HOUSE OF REPRESENTATIVES

Friday,October 17, 1997

The House met at 1.31 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I wish to advise that I have received communication from the Member for Arouca South (Mrs. Camille Robinson-Regis) who has asked to be excused from today's sitting because of a death in her family. She is excused.

CATHOLIC RELIGIOUS EDUCATION DEVELOPMENT INSTITUTE (INC'N.) BILL

Bill for the Incorporation of the Catholic Religious Education Development Institute, brought from the Senate *[The Member for Arouca South]*; read the first time.

PENTECOSTAL ASSEMBLIES OF THE WEST INDIES (INC'N.) BILL

Bill to amend the Pentecostal Assemblies of the West Indies Act, No. 26 of 1965, brought from the Senate *[The Member for San Fernando West];* read the first time.

CARIBBEAN UNION COLLEGE (INC'N) BILL

Bill for the incorporation of the Caribbean Union College, brought from the Senate *[The Member for San Fernando West];* read the first time.

MUTUAL ASSISTANCE IN CRIMINAL MATTERS BILL

Bill to make provision with respect to the Scheme relating to Mutual Assistance in Criminal Matters within the Commonwealth and to facilitate its operation in Trinidad and Tobago and to make provision concerning mutual assistance in criminal matters between Trinidad and Tobago and countries other than Commonwealth countries *[The Attorney General];* read the first time.

PAPERS LAID

1. Report of the Auditor General on the accounts of the National Project Development Services Limited for the year ended December 31, 1988. *[The Attorney General (Hon. Ramesh Lawrence Maharaj)]*

2. Report of the Auditor General on the accounts of the National Project Development Services Limited for the year ended December 31, 1989. *[Hon. R. L. Maharaj]*

3. Financial Statements of Youth Training and Employment Partnership Programme (YTEPP) Limited for the year ended December 31, 1991. *[Hon. R. L. Maharaj]*

4. Financial Statements of Youth Training and Employment Partnership Programme (YTEPP) Limited for the year ended December 31, 1992. *[Hon. R. L. Maharaj]*

5. Financial Statements of Youth Training and Employment Partnership Programme (YTEPP) Limited for the year ended December 31, 1993. *[Hon. R. L. Maharaj]*

6. Financial Statements of Youth Training and Employment Partnership Programme (YTEPP) Limited for the year ended December 31, 1994. *[Hon. R. L. Maharaj]*

7. Financial Statements of Youth Training and Employment Partnership Programme (YTEPP) Limited for the year ended December 31, 1995. *[Hon. R. L. Maharaj]*

8. Financial Statements of Youth Training and Employment Partnership Programme (YTEPP) Limited for the year ended December 31, 1996. *[Hon. R. L. Maharaj]*

Papers 1 to 8 to be referred to the Public Accounts (Enterprises) Committee.

9. Report of the Commission of Enquiry into allegations of corruption against Justices of the Peace. *[R. L. Maharaj]*

Justices of the Peace
(Commission of Enquiry Report)

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, you will recall a short while ago, I laid on the table the report of the Commission of Enquiry into allegations of corrupt practices by some Justices of the Peace.

In October 1996 because of the anxious concerns of the public at large and the Justices of the peace themselves, the Cabinet agreed that the commission of enquiry be appointed with the following terms of reference:

(i) to examine the role and functions of Justices of the Peace with a view to the prevention of corruption;

(ii) to consider allegations of corruption made against Justices of the Peace.

(iii) to consider allegations of improper and/or illegal conduct made against Justices of the Peace;

(iv) to make recommendations for the improvement of the functioning of Justices of the Peace.

Mr. Speaker, on November 7, 1996 Cabinet agreed that the following persons be appointed Members of the Commission of Enquiry:

Mr. Justice Ralph Narine	-	Chairman
Mr. Hollick E. Harnarayan	-	Member
Ms. Ynolde Rigsby	-	Member
Miss Nicole Chapman	-	Secretary.

This honourable House is informed that Justices of the Peace were introduced in Trinidad and Tobago in 1847 to function, as in England, as lay magistrates with powers to hear and determine complaints of petty offences. This function fell into disuse and was last performed in the mid-1950s. It is now carried out by stipendiary magistrates who are trained attorneys-at-law and have several years' experience.

The jurisdiction which is concurrent with magistrates that remained with or was subsequently conferred upon the Justices of the peace over the intervening years is:

(a) to issue summonses, warrants and to sit as licensing Justices for the purpose of the Liquor Licences Act;

(b) to grant bail including fixed and reduced bail;

(c) most importantly for the liberty of the citizen, to authenticate the making, and to witness the voluntariness of statements given by suspects to the police in pursuance of the Judges' Rules 1965.

Justices of the Peace also function *ex officio* as Commissioners of Affidavits and they also take statutory declarations.

Mr. Speaker, the Attorney General had received numerous complaints from the public against Justices of the Peace and the press had also published several articles

on the alleged corrupt practices of Justices of the Peace. Also, by letter dated June 4, 1996 the then Public Relations Officer of the Justices of the Peace Association of Trinidad and Tobago informed the Attorney General of alleged corrupt practices engaged in by the Justices of the Peace.

As a result of the complaints made against Justices of the Peace, the Attorney General, on August 16, 1996 met with the main body in the country at the Convocation Hall in the Hall of Justice, Port of Spain and emerging from that consultation was the consensus that there were allegations that some of them were engaged in corrupt and irregular practices. The Attorney General informed Cabinet of the situation and Cabinet agreed for the enquiry to be held.

The report of the Commission of Enquiry was submitted to His Excellency, the President who thereafter forwarded it to the hon. Prime Minister, who then submitted it for Cabinet's consideration with a recommendation that the report be laid in Parliament and Cabinet agreed.

1.40 p.m.

The commission carried out its assignment in a committed and professional manner and the Government commends the work of the commission which is now gratefully acknowledged.

As part of its terms of reference the commission was required to investigate allegations of improper and/or illegal conduct. In respect of improper conduct, that is, conduct which tends to bring the office of Justice of the Peace into disrepute, the commission encountered one instance of improper conduct. The particular Justice of the Peace was advertising a number of services which are wholly consistent with a full legal practice. Such conduct would tend to give the unsuspecting members of the public the wrong impression and, of course, heightened expectations of the services with which they would be provided.

In relation to the allegations of corrupt practices the commission expected that members of the public who were victims of corrupt practices at the hands of Justices of the Peace would have come forward to give evidence. However, this was not the case. Despite this shortcoming, evidence was gathered from Justices of the Peace themselves and from sureties. That evidence has established the existence of corruption in the system. This corruption, the commission notes:

> "...has various manifestations and involves a frightening degree of collusion, particularly in the granting of bail and accepting of sureties. It is sad to say that the whole process of obtaining bail from some Justices of the Peace has

evolved into a vile and vicious experience for persons in custody and their families. A mode of extortion has become so entrenched that the public seems to have accepted it as the norm."

Specifically, it was found that some Justices of the Peace exact large sums of money from persons seeking bail on behalf of imprisoned persons. This money would represent either a percentage of the amount of bail set or a charge for the JP's services. Justices of the Peace are required to determine that persons are fit and proper in order to stand as sureties.

Section 18 of the Bail Act makes it an offence for sureties to accept an indemnity to stand bail or for persons to indemnify a surety. Yet the commission has found that the records from various magisterial districts and the prisons:

"showed JPs accepting the same sureties repeatedly with the same deed for the bailing of different defendants."

Section 19 of the Bail Act states quite clearly that it is an offence for a person to stand surety on the consideration of property which is being used to stand surety for another person without the prior approval of a magistrate. I quote:

"The records reveal that one surety stood bail at the Port of Spain prison for different defendants with the same property as security on 58 occasions between February and June 1996."

Some of the names of these sureties appear with such frequency as to raise the suspicion that they are "professional bailors". The commission has found that some JPs continue to accept such sureties in defiance of the law.

The commission has also unearthed the existence of a nest of, I quote: "touts and hustlers" who lie in wait for the relatives of the accused persons. They pounce on them as they approach the prisons offering to provide a two in one package, a bailor and a JP, for a fee of course. This extorted fee is then split in three: to the JP, the professional bailor and the touts. This unsavoury system has become entrenched.

The report states:

"The Commission sees this collusion, team-work and extortion as a cancer eating away at the very fabric of our criminal justice system and feels that it may be treatable by the complete removal of the infected parts."

It is worth noting that, I continue to quote:

"The Commission received no complaints about and found no indication of corrupt activities among the Justices of the Peace in Tobago. Generally the

Justices of the Peace who appeared before the commission were well qualified and of high standing in their communities. Of course, in Trinidad and Tobago there are many Justices of the Peace who are worthy holders of their commission, but the same cannot be said of many."

The findings of the commission may be sourced at pages 13 to 18 of the report.

The recommendations of the commission may be divided into five main areas as follows:

(i) The need to appoint a committee to vet applications and make recommendations to the Attorney General.

(ii) The need for the training of the Justice of the Peace.

(iii) The role of the magistracy in respect of the taking of bail.

(iv) The need for the state to pay all reasonable expenses of Justices of the Peace directly related to the performance of their functions.

(v) The tenure of office of Justices of the Peace.

The Advisory Committee: It is recommended that the committee would be comprised of the Chief Magistrate, a senior police officer, a senior officer of the Attorney General's Department, a senior magistrate, the senior district revenue officer and a prominent member of the community. The last three are to be drawn from the district from which the appointment is being made.

In recommending appointments the committee would be required to be mindful of the following points:

(a) an applicant shall have an independent source of income sufficient to sustain a reasonable and comfortable standard of living. This would necessitate an assessment of the applicant's financial status, including any debts;

(b) the applicant must be shown to be a "fit and proper" person of unblemished record and integrity with a desire to serve the community for no reward or compensation;

(c) the applicant must reside in the community in which he is seeking the appointment;

(d) the applicant must enjoy the respect and confidence of the community where he resides; and

(e) there is to be no gender bias.

Training: It was recommended by the commission that training sessions be arranged prior to, if possible, and immediately following appointment thereafter, training should be done on a regular basis.

Training should be conducted by the Chief Magistrate or the Senior Magistrate of the district, the community police, the Commissioner of Prisons, the Director of Public Prosecutions and the Registrar General. The Justices of the Peace Association of Trinidad and Tobago should also be involved in the exercise.

It is further recommended that an operational handbook detailing all of the functions, legislative provisions, practice and procedure should be made available to the Justices of the Peace, in order to supplement hands-on training. It is recommended also that a code of ethics be drawn up to properly advise Justices of the Peace as to the parameters of their role, their functions and the type of conduct expected of them.

The role of the Magistracy: The commission made a number of recommendations in this regard and these are summarized as follows:

(a) greater supervision and guidance of the Clerks of the Peace by the magistrates;

(b) the removal of the quasi-judicial function of taking bail from the hands of unsuitable officers in the Magistrates' Court;

(c) bail records in all Magistrates' Courts should be standardized; and

(d) the senior magistrate of the district should assume the personal responsibility of the supervision of bail matters emanating from the courts.

The state should pay all reasonable expenses incurred by a Justice of the Peace in the performance of his function. In respect of the question of expenses incurred by Justices of the Peace the following recommendations were made:

(a) the state should pay expenses such as travelling subsistence and phone calls;

(b) all forms required by Justices of the Peace in the performance of their functions should be paid for by the state;

(c) Justices of the Peace should be required to fill out returns in order to claim compensation for expenses incurred;

(d) to claim expenses in respect of the granting of bail or accepting sureties a Justice of the Peace should record on the return, the case number, the names of the complainant and defendant, the court where the case is booked, the amount of bail fixed, the name of the surety and a number of other relevant details; and

(e) that Justices of the Peace should be paid costs when they appear as witnesses in the Magistrates' Court.

1.50 p.m.

Tenure of Office: The Committee made a number of recommendations in this regard:

a) A Justice of the Peace should not perform beyond the age of 70 years;

b) A Justice of the Peace should be appointed for a term of 3—5 years, renewable on the advice of the committee;

c) If by age, infirmity or other just cause, a Justice of the Peace can no longer perform his duties, a request should be made to the Attorney General to have his appointment revoked;

d) Justices of the Peace should be awarded some form of recognition or commendation from the state at the end of, or even during their term, for their honourary service and contribution to the administration of justice.

Other recommendations made by the commission are as follows:

1. An immediate investigation and review of all appointments, perhaps on a county by county basis, should be conducted with a view to revamping the whole system and purging it of dysfunctional and unwanted elements;

2. State employed Justices of the Peace, similar to the Clerks of the Peace, should be assigned to the prisons whose only function would be to process bail applications and bonds, thereby prohibiting private Justices of the Peace from taking bail at the prisons;

3. Steps should be taken to inform the public of their rights and the procedures involved *inter alia* in the obtaining of bail as well as the body or bodies to which complaints can be directed;

4. Every Magistrates' Court, police station, prison and post office should have a list of the district Justices of the Peace prominently displayed.

Mr. Speaker, this Government is of the view that a comprehensive strategy must be developed to give effect to the several recommendations coming out of the commission's report. The Ministry of the Attorney General would be sending a copy of the commission's report and its finding to the Commissioner of Police and the Director of Public Prosecutions for them to take whatever steps necessary to deal with the allegations of corruption and illegal conduct which have been noted by the commission. The Ministry of the Attorney General would also take steps to revoke the appointments of Justices of the Peace found guilty of irregular, unlawful or of unethical conduct. A review of all appointments will be undertaken with a view to revamping the entire system and purging it of dysfunctional and unwanted elements.

While the commission was sitting, the Ministry of the Attorney General took several positive steps to assist Justices of the Peace in carrying out their functions and understanding their role in society. In this regard, the Ministry prepared a handbook which will provide guidelines to Justices of the Peace in performing their duties with a certain amount of integrity and professionalism. I have in my possession a copy of that handbook which will shortly be made available to Justices of the Peace who deserve to be Justices of the Peace. A code of ethics has also been stipulated, and those Justices of the Peace found to be in breach of any of the provisions of this code are liable to have their appointments revoked. The code of ethics is mentioned in the handbook.

The Ministry has also considered the question of whether there are sufficient numbers of Justices of the Peace operating in this country, in particular, in the more rural and distant areas. To ensure that our Magistrates' Courts are sufficiently staffed with adequate numbers of Justices of the Peace, the Ministry of the Attorney General, while the commission was sitting, wrote to all Members—I stress all Members—of Parliament requesting information as to the number of Justices of the Peace who are presently operating within their constituency and to recommend whether any increase is necessary.

Mr. Speaker, the Ministry of the Attorney General would consider all the recommendations of the commission in the context of developing a comprehensive strategy which would be placed before the Cabinet of Trinidad and Tobago. This would include not only administrative reforms, but also the necessary legislative reforms. This Government recognizes that an appointment as a Justice of the Peace is not simply an honour awarded to the person appointed, but it is the undertaking by that person of a civic duty for which it is an honour to be selected. This

Government would, therefore, take all the necessary steps to ensure that the highest standards are maintained by the holders of this quasi-judicial office.

Thank you, Mr. Speaker.

SUMMARY COURTS (AMDT.) (No.2) 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 Summary Courts Act, Chap. 4:20, be now read a second time.

This Bill has its origin in a recommendation of the Judicial and Legal Service Commission that the basic qualification for appointment to the magistracy be reduced from seven years' practice as an attorney-at-law to five years' practice. Mr. Speaker, we all know the system under which the Government and the state operate. The state functions under three main arms: the executive arm, legislative arm, and the judicial arm. The purpose of these three separate arms, as it is stated historically and by the constitutional authorities of present day, is that in order to control power, it must be necessary for the state and the people to have certain safeguards. Those safeguards, it is stated, can only be done by having some of the functions of the three arms of state operate in such a way that each arm would place safeguards and controls so that the power is so balanced and safeguarded that the likelihood of abuse is minimized.

I say this because under the Constitution under which we operate, the administration of justice is not a function of the executive arm of the state. The judicial arm of the state is responsible for the hearing and determination of cases. It is responsible for determining when a case is heard, what time it should be heard, and for matters affecting the administration of justice. Obviously, the way the system operates is that no arm of the state is unaccountable to the population or to the Parliament, and if there are excessive delays, or if there are some injustices in the judicial arm of the state, Parliament is entitled to ask questions in order to scrutinize the effective administration of the administration of justice; scrutinize and monitor it, but obviously, neither the legislative arm nor the executive arm can dictate to the judicial arm how to decide the particular case.

The Judicial and Legal Service Commission is part of the judicial arm of the state and the Judicial and Legal Service Commission made representation to the

executive arm of the state—the Government—that it would like to have this Bill introduced in the Parliament so that the commission, which is the body set up under the Constitution for the appointment of magistrates and the dispensation and management of the administration of justice, can perform its job more effectively to the population of Trinidad and Tobago.

2.00 p.m.

Convention dictates that when the judicial arm requests such matters, the executive considers the matter and, unless the executive or the Parliament can find compelling reasons for not following those requests, the executive and the Parliament owe a duty to comply with those requests. It is in that context that I am saying that the Judicial and Legal Service Commission made proposals to the executive arm of the state and, as Members of this honourable House would know, the holder of the office of the Attorney General under our Constitution is the individual through which these recommendations are made and is also the spokesperson for the judiciary in the Cabinet and Parliament. It is in that context that the judicial arm of the state has requested the executive arm of the state, that is the Government; and the legislative arm of the state, which is the Parliament, to effect this amendment so that it would be able to fulfil its duties more efficiently to the population of Trinidad and Tobago.

Mr. Speaker, with regard to the present law which governs the qualification requirement for the appointment to the magistracy and the necessity for the proposed amendment, if one looks at the existing Act, one sees that under section 3(a) of the Summary Courts Act it is prescribed that seven years' practice or service as a lawyer to be the minimum number of years to qualify a person to be appointed a magistrate. Additionally, in exceptional circumstances, it is possible to appoint someone with less than seven years' practice and experience.

The Bill would repeal and replace the existing section 3(a) and would now require an attorney-at-law to have five years' experience in practice to qualify him or her for the appointment to the Magistracy. In addition, provision is made to enable an attorney who has practised for five years or who has served as a justice or legal officer in a Commonwealth country to be regarded as practised in Trinidad and Tobago for the purposes of the requisite experience. Finally, the proviso which allows the commission in special circumstances, to appoint as magistrates, persons with less than seven years' experience would be moot.

I am informed that the Judicial and Legal Service Commission has been experiencing great difficulty in recruiting suitable candidates for the magistracy

who are willing to serve. It is considered that those with less than five years' experience are insufficiently suited, while those with seven years' experience or more are unwilling to accept such an appointment. They having settled down to what may be the beginning of a lucrative practice.

Mr. Speaker, the Judicial and Legal Service Commission, which is the body responsible for determining these matters and subjecting their views to the scrutiny of Parliament, is of the view that after a minimum of five years' experience an attorney ought to have acquired sufficient knowledge of the working principles of the law to enable him or her to discharge the functions as a magistrate adequately. One recognizes that under the previous administration, seven years was chosen. One also recognizes that as we go through life, as the Government and society prosper and as changes in the legal profession take place, these periods would have to be looked at and the Judicial and Legal Service Commission, the body which is given those powers under the Constitution of Trinidad and Tobago, decided that this is the period of time which it considers would be suitable to have magistrates.

Mr. Speaker, a review of the statistics provided by the commission revealed that in the period 1991—1996 the commission has, in most instances, been able to fill only half of the existing vacancies. In 1991 there were six vacancies. Upon inviting applications to fill the post of magistrate, the commission received five applications of which only three candidates possessed the requisite seven years' professional experience. In that year, only two appointments were made.

In the years 1992, 1993 and 1994 the commission was marginally more successful in filling vacancies. In 1992 there were five vacancies and of the four applicants, three possessed the seven-year professional experience. Two appointments were made.

In 1993, the commission advertised for three senior magistrates. There were two applicants and two posts were filled.

In 1994, the commission advertised for six magistrates. Of the 13 applicants only three had acquired seven years' professional experience and only five appointments were made.

In the period 1995—1996 there existed 15 vacancies. Of the 21 applicants, nine had acquired the seven years' professional experience. During that period only eight magistrates were appointed.

From that review, it is apparent that the commission—the body given the powers under the Constitution of Trinidad and Tobago which is the supreme law of the land, and which every Member of Parliament in this honourable House took an oath to uphold—has been unable, at any given time, to fill all the existing vacancies in the magistracy. Even where in absolute terms the commission received applications in the required number, many of the applicants had not yet achieved the requisite seven years' professional experience and the commission was at all times unable to fill the existing vacancies.

It is hoped that this amendment would obviate the difficulty experienced by the commission in identifying and persuading suitably qualified practitioners to serve as magistrates. The administration of justice would obviously, in the view of the Judicial and Legal Service Commission, benefit from the appointment of new magistrates which will be facilitated by this amendment. As a magistracy plays an important role in the administration of justice and can only function on optimum when fully staffed, this amendment would facilitate a number of new appointments to allow the magistracy to perform its expected role in the administration of justice.

Mr. Speaker, when one looks at the Bill one sees that clause 2 states:

> "No person shall be appointed a magistrate unless he has been admitted to practise as an attorney-at-law in Trinidad and Tobago and has practised as such for a period of not less than five years save that for the purpose of satisfying the latter requirement, practice as an attorney-at-law or as a barrister or solicitor and service as a judicial or legal officer in a Commonwealth country shall be deemed to be practise as an attorney-at-law in Trinidad and Tobago."

Mr. Speaker, I know the concerns of Members in this House about the ability of the legislative arm to scrutinize the actions of all arms of the state, but I am confident that if they have any criticisms they will do it in the way which is in conformity with the dignity of maintaining the separation of powers and the independence of the judiciary.

Mr. Speaker, I beg to move.

Question proposed.

2.10 p.m.

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Mr. Speaker, I am gratified for an opportunity to make a small contribution to this rather important debate on a Bill to amend the Summary Courts Act.

I have listened to the introduction of this Bill by the Attorney General, Member for Couva South, and I was keen, having seen this legislation, to find out exactly what was the motivation for it. In fact, it must be observed that this is not the first time that we have had to deal with an amendment to this Act in this Chamber over the last few months. For one thing, it appears as though the Attorney General, out of whose office these amendments come quick and furious, gets his little inspiration—some people call them "vaps"—from time to time, and he has demonstrated clearly thus far that there is no comprehensive approach to what is necessary for the improvement of the administration of justice. *[Desk thumping]*.

He misunderstands this Parliament and Trinidad and Tobago and is of the view, and tries to convince us, that “plenty” means good quality. Mr. Speaker, we have more discerning eyes and it is in the spirit of discernment that we have had a close look on this side at the terms of the proposed legislation. It is on this that I propose to say a few words.

Firstly, the Bill proposes that it must be a condition that before appointment as a magistrate one must be admitted to practise law in Trinidad and Tobago. It is well-known that many years past, persons came to this country from outside to practise here and did so without necessarily being admitted to practise, in a formal sense, at the Bar, as we call it in the profession.

Mr. Speaker, we think it is a good thing that persons should be admitted to practise because the Legal Profession Act lays down the criteria, responsibilities, and expectations that go with practising law in Trinidad and Tobago. For example, section 15(1) of that legislation says:

"15 (1) Subject to this Act a person who makes application to the High Court and satisfies the Court that he—

(a) is a Commonwealth citizen;

(b) is of good character; and

(c) holds the qualifications prescribed by law, shall be eligible to be admitted by the court to practise as an attorney-at-law in Trinidad and Tobago."

Therefore, if someone was permitted, without being admitted to practise, one assumes that, of course, that person would have satisfied the criteria. But by imposing the condition that such person must be admitted, one is now certain that that person is of good character and all the other requirements that go with it. We think that this is a sensible proposition.

The second element of the Bill is the more curious aspect. It proposes to reduce—as the Attorney General pointed out—from seven to five years the period of years of experience which an attorney must possess before he qualifies for appointment as a magistrate. Mr. Speaker, as an adjunct to that, the Judicial and Legal Service Commission had as a proviso, the ability to appoint persons with less than seven years as is now the case. This permitted some element of flexibility and, indeed, it has occurred on a few occasions that persons with less than the requisite seven years were appointed as magistrates to the Bench.

The question of experience is relative, but it is a given that most persons in most professions accept that five years in a profession is really nothing significant. It takes considerably more time than that before one becomes "seasoned", to use a colloquialism, before one becomes really attuned to all the nuances of the particular discipline. One could have settled for nine or 10 years. One may have argued that the figure seven was taken out of a hat, but if one had any doubts about that, proposing five years makes it quite clear this figure was taken out of a hat.

Mr. Speaker, I do not speak out of whim and emotion. As we prepared to debate this Bill I made it a point to conduct a survey among other attorneys in practice in this jurisdiction. I can tell you that most of the persons with whom I made an attempt to speak on this issue were of the view that five years was simply not the way forward. It is important to note that 90—95 per cent of all legal matters in the court system that come before magistrates and judges for adjudication start at the Magistrates' Court. It means that the responsibility of magistrates is very wide, varied and burdensome indeed. It requires—I am told and I have seen for myself as an attorney in practice—a considerable amount of experience not only in terms of law but in terms of life, in order to adequately serve as a magistrate.

It is not uncommon now for many of our young citizens to go straight from 'A' level classes, college as it were, into the university. They spend three years, go to law school for another two years and wind up being admitted to practise law at the age of 23. A 23-year-old individual having left college six years earlier is certainly

inexperienced, not only in terms of law—obviously because he or she is admitted to practise—but also in terms of life generally. It must be accepted that this person does not have a very wide range of experience in terms of what exists in our life.

Interestingly enough, for example, in the so-called family court—which would be formalized hopefully in the not too distant future—that adjudicates on matters, for example, of domestic violence and maintenance matters, that requires a tremendous amount of experience. A magistrate may have to decide in a custody matter with which parent or, indeed, guardian, would the child best be placed.

This is no minor matter to contemplate. The implications of a decision like that can have tremendous impact on the entire family and, indeed, on the life of that child for the rest of its natural existence. So that, the magistrate in a matter before him or her has to make a decision that goes a long way in terms of its social impact.

2.20 p.m.

Recently, we read in the newspapers that in a particular case a magistrate—and it happens fairly frequently but this one was widely reported—ordered the respondent's husband to vacate the marital home because of a problem, presumably about domestic violence. I am simply giving these examples to demonstrate that the role of the magistrate requires a considerable amount of experience beyond and in excess of any legal experience. Given the prevalence of young persons coming into the profession, as I said, being admitted into practice about the age of 23, it really is asking very, very much. As we sit and stand when we have to speak in this Parliament these are the kinds of issues to which we must apply our minds before we very easily say “yea” or “nay” to legislation of this nature.

Mr. Speaker, as I indicated earlier, magistrates—

Miss Nicholson: I want you to be in-depth. What do you mean by beyond legal experience?

Mr. F. Hinds: The Member for Tobago West wants to know what I mean when I say “beyond legal experience”. I thought everyone sitting here would have, at least, been able to grasp what I was speaking about: experience in terms of life of which I suspect the Member for Tobago West has much.

Mr. Assam: At any rate you cannot equate experience with age. Rubbish!

Mr. F. Hinds: Mr. Speaker, another outburst from the Member for St. Joseph. He simply could not help it, but we shall continue.

Magistrates adjudicate on criminal matters, murders, woundings, arsons. Most matters begin at the Magistrates' Court—95 per cent. There is a fear in the profession, and it must be brought to the attention of this Chamber that, to put it in these terms, the gene of the lawyer is weakening in this jurisdiction. What do I mean? Many experienced practitioners argue that the quality of practice, the expertise, is tending to weaken as the years go by in Trinidad and Tobago. This bears in on very many aspects of the whole question of legal training and appointment and in particular, as we discussed, appointment to the Bench as a Magistrate.

Mr. Speaker, I do not know if the Attorney General is mindful of the fact that in Trinidad and Tobago—well he must be—there is no established system of pupilage. This is the period where having been admitted into practice, having acquired, as it were, one's driving licence, one needs to garner a certain amount of experience on the road, and in the United Kingdom and in other jurisdictions there is a system of so-called pupilage where young and newly admitted persons can go to Chambers of experienced practitioners, sit at the feet of the masters as it were and in that way the tradition is strengthened, knowledge is transferred from one to the other. In the United Kingdom where I had the benefit of reading law and being called to the Bar, there was a system, and there is a system of "dining". Mr. Speaker, you would know only too well, you are required to attend a certain number of dinners at the Inns of Court and during those dinners the rationale is that you would sit next to judges, Queen's Counsel, senior practitioners and they would share with you, in an informal way, some of the nuances of the profession. This is, however, non-existent in the context of Trinidad and Tobago and the Attorney General delivered, I suspect, a feature address, which was not so "feature", about a week ago at the law school, at a graduation of some of the young, impressionable, newly graduated law students. I do not want to be discourteous, but the highlight of the Attorney General's contribution, Mr. Speaker, was that he was hinting that it would probably not be long before legislation is put in place to make it mandatory that practitioners give free legal advice or service.

Mr. Maharaj: Are you for it or against it?

Mr. F. Hinds: Mr. Speaker, the Attorney General is asking me whether I am for or against it. This is not the immediate matter before us; I have my views but I am not called upon to express them in this debate. What I want to say is that it demonstrated, yet again, the maverick quality of the Attorney General. The way he

just goes around the place and as he gets a "vaps" he says something, just spews it out without serious concern for the implications for the profession and the country as a whole. You just get the feeling that from time to time he jaunts off on a plane to London, occupies an expensive hotel room, I am told, and of course eight or nine body guards are outside of the hotel! He, clad in his bullet-proof vest, is sitting in front of the television and as he gets an idea about something that happens in England he just says, "Yes, that good for Trinidad and Tobago. Whap! Back down to Trinidad. Whap! In the Parliament with it again. "Vaps", Mr. Speaker, "vaps". He went up to the law school and caused tremendous consternation throughout the profession when he suggested—

Mr. Maharaj: That is what an Attorney General should do.

Mr. F. Hinds: Mr. Speaker, an attorney pointed out to me—sadly I would not call her name because she may be victimised again—"What is wrong with this Attorney General? How much free advice has he given?"

Mr. Maharaj: I gave you free advice, I have the letter to prove it.

Mr. F. Hinds: Mr. Speaker, that is a deliberate untruth coming from the Member, of which he is very capable. I want the Attorney General to understand that there is a serious concern about the quality of practice in this country. It is a real concern, not only in this country but across the world. I had the privilege of reading a book entitled *The Lost Lawyer* written by one Anthony Kronman. The book is subtitled "Failing Ideals of the Legal Profession". I read this book about a year ago; rather interesting reading and I want to commend it to the Attorney General. The goodly author places serious emphasis on training, not only in terms of technical legal advice—now I will probably answer the Member for Tobago West—but in terms of attitudes, character, general approaches and integrity. The author is arguing, and I want to quote a small passage from his book:

> "Thus in addition to whatever intellectual abilities he might possess, the lawyer-statesman was pictured by writers of the period as..."

that is in the golden days as he describes it—

> "...having certain temperamental qualities as well: as being, for example, more calm or cautious than most people and better able to sympathize with a wide range of conflicting points of view."

So that, when the Attorney General goes to lecture to young graduates in law, I suggest to him that rather than "set them up", rather than cause ripples and waves

across the profession with his flippant and unthinking comments about free legal advice—as if to suggest that we do not have a system already in place through the Legal Aid for that—he should seriously apply his mind to recommending to the educators in the profession of law in this country—at the law school in particular—that they need to concentrate on building the characters of the persons who are subjected to the intellectual elements of legal training.

2.30 p.m.

It is not only in Trinidad and Tobago, also in the United Kingdom. Every year I am informed—and I saw the last statistics on that about two years ago—that about 6,000 lawyers, between barristers and solicitors, are struck off the rolls for all kinds of things. So when we come to deal with an amendment such as this, we have to bear all these things in mind. When one considers the rationale behind this legislation, what is it? The Attorney General tells us that the Judicial and Legal Service Commission is having grave difficulty recruiting suitably qualified persons to sit on the Magistrates' Benches. That is the reason for this amendment.

As one of my colleagues on this side told me, if you have a problem of flooding over a bridge, rather than raise the bridge, the Attorney General decides to dig a little more and lower the base of the river. I want to put it differently. Rather than attempt to level up, the Attorney Generally is shamelessly coming here and telling us that we should level down. If the reason for this legislation is that we cannot attract suitably qualified people to the Bench, a very important, exalted and critical element, then what do you do? Rather than try to make experience greater and remuneration more attractive, if that, as I suspect is the problem, he comes to this Parliament telling us that we must level down rather than level up.

What does it do to the profession as a whole? What does it do to the citizens of this country? The Attorney General pointed out in his piloting of this Bill, that the Judiciary, of which the Magistracy is a part, is a critical and important facet of the existence of the state. He pointed out to us—and we well know—that there is the Parliament, the Executive and the Judiciary. This is a very important constitutionally arranged function entrenched in the Constitution, and the Judicial and Legal Service Commission is also entrenched, for obvious reasons; some which are not too obvious to the Attorney General, but we would deal with that at a later stage.

It is a very serious question, indeed, because we want to see, as Trinidad and Tobago moves into the future, institutions becoming stronger and better equipped to deal with the responsibility that is set upon them. Most lawyers, as I have said,

have indicated to me, in something of an unscientific survey that I did, that this cannot be the way forward. If the rationale is, as the Attorney General stated, that the Judicial and Legal Service Commission is finding it difficult to recruit suitably experienced people, that implies that there are, in fact, suitably experienced people around. All you need to do is to make the Bench more attractive. We cannot turn our faces away from the truth. When we talk about making it more attractive, we are obviously speaking about better terms and conditions.

What is insulting about this is that those existing magistrates must have serious concerns about this Bill. What is it saying to them? This must have a very demoralizing effect. "Here is the Attorney General coming to the Parliament and saying that there are not enough of us and, therefore, we must reduce the level of experience in order to attract others. What does that say about me? How does that make me feel about me?" It is quite easy to resolve the matter by making the terms and conditions certainly more attractive.

It is doubly insulting, because about two weeks ago a Member of this esteemed Opposition asked a certain question of the Government, in the other place—I think it was to the Minister of Public Administration and Information; if I am wrong, I stand corrected—to give to the other place and to the country, by extension, an indication of how many persons, where and the remuneration of those who are on contract to the Government across the administration. The answer to that was a revelation. It has a direct impact on what we are discussing today, because it was the Attorney General who told us that it is because of the inability of the Judicial and Legal Service Commission to attract adequately experienced people he has come with this legislation.

Let me say from the outset that magistrates' income—and this would shock citizens of this country—is in the area of about $7,000—$8,000, before tax. The Chief Magistrate—and these are public records so I can say it—his income is about $10,000. The average attorney would find that, quite frankly, unattractive. We must consider, as we deal with this legislation, that the people who have decided, out of patriotism, out of a commitment for the system of justice, out of a spirit of goodwill for Trinidad and Tobago, to sacrifice lucrative practices to sit on the Bench as a matter, sometimes, of public service, have made great sacrifices. We must give more serious consideration to better terms and conditions of service.

As I was indicating, the answer to the question in the other place was a revelation. There were scores of persons on contract for the administration in various ministries—and we could call a few names. We have heard a few recently;

some which have caused some Members great embarrassment. I do not wish to identify any Member. Many of those persons are earning incomes in the area of $8,000 to $10,000. It was not uncommon from the answer given in the other place that between $8,000 and $15,000 appeared with regularity on the list. In fact, in one case we are told—and I stand corrected—that one person with absolutely no qualification on a contract was earning $8,000 per month.

When you consider that, and you put that alongside the sacrifice that some of our magistrates in this jurisdiction have undertaken, then, really, it is an insult. The Attorney General further slaps them in the face by suggesting that he would level down, as I have indicated.

2.40 p.m.

I am suggesting that insofar as this Bill is concerned—and I am in agreement with the Members on this side. We have acknowledged and have taken note, that the Judicial and Legal Service Commission appointed persons with less than seven years' experience. That proviso gave them that flexibility. We are proposing, and we shall circulate the necessary amendments to this proposed legislation—that the Attorney General should immediately give serious consideration to leaving that question of a minimum amount of experience alone, and simply leave in place the proviso that now exists insofar as the Judicial and Legal Service Commission is concerned. In that way, if there is someone who had recently been admitted to the bar in Trinidad and Tobago, for example, someone who came from the Commonwealth: the Bahamas, the United Kingdom, Ghana, Nigeria or India, as section 15 permits, with one year in the context of Trinidad and Tobago, but with three or 15 years there, or a suitable number of years insofar as the Judicial and Legal Service Commission, then there is still that flexibility to take that person in.

There is a situation where there are Clerks of the Peace who have been operating in the magistracy for many years, and who have acquired great amount of experience in terms of the functions and operations of the magistrates. In fact, there are occasions in the courts when the magistrate, for one reason or another, is absent, the Clerk of the Peace sits in his Chair and takes the applications and adjournments, so they perform a quasi-judicial function. We heard the Attorney General's report earlier today that insofar as the granting and approval of bail documents, they have played a very important quasi-judicial role. There may be some such person wanting to become a magistrate and by virtue of that experience, he can quite easily do so. So we are suggesting that the flexibility that now exists insofar as the proviso for the Judicial and Legal Service Commission is

concerned, that should remain firmly in place. The Attorney General should give serious consideration to leaving alone the establishing of any minimum number of years of experience.

Mr. Speaker, I now take this opportunity to address another very serious question. It is not unknown for someone who is appointed to the magistracy today to be sitting in adjudication tomorrow. That is a matter that should occupy the mind of the Attorney General rather than suggesting strange things as he did last Saturday night at the law school.

The Attorney General should seriously consider an institutionalized programme of training for magistrates. I think it was Vidya Naipaul who alluded to the fact that we in Trinidad and Tobago find grave difficulty in rising above our Trinidadianess and getting into the realm of professionalism. Oftentimes—*[Interruption]* Mr. Speaker, I crave your protection. The Member for St. Joseph does not have a clue about what is being debated here today.

Mr. Assam: Look at this charlatan.

Mr. F. Hinds: The hon. Member for Couva South should put in place a system of training for magistrates. That would ensure a level of—not that I am suggesting that it is non-existent, but it will ensure that the state would have done all that is reasonably possible and expected, to make sure that professionalism is in place. As I indicated earlier, a magistrate has to adjudicate on these varied and critical matters, and cannot be operating from the realm of how he feels. It has to be calculated and extremely professional. I credit existing magistrates with very much of that, least I be criticized for saying otherwise.

I recommend that the Attorney General give serious consideration to that, and that there should not be a situation where a magistrate is called upon, the day after he or she is appointed, to adjudicate on matters that could have far-reaching effects.

In the United Kingdom, it is well-known that for the last three or fours years, judges have been sent on weekend training seminars to deal with an area that was determined to be a deficiency area in terms of the way they handled matters. In the United Kingdom it was felt that the question of race relations is an important issue. It was felt from time to time that many judges, in their pronouncements, and there are some clear examples in the law reports, did not exercise sufficient sensitivity in the area of race relations. Over the last three or four years, judges of the English Bench have been sent on weekend seminars which dealt with race relations so that

they could better understand minorities who appeared before them in the various courts, and adjudicate even better. Yet, again, the Member for Tobago West was just given another example of what is needed outside of technical legal training if one had to do the job competently from the Bench.

There is precious little else that I want to say. There are other persons who would make contributions. I conclude by saying that this side understands the situation that faces the Judicial and Legal Service Commission. However, we are saying, in the interest of the administration of justice, in the interest of the profession, in the interest of quality, in the interest of high standards, and with a concern that one is not watering down everything, this Bill should not be passed as is. People in this country are afraid that under the United National Congress Government, standards have been falling rapidly. Many people are concerned about many things they are seeing and are experiencing in this country and they are expressing shock. I am craving at least some good sense from the Member for Couva South. I am calling on his colleagues in the Cabinet and all the other Members on the other side to rein him in a bit for the sake of Trinidad and Tobago. Have him curb his maverick tendencies and concentrate more seriously on the matters that are before us. I call on the Attorney General to leave alone the proviso that he proposes to remove with the flexibility that it now has; leave the Judicial and Legal Service Commission with the power and the autonomy that the Constitution of this country bestowed upon it, in terms of appointing magistrates and judges. That is in the domain of the Judicial and Legal Service Commission. And, leave alone establishing any minimum figure. I think that would be a good compromise.

With these few words, I thank the Members of this honourable Chamber for hearing the Member for Laventille East/Morvant through in this rather important and far-reaching debate.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, in principle, I have absolutely no difficulty with the comments made by the Member for Laventille East/Morvant. That is to say, whatever we are doing, we should seek persons with experience and quality persons and as he said in legal terms, persons in academia and persons who are experienced in life. He tells us we must leave the Judicial and Legal Service Commission with the proviso as it is. He is quite happy that they are doing fine. This hon. Member has come to this Parliament—I have been with him nearly two years in this Parliament, sitting after sitting. He is such a young man. At every sitting he tells us: "I am a young lawyer,

I am committed to giving the youth a chance." The Member says from time to time that government should be committed to giving the young people of this nation a chance, Government should develop projects and policies for the young people. Today, the Member comes to this Parliament and totally contradicts himself when he says that a lawyer with five years' experience is a person who is watered down, of poor quality, and that the Attorney General is going below standards, he is digging—*[Interruption]*—the hon. Member for Laventille East/Morvant is totally contradicting himself in this debate today. We know that age has very little to do with experience.

There is an Opposition sitting on the opposite side; tremendous age in Government. The PNM had a history of more than 30 years in Government and with the greatest of respect, I do not know if that is the kind of experience that I want for myself and my children. Today, the Member for Laventille East/Morvant could stand up and say that the magistrates are not being paid enough. What did his administration do to pay the magistrates? Nothing. In December of 1995, just a few months after this administration came into office, I went to Cabinet and the Cabinet agreed for 12 posts of magistrates to be established. At the same time, it agreed for two divisions of the Court of Appeal to be set up. Cabinet agreed in December 1995 to increase the number of judges to sit in the Supreme Court. Very early in the time of this administration it was looking at the administration of justice.

Age and time is not naturally a consequence. Experience is not naturally a consequence of age. At times, age as with yourself, Mr. Speaker, brings wisdom and experience, that you share with us here. But there is wisdom and experience in the young people of this country and, therefore, I am very disappointed to hear the young, handsome lawyer on the other side tell us in this Parliament today that a young lawyer who would be about 28 years, would be watered down; would be digging under, would be everything except what he should be on the Bench.

2.50 p.m.

I agree totally that we need quality. He said the Judicial and Legal Service Commission is entrenched and given powers in the Constitution. We support that separation of powers on which he was so expansive and which is in this country as a democracy. In fact, his administration goes down in the history of this country as trying to interfere with that separation of powers and entrenched provisions in the Constitution in terms of the commissions.

The Judicial and Legal Service Commission which is enshrined in the Constitution, as he said, is given the power to employ magistrates in this country. I am advised by the hon. Attorney General that this commission is the body that has requested this amendment. If this commission that is given the authority and jurisdiction to hire magistrates requires that as a tool or instrument, then I think it is our duty to assist in that regard, in keeping with the high traditions of that separation of powers, but yet being different arms of the state.

It is interesting to note that when the hon. Chief Justice spoke at the recent opening of the law term in September 1997, he said:

> "Back in December 1995, Cabinet agreed to create 12 additional posts of magistrates. But at present these posts are still vacant."

Not one of the 12 posts had been filled. I am also advised that on an average, the magistrates in this country handle about 3,000 cases per day. There are about 30 magistrates. We are talking about 100 cases per day per magistrate.

Mr. Manning: How many do they adjourn?

Hon. K. Persad-Bissessar: That is the point! So many of the cases cannot be dealt with. We know about the backlog. This is not new to them. The hon. Leader of the Opposition is aware of it. The Gurley Report for which his administration was responsible for bringing into being was very clear on the backlog of cases in the Magistrates' Courts and the Supreme Court. One of its recommendations was for an increase in the number of judicial officers at the level of the Magistrates' Courts and the Supreme Court.

If applications are made by persons with under five years' experience as a lawyer, the Judicial and Legal Service Commission has the discretion, authority and jurisdiction to determine whether such an applicant is experienced in life and experienced academically. That commission makes the appointment. If I am hiring someone I will determine if he is best for the job. There is an entirely constitutional body in this country such as the Judicial and Legal Service Commission that does this in terms of hiring magistrates. Are we then saying that we have no faith in the Judicial and Legal Service Commission to make a determination in terms of the applicants who come before them? A lawyer can have seven or 20 years' experience, it does not mean that he or she is the best person for the job of magistrate. The fear expressed by the hon. Member could be dealt with by the body duly constituted to make the appointments.

3.00 p.m.

Yes, the proviso is being removed, but removed or not, the discretion remains with the Judicial and Legal Service Commission. The Attorney General cannot hire a magistrate. No government minister can hire a magistrate. I am advised that the proviso is being removed at the request of the Judicial and Legal Service Commission to allow, from December 1995 to September 1997, 12 additional posts of magistrate. That commission would know who the applicants are, who are the persons interested in coming in and, if this is their recommendation, let us give them the tool they have asked for. They have asked for a reduction in the years practised. At the end of the day the decision remains with them. Do I hire someone with five years' experience? Do I hire Mr. John, Mr. Black or Mr. Harrilal? The Judicial and Legal Service Commission will weigh all the factors and hire the person.

The point of the Bill is to allow for that five-year practice period. It also allows practice as an attorney on the Bench to be counted in Trinidad and Tobago and in any Commonwealth country because there are nationals of this country who will practise elsewhere in the same kind of common law jurisdiction with which we are familiar. The main purpose of the Bill is to reduce the qualification period for a lawyer to come in.

The arguments put forward by my learned friend are worthy of consideration, but I am saying that the Judicial and Legal Service Commission has requested this instrument be given to them in order to bring magistrates in. I have no quarrel with the Judicial and Legal Service Commission and I do not believe that any Member of this honourable House can have a quarrel with them. Therefore, if this is what they need, it is my view that the House should give it to them.

Mr. Colm Imbert *(Diego Martin East)*: Mr. Speaker, once again, regretfully, the Member for Siparia has demonstrated, to me at least, why she was removed as Attorney General.

The weak and pathetic arguments just advanced in this House are no credit to persons who would have responsibility for facilitating the administration of justice. For example, the Member opened her contribution by saying: "Give youth a chance". Yes, give them a chance, but to do what? To sentence a man to death? To send a man to jail for 20 years? To determine the custody of a child? To put a husband or wife out of the matrimonial home? To determine whether a rape has occurred? To take away people's assets? To restrict someone's right to liberty? What utter nonsense!

When the Attorney General presented this Bill, it was clear to me that he was not even convinced of his own arguments. He was speaking tongue-in-cheek. He knows that in another incarnation he has brought a Private Member's Motion to this Parliament protesting the criteria used to appoint judges, recommending that we increase the qualifications of judges. In other fora, he and other persons closely associated with him have expressed concern about the quality of training for young lawyers in Trinidad and Tobago. As a matter of fact, the formal training systems for young lawyers in Trinidad and Tobago are practically non-existent, Mr. Speaker. I think the expression used by either the Attorney General or someone closely associated with him was "half-baked", and yet, with political hypocrisy—I charge the Attorney General with being a political hypocrite because he has come in this Parliament time and again and spoken about watering the brandy and complained about the lack of qualifications and experience of judges and judicial officers—he has the gall to come here today to suggest, for no reason other than the fact that the Judicial and Legal Service Commission has requested it, that we should reduce the qualifying age for the appointment of magistrates from seven to five years.

Are we in this Parliament a rubber stamp? Is that what the Member for Siparia is suggesting? Suppose they had asked that it be made one year, would we have gone along with that? The Member for Siparia's thesis was that in their wisdom they have said five years, so we must go along with that. We are not a rubber stamp. We would be failing in our responsibility if we did not examine matters such as this carefully. *[Interruption]*

Mr. Speaker: Hon. Members, the day is quite young and if anybody has any doubt, I want to assure you that you will, all 36 of you, have an opportunity to speak. Hold your fire! Allow the Member who is on his legs to say his piece so that one can either appreciate it or not!

Mr. C. Imbert: Mr. Speaker, as the Attorney General well knows and as he has espoused all over this country for the last 15 or 20 years, in any profession there is a concept of maturity, especially so with persons who are given the responsibility to take away people's right to liberty, freedom and property. In my own profession of engineering, to be an associate member of the engineer's association, one must have a degree from a recognized university or some suitable combination of education and experience. That is simply an associate member, the most junior member of the association. To be a full member, one must have a minimum of four years, and to be a fellow of the Institute of Civil Engineers of

Trinidad and Tobago, normally a period of 15 years is required. What are the functions of a fellow? It is to act as senior practitioner to advise and adjudicate on complex engineering matters. I submit, Mr. Speaker, that a magistrate is in a similar situation. He is called upon to adjudicate on complex matters of law: to determine my future; to determine in a custody matter, whether a child should stay with the father or mother. This person, age 28, may not even have had children as yet. He may not even be married. The Member for Laventille East/Morvant has pointed out that he could be appointed today and sit on the Bench tomorrow, and yet he is deciding the custody of someone's children. In a domestic violence case, which is a very complex matter, he is deciding whether someone should be put out of the home.

What about drug trafficking? A person, age 28, with five years' experience of the type we have in Trinidad and Tobago, as indicated by the Member for Couva South to be defective and substandard and half-baked—the kind of training and experience that young lawyers undergo in Trinidad and Tobago—is determining whether a drug trafficker should be convicted or not.

We have had instances of young magistrates falling prey to temptation—taking bribes. Why? There are many reasons, but I would say that youth and inexperience is one of them.

3.10 p.m.

Mr. Speaker: I specially appeal to the hon. Minister of Trade and Industry to please allow the Member to make his contribution.

Mr. C. Imbert: Thank you, Mr. Speaker. There were instances in this country where young magistrates had fallen prey to temptation and because of their youth and inexperience, among other factors, they had taken bribes and thrown away cases and so forth. We do not support this Bill, and I want to make it absolutely clear. We cannot support a situation where the standard is being lowered in something as important as the administration of justice where people and their families' future, and that of the whole community is involved. We cannot support it.

We believe that if the Judicial and Legal Service Commission is having trouble in getting suitably qualified persons to go on the Bench, that is an easy solution. It is trivial for Members on the other side to ask why the PNM administration did not improve the terms and conditions of magistrates. The whole point of the Gurley Report was to look at the entire administration of justice and determine what would happen. *[Desk thumping]* Mr. Speaker, a series of recommendations flowed

from that, not the least being improvement in the terms and conditions of persons charged with the administration of justice, and it is trite for the Member for Siparia to ask why the PNM did not increase the salary of magistrates. That is not what we are here for. If it is necessary, then we must do so. One cannot say that the Government is not doing it because the PNM did not do it.

I am not concerned with whether the Government has a financial problem or not: in every system one must have priorities. The Judicial and Legal Service Commission has determined that there is a problem and they cannot attract suitable applicants to the post of magistrate. Clearly, if one increases the salary and improves the terms and conditions it will make the post more attractive and avoid this gross error which this administration is seeking to have us approve today. I cannot agree that someone at age 28 could determine whether to sentence a man to death or not.

I am corrected by the learned Attorney General that magistrates do not do that, but magistrates can send a man away for 10 years, and impose fines of $50,000 on persons. It is a very serious matter.

The Member for Siparia indicated that there are some 3,000 cases before the Magistrates' Court every day, and there are 30 magistrates: that means there are 100 cases per magistrate. What happens to these cases? Clearly, 80—90 per cent of them are adjourned, and one is going to subject someone with five years' experience to that? As they appear in court they are faced with 500 cases on the first day.

[MR. DEPUTY SPEAKER *in the Chair*]

Someone who does not have proper training and experience, only five years on paper, is going to be subjected to 300—400 unheard or partly heard cases, Mr. Deputy Speaker? I cannot agree to that.

What bothers me is that the Attorney General is aware that more and more of our citizens are voicing concerns about the decisions that are made in our courts. Persons are complaining, and that is their right, I am not saying that the decisions are correct or incorrect, but more and more persons are making known their concerns publicly about the decisions which are made in the courts. I was listening to the radio this morning and there was a complaint about a particular decision which was handed down and all who called in were annoyed about it. Who knows what happened? I cannot comment because it is not in my jurisdiction to do so. The point is, that more citizens are demanding better from our judges and magistrates and a better administration of justice from the Government.

Mr. Deputy Speaker, I heard that the Attorney General had some difficulty with this measure. He could pretend that he does not, but I know that he has been at the forefront of criticizing the qualifications and experience used to appoint first judicial officers and about the training that is afforded to young lawyers. It is a fact, and the Attorney General cannot deny it. I am therefore surprised that he did not return to the Judicial and Legal Service Commission and let them know that while he respects its request in this matter, it would be better to approach the problem from a different perspective. I am surprised he did not do that. If he needs support on this side to improve the terms and conditions of magistrates, he has our unqualified support. If it were up to me, I would increase the qualification to 10 years, I will not bring it down to five, I would send it up.

Mr. Maharaj: Mr. Deputy Speaker, will the Member state whether the Opposition is advocating that there should be criteria for the appointment of magistrates, and that there should be a code of magisterial and judicial conduct? Is he also saying that the Opposition is in agreement that the administrative machinery of the administration of justice should be monitored and scrutinized by Parliament?

Mr. C. Imbert: Mr. Deputy Speaker, any proposal that would strengthen and improve justice in Trinidad and Tobago will get our support.

3.20 p.m.

I warn the Attorney General that it is necessary in these matters to try to achieve consensus. Before one imposes legislation on the Judiciary, one should consult with them and let them make recommendations. This Bill should be something that comes from the Judiciary. It is not in our place to impose sanctions. Speaking as a citizen, one must look at this matter scientifically. Mr. Deputy Speaker, magistrates with less experience must make more mistakes. Of course, there will be outstanding young lawyers who have talent, ability and who may have had only five years' experience but because of their outstanding ability and knowledge they could possibly qualify as magistrates. This could never be the norm, Mr. Deputy Speaker. When we legislate in the House, we cannot legislate for exceptions, we have to legislate for the rule. It cannot be scientifically correct that if the qualifying age is reduced, one does not also have great potential to create a system where there are all sorts of errors of law in our courts.

If young magistrates who do not have the necessary qualifications and experience are put on the Bench and they make errors, we will all have to pay for that in many different ways. Decisions would be appealed; there would be delays;

there would be a burden on the taxpayer and injustices would be done to persons. "Injustice" is a favourite word of the Attorney General, so I ask him not to impose this injustice on the citizens of Trinidad and Tobago. The Attorney General knows it is not correct and I am asking him to let us go in another direction. Let us try to improve, not to decrease the quality of persons to sit in judgment of us all. If it is necessary for certain things to be done, let us do them.

There can be no proper argument in favour of this Bill. On what basis was five years chosen? Has the Government done a statistical analysis to determine the number of appeals in relation to the age and experience of the magistrates? If it is done in any society one would establish that magistrates with less experience make more mistakes. It is a scientific reality. As magistrates and lawyers learn, Mr. Deputy Speaker, law is a dynamic thing. It is a matter of opinion, in many cases. Law is not hard and fast, like the colour of this carpet. If 10 lawyers are asked to give an opinion on a subject, one would get 10 different opinions and as lawyers become more experienced they become better able to discern what is correct, what is proper and what is invalid.

It is in the law and the Judiciary where one needs experience. The only place where youth is an advantage is in sports. The example used of Brian Lara is invalid. Cricketers reach their prime at age 26 to 28 years; sprinters run out of gas at age 30. However, in law and the Judiciary, this is where we need experience, this is where being a youth is not an advantage.

I am asking the Attorney General, let us get serious in this Parliament. I am certain the Attorney General does not believe that this Bill is the right way to go. I am asking him to go back to the drawing board. We should go back to the Judicial and Legal Service Commission and ask them to recommend improved compensation packages for magistrates and let us try not to water down the brandy, but to put more alcohol in it.

Thank you, Mr. Deputy Speaker.

Mr. Deputy Speaker: Hon. Members, I have just been informed that microphones Nos. 28 to 42 on the Back-Benches are not working. Anyone who wishes to speak from those microphones would have to come to the front Bench, please.

Mr. Barendra Sinanan *(San Fernando West)*: Thank you, Mr. Deputy Speaker. Listening to the learned Attorney General this afternoon, it is one of the few occasions on which I have found him not to be convincing. I have known the

hon. Attorney General for quite some years and he was always convincing when he appeared before the courts. Today in Parliament, Mr. Deputy Speaker, he was certainly at sea.

Some years ago a former Chief Justice of this country indicated that there was a watering-down of the brandy in terms of appointments to the Bench *[Interruption]* Not this Bench, the higher Bench. Today, we are witnessing the hon. Attorney General attempting to impose a very green harvest on the Bench. He is not only watering-down the brandy, he is imposing a very green harvest on the Bench. The crux of the matter before us is a five-year qualification period, so the meat of this matter deals with experience.

Mr. Deputy Speaker, one goes to law school for three years after which one attains one's Bachelor of Law Degree. After that period, one has to go to the same law school where one gets one's legal certificates. During the fourth and fifth year, before one can be called, one is trained in an environment of the law school. One is not exposed to the courts. The only time one gets exposure in the courts during that last two-year period is during the summer vacation when attorneys seek and obtain employment at existing firms. I am not sure how much experience these trainee-attorneys get when they work at these law firms. It is a period in the summer vacation of about two months. Over time, in that two-year period, if these young apprentices are exposed for five months, it would be plenty.

3.30 p.m.

I am not sure if when they come out qualified as attorneys-at-law they are experienced at all. This is very much unlike the situation that existed prior to the fusion of the profession. The solicitor had to work for a period of apprenticeship, sometimes two years with a degree, sometimes five years without a degree. In those cases, Mr. Deputy Speaker, it is well known in the profession that someone qualifying as a solicitor in those days was more experienced than the person who qualified as a barrister-at-law. This was simply because that person who qualified as the solicitor had the benefit of two or five years' training, practical hands-on training in the Magistrates' Court or even in the High Court.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, the Attorney General indicated that as the society progresses it prospers and change is needed. I do not think he really believed that in terms of the context of this Bill before us. Society is changing, therefore, we need more

experienced people. I do not buy the argument of the hon. Member for Siparia, or even the Attorney General, that five years is sufficient. It is definitely not sufficient. My colleague from Laventille East/Morvant alluded to the training of magistrates. When a magistrate is appointed, he sits almost immediately. He does not have the experience. There is no substitute for experience. Magistrates definitely need to be trained.

Apart from the training and experience aspect, the main purpose of this Bill, the ultimate objective, really, is to speed up the system of justice—to have justice dispensed with efficiently and expeditiously. Reducing the qualification period to five years would perhaps expedite the hearing and determination of cases, but it certainly would not lead to the good dispensation of justice. We in this country are not after statistical justice, but rather good, pure and simple justice.

Many things tend to cause a delay in the Magistrates' Court. Buildings are one example. Recently I have seen the recognition by the Attorney General of the state of the Magistrates' Courts in this country and he is doing something about it. I want to let him know that $4 million would, in no way, solve the problem. It is a start, and I am hopeful that he and the Government would pay more attention to the physical environment of the magistrates. Also, we have the situation where the office of the Director of Public Prosecutions is not adequate. In the Magistrates' Courts there are cases where officers of the DPP appear, but in San Fernando, there are three such officers and they have to appear in the Magistrates' Courts and also the High Court. It is impossible for them to be in all those courts at the same time. Even that has to be addressed.

There is a reason for the long court lists. It simply is, as alluded to by a learned magistrate some time ago, that both attorneys and the police in the instance of police cases, ask for adjournment. That has to be stopped. Mr. Speaker, when a magistrate is ill, the clerk or some other magistrate would take his list and invariably adjourn that entire list. That again causes problems with litigants. It increases cost, and something must be done about that. There are court clerks who have to be trained. We need shorthand writers and palantypists in the Magistrates' Court, as well as additional shorthand writers and palantypists in even the High Court. We on this side cannot earnestly support this measure before us. The Bill before us is good except for that aspect which deals with the qualification period of five years. We are suggesting that "five years" be deleted and the *status quo,* the seven-year period, remain the same.

When one goes to country courts, for example, La Brea, Princes Town and Rio Claro, there is one magistrate hearing all matters there. There are civil matters, criminal matters and traffic matters. That one magistrate is really over-burdened. A situation exists where in those courts, if that magistrate is ill the whole list is adjourned. Something has to be done about that. It could very well be that the system of building courts throughout this country should be undertaken and staffed by more than one magistrate.

Coming back to buildings, the witness rooms are inadequate. There are cases where a policeman would call the name of a witness; he shouts it out and the witness is probably across the room. Again, that is not acceptable. I am hopeful that the Government will pay attention to that aspect of it. All of these will tend to improve the administration of justice.

Before I take my seat, when we have inexperienced magistrates who give decisions and one has to appeal those decisions, there is an attendant cost. There is a cost if the magistrate is not experienced and gives a bad decision. The poor man suffers. Mr. Speaker, I will give you a few statistics which will perhaps illustrate the point in terms of appeal. Tobago has always been, to some extent, a peace-loving place, and the statistics in Tobago are more favourable than they are in Trinidad. In terms of magisterial appeals in Tobago, in 1992—93, there were 65; 1994, 31; 1995, 59; 1996, 34; 1997 to date, 65.

In San Fernando, there is an increase. In 1992, there were 152 magisterial appeals; 1993, 100—these are civil matters—in 1994, 128; 1995, 78; 1996, 113; 1997, 156 appeals. I ask, what is the reason for the increase over the years in San Fernando? Is it because some magistrates are inexperienced? In Port of Spain in 1992 there were 217; 1993, 177; 1994, 215; 1995, 214; 1996, 185; 1997, 184 appeals. Mr. Speaker, civil appeals in the Magistrates' Court far outweigh those in the criminal courts. What is the reason for the increase in the magisterial appeals? Is it because of inexperienced magistrates? There must be some reason. Again, if we are looking toward enhancing the law for the benefit of the small man, I cannot see how this measure would aid and benefit the small man, because if he is not satisfied with the decision because he feels from his attorney's advice that the decision was wrong, then it increases cost. He has to appeal.

3.40 p.m.

We had a case recently in the High Court where the attorney for the appellant indicated to the Appeal Court that because of the stature of the prosecutor, the judge allowed himself to be swayed. Is that what we want to see happening in the

Magistrates' Courts? When one has an inexperienced magistrate and there is an experienced practitioner appearing before that magistrate, that magistrate will be swayed by the experienced practitioner. Rightly or wrongly, he will be swayed.

Mr. Speaker, the Attorney General knows very well what I am speaking of when experienced practitioners appear before not so experienced magistrates. My point is that experienced attorneys appearing before inexperienced magistrates or judges can, in fact, sway those judges. There are situations where a lawyer makes a point in law before an inexperienced magistrate, the magistrate does not appreciate it. The case has to be adjourned to allow the magistrate to research. I am told that within recent times, the newer appointments to the Bench, those under seven years, generally speaking, are okay, but there are instances where the inexperienced magistrates have to keep adjourning cases to refer themselves to law books and points taken by attorneys.

If the object of the Bill before us is to speed up the system of justice as it pertains in the Magistrates' Courts, I do not think we want statistical justice, we want justice that is pure in its content and its decision, and that is equitable. We do not want to say after the end of the year, "Well, the Magistrates' Courts have determined so many cases". If they have determined "X" number of cases and determined them rightly, all well and good, but we cannot have situations where cases are wrongly determined because, again, the small man suffers. I am asking the Attorney General to consider the amendment proposed by my colleague from Laventille East/Morvant, that is, to retain the seven-year qualification period.

Mr. Speaker, with these few words, I thank you.

Mr. Roger Boynes *(Toco/Manzanilla)***:** Mr. Speaker, I rise for a very short intervention. I want to be placed on record as agreeing with my colleagues on this side in indicating that the period of five years for the appointment of a magistrate should not be passed in this House today. I feel that it is quite sufficient to leave the period of seven years.

Mr. Speaker, I look at it, more or less from a practical perspective, because I have had the opportunity of practising in magistrates' courts throughout Trinidad and Tobago. When I compare some of the decisions of the younger magistrates—there are some magistrates who have been appointed with less than seven years' experience who have done quite well, as in the case of Cheryl Charles who was appointed after four years and Mark Wellington who was appointed in less than seven years. They have done a good job. But there are others whom I do not want to call, but it leaves one wondering.

When an individual comes from the law school and that person either goes to the DPP, for instance, and works there for a period of five years, after that attorney is appointed to the Bench, that attorney may not possess the experience and the sort of bias or training to be as objective as possible. One will find that some attorneys may have a problem, they may feel that it is more on the side of the prosecution, and that *Wilmington vs. the DPP* is not alive where the prosecution has to prove its case beyond a reasonable doubt. In some instances it seems as though the defence has to prove its case beyond a reasonable doubt. In some instances it seems as though all the magistrate is missing is a police hat on his or her head. The fact of the matter is that the training of magistrates is essential; training of the young and refresher courses for the old. One always has to be reminded that the law is fluid, it is always changing and we must understand that society as a whole is changing, so the training of magistrates is very much important.

Mr. Speaker, I will also like to recommend that, rather than limit the number of years from seven to five—and I understand that there is, in fact, a need to increase the number of magistrates in this country as a way of dealing with the crime situation. For instance, in Sangre Grande the magistrate has to deal with a list of approximately 350 persons per day. In Arima it is very much the same thing, over 500. The problem is, I understand, that when a magistrate has to deal with a list of 350 persons, he completes his day simply adjourning matters and at the end of the day nothing is done.

Mr. Speaker, rather than changing this time period from seven to five, we are suggesting that we improve the conditions of the magistrates in Trinidad and Tobago. Sometimes when one talks about a judiciary, one tends to feel it starts from the High Court and goes up, but the magistracy is a very important and integral part of the judiciary in this country. Over 90 per cent of criminal law cases are being done in the Magistrates' Courts. We have to start treating magistrates as though they are very important in the judiciary.

For instance, why can a magistrate not be entitled to a firearm licence? The norm is that the chief magistrate has a fireman licence and each of these can apply for a user's licence. When the magistrate stops being a magistrate he has to hand back this firearm, but there are criminals whom he would have convicted. He would still be alive, he would still be residing in his home, his family would still be alive and he is unprotected. So I am simply asking to look at improving the conditions of magistrates.

Mr. Speaker, one can go from Magistrates' Court to Magistrates' Court. When a magistrate is applying for leave—there are magistrates throughout the length and breadth of this country who have not been on leave for a very long time. A magistrate needs leave! When someone is a manager of a bank, every three months he or she has to go on leave, that person gets a break from dealing with the public. Ensuring that one has to deal with the public fairly, honestly and with the biggest amount of integrity, it takes a lot, it takes time. It is a lot of pressure that the magistrate or the bank manager experiences, so that he needs time to recollect himself and to come back fresh.

3.50 p.m.

In the case of magistrates, what happens is that many of them are burnt out. They need to go on leave. When they apply they do not get the opportunity to do so. We have to look at the conditions of the magistrates. The way of improving the conditions is by improving the quality of magistrates that we have in this country. If the Member for St. Joseph would step outside the door and repeat what he has just said I am sure he will have a lot of answering in that very same magistrates' court.

Mr. Speaker, I am suggesting—and my colleagues have mentioned it—that the magistrates need to be in an environment that is very much conducive to performing. The Magistrates' Court in Sangre Grande for instance, needs a lot of work. At present there is one that is being worked on and I understand it will be opened on Tuesday. The magistrates' courts throughout Trinidad and Tobago need to be looked at very seriously. If a magistrate, the prosecution and the members of the Bar are to feel comfortable, they must be in the proper environment.

I am also suggesting that we look at the magistrates' salaries. They need to be paid more money in this country. They are underpaid.

Miss Nicholson: Good point PNM!

Mr. R. Boynes: They are dealing on a daily basis with 350 cases! The judges' salaries have been increased? What about the salaries of the magistrates? Are they not members of the Judiciary as well? If we are really and truly here to deal with justice and crime we have to start treating—not only the judges—but the magistrates with a certain sense of respect as well.

I am saying that we need to look at improving the terms and conditions of magistrates, giving them a certain amount of respect and putting them in their rightful place where they would be seen as upholding law and order, indulging in

the doctrine of separation of powers and ensuring that we have a fair and independent judiciary to protect and safeguard our democracy in Trinidad and Tobago.

Mr. Hedwidge Bereaux (*La Brea*): I would make a very brief intervention in this debate on the Summary Courts (Amdt.) No. 2 Bill 1997—I am usually very careful about briefs these days.

Mr. Speaker, the Member of Parliament for Siparia and the Minister of Legal Affairs and to some extent, the learned Attorney General, went to some pains to talk about the separation of powers and would tend to mislead persons into believing that there is separation of powers in our Constitution. I would like to disabuse their minds and that of anyone listening. What we have in this country and under our Constitution, is more akin to a fusion of powers as opposed to a separation of powers.

We are here in this Parliament as Members of the legislature and are debating a Bill which has to do with the Judiciary, albeit a junior arm of it. If we really had a separation of powers we would not be doing this. Additionally, there is a situation where in this Parliament we have Members of the Government and Cabinet. They form part of the Executive but yet they are in the legislature and that too is a fused situation. From the point of view of a purist, I just wanted to point that out, more so that we would be able to recognize in our Constitution that the roles crossed are blurred sometimes.

Having dealt with that, no one would deny that the magistrates are overworked. They have too many cases. There are—as the Member for Siparia indicated—30,000 cases to be handled by 30 magistrates and that is too much. I do not have much experience in that area and I do not propose to, although I did, within recent times, go into the Siparia Magistrates' Court and the conditions are atrocious to say the least. No dispenser of justice could sit there and carry out justice. No lawyer could sit under those conditions and perform at optimum level. If we are going to do something about the administration of justice, the conditions under which justice is administered must also be considered. The magistracy needs to stop being the stepchild of the judiciary.

Mr. Speaker, additional to the conditions, other Members have spoken about the salaries. Since we want to attract more magistrates, the quality is important. We have a great belief in youth, but youth simply by itself without training and experience does not help—even very brilliant youths. Maybe the time has come when we in Trinidad and Tobago need to see if it might not be suitable for us to

have a cadre of people in the magistracy and judiciary. I will explain what I mean in this case.

In Korea and some countries, one is able to enter the legal profession. Either one starts as a prosecutor and continues life as a prosecutor, or starts as a defence lawyer and continues life as a defence attorney. You enter the judiciary, you are trained and learn all the various principles about the presumption of innocence and are apprenticed. Maybe if we are looking to improve the quality and the numbers of the judiciary we may very well have to look at a hybrid system. Not that you take the five year graduate and make that five-year legal graduate a magistrate but you start at a certain point, enter, knowing you are going to be a magistrate and enter the judiciary from the time you have qualified as a lawyer. You move the steps up much like you are in another branch of the public service or something like that.

Then there are people who would have been trained and sat at the feet of more experienced, qualified dispensers of justice, more judges as the case may be, and they would learn. In that way we may be able to correct the situation. We are in an almost chicken and egg situation. You do not want to bring babes on the Bench but realize you want qualified and good people and you must increase the numbers. Of course you can offer money but there are some people—I do not believe it is possible to offer a magistrate or a very successful lawyer enough, if money is all he is looking for, to go on the Bench. If all that an attorney is looking for is money you cannot pay him to sit on the Bench.

I have had experience of offering large salaries to attorneys working with the State and they have refused it out of hand, not because they did not need the money but they did not want to do the corporate work involved. So too I believe no matter the sum of money offered to some successful attorneys they will not go on the Bench, be it in the Magistracy or the Judiciary.

4.00 p.m.

I think since we need the magistrates—and we need much more, even if we reduce the qualification period to five years—we better look at a system and maybe the learned Attorney General could point that out to the Law Commission or to those persons whose duty it is to examine the system and to come up with some kind of hybrid to deal with that. But I believe that is what needs to happen. At the same time I do not believe that merely reducing the qualification level is sufficient.

More importantly, I heard the learned Attorney General and the Minister of Legal Affairs also sought to hide behind the Judicial and Legal Service Commission by saying that they recommended it. The Attorney General v Crane, I think it is, told us that the Judicial and Legal Service Commission is not infallible. Mr. Speaker, I just want also, in order to buttress the point that I have made, to remind this honourable House that now the petty civil jurisdiction of the Magistrates'Court has been increased to $15,000, so you even have more work than you expected in the Magistrates' Courts and the quality of the magistrate will have to improve. We have got to look at a revolutionary and unique system in order to address this problem. But, in the meantime, I do not believe that the Bill proposed by the learned Attorney General is the way to go and I support the amendment made by my colleagues on this side. Thank you.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I must thank hon. Members on the other side for their contribution to such an important debate. I must confess that the views expressed are views which must be considered very seriously and I would like to indicate that some of the matters that they have raised are not matters which the Attorney General and the Cabinet did not have to consider.

Under the system in which we operate in Trinidad and Tobago, although the judicial arm of the state is not entitled to assume that the executive or the legislative arm would agree with everything it wants, one has to recognize that there are certain matters which fall under the purview of the judicial arm of the state and that it would be prudent for both the executive and legislative arms of state—even though they may feel that other alternatives may work—it is the duty of the executive and legislative arms of the state to give the judicial arm the opportunity for its proposal to go forward. It is in this context that I will ask—

Mr. Valley: Just on a small point. Should the Parliament simply give the Judiciary that right, or should we simply give it the right to allow this law-making body to consider its proposal? I think that is what it is. We ought to give due consideration to the proposals. Just as the Judiciary is jealous of its powers, I think this legislative body must also be jealous of it powers.

Hon. R. L. Maharaj: Mr. Speaker, I agree entirely with the comments made by the hon. Member for Diego Martin Central. What we are doing is giving consideration to the proposals of the Judicial and Legal Service Commission and what we are considering is whether the legislative arm of the state would agree with what it wants. If it is that we have had two conflicting views, it is in that

context that I am saying that we should weigh them in the context that legislation is not cast in stone or concrete, legislation can be repealed. But it is in this context that the Judicial and Legal Service Commission has asked for it. The Chairman of the Law Commission, the hon. Mr. Justice Guya Persaud, is a member of the Judicial and Legal Service Commission. The Law Commission has considered this matter and it has also stated that this is a measure which is in the interest of Trinidad and Tobago. So, Mr. Speaker, when one—

Mr. Valley: I would not want to be a bother to the hon. Attorney General in his winding up, but given what he is saying that we have a recommendation coming from the Judicial and Legal Service Commission. The Chairman of the Law Commission is a member of that body. So, a recommendation comes from one body, goes to another committee that is chaired by a member of this committee. We would obviously expect similarity in the recommendations. All I am saying, Mr. Speaker, is that given the views expressed here today, I would hope that the hon. Attorney General would consider at least having some further discussions with the Judicial and Legal Service Commission and perhaps we can revisit this matter some time in the near future.

Hon. R. L. Maharaj: Mr. Speaker, I think with the greatest respect to the hon. Member for Diego Martin Central, it must be an affront to one's ability to be independent to assume because a retired judge is a member of the Judicial and Legal Service Commission and because he wears another hat as Chairman of the Law Commission which, under the legislation, is one of the independent or quasi-independent organizations dealing with law reform, that he would be so biased that he would contaminate the entire commission.

The Law Commission consists of other members and other members who are not employed with the Government or with the judicial arm of the state. What I am saying, Mr. Speaker—

Mr. Valley: I am sorry, Mr. Speaker, I really do not want to disturb the hon. Attorney General but please, I meant no affront to the retired judge. The point I was making is that if he held one view as a member of the Judicial and Legal Service Commission it would have been difficult for one to contemplate his holding a different view as Chairman of the Law Commission. That is the only point I was making.

Hon. R. L. Maharaj: Mr. Speaker, the Law Commission consists of people who are distinguished in the legal profession and their respective fields and also representatives of the Law Association.

4.10 p.m.

All that I am saying is that points made by the Opposition are points which the Attorney General and the executive arm of the state had to consider. Having weighed the matter, the executive arm of the state has decided that it will come with this piece of legislation. The Opposition has raised these points and we are weighing and considering them. I am recommending that although the points which have been raised are points which one would have to weigh and consider, having considered them, it would seem to me and to the Government, that notwithstanding what has been raised, the Judicial and Legal Service Commission has considered that in the interest of the administration of justice this is necessary and we should at least give these measures an opportunity to work. Legislation is not cast in stone and if it is not working, we can come back to the Parliament and make decisions.

Having said that, I want to state that it is incorrect to assume that because a lawyer has the widest possible experience in law, he would make a good judicial officer. For example, there is a judge "A" who was a very good lawyer at the Criminal Bar. He appeared in most of the important cases. When he was appointed a judge, 95 per cent of his summings up were set aside. Here it is, this great criminal lawyer who had the widest possible experience was appointed a judge but he did not make an appropriate judicial officer.

So it is not correct to say that because a lawyer has wide experience, that he would, of necessity, make a very good judicial officer. What I would agree with is, in order to have proper appointments to the magistracy and the judiciary, one should consider having criteria for the appointments of magistrates and judges. As a matter of fact, in the United Kingdom there are stated criteria which the Judicial Studies Board and the Lord Chancellor publish for people to be magistrates and judges. At the level of the Attorneys General of Caricom, in discussing the Caribbean Supreme Court, they accepted the proposal of Trinidad and Tobago that there must be stated criteria for judges to be appointed to the Caribbean Supreme Court, not only practising at the Bar for five to 15 years, but must show that they are able to marshal evidence and principles of law, analyse evidence and show that they are formidable in their practice of the law.

What the Government is prepared to consider—because I think we are talking on the same level—is that we should look at and see whether there should be these kinds of criteria, bearing in mind that this again is a matter for the judicial arm of the state. But if, as a Parliament, we want to be able to make our voices heard, then we are entitled to do that. I am sure that the judicial arm of the state would have to consider it.

There used to be a time when a lawyer could not have criticized a judge. The judge was regarded as God—supreme. That was contempt of court. There was a time when the media could not criticize what a court does. Times have changed. As a matter of fact, at the last Commonwealth Law Ministers conference, it was decided that the time has come for the judiciary to be accountable to the people and to the Parliament. Mechanisms have been put in place in order to do that. So if the Opposition believes that we should look at the whole question of service commissions, at the Judicial and Legal Service Commission, as to whether in respect of the administration of the commissions, their activities and functions of duties should be monitored and scrutinized—about three months ago the media criticized the judiciary in the United Kingdom, pointing out that the judiciary was not functioning properly, how appointments to the judiciary were based on favouritism. Do you know what happened in the United Kingdom? The Lord Chancellor, who is head of the judiciary, appeared before a select committee of Parliament and had to justify to the Parliament and the representatives of the people, not how the judges decide cases, but what system and criteria were used for the appointment and elevation of judicial officers.

We, as a Parliament, can do that. I would undertake to have discussions with the Opposition to see what mechanisms we can put in place, because in the final analysis, when it comes to justice, it is the people's representatives—we, in this Parliament—who have to account to the people for the administration of justice, although the judicial arm of the state, in effect, accounts in some form to the executive and to the legislature.

The Government of Trinidad and Tobago has recognized the whole question of legal education and training of lawyers. The point that the hon. Member for Laventille East/Morvant was making, he is pushing an open door. It is correct that one has to look again at the whole training of lawyers; we also have to look at the whole question of the role and functions of the legal profession.

He spoke about statements made at the law school. He was, in effect, repeating what we said at the law school. We said that we must look at that. That is why this

administration has set up a task force to look at the whole question of the role and function of lawyers and legal education in the Caribbean. That task force has been set up because we believe that one should look at the question of whether lawyers, after they are qualified, after they get their degrees, should be attached to chambers.

I think we are on the same level. We are talking about the same things when we say that something must be done about improving the whole standard of the legal profession and the administration of justice. What was the task force appointed to do? The hon. Member for Laventille East/Morvant spoke about legal education pupilage. I quote:

> "To examine the present system of legal education in the Caribbean; to ascertain whether it adequately equips lawyers to meeting satisfactorily the needs of Trinidad and Tobago in particular, and those of the Caribbean Region as a whole, now and in the future; whether the curriculum should be broadened to indicate other disciplines; and whether the training should be extended to meet the demands of the next century, and to consider other matters connected therewith."

I take offence to the fact that the hon. Member for Laventille East/Morvant gave the impression that what I stated at the law school was what should not be stated by any lawyer. I quote, and I want the hon. Member for Laventille East/Morvant to listen and he can examine to see whether, as a lawyer, he agrees or disagrees with what has been stated:

> "If lawyers are to face the challenges of the 21st century in this global village they have to shake off the traditional approach where they are looked upon merely as professional persons paid to argue their clients' cases. Lawyers cannot remain strangers to economic and social injustices which surround them. They owe a duty to inspire and promote economic development and social justice.
>
> Lawyers must be concerned with the prevalence of poverty, ignorance and inequality which exist and they should take a leading part in promoting measures which will help eradicate these evils, as while they continue to exist the enjoyment of civil and political rights cannot themselves ensure the full dignity of man."

Is the Member for Laventille East/Morvant disagreeing with that? I continue:

> "Lawyers have a duty to be active in law reform so that the law will not only speak justice but deliver justice. Lawyers must ensure that the late 19th

century mould for the delivery of legal services and the administration of justice is changed to a 21st century one.

Lawyers must forge new methods, fashion new tools and evolve new strategies for the purpose of finding solutions to the new kinds of problems which come before the Courts.

Lawyers must devise and develop new strategies for bringing the problems of the poor and disadvantaged to the Courts. New mechanisms must be found and new institutions created for such persons to have access to legal aid and advice.

The Government of Trinidad and Tobago in recognizing this need, is considering among other reforms, whether the concept of 'Public Interest Litigation', should be introduced in our legal system."

Do you see the vision of this Government?

4.20 p.m.

"Several countries have, within recent times, turned their attention to this kind of jurisprudence by which persons of scant means can get redress from the Courts. Where a person or class of persons to whom legal injury is caused by reason of violation of fundamental rights is unable to approach the Court for judicial redress on account of poverty, disability or being in a socially or economically disadvantaged position, members of the pubic acting *bona fide* can approach the Courts for relief so that the fundamental rights may become meaningful not only for the rich, well-to-do and who have means to approach the Courts, but also for the sections of society who are living those lives of want and destitution and who are by reason of lack of awareness, assertiveness and resources are unable to seek judicial redress.

The introduction of this jurisprudence in several countries has a long way in providing distributive justice in these countries."

Is the Member for Laventille East/Morvant saying—because that is what he said—these are statements which should not be made.

"The Ministry of the Attorney General is also considering whether the moral obligation of lawyers to do pro *bono* work should become a rule of professional conduct."

If the Opposition is serious about effecting justice in Trinidad and Tobago, the role and function of lawyers must be looked at.

> "The law associations of several countries have established structured *pro bono* programmes which require all lawyers to do *pro bono* work as a condition for them to get their Practicing Certificates."

Are you opposed to that?

> "The performance of *pro bono* work by lawyers must be seen as an ethical duty. Lawyers have an ethical obligation to donate a certain number of hours a year to do *pro bono* activities..."

Mr. Speaker, I ask the hon. Member for Laventille East/Morvant to recognize that he probably does not understand what the functions and duties of a lawyer are. The functions and duties of a lawyer involve outreaching to the community and the hon. Member knows—and I do not want to disclose matters which went between both of us in a different capacity—that the Member for Couva South is a lawyer who does *pro bono* work.

Mr. Hinds: Mr. Speaker, first of all, I am sure that the concepts that the Member espoused are not indigenous to him. Secondly, is the hon. Attorney General aware that up until recently there was a system of *pro bono* work done at the legal aid clinic at the Law School at St. Augustine? How does what the Member just espoused differ from the legal aid arrangements which are now in place in terms of causing "little" people to get access to justice if they cannot ordinarily afford it?

Hon. R. L. Maharaj: Mr. Speaker, that displays that the hon. Member for Laventille East/Morvant does not understand what is *pro bono* and legal aid work. If the Member is saying what is being done at the legal aid clinic, and what the Law Association has is what we are talking about—work where the people in the village, in all the areas would be able to have access to legal advice right away instead of filling out a legal aid form, if he considers that is legal aid, then he does not understand what I am talking about.

The hon. Member for Laventille East/Morvant should withdraw that statement about shameless behaviour. He would not, because he knows that the PNM administration did nothing to improve the administration of justice. It did not refer any terms and conditions of magistrates to the Salaries Review Commission. This administration has done that and it has been improved. This administration has taken steps to improve the facilities for the administration of justice. This shameless Opposition has criticized us for not doing anything about the administration of justice when it did nothing.

The problem we are facing now with the administration of justice, is because of the incompetence and inefficiency of the PNM. They are responsible for the crisis and shortcomings about which they spoke. The statement about "water down brandy" was made during a PNM administration. What did the PNM administration do about it? When the Opposition of that day raised the matter in Parliament, the Government of the day said, that they should not interfere with the administration of justice. From that time to now, lawyers have been condemning the failures in the administration of justice and the appointment machinery of judges and magistrates.

This administration is trying to facilitate and effect reform. This administration has a judicial sector reform that it is negotiating with the World Bank to provide judicial reform for Trinidad and Tobago. They have the brass face to talk about the Gurley Report. They had that report and did nothing to implement it. This administration started to implement recommendations of the Gurley Report with the hon. Member for Siparia who was the Attorney General, and it is continuing.

I expected that if the Opposition had to criticize it would do so constructively. I have not seen any amendment although they talked about considering one. If the Opposition has other plans for the administration of justice it should come with them. Let them show that they are an alternative government. They are in shambles! When we were in Opposition and we criticized, we came with alternative plans and showed amendments. That is why we are here today, and they would remain there for all of the 21st Century. They have no proposals. What plans have they put forward for the administration of justice? No plans!

I sought leave and interrupted the hon. Member for Diego Martin East and asked him if he would agree to a code of judicial conduct and criteria. He said they would agree with any proposal which improves the administration of justice. That is typical PNM! [*Cross talk*]

Mr. Speaker: Hon. Members, the debate is beginning to degenerate because of the number of Members who are sitting and speaking while the hon. Attorney General is responding. I suggest that you change that approach.

Hon. R. L. Maharaj: Mr. Speaker, the hon. Member for San Fernando West who is a very good lawyer and Member of Parliament said that they do not believe that we should talk about statistical justice, there must be real justice. How long ago we had statistical justice in this country? Who was in government before this administration came into office? The PNM! When we raised the issue of the administration of justice in Parliament, the then Attorney General read the statistics. We were saying that steps should be taken to improve the infrastructure

of the administration of justice. Who is taking steps now to ensure that there is continuing judicial education? This administration!

This Bill has demonstrated that the Opposition does not know its role and function; it is leaderless, divided, backward and reckless and does not know the last PNM policy. It is prepared to make statements criticizing the administration of justice without any facts to support them.

Mr. Speaker: Hon. Members, the sitting is suspended for half an hour.

4.30 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

Hon. R. L. Maharaj: Mr. Speaker, for the reasons I have stated, I ask the hon. Members on the other side, if they are there, to support this measure.

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 and 2 ordered to stand part of the Bill.

House resumed.

Bill reported without amendment.

Question put, That the Bill be now read the third time.

The House divided: Ayes 17 Noes 10

AYES

Maharaj, Hon. R. L.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Nicholson, Hon. P.

Khan, Dr. F.

Assam, Hon. M.

Singh, Hon. D.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Singh, Hon. G.

Ramsaran, Hon. M.

Rafeeq, Dr. The Hon. H.

Sharma, C.

Ali, R.

NOES

Valley, K.

Rowley, Dr. K.

Imbert, C.

Hart, E.

James, Mrs. E.

Bereaux, H.

Joseph, M.

Sinanan, B.

Hinds, F.

Williams, E.

Question agreed to.

Bill accordingly 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 November 6, 1997 at 1.30 p.m.

This has been agreed upon after consultation with the Opposition. The House would also sit on November 7, 1997 which will be Private Members' Day and it is expected to sit on November 10, 1997.

There are several reports and depending on what is done we may have to sit for extended periods and additional days. I think Members know that Parliament is supposed to be prorogued on November 10, 1997 and the new session would begin on November 24, 1997.

Mr. Speaker: The Member for La Brea has leave to raise a matter on the Adjournment. Please do so now.

Lack of Pipeborne Water
(La Brea Constituency)

Mr. Hedwige Bereaux *(La Brea)***:** Mr. Speaker, seeing that the House would be adjourned to November 6, 1997, I had asked for leave to raise the matter of the plight of the residents in the La Brea constituency, particularly in the villages of Point D'or, Bassa Hill, Newlands, Belle Vue, Sobo, Vessigny, Union and Vance River who have not received a supply of pipeborne water for the past six weeks. Six weeks is a conservative statement of the time that these various areas have not been receiving a supply of pipeborne water.

The La Brea constituency can be conveniently divided into three areas, from Mendez/Penal/Quinam to Los Iros/Carapal; Aripero to Hubert Town and then in the middle, Salazar Trace and Lot 10. On the southern side there are water systems such as Carapal Waterworks, Quinam Waterworks and St. Patrick Waterworks where some work was done on the 16" lines.

5.15 p.m.

We had thought that because of the situation in that area, we would have had more problems for water, but we have found that there are so many leaks in that area—not just coming from pipes that are rusted, but leaks in new 16-inch mains that have been put down. It is ridiculous. You could travel along the road at nights and there could be 30 leaks between Siparia and Los Iros. Thank God for Petrotrin, we still have water in that area. Even where the large sums of money had been spent and there are three large tanks and we should not have a problem, simply because of the failure to fix the leaks, we have a serious problem.

If that was not enough, in the areas of which I have spoken—places like Sobo, Vessigny, Vance River, Union Village, Bassa Hill and Cemetery Street in La

Brea—they do not get any water. I have approached WASA. I do not like to call the names of public servants or people in corporations. They are very polite when I talk to them and I am not always as polite as I would like to be when my constituents are in this state of suffering—but that is not altering the price of cocoa—but I believe that they are trying.

Can you imagine, Mr. Speaker, a situation where people in Sobo, La Brea, have to go to dams, canals and springs to get water in this day and age. The problem about this is the area in which it is happening there are five dams: the Belle Vue Dam, the Tobago Dam, the Plaisance Dam, the Vessigny Dam and the Antilles Dam. *[Interruption]* I still have that Independent newspaper with the offending headline and if the Member for Princes Town continues to obstruct me, I shall have to resort to it.

These dams have been there since the days the oil companies were doing steam flooding and Lake Asphalt had a larger production. They hold substantial quantities of water. Right now, all those dams are filled. In fact, the Tobago Dam is overflowing and if there were another dam downstream from it, it would have been filled. To crown that, the Pitch Lake itself collects a large volume of water and there are pumps which pump that water into the sea. There was a time when it was pumped into other dams, and as a result they were able to use the water in a filtration plant, which still exists in Brighton, La Brea. Up until a year or two ago, it was operating, albeit at a reduced rate.

I understand that it only costs $2 million to refurbish that plant to get enough water to service that area. I have been told by WASA that the La Brea area is likely to remain a difficult one in respect of water because of certain plans which have not come on stream. Once they continue to try to service it from the Caroni/Arena area, this will always be the situation. Something must be done and I am calling on the Minister to do something.

I know that there have been problems at the Oropouche booster and that they are trying to do certain things in respect of Boodoosingh, but you will find that in the very geology of La Brea, if there is a PVC main underground, any time the sun is hot enough the line will sheer and there will be leaks. At the Three Hands stretch in La Brea, there is always water flowing when I pass. It is like a sea, simply because the leaks cannot be fixed, and I with my limited engineering knowledge have advised—and I think that my advice is good—that they should use steel pipes to run those lines above the ground at the Pitch Creek. It only takes a little

intelligence to get this done, but it seems that they are not taking the advice of intelligent people.

Something has to be done. If it is not done, I am certain that we will have an epidemic of some kind in this area. If this happens, I will have to hold this Government responsible for any outbreak of any communicable disease which is likely to flow from this. There is cholera right in Venezuela, and I really believe that some effort and financial resources must be put in place to solve this problem, if not totally, then partially.

I spoke to the Minister and he told me that they were getting truck-borne water. This only went to Vessigny and for only a short while. I understand also that it resembled the colour of the coat the hon. Member for Siparia is wearing.

5.25 p.m.

When my constituents were demonstrating, you will notice that I did not demonstrate with the Sobo and Vessigny people, and the reason I did not do it was because I really wanted to keep out and reduce the political confrontation.

Thank you, Mr. Speaker.

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, I want to congratulate the Member for La Brea for the tempered manner in which he raised the plight of the residents of his constituency of La Brea.

The approach we take in the Ministry of Public Utilities—since I have had the opportunity to run that ministry—is a very compassionate and universal one with respect to the plight of residents with respect to water and the other utilities. So I can understand the predicament of the hon. Member for La Brea as he brings to the fore the plight of his constituents. I shall indicate to the hon. Member that when one looks at the map of Trinidad, *[The Minister shows a map of Trinidad]* all the areas in pink are the areas where water is received for less than 48 hours per week.

Mr. Speaker, one would see that throughout south Trinidad there is this problem, so this is not something that happened overnight, it is not a problem peculiar only to La Brea, but one that has quite a history with which the past administrations did not deal. In fact, the only attempt by the former regime in which the hon. Member was a member was to run the St. Patrick line which is an empty line, because there is simply no water resource to fill it. *[Cross talk]*

Mr. Speaker: Order please!

Hon. G. Singh: Mr. Speaker, it seems that Members are not putting water in their mouth in this issue.

When I heard about the plight of the residents of Vessigny over the radio, I immediately contacted the Water and Sewerage Authority stating that we have a problem whereby the residents of Vessigny do not have water. They, in return indicated to me that there was a problem with the Oropouche booster on which they were working and the stipulated time period for bringing it back into operation was October 13, 1997. I had raised this issue on October 8, 1997. There is correspondence—which I can allow the Member for La Brea to browse through—indicating that with respect to my oral request for truck-borne water for La Brea, they were sending truck borne-water to Vessigny. I am surprised to hear that the colour was dark, but the hon. Member knows that he has access. If there is any problem with water, we take an open-door approach to solving that problem.

Mr. Speaker, the problem in La Brea, to be specific, is a defective pipeline network which is undersized and encrusted which leaks in the transmission and distribution system, the insufficiency of the water resource itself, and the urgent need for upgrading work at the Oropouche booster station. In that context, it should be noted that La Brea lies at the extremity of the distribution system which is serviced by the Caroni/Arena water treatment plant. Because of this factor and the limitation of the system, the entire southern region which is serviced from this source experiences problems in respect of the water supply.

Currently, upgrading work is in progress at the Oropouche booster station and it is expected that this work will be completed today, October 17, 1997. As a consequence, widespread scheduling of the pipe-borne supply is in force to provide short-term relief to the area's water trucking on an ongoing, but limited basis. In its ongoing efforts to improve the water supply, the Minister of Public Utilities has identified the whole of south Trinidad as one of the priority areas for attention. As a matter of urgency, the Ministry of Public Utilities requested the preparation of a short and medium term action plan to alleviate the acute water supply deficit in that region. The plan entitled "The South Water Project" identifies eight main water supply schemes as being capable of speedy implementation and maximizing water supplies to the critical south area, as well as a feasibility study for further system improvement.

Included in these arrangements, is a short-term plan between six to 12 months duration calculated to bring relief in the shortest possible time-frame. The plan of action integrates three initiative south water projects which will increase the level

of service from class 5—that is the area which is shaded in pink, less than 48 hours per week—to class 2 that is between 120 to 168 hours per week within 12 months for 62,000 persons.

The Point Lisas project from which the La Brea constituency is served will benefit approximately 264,000 persons supplied by the Caroni south transmission system by improving the level of service to at least, class 2, that is between 120—168 hours per week and will also satisfy the projected demand of the Point Lisas Industrial Estate to the year 2000. These benefits would be realized between 12 to 24 months. The whole component of that initiative is the water supply and sewerage rehabilitation project which is funded by the World Bank and the European Investment Bank. The elements of the water supply and sewerage rehabilitation project which impact directly on the south water supply will bring relief to approximately 150 persons by improving from class 5 to class 3, that is between 84—120 hours per week over a period of 12 months.

Mr. Speaker, the specific schemes are: Granville; Chatham; Point Fortin; Fyzabad; Coora; Penal; Avocat, Mayaro and Guayaguayare water supply systems which comprise the south water project. As we speak, there is work being done on the Carapal water works. I was there on Sunday looking on at the work which was taking place. *[Interruption]* I am the Minister for the whole country and I do not need your permission to go in your constituency.

Mr. Speaker, the issue of water is important as we lead into the future, and we in the ministry are driven by the objective, "Water for all by the year 2000". In this process it is incremental, phased and developmental and we have demonstrated that La Brea will be part of that process and I do not intend to delve in the past but it is left to us to provide water to La Brea and you can be assured, Mr. Speaker, that the residents of La Brea will receive between 120—168 hours per week by October 1998.

I thank you very much.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 5.35 p.m.