates the person referred to;

(b) that any juror is not indifferent between the State and the accused;"

Mr. Speaker, what that really means is bias against either the state or the accused.

"(c) that any juror has been convicted of any offence for which he is sentenced to death or to any term of imprisonment with hard labour exceeding one year;

(d) that any juror is disqualified as an alien;

(e) that any juror cannot speak, read, write and understand the English language; or

(f) that any juror was returned to serve as a juryman contrary to the provisions of this Act relating to the summoning of jurors."

In order to appreciate this, if one looks at section 18 of the Act,

"(1) No person residing within the Counties of Victoria, St. Patrick, Nariva and Mayaro or within the Wards of Couva and Monsterrat

in the County of Caroni shall be summoned to serve on a common jury in Port-of-Spain, and no one except persons residing in the Counties of Victoria, St. Patrick, Nariva and Mayaro or in the Wards of Couva and Monsterrat in the County of Caroni shall be summoned to serve on a common jury in San Fernando; but this exemption shall not apply to any trial by a special jury.

(2) No one except persons residing in Tobago shall be summoned to serve on a jury in Tobago, nor shall any person residing in Tobago be summoned to serve on a jury outside Tobago.

(3) In making panels of jurors, the Marshal shall not place any juror on the panel a second time, until all the jurors have been placed once on the panel, and the Marshal shall make up the panels so that all jurors shall be summoned equally.

(4) A Judge may exempt or discharge any juror or jurors from service during the whole or any part of a Criminal Sessions provided there remains available in each court a panel of not less than 30 jurors in respect of Sessions in Port-of-Spain and San Fernando and of not less than 20 jurors in respect of Sessions in Tobago and a Judge may exempt from further service for a period not exceeding four years jurors who at any sessions have been engaged in a prolonged or difficult trial."

This clause permits challenge when section 18 of the Jury Act is not being complied with or if there are jurors from Tobago in Port of Spain and vice versa or if, for example, a judge has made an order under section 18(4) that can be the subject of challenge. That is what is meant by if any juror is "returned to serve as a juryman contrary to the provisions of this Act relating to summoning of jurors".

11.00 a.m.

It continues:

(2) “No ground of challenge other than those mentioned in subsection (1) shall be allowed.”

One recognizes that there cannot be challenges *ad infinitum* otherwise we will never get on with the trial. Therefore, it is an attempt to specify and clarify the position with respect to the law.

Clause 23B states:

> "Every challenge shall be tried by the judge, and there shall be no appeal from his decision."

I want to make it quite clear that what we are trying here has already happened, in that when there is a trial, a challenge to a juror and a ruling, there is no appeal in an interlocutory matter in a criminal case. One can see the possibility of situations where that can be done and the issue will have to be determined whether the law leaves it open for such an appeal. One can appreciate that if that is permitted, then the whole criminal trial and the criminal justice system can be stagnated. We are saying that there can be no appeals from that decision. I want to make it clear that if there is a ruling by the judge and the person is convicted, then that point under the normal law can be taken as part of the substantive appeal, so that it can be challenged on the hearing of the substantive appeal if there is a conviction.

Clause 8 of the Bill is an attempt to enable a judge to supervise communication between a juror and a person not connected with the trial such as a spouse in relation to pressing matters. If I may explain it in this way. If a trial by jury is being had, a jury is sequestered, and a husband on that jury wants to talk to his wife—obviously who is not serving on the jury—about their child who got ill and probably has to go abroad for medical treatment, if that conversation takes place, the trial can be declared a nullity. On that basis, because of the manner in which the law is drafted and interpreted, it can mean that there was the risk of contamination by the jury.

Section 26 (1) of the Jury Act states:

> "When the jury have been once sworn to try any cause, the jurors shall not be discharged, except in cases of evident necessity, nor allowed to separate or hold communication with other persons, until they have given in their verdict; but upon the trial of any person for any offence the Judge may, if he thinks fit, at any time before the jury consider their verdict, permit the jury to separate and go at large."

The judge has the power to permit the jury to separate and go at large but in any case where he decides not to have them separated and go at large, and there is any communication despite what it is about, it is open for the trial to be declared a nullity. As a matter of fact, there have been instances in Trinidad and Tobago, and recently, where the Court of Appeal had to rule on such a point. If I may say

so, I was on the other side at that time and the point was taken that section 26 of the Jury Act did not permit such communication. A retrial was ordered in that matter.

Clause 8 of this Bill gives the judge a discretion to have supervised communication and a report done on this communication so that it can be available to the prosecution and defence for when the exigencies or sufficient cause has been shown. That is why we have put it in this way.

Section 26 (3) of the Act is amended by adding after the words "or his deputy" the following:

> "so however, that where the exigencies of such sufficient cause so require the judge may allow such supervised communication with other persons (not relating to the trail) as he considers fit and proper, and where appropriate the judge at any time during the trial may require the report on oath of the Marshal thereon."

Such communication will take place at most times in the presence of the defence lawyer and the prosecuting lawyer with the marshal. In any event, it is a discretion given to the judge and he decides how he would exercise it in the interest of justice.

This Bill attempts to make better provisions for trial by jury and to ensure that it is administered fairly and that there can be no prejudice to the state or the accused as a result of matters which can occur. Times have changed. One knows that in years gone by one could have safely said that a criminal trial would probably finish in two or three weeks, three months and four months. The question arises that where there are jurors whether 12 or 9, there is always the likelihood that jurors can get ill or may even die during that period of time. It is a way of providing a basis for the trial to continue so that the criminal justice system would not be subverted in any way.

I beg to move.

Question proposed.

Mrs. Camille Robinson-Regis *(Arouca South):* Mr. Speaker, I am very concerned about what has taken place this morning. We heard the Member for Couva South who piloted this Bill read the amendments which are being made to sections of the existing Jury Act and yet we do not know why these amendments

are necessary, particularly the one which seeks to introduce a system of alternate jurors.

It seems as though the Member for Couva South, the hon. Attorney General may be desirous of returning to his original profession as a criminal lawyer. He has constantly been referring to you as, My Lord, and I am wondering if—

Mr. Speaker: I am not wearing the gown this morning and that may help. I am sorry about that.

Mrs. C. Robinson-Regis: I will say that you are still recognizable as the Speaker of the House of Representatives.

I will continue by saying that I do not know if the article which appeared in the newspapers today requesting the return of the Member for Siparia as the Attorney General has bothered him, so in his subconscious, he has returned to perhaps where he feels more comfortable.

11.10 a.m.

We saw today a situation where the Member for Couva South appeared not even to be convinced of the necessity for this amendment. He said nothing which convinced him or which, indeed, convinced us that this amendment is necessary.

We are aware that the system of alternate jurors is one which exists in the United States jurisdiction. It is not part of the normal Commonwealth system. That leaves me to wonder whether the Member for Couva South is suffering from what has been termed "O. J. Simpsonitis". It was in that case that we saw the type of jurisprudence, that is the American criminal jury system, being brought to the fore by television reports. That is where the system of alternate jurors was made quite clear to all of us who followed that case. I am wondering what is the necessity for a system of alternate jurors in Trinidad and Tobago.

I had hoped that there would have been some discourse on the justification for introducing into our jurisprudence the United States system of alternate jurors. I sat here this morning and saw no justification from the Member for Couva South, who has piloted this Bill, indicating the necessity for a system of alternate jurors in Trinidad and Tobago. Apart from this, even if a system of alternate jurors is to be introduced, why 12? Why not four or six alternate jurors? Where is the empirical evidence which suggests that we need alternate jurors? If we do need that system, where is the empirical evidence which suggests the number of alternate jurors we should in fact have? Where is the evidence that there has been

an overwhelming number of cases that have had to be aborted because the number of jurors fell below the number that existed in the Act—11 for murder and treason and eight for other criminal matters? Where is the evidence which suggests that cases have had to be aborted or abandoned because the number of jurors has fallen and consequently there is a crying need for a system of alternate jurors to be introduced into our jurisprudence?

We have had no statistical verification of the need for a system of alternate jurors. Failing that, it is difficult to see why this amendment has been introduced into our system of jurisprudence. This situation of coming to the Parliament with legislation which appears to be in a vacuum and which appears not to take our society into consideration, is something which we must look at very carefully and cautiously. The question must be asked again: What is the comprehensive plan of action of this Government as it relates to crime, legislative action to deal with crime and the system of the administration of justice? Where is this plan? Even if it is still on the drawing board, let us know where the pieces of legislation that are being brought to the Parliament fit into that broader plan of action.

We know that once there is a serious problem in any country, the Government must submit to the country its plan of action. Indeed, we do have a problem with an increase in serious crimes. We have heard otherwise from the Member for Couva South, but reports which have been made to the general populace suggest that there has been at least a 10 per cent increase in serious crimes in Trinidad and Tobago over the three-month period starting January to March, 1996.

Several questions kept gnawing at my mind as I went through this proposed amendment in relation to the existing piece of legislation. Why was this Bill given such priority? A statement which was made by the Member for Couva North had me a little concerned. The statement suggested that the necessity for the amendment, particularly the amendment dealing with alternate jurors, was the possibility that a juror might be killed. That brought to mind the situation involving the killing of witnesses. We have not seen any evidence either prior to this amendment, or today, which suggests that there has been a situation where jurors have been killed in this country. I am not saying that a government should only bring legislation because a situation exists. A government may bring anticipatory legislation. However, this must be in the context of what is happening in our jurisdiction.

We have not had the experience and I am wondering about the statement made by the Member for Couva North. It is a serious statement and must not be taken lightly with respect to the legislation before this honourable House.

11.20 a.m.

We have been told that the Bill before the House seeks to amend certain aspects of the existing Jury Act. Additionally, it seeks to introduce a new type of jurisprudence into our existing system. I am of the view that if the Jury Act is being amended there should be a holistic approach to the amendment of that Jury Act. We should not just pluck out certain aspects of the Act and seek to amend them. If it is being amended at all, it should be amended in such a way so that all discrepancies which now exist are dealt with when the amendment comes before the Parliament.

Mr. Speaker, I would like to indicate to you why I have raised that particular concern. Section 4(1)(e) of the existing Act indicates how someone becomes qualified to be a juror. It states:

> " (i) seized or possessed of freehold or leasehold interest in land of the clear annual value of seven hundred and twenty dollars; or
>
> (ii) in occupation of a house which is rated...not less than six hundred dollars; or
>
> (iii) in receipt...of a net annual income of not less than three thousand dollars."

Further, subsection (2) states:

> "Notwithstanding subsection (1), a married woman shall be qualified to be a juror if—
>
> (a) her husband is qualified to be juror; and
>
> (b) she possesses the qualifications specified in subsection (1)(a) and (d)."

In addition to that, section 22 of the existing Act indicates that a judge may determine the composition of a jury and may exempt women from service.

I have a particular concern with regard to these two sections. If we are saying that women in this country must be treated equally, why does this distinction still exist and why is there a situation where women may be exempt from serving on a

particular jury. I am of the view that if the legislation is being amended these issues must also be taken into consideration. These sections are definitely discriminatory against women. It may be that given the history of those on the other side with regard to their dealings with women, they may not have seen this as being necessary. If the Jury Act is being amended there should be a holistic approach. Women should not continue to be discriminated against.

It is true, that it is stated that there should be in the Jurors Book an attempt to make an equal number of women as there are men, but these sections indicate a discriminatory attitude towards women, and consequently, the Jury Act is before us for amendment and these sections should have been taken into account when the Member for Couva South was seeking to amend the Act.

We also have a situation existing where, already, the pool of jurors is relatively small because of the number of persons who are exempted from being jurors. Section 7 of the Act lists a large number of persons who are accepted including the spouses of these persons. It ranges from Members of Parliament, judges, members of the Medical Board in actual practice, members of the Defence Force, persons registered under the Medical Board Act, members of the air crew of any company; the list is long and myriad, Mr. Speaker. The pool is already quite small when it comes to the number of persons from whom we could choose jurors.

In addition to that, a number of persons who are, in fact, on the list of jurors present excuses—which in several instances are accepted—to prevent them from serving as a juror, so the pool continues to shrink. In a situation such as this where the pool is small, we are being asked to amend the Jury Act in such a way that there will also be the necessity for having 12 alternate jurors. Apart from the 12 who are empanelled for a particular case, there are 12 who will be alternate jurors and who must sit throughout the duration of the case. At any one time there may be 24 persons sitting on a particular case and I reiterate that the pool is already small.

I, therefore, have concerns as to whether our society can, in fact, uphold a system of jurors and alternate jurors of that number. I think we should be given some indication of statistical evidence to show, given the size of the pool and the fact that people do get excused from jury service, what would happen when we have a situation of jurors and alternate jurors.

11.30 a.m.

Mr. Speaker, we have heard about the system of challenges, a system which is not new to our jurisprudence at all. Indeed, section 23 of the existing Act indicates what types of challenges can exist, how a peremptory challenge arises, how a challenge for cause arises and the number that is in fact allowed.

When the issue of challenges arises, the question that is asked is; whether there is a possibility that through the system of challenges, a jury can be skewed in a particular way? A jury is intended to be representative of the entire community, but through the system of challenges, there is always the possibility that a jury can be skewed in a particular way either for the state or for the defendant. I am not advocating that the system of challenges should be abolished, but I am saying that we must be careful in ensuring that the system of challenges is in no way abused.

In addition to that, I am asking the question whether there is a system that exists now for vetting jurors? Are the police allowed to vet jurors? Because, if the qualifications are, as they are now, and we have the random choosing from the pool of jurors that exist, I would like to know if there is a system of introducing police vetting of jurors who may be asked to serve in particular matters. If this system exists, or if it is introduced, there will be the necessity for ensuring that the public is aware of the criteria that is used for vetting of persons who may serve as jurors. It may not be that the system of vetting is included in legislation, but if it is in existence, or if it is to be introduced, then a system of secret vetting must not be established.

Vetting in itself ensures that the panel does not include any disqualified person, and it should ensure that persons are not excluded because of issues such as political beliefs, or matters which may not in any way affect the person's ability to serve as a juror. The issue about which I am concerned, is if there is a system of challenges, peremptory, and for cause, there may be the need for a system of proper vetting of jurors before they are even listed in the Jurors Book.

I would like to raise some other issues which are of concern. There is definitely going to be a cost to the introduction of this system of alternate jurors. If, at present, our courts are structured in such a way to allow 12 persons to sit in a trial for murder or treason, if we are to have alternate jurors, it may mean that the structure of the courts may have to be adjusted in such a way as to allow for all those persons, the jurors and the alternate jurors to be able to sit in the court at

the same time. I would like to know whether this situation has been taken into consideration, and whether the cost of restructuring the courtroom has been taken into account?

Mr. Speaker, there is also going to be a situation of increase in cost of service to jurors. Persons who have been chosen to serve on a jury have to be served by marshals of the court with a document indicating that their names will be coming up to be chosen as jurors. Is there going to be an increase in cost as it relates to service to persons in our community who have to serve on a jury?

With regard to the number of persons who now have to be supervised by marshals and registrars, is there going to be a need for an increase in the number of marshals which we now have in the court? Will it be necessary for more persons to be employed in the position of marshal? Or is it going to be a situation where one or two marshals are used for a jury of 12 and the same two marshals are used for that jury and the alternate jurors? What is the situation going to be, with regard to possible necessity for the number of marshals being increased?

Our legislation allows for jurors to be compensated for the time they have spent serving as jurors, for travelling and for loss of earnings. Clearly, if alternate jurors are to sit, they will also have to be compensated similarly. We have not heard anything about those cost implications.

11.40 a.m.

Mr. Speaker, it is necessary for us to understand exactly how this system is to work in all the areas that it touches, and cost is a very important factor in determining whether this system will, in fact, work.

Clause 7 of the amendment which is before the House indicates at 23A. (1) (e) that any juror who cannot speak, read, write and understand the English language can be challenged for that particular cause.

Clause 7 of the amendments indicate what are the reasons for challenge for cause, and I am asking whether at section 23A. (1) (e) there may be the necessity for including any juror who cannot speak, hear, read, write and understand the English language. There may be situations where a juror has met all the other qualifications but he cannot hear. Can he be a juror? I am suggesting that we may need to include the word “hear” after the word “speak” in section 23A. (1) (e).

Mr. Speaker, there is also clause 8 in the amendments which will allow for communication to take place between a juror and another person once the judge

has agreed to the communication taking place and once this communication is supervised.

I have some concern with regard to the level of supervision. I am not suggesting for one moment that necessarily levels of supervision should be put into the Bill which is before the House, but I am saying that there must be some element to ensure that the security of jurors is maintained at all times. And, if a juror is going to be allowed to have supervised communication, of what is this supervision going to consist? Is the marshal to sit in the same room with the juror and the person to whom he is speaking? Is the conversation to be recorded and then evidence of it brought to the judge? The question must be asked: what is the extent of the supervision that is being suggested by this particular amendment? We must be quite sure that if communication is going to be allowed, there exists a system which ensures that the supervision of this communication can be done effectively.

Mr. Speaker, although the original Act indicates that there can be sequestration of jurors, we are aware that there has not been any sequestration since two particular cases were appealed before our Court of Appeal. These cases are: the Bunny Bran versus the state; and Raffique Mohammed, Imran Ali, Roger Huggins, Ali Mohammed versus the state. Interestingly enough, in both these cases the Member for Couva South was one of the attorneys in the matter before the Appeal Court.

The implications which come from these cases are that certain issues relating to how a jury is to be sequestered were brought to the attention of the Court of Appeal and the argument was that because there was some irregularity with regard to the state's treatment of the sequestered jurors, it resulted in the defendants being allowed to have their appeal agreed to.

One issue which strikes particularly is in the case where a sequestered jury was taken to Tobago over the Easter holidays and it was argued by Defence Counsel that the state had "wined and dined" the jury and, consequently, it had perhaps interfered with the jury in the largest sense. I am just synopsizing, condensing what was argued. Having gone to Tobago, the argument was, that they were given special treatment by the state and, consequently, the jury may have been influenced to give a verdict in favour of the state.

I am not here to question the Appeal Court's justices on their decision, but the question must be asked: If a jury is sequestered and it is on a matter involving a

murder in the country of Trinidad and Tobago, is it wrong for that jury to be moved under proper security to a location in Tobago? Our country still remains the state of Trinidad and Tobago.

Hon. Member: Unitary.

Mrs. C. Robinson-Regis: As my colleague tells me, the unitary state of Trinidad and Tobago. Even though it seems as though Tobago is now being taken for granted, it is still an integral part of the state of Trinidad and Tobago.

Mr. Sudama: Taken for granted by whom?

Mrs. C. Robinson-Regis: Mr. Speaker, the question must be raised: How are administrative polices going to be put in place in light of this particular judgment?

11.50 a.m.

The issue of sequestration of juries must be dealt with in order to ensure that a sequestered jury cannot, in fact, be tampered with. Granted there has been no sequestration for several years, but there is the possibility that juries will have to be sequestered at some time in the future, and there may be the necessity, perhaps, administratively to give guidelines as to what sequestration entails and what type of security is necessary for ensuring that a sequestered jury is not tampered with in any way. *[Interruption]*

Mr. Speaker, it must be borne in mind that once a system of alternate jurors is put in place, those alternate jurors will also have to be sequestered and that situation must be made clear with regard to administrative problems which may occur with regard to sequestration, and what is the Government's intention with regard to ensuring that a sequestered jury is not open to being tampered with.

Mr. Speaker, my main concerns therefore are: Is this piece of legislation necessary? I maintain that the Member for Couva South, who piloted the Bill did not indicate to me, and indeed, did not convince me that this piece of legislation was necessary. Will the administrative issues which may arise, given this change in our jury system, be ironed out so that this piece of legislation will, in fact, be implementable? Mr. Speaker, the other questions that arise: if we are amending the Jury Act, should the Act not be looked at in its entirety to ensure that all aspects of it that need amending are taken into account when an amendment is brought before this honourable House?

The other issue which is of concern to me, Mr. Speaker, is that the jury system continues to ensure that there should not be any arbitrariness when cases which have to be tried by judge and jury come before our courts. We want to ensure that if twelve persons have been chosen to form a jury and there are persons who will sit as alternate jurors, a system will not develop where members of the original jury are tampered with deliberately to ensure that persons, who sit as alternate jurors and are more in favour of any particular defendant, are not brought into the system through tampering with the original jurors. Because if a juror has to be dismissed the alternate juror will sit in his place, and that opens up the possibility that the original jurors can be interfered with because alternate jurors are more in favour of a particular defendant. This is just a possibility, Mr. Speaker.

Mr. Speaker: Hon. Members, I wish to point out that the speaking time of the hon. Member has expired.

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

Question put and agreed to.

Mrs. C. Robinson-Regis: Thank you, Mr. Speaker, thank you Members.

Mr. Speaker, we have been making every effort to see what is the necessity for this piece of legislation and, indeed, what is the plan of action for this Government as it seeks to deal with crime, the judicial system, and improvement to the system of justice in Trinidad and Tobago. Any piece of legislation which comes to this House without a proper basis, or a basis that has not been explained clearly when the legislation is presented, leaves us on this side with some concerns, and those concerns are born out of the fact that this particular administration, thus far, has exhibited a tendency to say certain things and yet we are not seeing the commensurate action. That is why I have a concern as to whether this Bill will, in fact, be implementable.

Mr. Speaker, let me give examples of why I am saying I have concerns about this Bill being implementable and about things being said and commensurate action not following. After the death of a state witness we heard, with great fanfare, that the FBI was being brought into Trinidad and Tobago. We also heard that persons were being held for questioning and so forth, Mr. Speaker. Yet we have not heard what is the present situation today as exists with regard to the investigations into the Clint Huggins murder. We also heard that there has been

NIB cheque fraud and the minister under whose portfolio that institution falls indicated that there would be an arrest "soon". I know that "soon" is a subjective term, but we have heard nothing further about that situation, Mr. Speaker.

Mr. Speaker, we heard that the Member for Couva South had been threatened. Have those threats subsided? Is he still living in fear, Mr. Speaker? What is the situation? Despite anything else, he is still our Attorney General and we want to ensure that he is always with us *[Laughter]* and in safe keeping. Have those threats subsided, Mr. Speaker?

We are concerned that this Bill may not be implementable and also that there may, in fact, be no clear necessity for this system being introduced into our jurisprudence. I await the Members on the other side who will be talking subsequently and may be able to convince me otherwise.

Mr. Speaker, I thank you. *[Desk thumping]*

12.00 noon

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I join the debate in support of the Bill before this House and whilst I thank the hon. Member for Arouca South for the concerns she raised, and the comments made, I do wonder time and again as I hear comments coming from the other side that the Government of this day is bringing legislation that appears to be in a vacuum, what is the comprehensive plan of action of this Government as it relates to crime, and repeatedly, that Government must submit a comprehensive plan with a holistic approach.

Mr. Speaker, I am sure there are many others who would join with me in asking, first of all: Did the PNM submit a crime plan? And, secondly: Did that crime plan work? Thirdly, I beg to differ with the Member for Arouca South when she said that the legislation is being brought in a vacuum. It is very clear that the pieces of legislation that have been brought to this House since this administration is in Government, are very clear as they sought to deal with—and we have said it repeatedly—the administration of justice in this country and, particularly, there have been pieces of legislation dealing with the betterment of the criminal justice system.

We have done several pieces of legislation and I fail to see how the Member for Arouca South still cannot see in what context the legislation is being brought. When the Member said that serious crimes have increased, one really has to ask

whether she was reading and interpreting in two different ways—reading one thing and interpreting something else.

Mr. Speaker, I have with me the *Daily Express* of March 30, 1996, page 3, where the Commissioner of Police says "Crime on the Rise" and the article states:

> "Overall, there has been a slight increase in crime for this year, said Commissioner of Police Jules Bernard yesterday.
>
> Nevertheless, Bernard...said that the first three months of this year there have been 25 murders, as opposed to the 32 committed in January—March 1995. Furthermore, indecent behaviour, narcotics and some other serious crimes were also lower this year."

So, Mr. Speaker, in my respectful view and with the greatest of respect to my Friend, it is not true to say that serious crimes have increased for this period because the statistics are clearly there. If my Friend wants to say that, she would have to do far more in terms of the statistics. She did not quote any statistics to this honourable House but merely made the blanket statement that serious crimes had increased. I would ask the Member to look at the *Newsday* of Saturday, March 30, 1996 at page 7, where, again, the Commissioner of Police is noting that

> "...despite the perception by members of the public, the murder rate had decreased, and so too indecent behaviour and narcotic offences."

So, when my Friend speaks of serious offences and crimes, she would need to do more than give a blanket statement because the statistics are very clear that murder and narcotics figures are definitely lower.

Mr. Speaker: Hon. Members, I think it is obvious to all of us that we are becoming a little more restless than we have been for the morning and I am simply trying to indicate that this is not fair to the Members who may be speaking. *[Interruption]* At least one could do the Speaker the honour of listening while he is speaking. I am simply appealing to you to continue as we have been doing for the morning and hear the Members in silence. Thank you.

Hon. K. Persad-Bissessar: Thank you, Mr. Speaker.

Mr. Speaker, I was making the point that in my respectful view, it is not true to say that serious crimes have increased, having regard to the statements as

contained in the *Newsday* of March 30, on page 7, which I quoted for this honourable House, and in the *Daily Express* of March 30, 1996, on page 3.

The hon. Member for Arouca South also made references to the whole question of equality of women. I, and many of us on this side, have always stood up and defended, as it were, equality of women. We have no quarrel with that and we thank the Member for her concern. When she said that if the law is to be amended, that that amendment must not be discriminatory, and that the amendment must take into account, as you said, a holistic approach to deal with what the Member felt was a discriminatory section within the Jury Act.

Mr. Speaker, again, with the greatest respect to the Member, I wonder if she read but interpreted differently. If one looks at section 4 of the Jury Act one would see the qualifications of a person who could be a juror, it is very clear that:

"Every person...

and "person" obviously includes man and woman—

"...shall be qualified to be a juror who—

(a) is over the age of eighteen years and under the age sixty-five years;

(b) is ordinarily a resident of Trinidad and Tobago;

(c) was born in Trinidad and Tobago; or, not being so born, has resided in Trinidad and Tobago for two years or more;

(d) is able to read and write the English language and understand the same when spoken; and

(e) is either—

(i) seized or possessed of freehold or leasehold interest in land of the clear annual value of seven hundred and twenty dollars; or

(ii) in occupation of a house which is rated or assessed to some general or local tax as an annual value of not less than six hundred dollars; or

(iii) in receipt beneficially of net annual income of not less than three thousand dollars.

So that a person, be it man or woman, is subject to the same qualifications as in section 4(1). Where there is a difference, is when one looks at section 4(2). Again, with the greatest of respect, I fail to see how this is discriminatory. It seems to me that in a sense, it gives a married women an advantage over other persons, be it a man or an unmarried woman. Section 4(2) says:

> "Notwithstanding subsection (1), a married woman shall be qualified to be a juror if—
>
> (a) her husband is qualified to be a juror; and
>
> (b) she possesses the qualification specified in subsection 1(a) and (d)"

Mr. Speaker, section 4(1)(a) states clearly that the person—this is the married woman—must be over the age of 18 years, which is a basic requirement for anyone to sit as a juror and (d), that that married woman is able to read and write the English language, which again, is a basic requirement for any person. So, I fail to see how section 4 is discriminatory in any way towards the fairer sex of this nation. I fail to see it.

12.10 p.m.

She quoted section 22 as also being discriminatory and said we should have looked at it and dealt with discrimination there. Again, I beg to differ with her. I see no reason why as women when we stand and say in terms of gender issues that we must be equal, there must be equality of treatment and there must be no discrimination on the basis of gender. As women, we must also recognize that the good Lord has made us different. Whilst we are equal, there are differences between the sexes. A purely gender issue to say that there must be strict equality cannot be. There must be equality but at the same time, we must recognize our differences.

This is why section 22 of the Jury Act, far from discriminating against the woman allows her to make an application to be exempt. It gives her that right to be exempt in a particular case by reason of the nature of the evidence likely to be given in that particular case. She is not exempted because she is thrown out, but because she makes the application that she should be exempted. If that application is granted, then she has the right not to listen to evidence if she so chooses. Again, I say that gender equality must not be and must never be taken to mean that we are all the same. I think all our colleagues would agree that we are happy

for the differences between the two genders. That difference must be accounted for. Section 22 makes provision for that difference and that woman can make an application to be exempted from jury service. With respect to the comments and the concerns she has raised and the question of discrimination, I fail to see how that is embodied in the particular Jury Act.

My Friend had also adverted to concerns with respect to 24 jurors sitting at any one time if this amendment were to become law and whether the courts can accommodate 24 members. I have to ask the hon. Member when last was she in one of the criminal courtrooms? The question as to whether the court can accommodate 24 persons really should not be asked because it is clear that it can be accommodated within the criminal assizes.

In terms of the question she raised about compensation, the number of marshals and the cost implications, I ask the hon. Member to pay particular attention to clause 21A of the Bill which deals with the proposed alternate jurors. To say that in every trial it is envisaged that there would be 24 jurors, all these marshals and cost implications is not to understand what is contained within the proposed amendment. Clause 21A (1) states:

> "The Court may direct that not more than twelve jurors in addition to the common jury be called and empanelled to sit as alternate jurors."

First of all, the court may direct. As the Member for Arouca South knows "may direct" is totally discretionary. It is within the discretion of the court depending on the circumstances of a particular trial. It is not in every criminal trial that there would be an additional 12 jurors. There may be trials which would be envisaged to last a very long time and others of a particular nature where the full 12 additional jurors may be needed. There may be trials which would not need 12 or any alternate jurors, if it is a trial that would last for a very short period of time. With alternate jurors that discretion lies in the court. That discretionary power which the judge has means that in practice and reality every criminal court would not be stacked with 24 jurors every day of the week. Further, apart from the discretion there is the question of the number, whether it would be 12 or less than 12. Again, that discretion is with the court depending on the nature of the case and the length of the peculiar circumstances of any given case. I ask the Member to pay attention to that which would clearly answer her concerns dealing with clogging of courts in terms of physical space, cost implications and the number of marshals.

Even on the question that she raised about implementation whether it is implementable. It is very amazing sometimes when we on this side have to sit and listen to those on the other side speak about what is implementable and what is not. For so long and for so many years they have failed to implement all those measures which they tell us they were aware of to deal with the administration of justice in this country in the criminal and civil justice systems.

In previous debates which I would not really go into in great details, we have mentioned that they knew all along there were difficulties in the administration of justice. They had the *Gurley Report* from 1991. They knew about the backlog and the clogging of the courts. Yet when we bring legislation in this Parliament they say that they want holistic legislation and comprehensive plans and they failed to do any of that.

We on this side have taken up that commitment and whether we bring it to this House in bits and pieces, or in lengthy Bills—I know the Member for La Brea does not like very short Bills—as the Patents Bill which consists of 145 pages, this Government is committed to dealing with the administration of justice and the criminal justice system in this country.

The Member asked about the basis for bringing such an amendment. She said that perhaps we have been carried away or the hon. Attorney General had been struck with "OJ Simpsonitis". Perhaps that would have been a fine example of a system of alternate jurors working. If we were to look at it from a purely common sense point of view, it is very clear that if there are trials that would last for a very long period of time, we must have a system of alternate jurors. Firstly, any one of us may fall ill or have a relative who may fall seriously ill at any point in time, so that we may be unable to function as that first juror and an alternate juror could be called in to play. On the pure basis of common sense, illness or bereavement, we may need to make use of alternate jurors.

There are other more equally serious cases where alternate jurors can be brought into play. If I may refer to a matter that happened in this jurisdiction in a case of a juror shopping for bribes and a third murder trial was ordered. A High Court judge had stopped a murder case, discharged the jury and ordered a new trial because it was alleged that the juror was shopping around for bribes. The trial came to an abrupt end after it was reported that one of the 12 jurors, eight men and four women had approached the family of the accused man during the weekend. Never have I heard about jurors shopping around for

bribes. It is possible in this country or in any country that there may be cases where a juror shops around for bribes, and not just shops for bribes, but may have certain biases which become apparent during the course of a trial. Alternate jurors can be brought into play in those cases.

12.20 p.m.

Mr. Speaker, it is really a waste of judicial time, a waste of people's time and a failure of the criminal justice system if each time something happens to a juror, the entire trial, which might have gone from one to three weeks, must be aborted. I ensure the hon. Member, who asked the basis for bringing such an amendment, that there can be no question that on very common sense grounds, as well as others, a system of alternate jurors is desperately needed if a trial is to continue when certain circumstances arise. We have mentioned some of those circumstances.

What we are trying to do today in this country, with respect to the amendment of the Jury Act, has been done elsewhere, and my Friend mentioned the United States. In fact, the United States is one place where the jury system has gone off like a rocket. The United States has had 120,000 jury trials, about 20 per cent of the world total. The United States is in fact one of the few places where attempts have been made to ensure that the system works administratively and does not slow down the pace. We have seen first hand how useful it is to have alternate jurors already empanelled so that if one juror becomes ill or suffers a close bereavement another juror, who has been present throughout the trial, can simply take his place. A whole new jury does not have to be empanelled and a new trial started. There are certain cases where witnesses may be intimidated or bribery attempts made and this is why this concept of the alternate jury is embodied in the US law.

In the neighbouring island of Grenada, the Jury Act was amended in 1986 for the trial of the murders of Maurice Bishop and others. This was a high profile case. It was a case where jurors were likely to have known the families of both the prosecution and defence and all sorts of opportunities for biases, prejudices and perhaps even for bribery and threats could have presented themselves. Thus, in 1986, when that very high profile trial was coming up, Grenada took the opportunity to amend its Jury Act. Section 20 of the Grenada Jury Act reads:

"(1) The Court may direct that not more than six jurors in addition to the regular jury shall be called and empanelled to sit as alternate jurors and, in

that case, they shall (in the order in which they are called) replace those jurors on the regular jury who, prior to the time it retires to consider its verdict, have become or been found to be unable to perform their duties or disqualified therefrom.

(2) An alternate juror who does not replace a juror on the regular jury shall be discharged after such jury retired to consider its verdict.

(3) Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall take the same oath, and shall have the same functions, powers, facilities and privileges, as the other jurors in this Act provided."

So, Mr. Speaker, within our own Caribbean family, steps have been taken to introduce the system of alternate jurors as a part of the criminal justice system in the Caribbean.

In the United States, in Grenada and now in Trinidad and Tobago, the system of alternate jurors is of utmost importance where there are trials that would last for a length of time and which may involve jurors knowing both witnesses of the defence and the accused. It is very important to be able to replace with an alternate juror, any juror who is, during the course of the trial, unable to continue.

The whole concept of the alternate juror is that that juror sits from the beginning of the trial, so that there is no question that he or she has missed any evidence or has not listened to the case, as any common juror would have done from the very start of the case.

There is no question in my mind, Mr. Speaker, on the basis of the comments made by the hon. Attorney General in his introduction of the Bill, that this is one which should be given the full support of this honourable House. I am not convinced by any of the arguments raised by my Friend, the Member for Arouca South, that would swear us to believe that the amendment which is before this House is not one that we should support. In fact, I did not hear the hon. Member indicate whether support would be given to the Bill or not. However, I urge the hon. Members on the other side to support this Bill as being one designed to deal with the question of the administration of justice in this country.

I thank you.

Mr. Speaker: Hon. Members, the sitting of this House is suspended for one hour and fifteen minutes for lunch.

12.26 p.m.: *Sitting suspended.*

1.50 p.m.: *Sitting resumed.*

Mr. Barendra Sinanan *(San Fernando West)*: Mr. Speaker, I sat here this morning and listened to the hon. Attorney General and I could not help coming to the conclusion that this was not one of his better days in this Parliament.

In introducing this Bill the Attorney General did not give us any substantive reasons for the introduction of this Bill. A jury is a very important component in the criminal trial. The jury is charged with the duty of arriving at the facts of the case. Not even a judge can impose his views on the facts to the jury. While a judge can direct the jury on a "not guilty" verdict, he has no such power in imposing a guilty verdict. The jury then stands, not only between the state and the accused towards the guarantee of a fair trial, but also in the unlikely event of an over-zealous judge, they can maintain the balance of fairness by their verdict.

It is against that background one must place this Bill, which, in my humble opinion, seeks to tamper and tinker with the Jury Act in a manner which does not promote the public's interest. In fact, by its proposed amendments it might well pose to be inimical to members of the public who seek to do their duty by sitting as jurors.

I will now go through the Bill clause by clause. There is a minor drafting error, in my opinion, in the Bill, I will read clause 3:

> "(ii) by deleting paragraph (a) of the definition of "Jury Sessions" and substituting the following:
>
> (a) any Criminal Sessions including any special sittings;"

I am suggesting that the word "including" be deleted and replaced by the more appropriate word "or".

The more fundamental clauses in this Bill would be 6, 7 and 8. Clause 6, according to the Explanatory Note, seeks to make provision for alternate jurors. The concept of alternate jurors is entirely foreign to our judicial system. Presently, we seem to be moving away from the British system which we followed in the past with this concept of the alternate juror. We have moved away from the Scotland Yard which is the British system to the FBI which is the American system.

There are certain matters that need to be considered when looking at the system of alternate jurors. With respect to the subsistence to the common jurors—and now the proposed alternate jurors—every so often there are complaints that after serving on a jury payments are not forthcoming. There are instances where jurors have to wait up to two years to be paid that subsistence.

The Member for Arouca South alluded to the physical accommodation in the criminal courts. This, again, is very important. If one were to visit the Hall of Justice, the criminal courts in San Fernando, and the criminal court in Tobago one would see that the accommodation would not be all that spacious, they are all quite cramped. Accommodation is very important. Where there is only one jury box, where will the alternate jurors be located during the course of a trial? Mr. Speaker, I think that space is at a premium at present.

Again, one has to look at productivity. Here it is that we want to introduce a system of alternate jurors but we have not yet been given any substantial reasons. Is it that this system of alternate jurors is, for example, for particular drug trials? If it is so, the hon. Attorney General should tell us. We would have a situation where we could have 12 more jurors sitting during the course of a trial. Here, Mr. Speaker, we are talking about a waste of productive man-hours. There people could be otherwise employed doing productive work. What is the basis for change? What investigations or what studies were carried out to show that trials are aborted or otherwise jeopardized by the failure of the common jury to continue to sit and give a verdict? The hon. Attorney General referred to one case, I am not sure whether the Members for Siparia referred to any.

The law, as it now stands, provides for the reduction of the composition of the jury by one which is stated in the Act. Session 19 provides for trial by murder and treason where the array would be 12 and for any other trial the array would be 9; it provides a reduction in the case of a trial by treason or murder by one juror so that 11 jurors can give a verdict. In the case of any other trial eight members could give a verdict. In the case of any other trial eight members could give a verdict. I think that section 28 of the existing Act further provides for the discretion by the judge to accept a verdict of seven or even six jurors.

Perhaps one could have achieved the same objective by increasing the array from 12 to perhaps 15 jurors in the case of trials for the murder or treason, and in any other criminal trial, perhaps, from nine to 12 jurors. If, during the course of a trial, a juror has to be dismissed, for whatever reason, then a corresponding responding in the array could safely go on to give that verdict.

I am not entirely convinced of the reasons for this new system of alternate jurors. Such a system may well make it possible to have the entire system of trial by jury corrupted. We have had cases where witnesses have been murdered, and it is surprising to me that so far, at least, we have not heard of any juror or his family being murdered or blackmailed to cause a sitting to give a verdict in a particular way.

2.00 p.m.

Mr. Speaker, the question of alternate jurors is perhaps more relevant where the trial or the jury deliberations take a long period. The existing Act sets out a three-hour limit after which the judge can intervene and discharge the jury, or he can ask the jury to continue sitting. In my opinion the provision is not relevant in our setting for the system of alternate jurors. The problem in our justice system so far, has nothing really to do with the jury. Perhaps, by debating this piece of legislation, we may be suggesting to criminals and giving them ideas of how to interfere in the criminal process.

If it is that we need twelve, or even four or five alternate jurors, then perhaps, other than for cause of sickness or death, then one can safely say that the entire criminal system of justice has broken down. I now turn my attention to clause 7 of the Bill which seeks to repeal clause 23 of the existing Bill. In clause 23 of the existing Bill, there is permitted a challenge to the array, that is the entire jury. The existing amendments will now seek to permit a challenge to the array so that previously one could not challenge the array, now by the removal of the existing clause 23, the question arises whether this section will now permit a challenge to the array. If it does, then the clause seems not to relate to that but more relevant to a challenge to the poll, that is, the individual jurors. The section is not clear, because the basic fundamental of a challenge to the array or even to the poll has not been grasped and articulated in the amended legislation. This, in my opinion, is just posed to confuse the proposed amendment.

I now turn to specific objections in clause 7. I get the impression that there is some confusion between the qualification section as stated in section 4 of the substantive Act and the specific challenges permitted under the proposed section 7. The new section 23A(1) states:

> "The prosecutor and the accused shall be entitled to any number of challenges on any of the following grounds:
>
> (a) that any juror's name does not appear on the Jurors Book..."

and it goes on. Here, the question arises whether the defence will have a right to inspect the jury book to facilitate an examination to see whether a juror's name does not appear. I am not sure in practice whether defence attorneys have that privilege of examining the Jurors Book. If they do not then this provision is really illusory.

Clause (b) states:

"that any juror is not indifferent between the State and the accused;"

Mr. Speaker, this is one of the most fundamental and common grounds of challenge as the law now stands. This really adds nothing to the law as it exists.

Clause (c) states:

"that any juror has been convicted of any offence for which he is sentenced to death or to any term of imprisonment with hard labour exceeding one year;"

Again, Mr. Speaker, does this mean that a duty will now rest on the prosecutor to supply the defence with information on such persons, or does the defence now have the right to seek discovery of the criminal records of any juror? If not, then this ground of challenge is valueless.

Clauses (d) and (e) and more particularly clause (e) which says:

> "that any juror cannot speak, read, write and understand the English language;"

Again, Mr. Speaker, there seems to be some conflict with the qualification provisions. This matter of a juror being unable to read, write or understand the English language should be taken care of when the list is being compiled. I suspect in practice that that does not happen. Is it that on the challenge of a juror, one would now have to do composition or comprehension tests to determine whether a juror can, in fact, read, write or spell, or understand the English language? Very often in practice, there are jurors who are not educated or versed enough to adjudicate on facts in a complicated trial, and if there is one juror on that panel who has an overwhelming personality or a command of the English language, that one juror can sway an entire jury. So one has to determine whether in challenging a juror under section 23(1) (e) what would be the procedures to be adopted.

Section 23(2) states:

"No ground of challenge other than those mentioned in subsection (1) shall be allowed."

In other words, for example, what if there is a mistake made in the compilation of a list where a person under 23 years and over 65 years of age must not serve as a juror. It is quite possible that when the list is compiled a person would be under 65 years but can be 65 years when called upon to serve. Hardly any prosecutor or defence would ask anyone his or her age. I think this absolute denial of not permitting on any ground of challenge should be modified to give the judge the discretion whether to admit any other ground of challenge.

Mr. Speaker, I now turn my attention to section 8. This section, in my opinion is objectionable as it breaches the very guarded principle of the isolation of the jury and freedom from any communication outside its members.

2.10 p.m.

I understand that there may be a case of death or sickness of jurors' relatives but that really would be a rare case and, in any event, there scarcely have been situations in Trinidad and Tobago where juries deliberate in excess of three hours. So the idea of having, albeit supervised communication, I find it is extremely dangerous to introduce this amendment. This provision may well be misused and not intended for the purpose it was put in. I am not sure what inspired the inclusion of this clause—and the Attorney General gave two examples in the case of death and sickness—but in terms of what pertains in this country, I do not think that is sufficient ground or reason to introduce this proposed amendment.

Mr. Speaker, as I said before, when I began my contribution, I get the distinct impression that the Attorney General himself is not quite convinced as to the proposed amendments, and I await his response.

Thank you.

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, I rise in support of a Bill entitled, "An Act to amend the Jury Act, Chap. 6:53".

Trial by jury is not a subject on which it is possible to say anything either novel or profound, so I can understand the predicament of my hon. colleague, the Member for San Fernando West, as he rose to make his contribution. He went

through the various provisions of the Bill and, clearly, he failed to grasp the intention of the Government in seeking to pass this legislation which seeks to clarify, integrate and also pre-emptively support the administration of justice in Trinidad and Tobago.

The Member for Arouca South, in her contribution raised the question of why 12 alternate jurors. In my research during the luncheon break, I thought that I should take some time to explain to the hon. Member why there was the emerging figure of 12. In the text, *Trial by Jury* by Sir Patrick Devlin, page 8 states:

> "When a party got 12 votes in its favour, it won. This is the origin of the trial jury. You know, there was as yet no sort of trial in the modern sense. It is also the origin of the rule that the trial jury consist of 12. It is too the reason why it is called the 'petty jury' to distinguish from the larger juries of presentment **....**
>
> Many romantic explanations ..."

And I thought this would be appropriate to the hon. Member for Arouca South.

> "... have been offered of the number 12: the 12 tribes of Israel; the 12 patriarchs and the 12 officers of Solomon recorded in the Book of Kings, and the 12 Apostles."

Mr. Manning: What does the Member know of those things?

Hon. Member: Only the Member for San Fernando East.

Hon. G. Singh: Mr. Speaker, I do not profess to be born again.

Mr. Manning: I do.

Hon. G. Singh: Mr. Speaker, there are many who profess to be born again but are, in fact, stillborn.

The hon. Member for Arouca South, in her contribution, also raised questions as to the fact that there are problems associated with the procurement of jurors and that there may be a problem with finding suitable personnel. Dr. Ramesh Deosaran in his book, *Trial by Jury - Social and Psychological Dynamics*, indicated—this statistic is a bit outdated but it is the only source available that I can lay my hands on—on page 21:

"The total number of persons presumed eligible and available for summoning by the warden's list was 9,852 for the period January 1, 1976 to June 30, 1978."

The number actually found to be eligible 18 years ago was 9,852. As our society has progressed, I am sure that the figures indicate that it is much larger today. So, the whole question of the pool of eligible jurors does not arise.

Once more, to allay the fears of the hon. Member for Arouca South as to the question of personnel, it is clear that there is sufficient personnel available in order to effect the administration of justice.

The hon. Member for San Fernando West seems unable to grasp the mechanism of the alternate juror. That is a mechanism which is already in use in the American jurisdiction. It is a mechanism which seeks to provide a larger pool from which one seeks to provide for the administration of justice and by providing for 12 alternate jurors there is the effective counterparting of a sitting jury. So that, the measure provides for the smooth functioning of the administration of justice in the criminal jurisdiction. I do not see what is the inability to comprehend this innovative mechanism, albeit it is now being applied in this jurisdiction.

Mr. Speaker, the intention of the provision of alternate jurors is long overdue in this jurisdiction. It is an attempt to pre-empt certain things which may occur. It is the kind of governance that we are providing for; pre-empting, thinking, anticipating. It is not a government of "would have", "could have" or "should have"; it is a government that is anticipatory and pre-emptive.

This Bill seeks to place the administration of justice on a proper footing. It preserves all the hallmarks of the jury system—the preservation of the independence of the juror; the preservation of the juror as an arbitrator between the state and the accused. It has all the checks and balances, and I find it highly unusual that the Opposition is taking this obstructionist course in the path of this legislation that is so clearly necessary.

Mr. Speaker, when one looks at clause 7, one sees that the prosecutor and the accused are still entitled to challenge the jurors. Therefore, there is still the preservation of that. I do not understand the Opposition. Perhaps, being a creature of Norman times, the jury system has withstood the test of time and today we are adding innovation, a new mechanism—and that is part of the problem with the Opposition. They are unable to adapt to new realities and, therefore, tied to the

structures of the old so they are unable to see beyond the old. The old tradition, we dispense with the wind and, today, we are adding alternate jurors as a mechanism for inclusion in the criminal justice system.

Mr. Speaker, I therefore have no hesitation in supporting this Bill.

2.20 p.m.

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Mr. Speaker, I am rather concerned and to some extent, put on the spot, whenever, as a Member of this honourable House I stand here, along with my colleagues, and make what are clearly sensible and solid contributions to any debate, it has become habitual on the part of the Government, led by the Member for Couva North, to go to the citizens of this country and claim that we are being obstructionist. Mr. Speaker, it does not hurt because we know it cannot be substantiated. We know full well that on every occasion the records will show—and it was on a few occasions—when the Government brought a Bill before this honourable House it was in most cases replete with errors—superficial, technical and fundamental; and on that basis we object.

The last objection we took is a matter yet unresolved to the habeus corpus legislation and we will hear more of this in the Senate and from the lawyers of this country in due course. So I want to put on record, Mr. Speaker, that whenever we, the People's National Movement and Opposition object, it is not for the sake of being obstructionist, but it is for good reason. We owe a duty to the people of Trinidad and Tobago and we will fulfil it. *[Desk thumping]*

Miss Nicholson: We object.

Mr. F. Hinds: Mr. Speaker, I cannot come to this House and support bad law and I am confident that the amendment before this House again today is a question of bad law; and I shall demonstrate that in a short moment. Mr. Speaker, just as a matter of record, we are speaking about the jury, which Lord Devlin, as was mentioned by the Member for Caroni East—and I have precious little time for his contribution. It was unfulfilling, not substantive and there is precious little that one could say about it. But he did mention a great name, Mr. Speaker, Lord Devlin, who described—and I do not wish to quote him but to paraphrase him—that the jury trial is not only a question of liberty or freedom but it is the lamp that shows that freedom lives.

Mr. Speaker, there was a time in the history of mankind in the jurisdiction that we assumed our jurisprudence from, when jurors were locked up and starved and were forced to come to a decision. If they did not, they were kept locked up and starved until they arrived at a verdict. That has changed, Mr. Speaker. Much has changed since, and much more will change, but one does not change for the sake of it. One changes when change is necessary and demonstrably so.

The Attorney General, as he proposed this amendment offered, as my colleague who spoke previously pointed out, absolutely no sociological or legal justification for this amendment.

Mr. Manning: Siparia would have done better than that!

Mr. F. Hinds: Talking about change, Mr. Speaker. The present legislation provides for challenges without reason, both on behalf of or for the prosecution and for the defence. The procedure was designed to prevent unsuitable, though eligible, jurors from serving on the jury panel.

Section 23 of the existing Act makes provision for that. The proposal is to repeal that section and to replace it by a new section 23A. Mr. Speaker, the amendment before this House also proposes alternate jurors. We have heard much about this so far. The Attorney General in his submissions in this debate indicated that where, for example, a juror is challenged for cause and the judge tries the matter, if in the event the accused is convicted, the defence team, or the defendant, or the accused can file an appeal and include his suggestion. He can include in his appeal his submissions that a member of the jury ought not to have been on the panel and the matter will be taken at that stage. Of course, the hon. Member knows that for reasons of impecuniosity persons are not able to appeal.

Mr. Manning: Language!

Mr. F. Hinds: The Member knows full well that there may not be other substantive grounds of appeal in a matter, and if this be the case, Mr. Speaker, what then happens? I pondered very carefully over the next few words—very carefully, but the longer I thought about them the more convinced I became that the Attorney General, the Member for Couva South, is behaving like a maverick. I have come to this very reasonable view, Mr. Speaker, that he, perhaps, pondered months and even years ago about being the Attorney General of Trinidad and Tobago, and he decided then, perhaps, aided by his observations of the O. J. Simpson trial, that if and when he ever became the Attorney General of Trinidad and Tobago there were things that he would do. It appears as though he simply set

out doing them with no serious concern for the implications of those developments in the context of Trinidad and Tobago.

Mr. Speaker, the Member for Arouca South described that sort of behaviour, and I liked it, as "O. J. Simpsonitis". It appears that the Attorney General and his team, including the Member for Couva North, had a good look at the system of alternate jurors in the United States by way of the O. J. Simpson trial and simply decided that it was good for Trinidad and Tobago. If this is not the case, then there must be some other good reason which they have not shared with us. All we do is ask that they tell us and tell the nation: why would you want to radically change a system that has worked particularly well for quite some time?

In fact, often times the Attorney General comes before this House and tells us that the amendment he is proposing took place in other jurisdictions, in most cases the United Kingdom. On this occasion he cannot say so. The operation of the jury system in the United Kingdom, though it has improved, remains as it always was. There is no question of alternate jurors. It seems to me, Mr. Speaker, that this is a mere intellectual exercise with no foundation or attachment to the reality of Trinidad and Tobago. As was said by previous speakers on this side, there is no suggestion, no empirical evidence to suggest the need for alternate jurors in Trinidad and Tobago, particularly when one considers the cost.

Mr. Speaker, I am fully aware that the Member for Siparia, the former Attorney General, in attempting to tidy up this mess, I am afraid, created a bit more of it. The Member pointed out correctly that the amendment proposes that the Court "may direct alternate jurors". That is quite right.

2.30 p.m.

It means, therefore, that the court is left with a discretion in its determinations as to whether it would implement a system of alternate jurors or otherwise, and so too for the amounts, depending on the matter before it, the projected time for the trial and the circumstances.

Mr. Speaker, the Member for Siparia, by way of justification, pointed out that jury members may fall ill. This is not novel. This has always happened and the courts of Trinidad and Tobago are very familiar with this. In fact, the existing legislation makes provision for that. Such, that if, for example, there is a murder trial and a member falls ill or is otherwise discharged, then the court would accept a verdict from 11 such persons.

The Member for Siparia pointed out that jury members may go—and there was some case she said—shopping around for bribes. This too, might be quite so, but this case is celebrated if only because of its rarity. This is not a common occurrence, to my knowledge, in Trinidad and Tobago.

The Member for Siparia argued that if there was apparent bias on the part of a member of the jury during the course of a trial then an alternate juror can be brought in to replace him or her. Here is where I take serious objection to those views from the Member for Siparia, the former Attorney General, who was wrongly applauded by the present Attorney General and the Member for Caroni East, who is a lawyer himself.

Mr. Speaker, there are other lawyers on the other side. The Member for Tobago East, has chosen to remain silent, and I really wonder why he remains silent in the face of all of this. I really cannot understand that and the *[Interruption]* It is hard to understand why the Member for Tobago East, a lawyer of high calibre, would remain silent in the face of all of this. Mr. Speaker, action speaks louder than words and he has supported a Government which is obviously whimsical and vaps, which has brought all kinds of hardship to bear on the people of this country. Though he remains silent his action of supporting that Government speaks louder than any words, and the people of the country are listening. They are still listening.

Mr. Speaker, my colleagues on this side spent much time analyzing the substantive elements of this amendment. As I have indicated we all want a better system of justice, and we all want a better Trinidad and Tobago.

Mr. Speaker: Hon. Members, I sense that we are beginning to get a little too restless so that the hon. Member cannot be heard properly and the *Hansard* Reporter cannot record everything that is being said at the same time.

Mr. F. Hinds: Mr. Speaker, I am entirely grateful to you.

We all want a better system of justice; we all want a better Trinidad and Tobago and we all want a better Unit Trust Corporation, but one does not change for change sake. You do not remove a good thing, something that has worked, or fire a chief executive officer, when you have an institution, perhaps the only institution, that has a track record of success in our country. It is ridiculous, but it does not surprise me—

Mr. Speaker: It is quite clear that you are not prepared to listen to the Speaker. I ask you please, could we continue as we were going this morning? I do not think the Member for San Fernando East was here this morning, but believe you me we did go extremely well this morning.

Mr. F. Hinds: Again, I am grateful to you.

Mr. Speaker, it does not surprise me that we would see an amendment such as this without good reason. This is not an exegesis in jurisprudence, but I wish to suggest that it appears as if the Member for Couva South does not understand the debate that takes place in respect of the concept of the sociology of law. I am saying that it is quite clear, and a matter of common sense—not a matter of law—that one cannot affix to a jurisdiction something that works in another jurisdiction merely for the sake of it. Law must reflect societal changes. I do not know if the Member for Couva South expects that juries would be tampered with or jurors would be killed on a large scale. The question of illness does not entirely arise because it is already dealt with in the present law.

Section 28(4), which I want to bring to the attention of the Member, through you, Mr. Speaker, dealt with the question of the discharge of the entire jury. It gives the court an opportunity to discharge an entire jury in a certain set of circumstances. Subsection 28(4) of the Act reads:

> "In cases of evident necessity, such as when a juror is taken ill during any trial, or a prisoner is by illness rendered incapable of remaining at the bar, or for other cause deemed sufficient by the Judge, the Judge may, at any time..."

And this is crucial:

> "...at any time after the jury have been sworn, discharge the jury."

This provision deals with the discharge of the entire jury. Before this amendment, section 23 deals with the question of challenges. It talks about the challenge to the polls, which, as you know has to do with the individual jurors. The amendment proposes to repeal the entire section 23 and to replace it with the provisions before us. No mention was made in a direct way about the polls, but I observe that in the Bill before us, clause 23(b) says that the prosecutor and the accused shall be entitled to any number of challenges on any of the following grounds and (b) says:

"that any juror is not indifferent between the State and the accused;"

This is a suggestion of bias.

Mr. Speaker, I am submitting that if a member of the jury is found to be bias in the United States after the jury has been sworn in, the judge in that jurisdiction obviously—and we saw it in the O. J. Simpson trial—has the authority to discharge that juror after listening to both sides. In Trinidad and Tobago to my mind, and my reading of the present legislation, the judge has no such authority. The judge, according to section 28(4) can discharge the entire jury, but to discharge an individual member of the jury after the jury has been properly sworn in is not something to my mind that is known to this jurisdiction.

2.40 p.m.

The amendment before this honourable House makes no provision to permit a judge to do that once the individual or the jury has been properly sworn in. This may be a question of an ill-thought-out amendment and a proposal which does not take into full account all the relevant aspects of the issues before us. It must be because of the whimsical and *ad hoc* approach this Government is taking.

All the legislation this Government has brought before this honourable House seems to deal with the question of swift and effective criminal justice and sentencing. Is this the Government that accused the previous administration of mismanagement; failure to do all manner of good for the people of the country and said that unemployment and social depression as it were, give rise to crime? When I look at all the amendments brought before this House, it is quite clear to me that this Government is taking the approach that the criminal must be dealt with by way of the criminal justice system, and be swift and effective in sentencing him.

It can be seen that this Government is not clear about the policy it ought to be following in dealing with crime as a whole. Before setting itself the task of dealing with the policy, I read in newspapers that four Ministers of Government are proceeding abroad to launch the Canadian arm of the UNC when they should be here doing the nation's business. I could only wonder at whose expense. Is it at the expense of the state, the taxpayers or the party?

Mr. Manning: A fete!

Mr. F. Hinds: Like all other jurisdictions, we have had incidence of jury nobbling, bribery and threats. *[Interruption]*

Mr. Speaker, I am getting talk from across the floor about drugs and killing. I feel it would be foolish for any government whatever its political persuasion to use criminal statistics in its aid to demonstrate how well it is performing. They are lies, damn lies and statistics! The truth of the matter is that whatever the statistics, people of Trinidad and Tobago are now living in fear and we all want a better Trinidad and Tobago. They always had hope and would continue to live in hope.

In a very extreme set of circumstances in the United Kingdom in Northern Ireland, we have seen a situation where the jury has been entirely removed in criminal trials. This is because of the extreme circumstances of terrorist activity. The point I am making is that when such fundamental amendments are to be made to an important aspect of the system like the jury, it must be for very good reason. In the so-called "Diplock Courts" in Northern Ireland they have removed the use of the jury altogether because terrorists were killing jury members. It was as extreme as that. I do not see anything bearing on that kind of extreme in Trinidad and Tobago. If the Government is preparing for some impending trial it should say so.

The Member for Siparia made reference to Grenada about the Maurice Bishop trial. The people of Grenada would understand that. If the Government has a particular trial in mind it should say so. It should not appear to be hiding, dodging, and bringing amendments which give no real explanation and expect us to support them blindly.

I wish to quote the words of Professor Cotterrell in his book the *Sociology of Law*. I do so with the most sincere purpose. I want to bring to the attention of the Government for future purposes that when it considers legislation for Trinidad and Tobago it must ensure that wherever it is lifting it from, it bears some relation to the social reality that is Trinidad and Tobago. Page 20 states:

> "Law grows, or should grow, out of the mores. It shades into them but is distinguished by being backed by state force. Folkways and mores change gradually as the conditions of life change but there is little scope for changing them fundamentally through any conscious acts of legislation. 'Legislation . . . has to seek standing ground on the existing mores and for legislation to be strong, must be consistent with the mores.' Thus social life has a dynamic of its own. Law, philosophy, religion and morality have no independent existence but are various reflections of that dynamic. They are deeply rooted in the processes of social development yet virtually powerless to alter them."

I am simply saying that the Government claims to be transparent. Those with eyes would know that the last thing one could expect from that Government is transparency. For the benefit of the national community, at least it can level with the people and say what it is about on this score.

You already heard from the Member for San Fernando West about his concerns about the cost, efficiency and effectiveness of this measure. You heard from the Member for Arouca South whose concern was whether this legislation could be effectively implemented.

In 1992 in a murder trial in Trinidad and Tobago a judge had reason to abort a trial. Of course trials have been aborted! In so doing he banned a female juror for three years. In the course of the trial she displayed utter bias against the case for the defence. She was steupsing all the time at questions put by the defence counsel to state witnesses. The judge in his wisdom and I think rightly so, aborted the trial and there was a re-trial. This is a very celebrated case. *[Interruption]* Mr. Speaker, you hear the Member for Couva North? As a young parliamentarian and politician I am trying to make a sensible contribution to this important debate and the Member for Couva North is imputing dishonourable motives against me. He is suggesting that I want to abort some criminal trial. I think it is very unfair, but this seems to be the new way, perhaps the usual way of the Member for Couva North. This is why we have to take seriously these matters as they come before this House. I am sadly disappointed as are many of the citizens of this country. In due course, they shall have their way.

There is more evidence as I said. That case is celebrated because of its rarity. There is no evidence that any significant number of cases has been aborted in this country for those reasons.

2.50 p.m.

It is quite true that witnesses in matters here have been murdered. Everybody knows that. It is quite true that people are running scared of giving testimonies in our courts. It is quite true that perhaps in some cases jurors are bribed, but unless more is said, I cannot see the empirical evidence to support such a fundamental change at such great cost to this country. I therefore submit and urge the Members for Couva South, Couva North, Siparia, Caroni East and Tobago East, whom I recognize are the lawyers on the other side, to consider that this lift from the United States requires more to be implemented in Trinidad and Tobago. If it does not already exist, some amendment must be made to permit a judge—and I

made my submissions on this—after a jury has been sworn in, to remove individual members. If this is not possible, and if this amendment does not make provision for that, then even if a member dies and goes beyond the limit that the Act already caters for, the system that the Government is attempting to put in place would be of no consequence.

We have grown rather accustomed, in a short space of time, to making suggestions to the other side and having them fleetingly dismissed. I hope, for the benefit of the country and for this honourable institution, that the Attorney General would take account, or at least would satisfy the Members on this side and the country, that such a provision is in place or would be put in place. Otherwise, even if a judge recognizes that a member of the jury is fundamentally biased, he would still be left with no recourse in the matter, as I have described a while ago, but to shelve the jury and abort the entire trial. He would not be able to make use of one of the alternate jurors as has been suggested.

I have taken useful time to make these submissions and I know that this contribution will be construed as obstructionist. However, we recognize that this Government is rather prone to inaccuracies. This Government is prone to exaggeration and inefficiencies, which is obvious when one considers the sentiment thrown across the floor at me a moment ago from the Member for Couva North. He has developed an intense dislike for the truth.

The members of my constituency in a discussion on this amendment supported me in the comments that I make before this House today. They have also asked me to report to this Parliament that while they appreciate the visit of the Prime Minister recently, they do not trust his sincerity of purpose. They have asked me to advise him that they will not easily be moved. They have asked me to advise him, at the first opportunity, that they will not be tricked and conned. Laventille has always been strongly and proudly PNM, and it shall continue to be that way notwithstanding any upstart who takes an action that will bring shame and disrepute to the entire country. The energy that was seen in that action is the same energy he will direct in another direction rather soon, given an opportunity. We do not applaud, and will never applaud that kind of behaviour.

With these few comments, I wish to assure the Member for Couva North that I represent the people of Laventille East/Morvant and I am confident that the 11,000 votes that brought me to this Chamber—

Mr. Speaker: Hon. Members, I am sure that you yourselves realize that there is no way that anyone can proceed like this. I ask you please to conform.

Mr. F. Hinds: I thank you, once again, Mr. Speaker, for your kind intervention.

In conclusion, I wish to say that my constituents have advised me to assure this honourable House that Laventille East/Morvant and it environs will continue to support the true national party, the People's National Movement, and while they appreciate any visit, help and support that they can get, they will not be tricked or conned. They will welcome anyone to taste and enjoy the soup, notwithstanding their vociferous criticisms in the past. It shows yet again the contempt and the deceit of persons who have been so critical. I was there to see them lap it up. They are welcome. *[Interruption]*

The Member for Couva North is saying that there was no salt. The chefs, notwithstanding the criticisms that have been directed to them and the misleading information and insults which have been thrown around the country against them, recognizing that he was coming on that day, consciously decided not to put salt because of his physical circumstances. They understood that the goodly gentleman is not particularly well and that his condition would be worsened with more salt. Even that he does not appreciate.

Mr. Speaker, I thank you.

Minister of Labour and Co-operatives (Hon. Harry Partap): Mr. Speaker, I am in support of this Bill, an Act to amend the Jury Act, Chap. 6:53, which is before this House.

Before I begin on this Bill, I wish to advise the Member for Laventille East/Morvant to make his words soft so that he can eat them after the next election.

I will be moving into an area which may be more familiar to persons with a legal background, but my colleague the Attorney General and Member for Couva South has walked us through the amendment to the Jury Act in a manner which simplifies the Jury Act and its intent.

3.00 p.m.

I do not know why it is so difficult for Members on the other side to understand what is being sought in the amendment to the Jury Act. The Bill seeks

to amend the Jury Act to provide for the polling, empanelling, sitting and challenging of alternate jurors. To put it simply, Mr. Speaker, the amendment seeks to oil the wheels of justice so that justice and the judicial system are not delayed.

The Member for Arouca South—I am sorry that she is not here—questioned the necessity for the amendment that makes provision for alternate jurors. I quite understand the concern of the Member for Arouca South and I appreciate her concern. She has been part of a government that dragged its feet on steps to make the judicial system work in the interest of justice, that Government did precious little to unclog the administration of justice. I appreciate her concern because the rate at which this UNC/NAR Government is taking positive steps to unclog the judicial system has her "bazodee". *[Desk thumping]*

We had the Supreme Court of Judicature (Amdt.) (No. 2) Bill before this august assembly; the Indictable Offences (Preliminary Enquiry) (Amdt.) Bill; the Habeas Corpus (Amdt.) Bill and the recent amendment to the Extradition (United States of America) Order. All these moves are designed to improve the judicial system, but moreso, to redress the legal truism, "justice delayed is justice denied."

The Jury (Amdt.) Bill before us this afternoon is a common-sense Bill. As I understand it, Mr. Speaker, law, as any other aspects of life, is a developing thing. It is dynamic! The Member for Laventille East/Morvant seems to be under the mistaken assumption that the law must remain static, but the law is not like that, it ought to continue to develop. Mr. Speaker, this is what we are doing on this side, we are developing the law.

The Member for Arouca South reminds me of a cricket team simply blocking the ball to play for a draw. I understand that strategy! The Members on that side can only play for a draw. They cannot play to win! The last election results proved that convincingly. *[Desk thumping]* My friend from Arouca South spoke about costs, she said that the amendment to provide for alternate jurors will cost more—I am glad that she is here with us again—but I am saying, Mr. Speaker, that it may, in fact, cost less to have alternate jurors than to have a retrial. *[Desk thumping]*

I am convinced that the foresight of a UNC/NAR Attorney General to come up with such innovative and profound measures, to keep the wheels of justice moving seems to irritate the Members on the other side. We have a sober Attorney General and that is far more than what they had on that side. *[Desk*

thumping] [Laughter] Sobriety, Mr. Speaker is a pre-condition for developing new ideas. I want to tell my friends opposite that if they are prepared to observe and to listen, we on this side will teach them a thing or two about how to govern a multi-ethnic and multi-religious society in a spirit of unity and in the development for all.

Mr. Eric Williams *(Port of Spain South)*: Mr. Speaker, imagine the gift of having the Member of Nariva stand to make an intervention in this House on the matter on the amendment to the Jury Act, Chap. 6:53 which he read, and imagine the gift of this letter which recently fell into the possession of the Leader of the Opposition. We would come to the gifts shortly, we have to take the shine off the new ball just a little. *[Interruption]* Mr. Speaker, another gift! I love it when the Member sets himself up.

The Member for Caroni East came into the House and gave a short intervention, as the Member for Nariva aptly puts it, in the sense of the cricket, a short "vupping" session. He spoke about statistics that came from a book by an eminent lecturer, one published 18 years ago. I think that a government should bring pertinent information from a more recent source, in fact, it seems to me that it makes common-sense to do so. It also makes common-sense to bring such statistics from government departments, such as the Central Statistical Office. The other thing that passes strange to me, Mr. Speaker, is for the Member to have hastily researched this wonderful information over the lunch break to make an intervention in a Bill, a bill that is so crucial and inimical to the freedom of our people. That same Member, a few meetings ago, spoke of the death of common-sense, clearly, Mr. Speaker, he is acting out the role. In addition, it speaks volumes about the ability of Members of this Government to locate information in the appropriate places; the ministries which they are so proud to manage. Mr. Speaker, it speaks volumes!

3.10 p.m.

Mr. Speaker, the Member for Nariva just spoke about all of the bad things that the PNM did and all of the wonderful things that he is doing, and as a result of that, he allowed me to speak on both things. I do not want to bore the House too much with them but suffice to say that there are some workers at the Ministry of Works department who took the time in their own handwriting to write to the Opposition Leader, Mr. Patrick Manning. The letter says:

"Sir,

We the workers of the Transport Section of Works Department, Rio Claro office will like to bring to your attention and hoping that you will bring out that corrupt practice that is taking place at the Works Office, transport section Rio Claro."

And I have to speak in the vernacular here:

"Sir, we the workers has been looking at what is happening on a daily routine (working days) as from after the General Election, one Mr. Tahir Hosein, a driver with the Department has not been working he only come and signs the register and left he Mr. Tahir Hosein goes to the UNC constituency office and stay there all day registering UNC supporters and at other times drive out the MP Mr. Harry Partap through out the constituency and at the Sangre Grande Office."

Mr. Speaker, as a new Member of the Parliament, there are things that I have come to learn, that I continue to learn, and things that I do not like to learn about my hon. colleagues and particularly when we are speaking on Bills such as amending the Jury Act. *[Interruption—The Minister of Labour and Co-operatives rose.]*

Mr. Speaker: Hon. Members, please observe a little order and be fair to yourselves and to the Parliament. What is happening is that the Member for Port of Spain South is speaking and he has been referring to certain things that somebody has written concerning the Member for Nariva. The Member for Nariva, as I understand it, has got up, not on a point of order, not addressing me, but addressing the Member and asking him if he would give way. It is quite unnecessary for the House to be in disorder on such a thing. It is either that the Member does not give way, or he gives way, but surely to bring the House into the disorder that it was just coming into—"No you should not do it and the like," is not really deserving of us as Members of Parliament. Please.

Mr. E. Williams: Mr. Speaker I must apologize. Actually, I would have given way to the Member for Nariva but I did not see him.

Mr. Speaker: I am sorry if you have got the impression that I was in any way castigating you. You did absolutely nothing that was wrong. I was simply referring to the Members of the House who made it difficult even to hear what you were saying and who did not allow a simple issue between yourself and the

Member for Nariva to be resolved. I wish in future that we would just observe this.

Mr. E. Williams: Mr. Speaker, I would give way to the Member.

Mr. Partap: Member for Port of Spain South, I simply want to state for the records, that the gentleman named in the letter is not my driver and he does not drive me out. I have a driver, but when I go to my constituency I drive myself.

Mr. E. Williams: Thank you for your intervention, Member for Nariva. You have helped to restore my confidence in you.

I wish to speak specifically on some general areas with regard to this piece of legislation that is before us. I would like to look at the legislation in the context in which this Government has been bringing legislation to the House and which has been alluded to by some Members before me. I would like to consider what is more important to be addressed in this Bill, and that is the question of security of jurors and the question of jury tampering.

Mr. Speaker the question of alternate jurors seeks to redress certain flaws in the administration of justice as it relates to the jury system. Without further ado, I think there are some good points to the current way we select jury. The first of these is that juries in this country are selected by a lottery system which serves to ensure a random selection from the pool of jurors. What this means is that a number is put next to each name, the numbers are put in a box and the marshal puts the names in. It is an entirely random system.

This system is to be applauded because in a society that is as small as ours, that one will introduce such a random method, tends to remove some of the problems to which other members have cited as potential problems with jurors. In our system, the challenges to jurors are kept to a minimum. In the case of any trial, the defence is limited to three challenges for each accused, whereas for the prosecution there are three. So if there are two persons on trial, the defence may have six and so forth and these are challenges that one does not have to show cause and I think it is important that we understand that, because again in a society such as ours, this is a mechanism which causes us to avoid the business of wasting time, of potential libel and just plain old bacchanal. In addition to which, jurors are not required to give their addresses which maintains some measure of privacy in our society. As a layman, if I were called to serve as a juror—although I am now unable to serve on a jury in my current capacity—this might give some

measure of comfort to me. I think these are good things in our system, but I have some questions with regard to the amendments that are before us in this Bill.

I believe that I heard the Members on the other side speak about the Jurors Book and some other things to do with the selection of the jurors. I did not hear at any time the mention of the fact that our jury list is now computerized and, as I understand it, this measure was implemented by the previous administration. It sought to speed up and make more efficient, and in fact, to make the selection as it is, even more random because it is computerized by proprietary software.

So the fact that this was not mentioned causes me to wonder—and again, as I have shown, I am willing to be convinced—about consultation with the judiciary, and in particular with the Chief Justice.

3.20 p.m.

Further to that, Mr. Speaker, what about consultation with the Criminal Bar—that section of the Law Association—and further consultation with the Law Commission which is itself a government agency? I would like to be convinced that such consultation has taken place. I listened carefully and tried to read between the lines of what was said and, in fact, what came across to me was what was not said, which suggested to me that there should be consultation, particularly with the Law Association and the Criminal Bar section of the Law Association.

In clause 6 of the proposed amendment which would introduce a new section 21A, the court is given the discretion to decide on the appropriate number of alternate jurors and I think much has been said about that, that the judge has the discretion. As a layman, however—and forgive me if I speak as a layman because that is what I am, I would not pretend to be a lawyer—I always hear the question of precedence, or guidance in the absence of precedence. It seems to me that if this is a new measure there ought to be some sort of guidance to the learned judges, the learned court. I just wonder about that. But, if the question of consultation is not answered, then, surely this is another area in which consultation, particularly with the Chief Justice, is required, especially in light of the fact that it is reported in the press that he now holds caucuses with the Justices. There can be some sort of standardization of the judicial process. Again, the question of consultation raises its head.

There has been some discussion about the administrative procedures and I wondered about that. There are a couple of questions that I have in that regard.

What administrative procedures are being put in place to accommodate alternate jurors since they are of the same standing as common jurors? I heard the Member for Siparia point out that there is ample space in the court. However, my colleague, the Member for San Fernando West, pointed out that there is a jury box which is of a finite size, and we are speaking now about having alternate jurors who are of the same standing as the regular jurors in whatever matter is under way. I am trying to picture a courtroom and trying to figure out, if I were somehow involved in this, where would I put the alternate jurors. I cannot put them into the jury box, therefore I may have to build some more boxes. I have not heard a statement on that.

Mrs. Persad-Bissessar: Why must they be boxed?

Mr. E. Williams: Another option would be to put them into the public gallery which is not large. Then, how close do I want my alternate jury to the general public that might contain relatives of the accused or people with some other sort of interest in the case? I wonder about some of these administrative details. What would be the cost to give effect to some of these so-called administrative details?

Mr. Speaker, lest it be said that we should not be codifying administration, may I point to sections 12, 13 and 15 of the said Act which seems, to me, to contain administrative details.

Section 12 says:

> "Each list shall be—
>
> (a) printed in alphabetical order;
>
> (b) signed by the registration officer who prepared it;
>
> (c) sent not later than the 15th of February ..."

Section 13 says:

> "The Reviser shall, during the month of May hear objections to the lists, ..."

That is administrative.

Section 15 says:

> "Every precept for the return of jurors shall be returned by the Marshal..."

So, in my humble estimation, administrative details are already contained within the code, and assuming that some assistance to the court might be required, it might be prudent to tell us a bit of these administrative details.

Further, Mr. Speaker, are we then going to amend section 41 or consider it for amendment? This section says:

> "The Rules Committee established by the Supreme Court of Judicature Act ..."

which I am not certain we have amended:

> "... may make rules of court as to all or any of the following matters:
>
> (a) for distributing equitably, so far as is practicable, actual service as jurors among the persons liable to such service and for the selection and preparation of jury panels;
>
> (b) for exempting from attendance for cause any juror who may have been summoned to attend a jury session and regulating the procedure on application for exemption;
>
> (c) for exempting from attendance as jurors any women who are for medical reasons unfit to attend;

I think that was alluded to before.

> (d) for regulating the procedure to be adopted on any application under section 22."

I think there is provision in the existing legislation, and I have read it and I humbly submit that I have done so in the capacity of a layman, a citizen, a Member of this House. I think that some assistance is required to the administrative side of things.

There is another matter that puzzles me and I noticed that the Member for Couva South attempted to explain it but I am still a bit concerned. When he referred to section 34, he pointed out that in the left-hand margin—the notes that tell one what the chapter is about—it talks about payment of common jurors. It seems to me that that is an allusion to something. No where else in the Act have I seen the definition of what a "common juror" is. I have seen definitions of a "juror", and a "special juror". This Act attempts to introduce a new creature called an "alternate juror". I submit that a casual reference to common jurors in

the margin of the code is not a definition of the term "common juror", so there may be a little error there.

Then, the amendment itself is replete with the term "common juror". I notice in code that I received from the US jurisdiction that it talks about a regular juror and, in fact, the language seems quite similar to certain sections of this Act, so I wonder if there was something in the transposing of one to the other. Maybe, one felt that we should change this and put that, but, for accuracy, there is need to define it.

Mr. Speaker, I want to go on to the overall context in which I perceive this legislation. Some of my colleagues have accused the Government of presenting legislation in a piecemeal manner, and for a long time I wondered whether that was, in fact, a fair criticism or not, because, we seek to be loyally critical—not obstructionists, and like others who have said that they were obstructing for the sake of obstruction. At least, that is what I perceive I am attempting to do—to aid in the process.

3.30 p.m.

Again, Mr. Speaker, I might live in the same house as my brother whom I love dearly, but we might be of a different political or religious persuasion. It does not mean that we do not live in unity. We do and we love each other as brothers, but we beg to differ. In addition, Mr. Speaker, a wise person once said "that beauty is in the eye of the beholder" which seems like a lovely statement, but when one goes a little below the surface one recognizes that it speaks of the perception of the one who is beholding and what he perceives. Quite often we dislike the most in others that which we see in ourselves.

Mr. Speaker, quite often people call others by all sorts of epithets which may, in fact, have a genesis in their own psyche. [*Interruption*]

Mr. Draper: Powerful.

Mr. E. Williams: In terms of whether or not this is, in fact, piecemeal legislation section 7 of the Act goes on in a fair amount of detail to identify all the members of this society who are exempted from being jurors—Members of Parliament, Judges of the Supreme Court; magistrates and their clerks and so forth. It also treats with the spouses of the following persons: Judges of the Supreme Court; Members of Parliament; mayors and deputy mayors; magistrates and their clerks; Justices of the Peace; barristers and solicitors. But Mr. Speaker, I

wondered: what if I were a member of the Bar or a court officer and I had children? Could they conceivably be jurors in the same court in which I am presiding?

The law itself does not seek to exempt such persons and I would have thought, Mr. Speaker, that if we are seeking to amend an Act which was first proclaimed in 1922, I believe, that we would take—I have heard the word—a more holistic approach to the entire piece of legislation.

In addition, Mr. Speaker, there is again the definition of the special juror and I believe that the qualifications for a special juror are outlined in section 8 which goes on to talk about:

> "(1) Any person liable under section 3 shall be qualified and liable to serve as a special juror who is either—
>
> (a) seized or possessed of freehold or leasehold interest in land of the clear annual value of eight hundred and forty dollars;
>
> (b) or in occupation of a house which is rated or assessed to some general or local tax of an annual value of not less than seven hundred and twenty dollars; or
>
> (c) in receipt beneficially of a net annual income of not less than six thousand dollars."

Mr. Speaker, it seems to me that in 1922 these would have been princely sums of money and they would have indicated that the person who qualified to be a special juror would have been of a certain standard of living, probably in a particular stratum of the society. It suggests to me that this meant that a person could be called to be a special juror in a case where it would be appropriate to deal with somebody who is that person's peer in a matter that may have some complication that might be more appreciated by, say, an entrepreneur.

Mr. Speaker, I wondered about this because it seems that the historical intent of what a special juror ought to have been is lost by inflation and by the standard of living that we, as citizens of this nation, have now attained. If, and only if, the intent is to maintain the standard of the special juror for what it was intended to do, I would submit that some consideration ought to be placed on making some sort of amendment, maybe, to say persons who have attained tertiary education. At this point, I must admit that I am unable to draft legislation though I see that among the strangers in the gallery there are such legal luminaries.

Mr. Speaker, the original intent was to empanel a jury of a particular type and we have kept that definition on our books unamended, so it must mean that we recognized the need to have to deal with a particular type of case and, in addition to which, on a point of clarification, I would just hope to hear that alternate jurors would go for this as well.

There was some discourse earlier between Members opposite and this side on the question of discrimination, equality of both sexes and so forth. Suffice to say, Mr. Speaker that my only observation on this matter is that married women of today qualify in their own right to be jurors and special jurors and that was pointed out by the Member for Siparia. A minor technicality. But should we continue to have, what some more strident members of our society consider to be, a law that is discriminatory? I would make no further comment on that, because it is enough of a red flag to suggest that some people in the society might object to it based on today's standards, but I will be guided on that because I do not want to lose any friends over it.

I remember hearing a friend of mine who works in a bank saying that lots of people from the bank are always being called for jury duty. Why is that? When I was a member of the Civil Service I was called twice in the space of two years and in terms of the statistics, I am told that it does not happen very regularly, so I wondered about it. I have been wondering about it for some time now until it came around to doing some research into this Bill. It turns out, Mr. Speaker, that section 10 speaks of the preparation of the list of jurors. In subsection (2)(d) it states:

"...the Chief Election Officer is authorised and required—

> to serve on any employer, a notice setting out clearly the qualifications of a juror and requiring the employer to make a return on the Form D set out in the Schedule of all persons in his employment who are qualified to serve as jurors;"

It goes on to say in section 4(a) and (b):

"An employer who—

(a) fails to make the return required by subsection 2 (d) within the period specified in the notice; or

(b) wilfully makes an incorrect or incomplete return,

is liable on summary conviction to a fine of one thousand dollars."

So I started to ask around about that and it turns out that it is the banks, civil service departments, ministries, statutory bodies and state enterprises who, because of their close connection to the governance of the country, adhere to this particular law. The myriad entrepreneurs and small businesses we have in the society do not, and for years there has been no enforcement of this particular statute. So we speak about a shrunken pool of jurors, albeit 18-year-old statistics. But it serves in a qualitative sense to give an idea of the shrinkage of the pool of jurors.

3.40 p.m.

It seems to me that we continue to shoot ourselves in the foot if we do not enforce this particular section in the law, and we continue to cause our jury lists to be smaller than they ought to be, which again speaks to the question of supplying alternate jurors.

Mr. Speaker, those are some questions that, to use the words of some of my colleagues, suggest that there ought to be a more holistic approach to the amendment of the Jury Act.

Finally, my last area of question, I think it goes to the much more fundamental issue of the integrity of our juries, which again, this Bill seeks to ensure.

Mr. Speaker, I was really wondering what arrangements are being made for the security of jurors? Now that we may have, in the discretion of the learned justices, as many as twice the number of jurors, how are they to travel to court and how are they to be housed if it is necessary to sequester them? I believe that the Members on the other side pointed out the possibility that jurors may, in some way, meet an early demise.

As it is, jurors—even with all of the safeguards—quite often travel to court in maxi-taxis. It is quite conceivable that if a crime is committed in a particular village and someone from a nearby village is called upon to be a juror, that that person may have to travel in that same maxi-taxi with the accused. We are increasing the number of jurors which statisticians tell me lower the odds of such a thing happening. I am wondering about the security, or what arrangements are being put forward by this Government—at least I do not see them in this legislation—for the security of the jurors? We could empanel a very good jury with very good alternate jurors, but yet still the whole system falls apart based

purely on a lack of security for our good citizens who have come forward to do their civic duty.

Mr. Speaker, the point was made—I believe it was by the Member for Couva South, the Member for Arouca South and another Member—that it has not been the practice within recent times, to sequester juries. I think it was pointed out that there were a couple of matters and I think the Member for Couva South quite proudly said that he was involved in those matters.

In the course of my research I came across an article in a publication of the Law Association called *The Lawyer*, Volume 5 No. 1. The very first article is an article entitled "The Jury: Tobago or Trinidad?". The article is authored by one Dana S. Seetahal, LL.B. (Hons.), M.Sc. (Crim.) law, Attorney-at-law, who I understand is currently the Deputy Solicitor General on secondment to the university where she is lecturing.

One of the matters referred to by my honourable colleagues, had to do with the appeal of one Brann versus The State and there was much heavy weather—and apparently the appeal court on October, 7, 1993 took judicial notice of—

..."a 'trip' down the Islands over a holiday weekend."

They agreed with the defence counsel, and apparently they were not pleased that

> "...there was the 'possibility' that the jury could have been interfered with and that, in the absence of positive refutation by the State, this was sufficient to constitute a material irregularity. The Court, comprising Ibrahim J.A., Hosein J.A. and Permanand J.A., followed an earlier judgment in the court in *Mohammed et al v The State* (Criminal Appeal Nos. 42, 47—49 of 1989, delivered in 1992). The judgment then was similarly delivered by *Ibrahim J. A."*

Mr. Speaker,

> "In both instances the Court of Appeal claimed to have followed a 1954 decision of Bim Narine (22 of 1954) of the Trinidad and Tobago Court of Appeal where unsequestered jurors after the completion of the summing up were taken by taxis in a convoy to a restaurant some distance away; two of the taxis contained no officer of the court but of course included the drivers."

Mr. Speaker, in clause 8 of this Bill we are speaking of introducing a much more effective amendment where the marshals could better supervise the contacts that the jurors have with the public, but there is the question of sequestration of

these jurors. In fact, the article points out that it has not been the practice since this time for this to happen.

Mr. Speaker, prior to the general election, and certainly thereafter, when it was announced that we had a new Attorney General, there was some amount of concern but also some amount of acclamation, that finally we had a very good criminal and constitutional lawyer in the post and that he was going to close loopholes because he knew where they were.

Mr. Speaker, again I started to enquire among the legal fraternity about these cases because I vaguely remembered them from the press. My understanding in matters such as this, is that all parties involved—all of the officers of the court—come together with the learned judge and there is consensus on how the jury is going to be treated, and the Addendum of this article caught my attention. It says:

> "The court referred, as an addendum, to the fact that the Court was adjourned for a short while (at 1.25 p.m.) on 7/4/89 to permit a juror to get married."

My understanding is that there was some urgency. Apparently everyone agreed to this.

> "It was not disputed that this was for a short while and that the juror returned to the bosom of the jury immediately after. Nor was it in dispute that all counsel were informed of the event and consented to the course of conduct having regard to the circumstances. Although the Court of Appeal strongly condemned the trial judge for permitting this course, regard should be had to the decision in *Gibson* where Wooding CJ observed.
>
> > 'We think it is quite wrong for counsel to consent to a course of action and then complain thereafter that it was unjust'."

Mr. Speaker, my understanding is that that the appeals in the cases mentioned where there was the sequestration of the jury hinged on these alleged irregularities and the Court of Appeal agreed with the defence on it. Since then we have not had sequestration of juries.

3.50 p.m.

It comes back to the question of security of the jurors and the whole business of jury tampering. I would like to hear a little more about what would be put in place. We are seeking to introduce this clause which talks about—

Mr. Speaker: The speaking time of the hon. Member for Port of Spain South has expired.

Motion made, That the hon. Member's speaking be extended by 30 minutes. *[Mrs. C. Robinson-Regis]*

Question put and agreed to.

Mr. E. Williams: Thank you, Mr. Speaker and hon. Members of this House.

I am concerned about questions raised by this article and the fact that it has discouraged sequestration of juries. I would really like to see some attention paid by legal luminaries present to assure us of the security of jurors and these additional good souls whom we would seek to empanel as jurors. If it is that we have to go back to the whole business of sequestration of jurors maybe we should look at the manner in which we do it. As it was pointed out, we are seeking to prevent the abandonment of trials should anything untoward happen to a juror. I think it is pertinent to address the question of the security of the juror. I do not think it is purely a procedural or administrative function. In any case it can be codified because of the original content of the law.

Finally, I am not entirely certain how the legal system disciplines its members. It seems to me that some stiffening of penalties or clear statement against officers of the courts who are found to have tampered with juries in any way should be put in place. I do not know, I must claim ignorance whether or not this is in place; how it is effected and what are the mechanisms. I would like to know as I think many members of this society would like to know as well.

I think it is of particular concern that we continue to ensure the integrity and good administration of our legal and judicial system. I think that these questions, while on the surface first seem to be simple, beg some very fundamental questions in my humble opinion as a layman. Lest it be said that this legislation is all form but no substance, I beg that these questions be answered by those on the other side.

Thank you.

The Minister of Health (Hon. Dr. Hamza Rafeeq): Mr. Speaker, I rise this afternoon to support the Bill before this House which is another in a series of legislative measures designed to improve the administration of justice in Trinidad and Tobago. Before I make my contribution to the Bill I will respond to a mischievous statement which was made by the Member for Laventille East/Morvant when he questioned the fact that four Ministers would be visiting Canada this weekend.

I assure this honourable House that this is no Hong Kong trip, Haiti trip or Smokey and Bunty lime. This trip would be made by individuals at their own expense. There will be no expense to the Government and people of Trinidad and Tobago. There are nationals of Trinidad and Tobago who are living in Canada and who are impressed with the work of the parties that form this Government; they have invited members of the party to visit them. It is in this context that members who are going as individuals are paying their own expense. I shall clarify that.

I assure hon. Members of this honourable House that my contribution will not be long and boring, but it will be in keeping with my physical stature. That is short and sweet. *[Laughter]* I do not think that anyone in this country can deny the fact that the level of crime here is too high. Whether there is a little decrease or increase the fact of the matter remains that the level of crime at this point in time is too high. However, when the Members on the opposite side seek to give the impression to the national community that this Government is responsible for the level of crime in Trinidad and Tobago that is misleading the population.

You may recall that in 1992, the Minister of Social Development in that administration, who was the Member for San Juan/Barataria, stood in this House and told the national community that soon citizens in this country would be able to sleep with their doors open and they would be able to walk the streets of this country without fear and leave their cars open. Crime would be a thing of the past. Later that same year in 1992, there was an explosion of criminal activity in this country, the likes of which this country has never seen before.

In 1994, the then Minister of National Security said to the national community that by the end of 1995, crime would have been a thing of the past. In 1995, we saw that there was the highest level of crime. Of course his leader, the Prime Minister, recognized the nonsense that he was speaking and removed him as Minister of National Security.

4.00 p.m.

In response to the pieces of legislation which have been brought to this House over the past three or four months, there has been, to my mind, a curious response from Members on the opposite side. Sometimes they say they will not support the Bill; sometimes they say we should bring comprehensive legislation; and sometimes they say that these were pieces of legislation that they had in the pipeline. I would like to deal with the last first.

They said that quite a few pieces of the legislation that we have brought are pieces of legislation that they would have brought had they been in office. Mr. Speaker, the people of this country gave the Members on that side a mandate to govern the country for five years. After three years and 10 months they abdicated the responsibility given to them by the population and told the population that they were incapable of governing. The reason they gave for calling an election on November 6 was that the majority they had was too slim. The Prime Minister at that time said that within the last three years, not only had several Members of this House passed away, but this, together with other developments, had served to reduce the Government's working majority in the House of Representatives. It was the view of the then Prime Minister that the current configuration of Parliament was reducing to unacceptable levels the Government's flexibility in conducting the nation's business. As a result of that, elections were called. So they abdicated their responsibility, Mr. Speaker. They had a 20:16 majority.

Mr. Bereaux: According to Standing Order No. 36(1), the Member is being irrelevant. *[Inaudible]*

Mr. Speaker: Is that part of the objection?

Mr. Bereaux: Not at this time, Mr. Speaker.

Mr. Speaker: Please do me the honour of talking to me. If you are objecting on a point of order to something that somebody is doing wrong and you yourself in the process are doing something which is not right— *[Interruption]* I am saying that two wrongs do not make a right.

The hon. Member has risen on a point of order according to Standing Order No. 36(1):

> "Subject to the provisions of Standing Order No. 12 (Adjournment—Definite Matter of Urgent Public Importance), debate upon any motion, Bill or amendment shall be relevant to such motion, Bill or

amendment, and a Member shall confine his observations to the subject under discussion."

I do not know whether the Opposition Chief Whip has indicated to you a discussion I had with him and the Leader of Government Business in the House on relevance and the amount of time one is allowed with respect to that. The Minister did say that he was famous for two things: being short and sweet and that may well be regarded as part of the foreplay in this. *[Laughter]*

I am saying that in terms of relevance, the Member is responding to some of the things that have been said on the other side and there has been agreement on both sides— *[Interruption]* Well, again, I am sorry if your leader has not conveyed that.

In the circumstances, I rule that he can continue.

Hon. H. Rafeeq: Thank you very much, Mr. Speaker. I shall continue the foreplay.

I was making the point that the Government of the day abdicated their responsibility, as far as bringing pieces of legislation like these to this honourable House, when they decided that they could not govern this country because of the slim majority. We would like to inform them that we will show them how to govern this country for five years with a 19:17 majority. It is not the quantity that counts, but the quality.

They have made reference many times to comprehensive legislation and have said that we are bringing legislation in a piecemeal fashion. However, while they were in government, Members on that side failed to bring comprehensive legislation to deal with the situation of crime in Trinidad and Tobago. We recognize, Mr. Speaker, that while that is the ideal situation, comprehensive legislation takes a long time to be presented. While it is desirable that we should bring comprehensive legislation to this House, we are bringing legislation as they are drafted in order to give some kind of redress.

It is that kind of approach that has led to many matters being unattended. When I went to the Ministry of Health at the beginning of this term, there were quite a few pieces of legislation that needed urgent attention. For instance, the Medical Board Act, the Dental Council Act and the Pharmacy Board Act needed to be upgraded urgently. But because the Government wanted to bring comprehensive legislation, none was ever brought to Parliament and so

amendments which were necessary for the proper governing of these bodies, have not yet come to Parliament.

The main thrust of this Bill is to make provision for alternate jurors. I would like to say to this House that no piece of legislation which is enacted in this Parliament is cast in stone. There is always room for amendment and revision. This Bill seeks to bring an amendment which is appropriate at this time, and that is to make provision for alternate jurors.

We are living in an age where crime is changing and where the modes and methods are also changing. Criminals in this country are becoming more vicious. This Government has launched a massive attack on the drug trade in Trinidad and Tobago; an attack which previous governments have failed to launch. We cannot wait to be reactive; we cannot wait for things to happen before we enact legislation. We have to be proactive. This is why this particular piece of legislation is being brought before this House today. This is a facility which will be available to judges. It is not a case where there will be 12 alternate jurors sitting on every matter. That is not the intention. It is a facility being made available to judges to use as they see fit.

One of the points raised on the other side was that we follow the British system of law and because of this we have moved away fundamentally by introducing the system of alternate jurors. However, we had already moved away fundamentally from the British system as far as jurors are concerned.

4.10 p.m.

For instance, section 16 of the Jury Act of England provides that if, during the course of a trial, a juror dies or is discharged; the judge, whether through illness or for any other reason, is incapable of continuing to act, the remainder of the jury may complete the hearing of the case and return a verdict, provided that their number is not reduced under nine. In England provisions are made to return a verdict by a jury even if the number of jurors is reduced to nine.

Secondly, we have again diverted fundamentally from the British system, in that, while we have the provision for peremptory challenge, in England, that has been dispensed with. We do have fundamental changes and differences. *[Interruption]* Mr. Speaker, if the Member would like to ask a question I would give way?

Mr. Bereaux: Mr. Speaker, for my edification could the Member say what is meant by peremptory challenge?

Hon. Dr. H. Rafeeq: Mr. Speaker, I love this. I can give the Member for La Brea some medical advice; I can give the Member for La Brea some political advice; today I am called upon to give him some legal advice. *[Desk thumping and laughter]* I have been told that law is not his strong point.

Mr. Speaker, successive governments have been called upon to improve the system of the administrative justice in Trinidad and Tobago and as I said, this is one piece in a series of legislative measures that is being brought to do just this. Members on the opposite side have spoken at length but they have not said whether they would support this piece of legislation or not. My hope is that they will support it because if they do not, then what can they say to the people on the streets of Trinidad and Tobago. Will they tell the people of Cedros—as they probably did—to come out and demonstrate in Cedros for the opening of the Cedros Hospital which was closed by the PNM Government? Will they go to Fullerton Village and tell the villagers to come and demonstrate for the opening of the Fullerton Health Centre which the PNM Government closed? Will they tell the people of Princes Town to come and demonstrate for us to open the Princes Town Hospital which the PNM Government closed? Will they tell the people of Couva to come and demonstrate for the opening of the Couva Hospital which the PNM Government closed? Will they tell the people of Arima to come out and demonstrate in Arima for the opening of the hospital that the PNM closed? *[Interruption]*

Mr. Speaker: Hon. Gentlemen, could we please return to a state of normalcy? Could I just say, that even as an aside and not when a Member is on his feet, the use of the word "buffoon**"** to an honourable Member of this House should not be necessary.

Hon. Dr. H. Rafeeq: Mr. Speaker, it is time for us on both sides of this honourable House to unite to fight crime. *[Desk thumping]* In the past, the government did not bring any new or innovative measures to deal with crime. This is what we are trying to do, Mr. Speaker. The measures that were there for the past years have not born fruit. We are now bringing measures to improve the system of the administration of justice in Trinidad and Tobago. We are saying that it is time for us to unite to fight crime because crime does not affect only one section of society, crime affects all of us.

When we visit the streets we are told that this is an action-oriented government, it is not a talk-oriented government and I think that is what upsets the Members on the other side most. The reason for that is, Mr. Speaker, I read this quite recently and I would like to quote it as I conclude. It says:

> "If you want to leave your footsteps on the sands of time do not drag your feet."

Thank you, Mr. Speaker.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, the response of the Opposition in this debate has demonstrated that the Opposition, in a serious issue—which affects the life of this country which attempts to deal with the criminal justice system; which attempts to deal with the fight against crime, drugs and the promotion of an efficient judicial system in which criminal trials would not be aborted, in which the public interest would be protected; in which taxpayers' money would be saved and in which precious judicial time would be saved—is prepared to play games to try to score political points and in effect, is not prepared to deal with the issue before the House.

The issue before the House is very simple. The Opposition Members have stated that they need to see reasons for such an issue coming before the House. Mr. Speaker, before the House is a Bill which provides that if a criminal trial is in progress, depending upon all the circumstances of the case, a judge would have a discretion as to whether to have alternative jurors. He would have a discretion to determine the amount of the alternate jurors, and to put a restriction on it so that the criminal trial would not be frustrated. The present law is, that in the case of a capital offence if one juror dies, becomes ill, or is unable to perform his duties, the case can continue, but if more than one juror dies, is ill or is unable to continue his duties, the case has to come to an end. The trial has to stop and to start all over again no matter if it has lasted for three, four or six months.

The Opposition is, in effect, saying here today that they do not know what to do. They have not come out and said that this is wrong or this is bad; they are saying that they do not know how it will work or whether it could be implemented. They are saying that this is foreign, it is from the United States of America and therefore we should not practise it.

Any government which is seriously committed to dealing with crime and drugs, to allow trials to proceed to a proper end, must have a vision; they must

have a plan, and therefore a government cannot allow its system to be attacked; for wrongs to be committed; for events to occur, and then try to correct it.

4.20 p.m.

Having regard to the state of criminal activities in this country and what happens to matters like these and others in the Caribbean and abroad, is it not reasonable that anyone in Trinidad and Tobago would consider that 90 per cent of those criminal activities are drug related? Some effort has to be made to protect the legal and judicial system. Is it not reasonable that anyone could say that if there is to be a criminal trial—and let us say a criminal trial with four or five of you and that trial can last three months and a juror, or even two jurors can get ill—that the trial can be frustrated? It does not need an Einstein to know that one has to do something in order to allow the legal and judicial system to function.

It is becoming clearer and clearer to us on this side, that the PNM was never interested in fighting crime and drugs. It is being shown now that whenever there are measures which could assist the state in fighting crime and drugs, the PNM does not want to give support and comes with all sorts of excuses.

Mr. Speaker, I have the Jury Act of Grenada and this is only one commonwealth country that has adopted it, but it is a common-sense approach and section 19 of the Jury Act in Grenada was passed in 1982. Grenada was confronted with situations about its legal and judicial system and it took steps in order to rectify that. Other countries had done it. The United States judicial system, its laws and its interpretations are, in effect considered and applied in matters before the judicial committee of the Privy Council, in the Court of Appeal in Trinidad and Tobago. How on earth anyone who is truly committed to the oath that he or she has taken in this House can come to this Parliament and say that he is not going to support that or he has reservations in supporting that because it is an American approach?

Now the Opposition wants to deny what it said. At one time it was “woulda, coulda, shoulda”. Another one is saying “I stand in my shoe and I wonder, I wonder.” He is still wondering, he does not know what to do. The Opposition has had this Bill all the time and has done nothing about it and the Member came to this Parliament, seriously took an oath and is wondering what to do in a serious matter like this.

This brings into focus the role and functions of this Opposition. It seems as though it cannot function at all. It could not function in Government and it cannot

function in the Opposition. *[Desk thumping]* What is the role and function of an Opposition in a matter like this? If it has such an important piece of legislation and it does not approve it, say it does not approve it. If it wants to have amendments, show where it wants to have the amendments done. Bring amendments and show that. Present an alternative plan, because as an Opposition, it is supposed to be an alternative Government, but it recognizes that it cannot be in Government again and it does not know how to deal with the situation.

Mr. Panday: You are in exile forever. A government in exile.

Hon. R. L. Maharaj: We have heard all sorts of submissions and I really felt sorry for some of the lawyers on the other side. I do not want to be personal, but I know the PNM's strategy. It does not deal with the issues and it becomes personal. I would like to advise them that having a law certificate is not enough to talk about law, but one has to understand the law and sometimes practice can cause one to understand the law. I have looked for some of the names of the lawyers on the other side and I have not seen their names on any law report. It is only when one can marshal facts and principles of law, one will be able to appreciate some of the things that happen in this Parliament. *[Crosstalk]*

Mr. Speaker: Hon. Members, with the greatest deference, I once more draw to your notice that what we are engaging in is not right.

Hon. R. L. Maharaj: Mr. Speaker, let me just give you some illustrations, and I would like to show how ridiculous some of these contributions are. The Member for Laventille East/Morvant got up and told this Parliament that he took a great length of time and he read section 28(4) of the Jury Act and he said that having regard to the provisions of 28(4) "...the Judge may, at any time after the jury have been sworn, discharge the jury." Then he said words to the effect that there is no power for a juror after he is sworn to be discharged but section 19(3) says:

> "Where in the course of a criminal trial any member of the jury dies or is discharged by the Court through illness or other sufficient cause, the jury shall nevertheless, so long as the number of its members is not reduced by more than one, be considered as remaining for all the purposes of that trial properly constituted, and the trial shall proceed and a verdict may be given accordingly."

So if a juror dies, then obviously there is no question of discharging, because a member has died, but if a member of the jury is ill, the case will go on. As has

happened in several cases in Trinidad and Tobago, this section gives the court—and it is quite clear—the power to discharge the juror.

I do not understand how, even with that contribution he can say because of that, he has problems with this legislation. All that this legislation is doing—and we have heard all sorts of submissions. I took the trouble this morning and I said I was going to try to make this as simple as possible so that even if a layman never read law or if a lawyer never ever practised law, he or she would be able to understand, and I read it. Clause 6 states:

> "21A.(1) The Court may direct that not more than twelve jurors in addition to the common jury be called and empanelled to sit as alternate jurors."

So it is a discretion given to the judge and the judge may or may not decide to exercise it and it states:

> "21A.(3) Alternate jurors shall be drawn in the same manner, have the same qualifications,..."

It goes on to state:

> "21A. (4) An alternate juror who does not replace a common juror shall be discharged after the jury delivers its verdict."

The section is clear. It gives the right of the judge to have an alternate juror as soon as one cannot perform you will have an alternate juror empanelled and as soon as the verdict is given, the jury is discharged.

So I have difficulty in understanding, and that is even in light of the fact that to make it absolutely clear the amendment which was circulated would show that in 21A(2) after the word "trial" it included "after the retirement of the jury to consider their verdict."

4.30 p.m.

It is quite clear that all that this legislation is attempting to do is to provide, whether one calls it a weapon or a shield, for the judge and the administrators of the legal and judicial system to deal with contingencies which can arise and which can have the effect of frustrating and aborting a criminal trial.

We have heard all sorts of things here today. We have heard that this law is not part of a comprehensive law and that one would have thought that there would have been comprehensive legislation.

Mr. Speaker, if it is not clear to the Opposition what is happening; if it is not clear to them that there was a Supreme Court of Judicature (Amdt.) Bill which provided extra judges and magistrates to deal with the backlog in the criminal courts; if they had not realized the impact of the other amendment to the Supreme Court of Judicature Act to deal with special sittings of the Criminal Court; if they had not recognized the impact and the importance or usefulness of the Indictable Offences Bill in order to deal with situations where if a deposition was lost, a certified copy can be regarded as evidence *ipso facto*; if they have not appreciated the significance of the Habeas Corpus (Amdt.) Bill, if they have not appreciated the context in which this Government has signed three important treaties to deal with drugs, crime and extradition procedures to make them more effective; if they have not understood that in a comprehensive way or part of a comprehensive way, they cannot blame us for their lack of intelligence.

Mr. Panday: Understanding.

Mr. Speaker: Hon. Members, the sitting ought to be suspended at 4.30 p.m. Do I have the agreement of both sides to continue?

Hon. R. L. Maharaj: We shall go for tea and come back, Mr. Speaker.

Mr. Speaker: Hon. Members, the sitting is suspended.

4.32 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed*.

Hon. R. L. Maharaj: Mr. Speaker, when the adjournment was taken, I was on the point that it would have been clear to anyone who had eyes to see that what this Government was doing was dealing with matters which have to be dealt with immediately but they were being dealt with in such a way that one could have clearly seen a plan, an approach, a determination, a commitment, a vision to deal with the matter.

Mr. Speaker, if only to put some icing on the cake, just today laid in this House, were two Bills which also would have made anyone recognize what is being done in that kind of perspective. The Military (Prohibition) Bill, which seeks to "prohibit private military training and exercises which are likely to be used to undermine the peace and order of the country or to destabilize the internal security of the state. The Bill would make it an offence for a person to organize, train, drill, equip or manage persons in the use of firearms," to be subversive to the state.

There is also the Coroners (Amdt.) Bill to expedite the process for the determination of inquests. When there is such a backlog of inquests and the PNM administration did nothing about it, yet they have the "brass-face" to come here and talk about implementation of legislation, a holistic approach and a comprehensive plan. What is quite clear is that the PNM did not have any plan or commitment and, in effect, it subverted the public interest and that is why this administration is faced with such a difficult task. But this administration has the commitment and the know-how to deal with the matter.

Mr. Speaker, that is why you would have heard all sorts of spurious contributions in this matter. What more spurious submissions could you have had than to have it said that section 4 of the Jury Act was discriminatory of women, and therefore, one would have expected that this administration would have had to deal with that. Under section 4 of the Jury Act a man and a woman are treated equally. All that it says is that a married woman would be in a special category in relation to serving as a juror, so instead of discriminating against her, it makes it easier for a married person who was not ordinarily resident in Trinidad and Tobago, or who was not born in Trinidad and Tobago, or who does not own property to be able to be on the jury. It is in black and white. Any second standard child reading this could understand it. Why is it that an Opposition Member would get up in this House and misconstrue? If it is ignorance—okay, but I think that it is really a prostitution of this Parliament for Members of the Opposition to make these kinds of submissions.

Mr. Speaker, how can anyone who has read this Act and understood it say that it is discriminating against women? When one looks at section 15(4) which states:

> "The number of women whose names are contained on any such panel shall be in the same proportion, as nearly as may be, to the number of men whose names are so contained as the total number of women is to the total number of men in the Jurors Book or other list of jurors..."

How can there be a serious submission that there is discrimination against women under the Jury Act and this administration is not even addressing or redressing the matter?

Mr. Panday: They did not read it.

Hon. R. L. Maharaj: The only conclusion I could come to is, the person did not read it, or if they did read it they did not understand it. So Mr. Speaker, in respect of that aspect of it—discrimination against women and that the

Government is not redressing the problem—I do not think there is any basis for those matters.

What has happened really is that the Opposition has not prepared its homework. They obviously did not understand the Bill. If they understood it they decided that their strategy would be to obstruct, to come and filibuster; to make it as difficult as possible to pass legislation; to try and frustrate the Government's agenda to deal with drugs and crime; and they have been trying all morning on a Bill like this to get the Government Members to say something which may have the effect of trying to prejudice criminal trials in this country. It is not going to get involved in that.

As a matter of fact there has even been talk that we must say something about a special trial or about the NIB fraud; or about Clint Huggins' death. These are matters that are engaging the attention of the police and it is not proper, not only for any Government, but any Opposition member to make statements which can have the effect of prejudicing the investigation. Therefore, Mr. Speaker, this Government is not going to do like the last Government and interfere in the prosecution process of the country.

Mrs. Robinson-Regis: Nothing is happening.

Hon. R. L. Maharaj: This administration knows the limits of the separation of powers. *[Interruption]* What again do they want us to do? It is quite clear to those who would have practised in the courts or would have known how the law operates that the question of administering a jury is not a matter for the executive arm of the state. That is a part of the judicial arm of the state. Therefore one does not make legislation for that where it involves administration because one will be trespassing upon the functions of the Judiciary and this administration has no intention of doing that.

Mrs. Robinson-Regis: Did you consult with them?

Hon. R. L. Maharaj: This administration is committed to the enjoyment of fundamental rights [*Interruption*] committed to the rule of law.

Mr. Valley: Including freedom of the press?

Hon. R. L. Maharaj: Including the freedom of the press. And this administration is not going to be terrorised by anyone, including Members of this House, who say that one would hear about the Habeas Corpus Bill. That is a right. Under the Constitution of Trinidad and Tobago if the Opposition feels that a Bill

is unconstitutional, they can go under section 14 and file a constitutional Motion. They can go to the High Court, the Court of Appeal or the Privy Council and this administration is not going to take away their right. So if they feel that any law here is unconstitutional they can seek redress in the courts. As a matter of fact it was the PNM who, under the guise of wanting to deal with delay in murder cases, wanted to abolish appeals to the Privy Council.

5.10 p.m.

As a matter of fact, it was the PNM Members who got up in the Parliament and attacked lawyers who were involved, quite rightly, in defending unpopular causes. It was the PNM Members who said that lawyers who defended persons on capital charges and constitutional motions should be dumped in the sea. This Government is committed to the independence of the bar. This Government is committed to ensuring that the legal profession is free and independent even if it means criticizing the Government of the day. *[Desk thumping]* So, the PNM Members cannot talk about infringement of fundamental rights, breach of the rule of law and independence of the legal profession. The PNM does not understand that.

Mr. Speaker, I felt very sorry for the hon. Member for Laventille East/Morvant. I know he is suffering from political tabanca, Too-tool-Bay or whatever the expression is, because of the kind of reception we had at our Laventille meeting and when the Prime Minister visited his constituency. That had the Member so nervous and anxious that even on Saturday he was trembling at the Baptist function. I could understand his fears and feelings, but he read from a book and he did not understand what he read.

He said that law is deeply rooted in social development and he quoted from that book in order to support his stand to obstruct the passage of this Bill, but that is exactly what I would use in order to show why he should support the Bill.

Mr. Speaker, the law is not something which is not developed; it moves from day to day and anyone who understands law, and the development of law, would know that as things change in the society, and as there are developments, the rule and function of law would change in order to meet social development. That is what law is about. Therefore when one looks at what happened at the time the Jury Act was passed, one would see that one was living in a different environment. When the Act was, in effect, amended by the PNM government we were still living in a different environment but the PNM government was not

interested in redressing these issues—either they were not interested or they did not have the foresight, vision, competence or courage to do it.

What we are doing is in regard to our social development and having regard to what has happened with the drug trade, crime and violence. There have to be innovative ways and machinery in order to face the challenges which have come to our legal profession and to our legal and judicial system. That is exactly what we are doing here. Iis in the interest of promoting social and human development that this law is going to be used as a sword, or shield, in order to deal with the problems confronting the Jury Act.

Mr. Speaker, a submission was made by the Member for Laventille East/Morvant that one of the reasons he has problems with this measure is due to the cost and its efficiency. I would have thought that anyone who has lived in Trinidad and Tobago for the last two to three years, at least, would have regarded the cost of any measure that would assist in dealing with drugs and crime as not being too much to pay in order to deal with it. I thought that would have been the yardstick. Do you know what that submission brought out? It brought out an inner feeling, a manifestation, of something within the bosom of the PNM that we do not want to deal with crime or drugs. That is what it brought out.

Mr. Speaker, then we had a submission that there is nothing in this Bill about the vetting of the jury. I do not understand what that means. The only way a jury can be properly vetted is under the machinery which we now have. The machinery we have in the Act is very detailed; that there is a procedure for jurors to be chosen, for their names to be in the Jurors Book and there is machinery for challenges to be made even at that stage and for persons to make representation. When the trials start then the lawyer, under the law—and even under the amendment that we are proposing to pass—would have the power from their investigation, to effect the necessary challenges that they want to have. That is what jury vetting is about. In effect, one could do the challenges in court and with the machinery before the court, one would have opportunities in order for certain challenges to be made even at that stage. It is in the Act.

Mr. Speaker, what has happened is that the hon. Member for Arouca South picked up a law book and read jury vetting but, with the greatest respect to her, she does not understand it and she comes here to talk about jury vetting. Anyone who is familiar with the criminal courts would not make a contribution to the effect that if you have alternate jurors there would not be space for them to sit in the court. One knows a court house. If there is a jury box and there are other

spaces in court, the alternate jurors, can sit next to the jurors. What is the problem? In order to prevent the passage of a bill whereby one could have criminal trials which can occur for three months, costing the state millions of dollars, the Member is worried about a chair for a juror to sit on? And asking us to provide legislation for seating arrangements? As a matter of fact—

Mr. Speaker: Hon. Members, methinks that the House is once more generating into a slight bit of disorder. Please consider.

Hon. R. L. Maharaj: Mr. Speaker, no one on the other side could provide me with legislation found in any part of the world which has legislated for a chair or for security arrangements for a jury.

Mrs. Robinson-Regis: Would the hon. Member give way?

Hon. R. L. Maharaj: I would always give way to the Member for Arouca South.

Mrs. Robinson-Regis: Mr. Speaker, the Member is misleading, and he has not accurately stated what I asked. I did not ask for legislation for a chair. All I asked was whether the court was set up in such a way as to allow the 12 alternate jurors to be able to sit at the same time with the 12 common jurors. That is what the legislation seeks to do. They must be there for the duration of the time. I think it is unfair for the Member for Couva South to misrepresent what I have said. *[Desk thumping]*

Hon. R. L. Maharaj: Mr. Speaker, that makes it even worse. Is the Member saying that she does not believe that the registry could provide 12 chairs for the alternate jurors to sit next to the jury, and that we must discuss that in this House? Is this not a reflection of the incompetence of the PNM in order to try to effect that kind of thing?

5.20 p.m.

I stand and I wonder. Here we have Members saying I cannot speak on this Bill. I cannot support the Bill because I do not know if there will be chairs for the jurors to sit. I do not know if there will be security for the jurors because they might travel on a maxi-taxi and someone may interfere with them. I do not know if I will support the Bill. That is PNM style. World class!

I am sorry to have to do this but people will have to read this for generations. I think we should put the record straight. The Member for Port of Spain South for

whom I have the greatest respect is very committed but I think he is in bad company. He was talking about common jurors and special jurors. I would just like to let him know that a special jury consists of jurors who are specialized in a special field and they are picked to do certain kinds of cases mostly civil cases which are totally different from criminal trials.

Common jurors are recognized in section 30 of the Jury Act. Apart from the head note it is specifically mentioned as a common jury. In *Halsbury's Laws of England* the second edition paragraph 582 states:

> "Juries are, moreover, spoken of as 'grand' (y) and 'petty' (z), 'special' (a), and 'common.'"

Common jurors are the ordinary jurors. Paragraphs 601, 621 and 676 can be of great assistance to him. There is no problem in the Bill when common jurors are mentioned because for lawyers and judges it is a term which is recognized and regarded as being ordinary jurors. There is no need to define it.

I feel very sorry for the Member for San Fernando West because he spoke about alternate jurors being from a foreign system and this Bill is trying to reintroduce a challenge to the array. Anyone who reads the legislation would see that in England there was a challenge to the array in the Jury Act which is no longer there. The amendment states quite clearly the grounds which are challenged. Clause 7 (f) (2) states:

> "No ground of challenge other than those mentioned in subsection (1) shall be allowed."

There is no reintroduction of challenge to the array. What used to happen in the old days is that one could have challenged the entire array of jurors and that could have taken a long time. That fell into disuse and our Act adopted the position that there could not be a challenge to the array.

A point was made about the selection process of jurors. I give the assurance that this Bill has nothing to do with changing the selection process of jurors. As a matter of fact, it is a lottery system and this Bill has nothing to do with amending that but maintaining it. That is a non point. It did not arise. That was just to make up some time if I may so.

It has become the norm for the Opposition to say that there has been no consultation. There is no law which requires that unless there is consultation the Bill ought not to be passed either on moral or legal ground. I wish to announce

that from February 1996, this administration has sent a copy of every Bill which has come into this Parliament to the Law Association. I am going to read into the records of this House the following:

Name of Bill	Date (1996)
Supreme Court of Judicature (Amdt.)Bill	February, 16
Habeas Corpus (Amdt.) Bill	February, 16
Evidence (Amdt.) Bill	February, 16
Indictable Offences (Preliminary Enquiry) (Amdt.) Bill	March, 7
Supreme Court of Judicature (Amdt.) (No. 2) Bill	March, 7
Extradition (Commonwealth Foreign Territories) Order	March, 14
Jury (Amdt.) Bill	March, 15
Rent Restriction (Re-enactment and Validation) Bill	March, 15

We have had no response from the Law Association that it disapproves of any of these measures.

I remember that when we were in opposition I got up and begged the then government to have machinery whereby every piece of legislation would go to the Law Association before it came to this House. That was not in existence. When I assumed the office of Attorney General and met with the Law Association they made a request for that because it had not been done by the last administration. That plan was started by this administration.

Any contribution to the effect that this legislation should be held back or there should be consultation, or whatever the purpose of those contributions, the fact of the matter is that this administration has shown its transparency and commitment for the consultative machinery. Consultation does not have to be done orally; it can be on the basis that legislation is sent and people get an opportunity to respond.

With regard to the other contribution, all I can say is that Members do not understand it. I will explain it. We have heard a lot of talk about law and two cases Bunny Brand and Raffique Mohammed. We even heard the case of Bhim Narine. As I said in my opening, the manner in which the law is drafted, leaves open for condemnation and criticism, that a trial is a nullity if a juror is permitted with the consent of the judge to talk to his spouse during a criminal trial, whilst

the juror is empanelled and sequestered. It would mean that even if a juror is talking to his spouse about something related to the family and not the trial, any criminal trial can be declared a nullity. That has been decided by the Court of Appeal following other authorities and having regard to the fact that no other law was amended to fill that loophole.

This particular clause has nothing to do with a judge being unable to sequester a jury.

5.30 p.m.

The law also gives power to the judge to provide refreshment, entertainment and so forth to a jury. In all those submissions, if the cases are read, we would understand that they were rejected by the court because under the interpretation of the Act, the court has that power. The only point which has been decided and which prevents jurors from talking on matters which are not related to the trial is that the court has stated that, having regard to the provision of the Act, a juror can give the impression that a trial is polluted and that there is a miscarriage of justice if he or she, whilst sequestered, talks to someone else.

It is in that context, and having regard to what happened in other countries, that clause 8 provides that a judge would have the power to supervise communication to ensure that a juror who is empanelled or sequestered can speak on matters not related to the trial, but which affects the family life and other matters of the particular juror. This is clearly a humanitarian consideration. In any trial which lasts two weeks to three months, it is only natural that members of the jury would want to communicate with members of the family in certain urgent matters.

So, Mr. Speaker, these are not measures which even the most irresponsible opposition can oppose. These are measures which an opposition must regard voting for as its duty; as acting in the national interest. We may have different roles to perform. We may want to score political points, but this is not the kind of legislation in which you can put selfish motives first. I am asking that the Opposition rethink its position and be big enough to apologize for keeping this debate back so long. They can say they did not understand it themselves, did not prepare, and support it. If they do not want to say that, they can by their actions show that they are sorry for what they have done and that they have recognized that they ought to have supported this legislation since 11.30 a.m.

Mr. Speaker, in closing I want to quote the words stated in the case, Catherine Fout v. State of Tennessee in 1816—the functions of the Attorney General. I am saying this because I want it to be understood quite clearly that no amount of personal attacks, no attempts to terrorize this administration would prevent the fight against crime and drugs.

> "He is to judge between the people and the government; he is to be the safeguard of the one and the advocate for the rights of the other; he ought not to suffer the innocent to be oppressed or vexatiously harassed, any more than those who deserve prosecution to escape; he is to pursue guilt; he is to protect innocence; he is to judge the circumstances, and, according to their true complexion, to combine the public welfare and the safety of the citizen preserving both and not impairing either; ..."

So, Mr. Speaker, in closing, I wish to tell the PNM that this administration will deal with crime and drugs regardless of whoever was involved.

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 3 ordered to stand part of the Bill.

Clause 4.

Question proposed, That clause 4 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 4(d) be amended as follows:

Substitute the word "designated" for the word "prescribed"

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill

Clause 6.

Question proposed, That clause 6 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 6(2) be amended as follows:

> Place after the word "trial" in line 4, the words "including during the retirement of the jury to consider their verdict."

Question put and agreed to.

Mr. Boynes: Mr. Chairman, I refer also to clause 6(2), line 2. I suggest an amendment to that particular section as follows:

> Insert the words "the court may direct that" between the words "section 19(3)" and the word "alternate".

Mr. Chairman: Was this circulated?

Mr. Boynes: No.

Mr. Maharaj: I am indebted to the hon. Member, but this does not take us anywhere because, in any event, the court will determine the alternate jurors under the Act. With the greatest respect, this is not necessary.

Amendment negatived.

Clause 6, as amended, ordered to stand part of the Bill.

5.40 p.m.

Clauses 7 and 8 ordered to stand part of the Bill.

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

House resumed.

Bill reported, with amendment; read the third time and passed.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move that the House do now adjourn to Tuesday, April 2, 1996, at 10.00 a.m.

Mr. Speaker: Hon. Members, leave has been given to the Member for Arouca North to raise the following matter on the Motion for the Adjournment on Friday, March 22, 1996. This matter was deferred to Monday, April 01, 1996.

The Motion referred to is the transfer by virement of $13,018,000 in the 1996 Appropriation, under head 42—Ministry of Local Government, subhead 6, item 5.

Mr. Valley: Mr. Speaker, I wonder whether the Leader of Government Business in the House would inform us of what we will be doing tomorrow morning.

Hon. R. L. Maharaj: Mr. Speaker, as I indicated to the Opposition Chief Whip, we will be going in order of Bills Second Reading as laid out on the Order Paper.

Mr. Speaker: I wish to remind the Member for Arouca North that he has a maximum of 15 minutes.

Scavenging Services
(Transfer of funds)

Mr. Jarrette Narine *(Arouca North):* Thank you, Mr. Speaker, for allowing me to raise this matter on the adjournment: The transfer of $13,018,000 by virement in the 1996 Appropriation, under head 42—Ministry of Local Government; subhead 6, item 5.

I received a document which is now circulated throughout the regional corporations under head 42—Ministry of Local Government, transfer of funds by virement, 1996 Appropriation. The $13,018,000 will be depleted from the following areas:

Sub-item	08	Tunapuna/Piarco Regional Corporation	$7,230,000
	06	Diego Martin Regional Corporation	$1,635,000
	07	San Juan/Laventille Regional Corporation	$3,000,000
	12	Siparia Regional Corporation	$ 910,000
	03	Arima Borough Corporation	$ 243,000

These will be supplemented to the following areas:

Pt. Fortin Borough Corporation	$ 425,000
Chaguanas Borough Corporation	$1,620,000
Sangre Grande Regional Corporation	$ 760,000

Couva/Tabaquite/Talparo Regional Corporation	$ 90,000
Mayaro/Rio Claro Regional Corporation	$ 211,000
Debe/Penal Regional Corporation	$ 190,000
Princes/Town Regional Corporation	$ 130,000
Regional Corporation Services-General Water Trucking	$2,720,000
Consulting and other contracted services	$6,872,000

When I first saw this, Mr. Speaker, I wondered if it was legal for the Minister of Local Government to have these funds removed. Although I am not a legal mind, I went into the Municipal Corporations Act and I also asked for advice. Part VI, Financial Provisions, 108, page 160 states:

> "(1) Every Council shall, on or before the day prescribed by the Minister with responsibility for Finance, prepare and submit to the Minister for his approval and for the approval of the Minister with responsibility for Finance true estimates of—
>
> (a) capital expenditure and the financing thereof, and
>
> (b) an in come and expenditure budget,
>
> for the financial year commencing on the 1st January next following the Minister may make such amendments thereto as may be deemed expedient."

I would not worry to read the others since the time is limited, but it states here clearly that the Minister of Finance, under Act 21 of 1990 Part VI, that the Minister of Finance will meet with these Regional Corporations before the budget debate, and that they would put the matter forward to the Ministry of Finance as to how much money they would need for running the corporations for the financial year. The Minister of Finance, in presenting his budget will then appropriate funds for the various corporations.

5.50 p.m.

So it means that the Minister of Finance has the authority, like he did this morning, to come after the 1995 financial year was completed and vire funds from various areas to balance that budget at the end of the year. It is normal under local government that the same action is taken, and being a local government representative for eight years, I see it as habitual. It goes through the year and at

the end of the year when a vote is depleted and there is another section that has a saving, the corporations sit at a finance meeting and vire that sum of money. It is not within the purview of the Minister of Local Government to do so— *[Interruption]*

You look for little things to laugh at, but this is a serious matter. On page 162 of the Municipal Corporations Act—Application of funds 112 (1) states:

"The Corporation Fund shall be applied towards the payment of—

(a) the salaries and other remuneration of the Chief Officers and other officers and employees of the Corporation;

(b) the pensions and gratuities under any written law applicable to the Corporation;"

And it goes on to say to what areas these fundings will be applied.

Apart from this matter of money being transferred from these corporations to other corporations, one wonders where the $6.872 million for consulting and other contracted services will go. Is it going to pay the financiers of the election last year? *[Interruption]* Is it to give the boys contracts? This is only one ministry, Mr. Speaker. We do not know what is happening in the other ministries, but this is a serious situation where money is taken from corporations from Diego Martin to Arima in the East/West Corridor to be vired to central and south Trinidad. Certainly, this is a Government of Caroni and not a Government of Trinidad and Tobago. *[Desk thumping]*

Mr. Speaker, just pittance is given to Point Fortin— *[Crosstalk]*

Mr. Speaker: I would like to suggest that it is not really proper for Members to usurp my function. I would also like to suggest that notwithstanding that the Member for Arouca North has a very powerful voice, it is not necessary for Members to try to disturb him during the course of his presentation. Please continue.

Mr. J. Narine: Thank you very much**,** Mr. Speaker, for giving me that protection. You see, it is difficult when one has facts, the other side always behaves in a manner to bawl you out, but the Member for St. Joseph knows quite well what misappropriation of funds really means in local government, and how much funds should be transferred. *[Crosstalk]*

Mr. Assam: Mr. Speaker, the Member for Arouca North said I know what misappropriation of funds is all about. That is a serious, damning statement against me. I would like him either to retract his statement, or to clarify it.

Mr. J. Narine: Mr. Speaker, it is the habit that when there is a Motion on the adjournment that questions are not taken and if he wants, let him pose a question here.

Mr. Speaker: The Speaker, who for the time being has control of the House, allowed the Member, based on what you said—which could have been open to different interpretations, I am sure that you meant an innocent one—allowed him to seek clarification from you and I suggest that it was proper in the circumstances.

Mr. J. Narine: Thank you very much, Mr. Speaker, and I hope I will be allowed injury time. I am sure that the Member for St. Joseph, who was then the chairman of the St. George East County Council would remember transferring $600,000 to pave Pinto Road in Arima before the local government elections. I say no more on this. *[Desk thumping]*

The situation with the virement of these funds will affect these councils from the Diego Martin to the Arima area critically. When there are vehicles to be repaired, and there are electricity rates which are our higher rates now, and there are new installations of street lights and so forth, then the councils all over Trinidad and Tobago will have to pay more money from that. There are also telephone rates; the WASA bills that they are supposed to pay; rodent control; goods and services like recreational facilities; stationery; office equipment; the up-keep of vehicles and so forth.

More than that, Members would remember that last year, those persons who were employed on an eight-day fortnight are now being given a ten-day fortnight and persons who were getting five days, are being given eight days per fortnight, which means that the personnel expenditure for wages will increase. The money for goods and services in those areas is critical to keep the unemployment situation in the country down and if $7 million is removed from Tunapuna/Piarco, and another $3 million from Laventille—you are going to Laventille claiming to love the people, you hug and kiss them and on the other hand you take away $3 million from their local government authority—we will hear about that for the elections coming up. I am certain that it would not make a difference because we have won by about 10,000 votes in that area and we will continue to win by that margin.

I hope that the Minister will rescind his decision because it is not only illegal, but it is immoral and unethical to take money out of these councils and corporations and transfer it. For the best interest of the people in the East/West Corridor, this money which is taken out from scavenging services concerns the health of the nation also.

The Minister of Health talked here today about all the facilities that he is putting in, and if we cannot pick up the garbage in St. George East where there are built-up areas because of the expansion of housing in the East/West Corridor—this is the reason why the Minister of Finance allowed additional money for scavenging services. There are areas like Tacarigua where 200 houses went up in Paradise, in Cassleton 200 houses also went up, and in the Bon Air area, 63 houses were built and other private developers have been building houses, and even in the Laventille area there is an upsurge in housing development. Therefore, services that would require taking up the garbage every day will be needed. You are cleaning all over the country and getting people to work for free, and putting in equipment every weekend, but you are taking money out of the daily scavenging services. I am afraid that the Minister of Health may have to get more money by the end of the year to abort a gastro-enteritis situation in the East/West Corridor.

6.00 p.m.

Mr. Speaker: May I indicate to the Member that it would be appreciated if he winds up in that his time has expired.

Mr. J. Narine: Thank you, Mr. Speaker, but the amount of injury time I am wondering whether we would be able to get through with all this.

I am asking, why did he not go to Cabinet and ask for the funds to pay for his elections campaign? He could have done that—not the poor people in the East/West Corridor who benefit from these things. It is illegal for the minister to remove these funds and I am asking him to rescind this situation. He should have consultation with the councillors in these areas. The councillors from Diego Martin to Arima who are now sitting in the council and the chairmen and mayor of Arima, who happens to be of the fairer sex, have had no consultation from the Minister of Local Government or anyone from the Ministry of Local Government.

Hon. Member: Loose cannon.

Mr. J. Narine: Mr. Speaker, the point is, the staff is not consulted either, because I am certain there is a legal person in the ministry who would advise the Minister. He did not do this. The last time he said that the technical staff were doing what they want and he did not know about it. If he does not know this time, then he should make sure and tell his officers not to remove the funds from Diego Martin to Arima.

On weekends they make all kinds of statements in the newspapers about self-governance for the corporations, autonomy for corporations, yet he comes now and is taking away the money from the corporations but he expects them to manage. How can they manage with that type of thing?

Mr. Speaker: Could I get the assurance from the hon. Member that he is winding down.

Mr. J. Narine: Mr. Speaker, I would not want him to get up here and read like the Minister of Education and not answer the questions that I have posed here today. If he has something pre-prepared he would not answer the questions that I have asked. I would like the authority to be given to the councils and at the end of the year one does so.

So, Mr. Speaker, in winding up I am appealing to the Minister of Local Government that if this matter is before him that he should take the correct decision, and that $13 million should remain from Diego Martin to Arima to do the services for the people of the area between Diego Martin and Arima. Is it that he is trying to victimize the people in that area? I must not say so. But he should not move the money because those services are critically needed for the operations of 1996. In Trinidad and Tobago, there is appropriation, and those funds were appropriated to these councils and they must stay there.

Thank you, Mr. Speaker.

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Speaker, the Motion on the Adjournment of the House in accordance with the provisions of paragraphs 2 and 3 of Standing Order 11 reads as follows: "the transfer of $18,018,000 by virement in the 1996 Appropriation under Head 42, Ministry of Local Government, Sub-head 06, Item 005".

The Minister of Local Government wishes to inform this House that the mission statement of the Ministry of Local Government is as follows: "the Ministry of Local Government is in the business of providing specialized support

to municipal corporations to facilitate efficiency, effectiveness and accountability in the delivery of high quality service".

Accordingly, the ministry will evaluate the administration of the local government bodies and take whatever remedial action is necessary to ensure that these local government bodies can provide the services that the citizens need. One of the areas that the Ministry of Local Government considers is the financial capacity of local government bodies to discharge their functions. This Motion which deals with virement falls within this area.

There are 14 local government bodies and, as is customary, whenever one is confronted with financial problems the ministry would consider whether other corporations have resources to assist.

It is against this background that this Motion must be seen. Corporations base their 1995 draft estimates for scavenging on the anticipated cost of new contracts for 1996.

Hon. Member: Tell them!

Hon. D. Singh: Accordingly, Mr. Speaker, the 1996 appropriations were based on these estimates. In the latter part of 1995, tenders were received for scavenging contracts and I must say to this House that during the previous four years, there were not any new contracts awarded. What happened in reality was that the contracts were extended year after year because the ministers who were then in control of the ministry did not see the benefit of new contracts. In fact, the contractors even threatened to stop scavenging services in Diego Martin. Mr. Valley knows fully well about that!

The tendered prices received at the end of the year were frightening. Our scavenging bill at the end of 1995 was $37 million and I want to put on record that when the tendered prices were received the scavenging bill had gone up to $67 million.

In the northern region in Diego Martin, Tunapuna/Piarco and San Juan/Laventille, the scavenging industry was dominated by a few and no one else from the south could have come into the north to work. Equity! It was even being alleged that they had protection and it was obvious from whom they had protection.

Mr. Speaker: Hon. Members, I am sure that you are enjoying the contribution of the Member, but allow him to be heard by the Speaker whom he is addressing and also the *Hansard* Reporter, please.

Hon. D. Singh: Thank you, Mr. Speaker. In light of the high tendered prices received, certain corporations submitted estimates to the Ministry of Finance and got funds in respect of those tendered prices, but, subsequently, the Ministry of Local Government was able to negotiate with these contractors in the north and obtain prices way below the tendered prices.

Hon. Member: No kickbacks! It is only kick-ups, not kickbacks.

Hon. D. Singh: Mr. Speaker, as a result there are corporations which were allocated more funds than were required for their scavenging operations. The following are examples. Tunapuna/Piarco requested from the Ministry of Finance, $7.5 million for scavenging but based on the contracted prices received, it was given $15.9 million, a surplus—

Mr. Sudama: You understand the corruption.

Mr. Narine: It is your Ministry of Finance.

Mr. Speaker: I do not think it is necessary for me to have to appeal to hon. Members. The Member should be permitted to say what he has to say on the question that was raised.

6.10 p.m.

Hon. D. Singh: Diego Martin Regional Corporation—amount requested $6.4 million; amount allocated in respect of the tendered document, 9.5 million. At that point in time we had not been able to negotiate the reduction we were looking for. The surplus was $1.6 million. San Juan Regional Corporation—amount requested, $15 million; amount allocated, $16 million.

Mr. Speaker, on the other hand, there were corporations that had deficits in their allocations; and a number of them (Point Fortin, Sangre Grande, Mayaro, Rio Claro) are all controlled by PNM dominated councils.

Mr. Imbert: For the time being.

Dr. Lasse: And would be continually controlled.

Hon. D. Singh: The Ministry of Local Government, after careful and in-depth evaluation of the scavenging needs of all municipal corporations, took a decision

to supplement those corporations which needed additional funding from those which clearly had access allocations.

Mrs. Robinson-Regis: Excess.

Hon. D. Singh: Mr. Speaker I, myself, looked at this matter and with the advice of my financial director, we took a decision to effect this virement.

Mrs. Robinson-Regis: On what authority?

Hon. D. Singh: One concern of mine is that, given the nature of the clique in the north, they would have pressed ahead for the utilization of all the funds, had they remained under Scavenging.

Mr. Hart: What about truck-borne water?

Hon. D. Singh: In that light we saw it fit to move it from that Head.

Mr. Narine: No water yet. Three months have passed, no truck-borne water yet.

Hon. D. Singh: Some of the funds were vired to the regional corporation water trucking account.

Mr. Narine: And none yet.

Hon. D. Singh: Mr. Speaker, I want to emphasize to this honourable House that this approach is quite normal and I am most surprised that the hon. Member for Arouca North is not aware of this. Let me remind him of two instances.

Mrs. Robinson-Regis: You have no authority to move funds.

Hon. D. Singh: While he was Parliamentary Secretary in the Ministry of Local Government, this approach was used. In March, 1995, $1.8 million was vired from the regional corporation's service vote to supplement financial deficits in seven corporations. *[Desk thumping]* In March, 1994 a total of $1.4 million was vired from the Princes Town, Mayaro, Rio Claro and Sangre Grande regional corporations to the Diego Martin, Siparia, Penal, Debe, Tunapuna, Couva, Tabaquite, Talparo regional corporations to pay truck-borne water distribution expenses.

Mrs. Robinson-Regis: From where?

Hon. D. Singh: Mr. Speaker, to make the matter even clearer, let me state that since assuming office, I have had to approve several virements so that our local government bodies could effectively function. Two of these instances were

as follows: [*Interruption*] December 12, 1995, funds totalling $1 million were transferred from the Siparia to the Mayaro regional corporation to supplement wage deficits. Two PNM-controlled corporations.

Mrs. Robinson-Regis: What is wrong with that?

Hon. D. Singh: But, Mr. Speaker, listen to this one. December 28, 1995, funds totalling $7.8 million were vired from several local government bodies to the Port of Spain City Corporation to assist in meeting pressing needs, including outstanding personnel emoluments.

Mrs. Robinson-Regis: By whom?

Hon. D. Singh: All of these virements were done in consultation with the Ministry of Finance.

Mrs. Robinson-Regis: You did the act.

Hon. D. Singh: Mr. Speaker, this is a normal occurrence in local government and this Minister of Local Government will continue to take all necessary action, including the viring of funds from one local government body to another, to ensure that our municipal corporations can efficiently and effectively discharge their functions. *[Desk thumping]*

Furthermore, I wish to inform the Member for Arouca North that I will not allow this nuisance motion to deter me in my endeavour. *[Desk thumping]* Mr. Speaker, I have a clear conscience and I did this on the advice of my financial director—

Mr. Valley: And your Prime Minister.

Hon. D. Singh: —and I will continue to do things that, in my analysis, after seeking advice, are in the interest of the nation.

Mrs. Robinson-Regis: Are illegal.

Hon. D. Singh: Mr. Speaker, if the Member for Arouca North had spent time in the Ministry of Local Government he would have been able to understand the purpose of the virement. I have had to deal with so many matters left undone by the previous administration, that the task of saving local government is great, but I wish to assure Members of this House that I have set about the task and will continue to do so.

Thank you, Mr. Speaker. *[Desk thumping]*

Mr. Speaker: Thank you, Member.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.19 p.m.